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Legal Position Of U.S.A., U.K. And India Regarding The Outstanding Facets And Dimensions Of Right To Privacy

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Abstract: *The right to privacy represents a fundamental human right, increasingly significant in a world shaped by technological advances and global interconnectedness. This paper explores the legal positions of the United States, the United Kingdom, and India regarding privacy rights, focusing on their unique jurisprudential developments and common challenges. In the United States, privacy derives from constitutional interpretations, particularly through amendments such as the Fourth and Fourteenth, with landmark cases like Katz v. United States and Roe v. Wade shaping its scope. The United Kingdom's framework relies on the Human Rights Act, 1998, integrating Article 8 of the European Convention on Human Rights, alongside evolving common law protections. India's legal trajectory has seen a transformative expansion with the Puttaswamy v. Union of India decision, declaring privacy a fundamental right under the Indian Constitution. The paper addresses critical dimensions, including digital privacy, state surveillance, data protection, and informational autonomy, while analyzing how these jurisdictions balance individual rights with societal and state interests. Comparative insights underline the evolving nature of privacy and propose pathways for harmonizing protections in a digitally driven world.*

Key Words: Privacy Rights, United States, United Kingdom, India, Constitutional Law, Digital Privacy.

Protection of outstanding facets and dimensions of Right to Privacy is the urgent need of the hour, because in the present social scenario, human civilization has undergone a complete social change wherein it cannot proceed further without taking recourse of solving various human problems associated with the protection of Privacy. The dichotomy between Privacy and Private Life is age-old, but the concern for its end is the urge of today, without which the four corners of Privacy cannot get full-proof protection. Privacy of Women and Children is most important at the verge of their vulnerability, because without the guarantee of their human rights, such vulnerability could not be prevented and Right to Privacy is a part of their human rights. Next come to the question of protection of Individual Privacy at the threshold of advancement of science and technology as well as the protection of Data Privacy in the present era of storage and processing of huge amount of personal data. In all these cases, protection of Right to Privacy is the urgent need of the hour for the sake of further advancement of human civilization. In this respect, the steps taken by U.S.A., U.K. and India as well as their legal standpoint are required to be analyzed.

Outstanding Facets of Privacy : The Legal Scenario in U.S.A.- Though U.S.A. is much strong in Privacy protection laws, but that does not mean that, every component of Right to Privacy is equally protected therein. Moreover, U.S.A. recognizes Right to Privacy and not the Right to respect for Private Life. In this sense, in the dichotomy between Privacy and Private Life, Privacy has won in U.S.A. and as such, there has been no existence of Private Life in U.S.A. The components which have been considered as the aspects of Private Life in Europe, have been considered as parts of Right to Privacy in U.S.A. and therefore, the legislative and judicial protection have been provided accordingly. Next come to the question of Privacy of Women. This right has again, not been protected in U.S.A. by any express statute, but various statutory enactments have been made therein for protection of a number of human rights of women. When all those human rights would be protected, Right to Privacy of Women would also be protected automatically. But, the U.S. Supreme Court has taken active steps in this respect. It has pronounced a number of judgments, wherein Right to Privacy of Women has got good amount of protection. Noteworthy among those are Griswold v. Connecticut, which has provided Right to Privacy of married women to use contraceptives, Eisenstadt v. Baird, which has established the Right to Privacy of unmarried women to use Birth Control Measures,



Roe v. Wade, which has provided the Right to Privacy of Abortion to women, Loving v. Virginia, which has protected the Right to Privacy of Marriage of women, Skinner v. Oklahoma, which has established the Right to Privacy of Procreation of women and so on. Therefore, in the absence of express legislations, U.S. judiciary has taken active steps for protection of Right to Privacy of women, which is no doubt praiseworthy.

Next come to the question of Privacy of Children, which has been protected in U.S.A. far better than women. In this respect, two important U.S. legislations are noteworthy, Children's Online Privacy Protection Act, 2000 and Neighborhood Children's Internet Protection Act, 2001. Both are newly enacted legislations and have specifically meant for the protection of Privacy of Children in the internet, which shows the concern for U.S. legislature to protect children over the internet.

