

PRIVACY AND ICT THE ROLE OF EDUCATION – NEED FOR AWARENESS

Vibishnavi, P⁷⁸² & Atul Alexander⁷⁸³

INTRODUCTION

The word Right derived from the old English word '*riht*', the word Privacy derived from the Latin word '*privatus*'⁷⁸⁴. In a narrow sense Right can be defined as freedom, interest or privilege. Salmond defines Right is an interest recognized and protected by rule of law/country⁷⁸⁵. Privacy can be defined as free from undue intrusions in one's life, Wikipedia defines privacy as the ability of an individual or group to seclude themselves, or information about themselves, and thereby express them selectively⁷⁸⁶. In information communication and technology period the Right to privacy become a vital concept, though it seems to be they have a good relationship between these two, it also have the same amount of clash. By saying the word information and communication technology my mind goes back to 32,000 B.C where we used to communicate by rock paintings after that we invented paper, telegraph, radio television but the communication technology was well developed only after the invention of computer and internet. We can't even predict a world without information and communication technology, it serves us vitally, can see in every nook and corner, it became a bare necessity for us, conjointly we can't or we are not ready to give up our natural, fundamental, much debated right I.e. aforementioned "right to privacy" even for technologies

The concept and importance of privacy in India – case study

The privacy is not a novel concept, we can trace it from when the world originated, for instances, in our great epic Mahabharata the concept of privacy was discussed elaborately such as after the marriage event of the pandavas they agreed to respect the holy privacy of them when they are with draupadi⁷⁸⁷, in bible it was stated that 'the godly will respect other property rights and privacy rights' and the eighth command discussed about the holiness of privacy⁷⁸⁸, Billy Graham said once we lost privacy we would realize we lost an valuable thing⁷⁸⁹. Jonathan

⁷⁸² 2nd year M.L student, TNDALU

⁷⁸³ 2nd year M.L student, TNDALU

⁷⁸⁴ Online etymology dictionary (n.d), retrieved august 21 from <http://www.etymonline.com/index.php?term=private>

⁷⁸⁵ Raymand wacks, (2012), understanding jurisprudence, oxford university press, united kingdom.

⁷⁸⁶ Privacy (n.d), Wikipedia, retrieved aug 21 from <https://en.wikipedia.org/wiki/Privacy>

⁷⁸⁷ Mahabaratha (n.d), hinduwebring, retrieved august 21 from <http://web.cs.ucdavis.edu/~vemuri/classes/freshman/Mahabharatasynopsis.htm>

⁷⁸⁸ Privacy and secrecy (n.d), to the Christian life menu, retrieved august 22 from <http://www.bcbsr.com/topics/privacy.html>

⁷⁸⁹ Billy graham (n.d), billy graham quotes, retrieved august 22 from http://www.brainyquote.com/quotes/authors/b/billy_graham.html

Franzen said without privacy there is no point for as being an individual, Marlon Brando pointed out that privacy is not something that we entitled to it is an absolute prerequisite. Greta Garbo state that she never want to be alone she wants to let alone⁷⁹⁰. Justice William O. Douglas expressed that the right to be let alone is in truth the creation or root of all freedom⁷⁹¹. Imagine the world that no one will allowed to possess the right to privacy, how could we survive, definitely we start agitation for claiming privacy. Even though in present era some people are against privacy, definitely they going to also start to claim privacy when they are personally affected, everyone needs privacy, it is the fundamental human rights. In the dawn of privacy it seems to look we have privacy policy, and our privacy is protected but in reality we lost privacy slowly from the date of invasion of information technology specially internet. Ervin N. Griswold expressed that the right to let alone is a cardinal principle of the constitution bill of rights⁷⁹². The U.S SC attorney warren and justice Louis brandies stated the right to privacy as right to be let alone. In U.S the right to privacy was explicitly stated in Griswold vs. Connecticut case⁷⁹³, whereas in India right to privacy is nowhere stated in our constitution but it has been culled by the court from article 21, 19 etc., in karakh singh vs state of uttar Pradesh⁷⁹⁴ supreme court held that right to privacy was come under the purview of personal liberty hence it is a fundamental right.smt. Menaka Gandhi vs. u.o.i⁷⁹⁵. & others the 7 judge bench stated right to privacy comes under article 21 of our constitution so reasonable restriction may imposed on it but it should be just and fair. Peoples union for civil liberties vs u.o.i⁷⁹⁶ is a public interest litigation where it was stated the act of telephone taping violating the fundamental rights as it is against right to privacy, sc held that even though sec 5 of Indian telegraph act permits telephone taping it should be done only when there is a need of public safety and emergency. Justice subbha rao stated even though our constitution didn't explicitly stated the right but it comes under the ambit of personal liberty⁷⁹⁷. In Neera Mathur vs lic⁷⁹⁸ the lic of india had a column that questions about menstrual cycle and more personal details of a women it was challenged before the court, the court held that it indeed embarrassing and ordered to delete such so called column. Rajagopaln vs. union of India⁷⁹⁹ case revealed us even the prisoners also have right over their privacy. The 177th report of justice Venkatachaliah stated the importance of privacy and proposed for a new article which explicitly stat the right to

