



Right to Privacy as a Fundamental Right

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ABSTRACT

Right to privacy is the most discussed topic in recent years. A definite legal definition on privacy is quite not possible but there are several judgements of Supreme Court of India regarding this topic. Some countries adapted right to privacy as their fundamental rights enshrined in the constitution. In India and America, there is no such provision of right to privacy. Article 21 of Indian constitution states “No person shall be deprived of his life or personal liberty except according to a procedure established by law” It is interpreted liberally because right to life means not only a mere existence like animals but also live a life with some privacy and dignity so that human can progress towards new era. Alan Westin, Professor of Law in Colombia University in his book ‘Privacy and Freedom’ said “Each individual is continually engaged in a personal adjustment process in which he balances the desire for privacy with the desire for disclosure and communication of himself to others, in light of the environmental conditions and social norms set by the society in which he lives”.

A right to privacy is explicitly stated under Article 12 of the ‘Universal Declaration of Human Rights’:

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attack upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks”. This study try to analyse right to privacy and to what extent any reasonable restriction can be imposed to this right.

Introduction

Before we know what is right to privacy we need to know what privacy is and what is right to privacy. According to dictionary privacy is the state of being apart from other people or concealed from their view. According to Cambridge English dictionary privacy is the state of being free from unwanted or undue intrusion or disturbance in one's private life or affairs or freedom to be let alone. According to Wikipedia privacy is the ability of an individual or group to seclude themselves, or information about themselves, and thereby express themselves selectively. In 1890 the United States jurists Samuel D. Warren and Louis Brandeis wrote The Right to Privacy, an article in which they argued for the "right to be let alone", using that phrase as a definition of privacy. Edwin Lawrence Godkin, a famous American journalist wrote in the late 19th century that "nothing is better worthy of legal protection than private life, or, in other words, the right of every man to keep his affairs to himself, and to decide for himself to what extent they shall be the subject of public observation and discussion." Legal scholar Arthur Miller has declared that privacy is “difficult to define because it is exasperatingly vague and evanescent.” Legal scholar Lillian BeVier writes, “Privacy is a chameleon-like word, used denotatively to designate a wide range of wildly disparate interests—from confidentiality of personal information to reproductive autonomy—and connotatively to generate goodwill on behalf of whatever interest is being asserted in its name.”

In 2008 Daniel J. Solove, eminent Professor of Law in George Washington University law school in his book ‘Understanding Privacy’ says, “Privacy, however, is a concept in disarray. Nobody can articulate what it means. Currently, privacy is a sweeping concept, encompassing (among other things) freedom of thought, control over one’s body, solitude in one’s home, control over personal information, freedom from surveillance, protection of one’s reputation, and protection from searches and interrogations. Privacy is an issue of profound importance around the world. In nearly every nation, numerous statutes, constitutional rights, and judicial decisions seek to protect privacy”. U.S. Supreme Court Justice Louis Brandeis pronounced ‘Privacy’ as “the most comprehensive of rights and the right most valued by civilized men.” According to legal theorist, Robert Post who is dean and Professor of law at Yale Law School describes, “Privacy is a value so complex, so entangled in competing and contradictory dimensions, so engorged with various and distinct meanings, that I sometimes despair whether it can be usefully addressed at all.”

Right to Privacy in India

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