U.S. judiciary has also taken active part in this respect, by pronouncing judgments in the cases of Meyer v. Nebraska and Pierce v. Society of Sisters, wherein Right to Privacy of the parents regarding child rearing and education of the child have been established. Though these cases have not given Privacy to Children, but have been good enough for giving Privacy to parents for considering the welfare of children as paramount. There has also been the case of Prince v. Massachusetts, which has upheld the Privacy of Children against the Family Relationship in order to protect the welfare of children against unnecessary abusive family environment.

Next point is the protection of Right to Privacy at the verge of advanced scientific technology in U.S.A. In this respect, two important U.S. Federal legislations are noteworthy, Electronic Communications Privacy Act, 1986 and the USA PATRIOT Act, 2001. Both these legislations have meant for the protection of Privacy in the technological field and the USA PATRIOT Act is more vital, because it has tried to protect the Individual Privacy against terrorism with the help of misuse of advanced scientific technology. U.S. judiciary has also taken initiatives in this respect by pronouncing judgments on Computer and Privacy. One important case on the issue is United States v. Simons, 206 F.3d 392 (4th Cir., 28 February, 2000), where a Government employee has been charged with violating Federal laws when the employing agency has identified incriminating documents on his computer. The Court has held that, the employee did not have a reasonable expectation of Privacy as to the fruits of his internet use, where the agency had notified employees of limitations on their internet use and a policy of periodic audits to ensure compliance. Hence, both U.S. legislature and judiciary have been active to protect Right to Privacy in the environment of advanced scientific technology.

Next issue is the issue of Data Privacy, which has been protected by U.S.A. in well-advanced manner since long, prior to all other countries by enacting the Privacy Act, 1974 in order to provide protection to Privacy of Personally Identifiable Information. U.S. judiciary is also concerned with the issue and has provided important judgments in a number of cases in the recent period protecting the Data or Information Privacy of individual persons. In this respect, a noteworthy case is Suzlon Energy Ltd. and Rajagopalan Sridhar v. Microsoft Corporation, wherein the 9th Circuit Court has held that, the Microsoft Corporation should not produce documents from the Microsoft Hotmail email account of Rajagopalan Sridhar, a foreign prisoner to Suzlon Energy Ltd. As such, the Court has upheld the Data or Information Privacy of Sridhar under the Electronic Communications Privacy Act, 1986. Hence, this is an important initiative of U.S. judiciary for protection of Data or Information Privacy. Nevertheless U.S.A. is a forwarding Country in the field of Privacy protection.

Legal Standpoint of U.K. on the Outstanding Facets of Privacy- U.K. has no specific legislation on Right to Privacy and is lagging far behind U.S.A. on the issue. But, it has started legislating in the field sometimes back considering the urgency of the issue. Regarding the Right to respect for Private Life, it should be mentioned that, U.K. has upheld this right and has never recognized Right to Privacy like U.S.A. Two important legislations are noteworthy in this respect - the European Convention for the protection of Human Rights and Fundamental Freedoms, 1950 as well as the Human Rights Act, 1998 in U.K. In the absence of express legislations, U.K. judiciary has taken active steps for the protection of Private Life. In this respect, the Prince Albert v. Strange, Pollard v. Photographic Co., A v. B and Theakston v. MGN cases are important. In all these cases, the Right to respect for Private Life has



been upheld in U.K.

Next come to the question of Privacy of Women, which has not been protected in U.K. by any express legislation, but a number of legislations have provided it partial protection. Among them, the Protection from Harassment Act, 1997 and the Human Rights Act, 1998 are noteworthy. But, the role of judiciary is not mentionable in this respect, because it has not taken any good initiative for the protection of this right. Next come to the question of protection of Privacy of Children in U.K., which is again neglected therein like the Privacy of Women and no such legislative or judicial initiatives have been found on the issue.