⁷⁹⁰ Quotes about privacy (n.d), good reads, retrieved august 22 from www.goodreads.com/quotes/tag/privacy

⁷⁹¹ Alex santaso (august 11, 2008) , freedom according to justice William o.douglas, retrived august 22 from <http://www.neatorama.com/2008/08/11/freedom-according-to-justice-william-o-douglas/>

⁷⁹² Collectivism vs individualism (n.d), freedom keys, retrieved august 22 from <http://freedomkeys.com/collectivism.htm>

⁷⁹³ 381 U.S 479 (1965)

⁷⁹⁴ AIR 1963 SC 1295

⁷⁹⁵ AIR 1978 SC 597

⁷⁹⁶ AIR 1997 SC 568

⁷⁹⁷ Justice Ajit Prakash Shah (16 October, 2012) report of the group of experts on privacy, retrieved august 23 from planningcommission.nic.in>rep-privacy

⁷⁹⁸ AIR (1992) 1 SCC 286

⁷⁹⁹ 1994 6 S.C.C 632

privacy⁸⁰⁰. Privacy is the fundamental human rights it never concerns about whether they are prisoners, man, women or children, everyone have right over their privacy with certain reasonable restrictions.

PRIVACY UNDER INTERNATIONAL LAW

Privacy differ from each country in line with the surrounding environment, after the 2nd world war united nation general assembly adopted the cardinal principle called universal declaration of human rights on 10 dec 1948 at Paris⁸⁰¹, art 12 of UDHR stress the importance and need of right to privacy by stating that everyone is born free everyone have the right to protect their privacy, no one can interference with their privacy, family etc..., without any sufficient good reason. United nation general assembly adopted international covenant on civil and political rights on 16 dec 1966, it is a part of international bill of human rights, in iccpr it stated privacy in Para 3, art 14, art 17, in Australia right to privacy was implemented by a special act called Australian privacy act 1988⁸⁰². Right to privacy is cardinal in European law, art 8 of the European convention on human rights widely give importance to privacy, even though certain restrictions are imposed, they believed the principle of privacy⁸⁰³. The recommendation were made under the expert group under the chairmanship of M.D. Kirby was adopted by OECD on 23 September 1980 as protection of privacy and trans border flows of personal data. Part 2 deals with basic principles of national application such as under para 7 & 50 collection limitation principle, data quality principle, purpose specification and 4 others⁸⁰⁴. Convention for the protection of individuals with regard to automatic processing of personal data was signed in 28 Jan 1981 at Strasbourg, in its preamble it states the right to respect for privacy and in art 1, 9, 12, 13 it states the word privacy, in preamble itself it states the word privacy 3 times⁸⁰⁵. Asia pacific economic cooperation formulated a framework in 2014 to protect information privacy its preamble contains the word privacy 19 times respectively the part 1 have 16 times and part 2 have 9 times..., its nine principles promotes the safer transformation of information and sets out privacy policy it had the strong

⁸⁰⁰ 177th report (14 December, 2001) law commission of India, retrieved august 24 from [lawcommissionofindia.nic.in>reports](http://lawcommissionofindia.nic.in/reports)

⁸⁰¹ Draft committee (16 December, 1949) Universal declaration of human rights, Wikipedia, retrieved august 24 from <http://googleweblight.com/?lite-uri=https://en.m.wikipedia.org/wiki/universal-declaration-of-human-rights&ei=d1NZDNOa&lc=en-in&s=1&m=283&ts>

⁸⁰² International covenant on civil and political rights (16 December 1996), united nation human rights, retrieved august 24 from <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁸⁰³ European convention on human rights (3 September 1953) Wikipedia retrieved august 24 from https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CB0QFjAAAhUKEwilz9Ckp9HHAhXIPhQKHcUwC88&url=https%3A%2F%2Fen.wikipedia.org%2Fwiki%2FArticle_8_of_the_European_Convention_on_Human_Rights&ei=DTtrjVeWULcj9UMXhrPgM&usq=AFQjCNHHGN9nwg4ImeER2CiPGxeBRXKgkA

