

"Social Transformation Through Dynamic Education"



BHARATI VIDYAPEETH'S

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**Proceedings of the One Day National Seminar on
Right To Privacy : Confrontations and Resolutions**

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RIGHT TO PRIVACY AND DATA PROTECTION

◆ Ms. Janhavi N. Ghodke

INTRODUCTION

Life of an individual has its own significance in society right from civilisation and recognition of rights of an individual as human being. Human reason has always been given preference for the preservice of right to life in toto. Individual has to be allowed to enjoy his life from all perspectives and facets otherwise it would have no meaning at all. For enjoying life in one's own way requires that private things of man's life should be kept intact. There may be some true or false things or beliefs in existence in relation to his personality, but it's not necessary that he should disclose all true or false things to public. No one can have right to peep into his inner sphere of life. Right to Privacy has been considered as important part of the life.

State is under duty to protect right to life from the day of its advent. As main focus for creating the entity of State was preservice of 'Right to Life'. Even in modern period it hasn't lost its significance as it is an inalienable right.

Society is not a static entity it keeps on changing and developing with the changing facet of time. Same thing we can say about rights that even if right as such won't lose its significance but its dimensions may get change with the change in society and time. In Indian legal system it can be reflected through Fundamental Rights given under Constitution of India, specifically Art. 21 i.e. Right to Life and Personal Liberty.

Right to Privacy has gone through different dimensions when it comes to Indian judiciary's opinion. At one time judiciary has considered it as important aspect of Fundamental Right, but sometimes it has not been given importance. Recently in the case of "Justice K.S. Puttaswamy v. Union of India" (August 2017) Supreme Court has declared

Right to Privacy is protected under Art.21 and i.e. Fundamental Right of the Constitution.

HISTORICAL ASPECTS

Before going towards detailed study of to Privacy it is important to go through historical aspects. The Right to Privacy can be traced to Greek origin not in the way of today's philosophy in form of thinking that "Man is the measure of things". Aristotle is also of the view that "law is for men and not men for law". Roman law was concentrated on the need of serving social needs. basis of Roman Jurisprudence was Reason inherent within man.

After fall of the Roman Era, during medieval period law acquired divine character i.e. based on divine reason. Renaissance and Reformation have taken place in the 15th and 16th centuries, which resulted into revolt against supremacy of the Church. Again human reason has gained its importance as man was considered as end unto himself rather only minute part of it. The men of Renaissance and Reformation have drawn their notions of Nature and State of Nature. The Social Contractualists mainly Hobbes, Locke, Hugo Grotius and Rousseau have in reality sowed the seeds of Right to Privacy by introducing inalienable and inviolable Natural Rights. Hobbes asserted to surrender all rights to the King avoid short, nasty, brutish, solitary 'state of nature'. King was to guarantee preservation of life and security of property. John Locke asserted 'state of nature' as Paradise therefore he preferred to keep natural liberty with individuals while entering into contract with the King, who would be answerable to the people for preservation of life, liberty and property. Rousseau has devised social contract in which individual is not subject to arbitrary will of other individual but to general will. His theory is generally considered as of