Next important issue is the protection of Privacy at the verge of advanced scientific technology, which is also neglected in U.K. However, a few legislations have been found therein, which have provided partial protection to this right. Among those, the Wireless Telegraphy Act, 1949, the Interception of Communications Act, 1985, the Telecommunications (Data Protection and Privacy) Regulations, 1999 and the Regulation of Investigatory Powers Act, 2000 are noteworthy. Few instances have also been found, wherein the U.K. judiciary has taken initiatives for such protection, among which the *Peck v. U.K.* case is noteworthy. This case has provided protection to Privacy against the unreasonable publication of CCTV footage, which is the result of advanced scientific technology. *AMP v. Persons Unknown* is another case, pertinent to mention in this respect, wherein protection of Individual Privacy has been threatened in the environment of information technology and the Court has provided protection thereof.

Next issue is the issue of protection of Data or Information Privacy. U.K. has taken good initiatives for the protection of this right in the present social scenario by enacting the Data Protection Act, 1998, which is an express legislation on the subject. Apart from that, there are other legislations providing partial protection to this right, like the Financial Services Act, 1986, the Access to Medical Reports Act, 1988, the Official Secrets Act, 1989, the Telecommunications (Data Protection and Privacy) Regulations, 1999, the Regulation of Investigatory Powers Act, 2000 and the Protection of Freedoms Act, 2012. The U.K. judiciary has taken active steps in this respect by protecting the Privacy of Personal Data or Information in the environment of information technology with the help of *AMP v. Persons Unknown* case. Therefore, this has been an important issue, where U.K. has taken legislative and judicial initiatives for protection of Right to Privacy. But, it should be remembered that, the whole Right to Privacy is neglected in U.K., because it has never recognized Right to Privacy in express manner; rather it has recognized the Right to respect for Private Life.

India and the Outstanding Facets of Privacy : Legislative and Judicial initiatives- India has been enriched with Privacy Protection Laws in the ancient and medieval periods, but has been suffering from lack of those laws in the modern period. But, in the post-independent era, Indian legislature and judiciary have taken active steps for the protection of Right to Privacy. In this respect, it is important to note that, India has never recognized Right to respect for Private Life in line with U.K., but it has recognized Right to Privacy similar to U.S.A. As such, no legislative or judicial initiative has been found in India for the protection of Right to respect for Private Life and it is neglected herein.

Next come to the question of Right to Privacy of Women, which has got protection in the Customary Laws of Easement since the ancient period, which has included observance of the norms of Privacy in the construction of houses for the female-occupied area and the maintenance of purdah system for Muslim women, which has also been present in the medieval period. Such Customary Laws of Privacy have been recognized in India under Section 18 of the Indian Easements Act, 1882. Apart from that, there has been another age-old legislative provision for protection of Privacy of Women under Section 509 of the Indian Penal Code, 1860, which has provided protection against the intrusion upon the modesty and Privacy of a woman in India. Another important provision is Article 21 of the Indian Constitution, which includes the protection of Right to Privacy of Women along with its other components, but by way of judicial interpretation and not in express manner. There has also been other statutes, which provide partial protection to Privacy of Women, like the Medical Termination of Pregnancy Act, 1971, the Indecent Representation of Women (Prohibition) Act, 1986 and the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex



Selection) Act, 1994.

Indian judiciary has also been concerned with the issue and is still showing its concern thereof. It has started its initiative from the protection of Customary Law of Privacy and as such, the Nuth Mull v. Zuka-Oollah Beg, Gokal Prasad v. Radho, Bholan Lal v. Altaf Hussain etc. cases are noteworthy. Privacy of Purdah System of Women has been protected in the cases of B. Nihal Chand v. Bhagwan Dei and Gulab Chand v. Manickchand. Thereafter, the Indian judiciary has started to protect the Privacy of Women in the light of Article 21 of the Indian Constitution, among which important cases are In Re : Ratnamala and Another v. Unknown, State of Maharashtra v. Madhukar Narayan Mardikar, Neera Mathur v. Life Insurance Corporation of India, T. Sareetha v. Venkata Subbaiah, Saroj Rani v. Sudarshan Kumar and so on. Therefore, both the Indian legislature and judiciary have taken important measures for the protection of Privacy of Women.