⁸⁰⁴ RECOMMENDATION OF THE COUNCIL CONCERNING GUIDELINES GOVERNING THE PROTECTION OF PRIVACY AND TRANSBORDER FLOWS OF PERSONAL DATA (23 September, 1980) , OECD, retrieved august 24 from <http://www.oecd.org/sti/ieconomy/oecdguidelinesontheprivacyandtransborderflowsofpersonaldata.htm>

⁸⁰⁵ Convention for the protection of individuals with regard to automatic processing on personal data (28 January, 1981) retrieved august 25 from <http://conventions.coe.int/Treaty/en/Treaties/Html/108.htm>

implementation agency⁸⁰⁶. Directive on the protection of individual with regard to the processing of personal data and on the free movement of such data made by European parliament and the council on the basis of recommendation made by the European commission was adopted in 1995 and implemented in the year 1998 the cardinal principles laid down in that is no one should processes the personal data unless there is a certain condition such as transparency, legitimate purpose and proportionality⁸⁰⁷. The international data protection and privacy commissioner conference was established in 1979, recently the 36th conference was held in Mauritius⁸⁰⁸. United nation convention on the right of the child was adopted by U.N general assembly on November 1989 UNICEF declared it as most rapidly and widely ratified convention, in this convention art 16, and 40 deals with the right to privacy of the child. Guidelines for the regulation of computerized personal data files was adopted by U.N general assembly on 14, December 1990, though it not have legally binding capacity it stress the national regulation in computerized personal data.

INFRINGEMENT OF PRIVACY IN ICT

Information and communication technology became our integral part of our life we gain indeed benefits out of technologies such as online shopping, e-banking, instant mail services, search engines, time saving, like that it goes on, but as stated by Newton's third law for an every action there is an equal and opposite reaction, as same as in information and communication technology we face so many difficulties mainly as invasion of privacy. Aforementioned government enacted so many acts, committee, commission, convention, statute, law etc., but due to technological development threats to privacy also keeps on developing, government couldn't able to pace with technological development. Some threats as electronic voyeurism, phishing, hacking, etc., our government enacted information and technology act and it was amended so many times to keep pace with technological development, in IT Act section like 66E, 66C, 66D, 67B, 43A, 72A, 69, 65, 66, 66A, 66B, 66E, 72, dealt with protection of privacy⁸⁰⁹. Now we will be speculative that so many statutes are enacted to protect privacy in the dawn of information and communication technology then why we have to bother about privacy, but the fact is even though there is loads of statute we are still in the place of unsafe for instance tamilnadu vs. suhas katti was the first case were conviction under it act sec 67 was involved as posting obscene message on internet. In miss teen U.S.A 2013 Cassidy wolf lodged a complaint that she got a message from stranger that her photo containing

⁸⁰⁶ APEC (2012) , privacy framework, retrieved august 26 from http://www.apec.org/Groups/Committee-on-Trade-and-Investment/~/_media/Files/Groups/ECSG/05_ecsg_privacyframewk.ashx

⁸⁰⁷ protection of individuals with regard to the processing of personal data and on the free movement of such data (24 October 1995) protection of personal data, retrieved august 26 from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:114012>

⁸⁰⁸ International data protection and privacy commissioners conference, (1979) data protection commissioners, retrieved august 27 from <https://www.dataprotection.ie/docs/CONFERENCES/1001.htm>

⁸⁰⁹ Information and communication technology act 2000, universal law publication co.pvt.ltd

nudity would be posed if she refused to do some favour for him, after the investigation by FBI it was shocked to notice that the stranger was a 19 year old student and he hacked the web camera of others he can able to access it from his place even they switch it off, and take the pictures of them if they undressed, it is so shameful, where is our privacy? Where we have to find privacy? At least in our bedroom we want privacy, no one can expect our webcam will be accessed by others without our knowledge. Not only web access some others as harassment through e-mail Cyber stalking, Cyber pornography, Cyber defamation, Email spoofing, financial crime, Etc., ACLU vs. Miler case the act which abrogated the right to privacy is held to be unconstitutional as it violates bill of right. We have to agree that government and court try to protect our rights to privacy and computerised personal data to the best. Technology is developing in each and every second now smart Phone acquired the big place, many statutes may come but it is so tedious to control the cybercrime completely. In we take Facebook we can trace so many people became addict to it and post their day-to-day activities. Is it good? Is it safe? The answer is left to you. Even though Facebook provides privacy to certain extent it is not complete safe for instance if privacy is default everyone can see what we post and if we want to delete our conversation and posts uploads we can't because it stores somewhere in cyberspace which was easily available to the stalker even more the risk is our personal details were subjected to trade.⁸¹⁰ In 2005 carnegie university conducted a study that revealed out of 100, 61% gave their original photo in social network for better and easy identification. Rob wainwright expressed those traffickers using the so called Facebook to lure victims especially the vulnerable groups into sex crimes.⁸¹¹ Other way of privacy infringement by traders, imagine how you can get a relevant ad when you open or access the social network for instance I opens an account in fb in that I specified my gender as girl and my age likes hobbies etc., this was traded to outsiders they promote their products by way of pursuing our likes interest what we mentioned at the time of opening an account or later on some as data scrapping.⁸¹²