Next come to the question of protection of Privacy of Children. Indian legislature has also taken good initiatives in this respect by enacting the Children Act, 1960 and Juvenile Justice (Care and Protection of Children) Act, 2015. But, Indian judiciary has not taken active steps in this respect and no such noteworthy cases are found. It is pertinent to mention here that, Indian legislature and judiciary have not been concerned enough like U.S.A. regarding the protection of Privacy of Children. Moreover, India is also not adequately updated like U.S.A. for protection of Online Privacy of Children, which is a new subject in India and initiatives have just been started thereof. In this respect, Section 67B of the Information Technology Act, 2000 as amended in 2008 is noteworthy, which protects the Online Privacy of Children and provides punishment for violation thereof. In this sense, this area is still neglected in India owing to the absence of awareness.

Next come to the question of protection of Privacy at the verge of advanced scientific technology. Though India is not much concerned about the issue and lacks any express legislation, but a number of legislations are found providing partial protection to this issue. Those are the Indian Evidence Act, 1872, the Indian Telegraph Act, 1885, the Indian Post Office Act, 1898 and the Information Technology Act, 2000. Section 66E of the Information Technology Act, 2000 expressly provides protection to Right to Privacy, which is a good initiative. But, Indian judiciary is still a novice on the subject; so far it has not pronounced any important judgment on the subject. Though it has pronounced various decisions on the violation of various provisions of the said Act, but has shown reluctance to consider a case as violation of Section 66E. Therefore, Indian judiciary has still not become matured enough to consider these cases.

Next issue is the issue of Data or Information Privacy, which is again in the primitive stage in India, because what the U.S.A. has done in 1970s; U.K. has done in 1990s; India is doing now in 2014 - 2017. U.S.A. has enacted its Privacy Act in 1974, U.K. has enacted its Data Protection Act in 1998 and till now, almost all the Western Countries have enacted their data protection laws, which is inevitable in the present social infrastructure of processing of huge amount of computerized data. But, India does not have a single complete statute on the subject. However, a number of legislations provide partial protection to Data or Information Privacy, those are, the Official Secrets Act, 1923, the Public Records Act, 1993, the Information Technology Act, 2000 and the Right to Information Act, 2005. At present, India has started initiatives for the protection of Data or Information Privacy by drafting two important bills, the Privacy Bill, 2014 and the Personal Data Protection Bill, 2014. Drafting of these two bills shows that, India is lagging far behind U.S.A. and U.K. regarding the protection of this right, because these two countries have enacted laws on the issue long ago and India is still trying to compete with other developed countries.

Data or Information Privacy is an emerging concept in India and as such, both legislative as well as judicial initiatives are scanty in number. No such mentionable judgments are found in this respect, except a case on Privacy and Right to Information, called the Vijay Prakash v. Union of India case. In this case Privacy of Personal Information has been protected by the judiciary against the Right to Information.

Overall analysis of outstanding facets of Right to Privacy in India provides the idea that; India is lagging far behind U.S.A. and U.K. regarding the protection of these components of Right to Privacy.

CONCLUDING REMARKS- The legal frameworks governing the right to privacy in the United States,



the United Kingdom, and India reflect both their shared commitment to individual freedoms and their unique constitutional, cultural, and societal contexts. The United States emphasizes privacy through constitutional interpretations and judicial precedents, focusing on issues like surveillance, personal autonomy, and informational privacy. The United Kingdom balances privacy protections under the Human Rights Act, 1998, and its common law heritage, emphasizing proportionality and the public interest in addressing privacy-related challenges. India's recognition of privacy as a fundamental right in *Puttaswamy v. Union of India* signifies a landmark shift, aligning with global standards while addressing domestic concerns, including digital privacy and data protection.

Despite their advancements, each jurisdiction faces significant challenges in adapting to the complexities of a digitally connected world. Issues such as mass surveillance, data breaches, and the role of private entities in handling personal information demand continuous legal evolution. A comparative analysis underscores the need for harmonizing domestic laws with international norms to ensure comprehensive privacy protections. Ultimately, the right to privacy remains a dynamic and evolving construct, requiring a balance between individual autonomy, societal interests, and technological advancements to uphold its fundamental essence in a globalized era.

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