Importance of education

The term education was derived from the latin word educare and educatum educare means to bringing up or to mould the word educatum means to lead out. literacy was derived from late 19th century from the English word literate. There was a vast difference between the word education and the word literacy. Education has wide wings when compared to literacy. Literacy means able to write and read but education includes literacy able to reason,

⁸¹⁰ Michael poh (n.d) facebook and your privacy; why it matters, hongkiat, retrieved august 26 from www.hongkiat.com/blog/facebook-privacy-matters/&ei=sexlarlp&mc=en-in&c=1&mxelywzfzmybyvfn-Q

⁸¹¹ Agence france-presse (nov 26) sex traffickers using facebook to lure victims, ndtv, retrieved aug 27 from <http://m.ndtv.com/world-news/sex-traffickers-using-facebook-to-lure-victims-704041&ic=en-in&s=1&m=788&ts=1445081421&sig=aponpfmqojg>

⁸¹² Privacy violations-the dark side of social media(*n.d), internet security, bullguard security centre, retrived aug 27 from <http://www.bullguard.com/bullguard-security-centre/internet-security/social-medi-dangers/privacy-violations-in-social-media.aspx&ei=8bimlld7&ic=en-in&s=1&m=788&ts=1445082074&sig>

gain wisdom. Literacy is not a cardinal for human even robots have literacy but to differ from robots we the human needs education. Once we get the education we started to do reasoning for every acts and events. We never ever accept anything blindly. **George miller** stated that short term memory only have the tendency to hold seven bits of memory plus or minus 2 hence the repetitive teaching helps them to understand. On examination done by chugani revealed that child brain is 4 times more active than adults by proving that glucose metabollization is more active in child's brain . as believed the importance of education our constitution provides free and compulsory education to the children between the age group of 6-14 under article 21A by 86th amendment in 2002 by believing that early stage of childhood plays a vital role in develop their character, mind-set, and how to survive with dignity, how to protect them from indulging in immoral activities, how to uplift the society by way of contributing their knowledge and to help the needy. Education is a only tool to overcome from superstition belief, to promote self-confidence, equality, awareness, the seed of wisdom should be sown at the early stage of childhood. Education makes a man perfect. If we wants to create awareness first we should inculcate about the concept, consequences, safety, etc., without this we could not expect others to act in such a proper way because they are not aware of it.

CONCLUSION AND SUGGESTION

Aforementioned we discussed the importance of both privacy and information technology, we couldn't blame our government we have to work and fight for our right, awareness is needed vitally at this present scenario its time for us to understand our rights and how we have to safeguards from unauthorised intrusions. How many of we installed the antivirus that is authentic and effective of course it prices more but it is not more than our precious privacy, vulnerable groups are affected mostly by this cybercrime because they don't know their rights and dangers and what to do and what shouldn't to do. Government should instead of making so many acts and enactments and amendments it could create awareness among people mainly to vulnerable groups through educations, campaign, seminars, etc., in the sense it should be repetitive as expressed by George because our brain grasp only when it is inculcate repetitively. many children today desire to buy smart phones but they don't know what are all the dangers waiting for them, many instances are seen in newspaper, news some as morphing the photo which was taken by their face book, whatsapp profile picture, many do away their life because of this incident, in this case what wrong they did? What was their mistake? Government can ask for new technologies to show accountability and precautions, it would void so many cybercrime and saves so many life. Education is the only way in which many crimes can be avoided. Many crimes could be avoided if awareness were created, many crimes was done to the innocent people who don't know what act was wrong and do's don'ts. As Thomas Alva Edison stated what man creates with his hand it is vital to control with his head. I hope this paper would make

some students people to work on this area and find solution for this problem and create a peaceful life with technologies.



The LAW BRIGADE