

The Study of Right to Privacy with reference to Information Technology Act, 2000

Privacy is an essential value for development of human personality. In earlier times man used to possess personal property i.e. his land and house. Therefore, the privacy was related to personal property of him. Threat to his privacy was from government which has power of search and seizure and from private persons who trespass the property.

But with inventions in science and technology, the life of person has come under constant surveillance of society. The means of communication especially media-newspaper as well as electronic- also have contributed to invasion of privacy of an individual. Personal information of the individual is disclosed to society which was not supposed to be disclosed. Person wants to control the disclosure of his personal information generally. So slowly the focus of privacy started shifting from property to personal information. The researcher has discussed this shift in detail in the research.

Information technology has facilitated the transactions in such a way that threats while its use are ignored by people. Today advanced gadgets including wearable gadgets have crushed the 'privacy' to its core and because of such use the personal information has become 'commodity'. It has become saleable. With the increasing use of information technology and computers, information about an individual is gathered with the service providers. This personal information is illegally used for the commercial advantages. Due to this, privacy of an individual is harmed, encroached and invaded. In the modern age of information revolution, informational privacy of the person is breached. The effects of this invasion may result in to loss of rights legal as well as human rights.

It is a matter of consideration that how technological changes have affected scope of legal provisions. The protection provided under the legal provision soon become insufficient due to technical change advancing character or use of technology. Many times the scope of existing protection under law is narrowed down by progressive technological changes. In modern era, impact of advanced technology on law is unprecedented.

It is essential to know the threat for protection from the threat. To control and/or regulate such misuse or abuse, the legal provisions are enacted by different legal systems. To protect the Right to Privacy, United States of America has enacted different privacy laws instead of one omnibus provision. United Kingdom has also enacted Data Protection Act, 1998. Some provisions in Human Rights Act, 1992 also protect the Privacy of an individual.

Researcher while focussing on the Right to Privacy given under Information Technology Act, 2000, also elaborately discussed the various legislative attempts towards codification of a law on protection of privacy of personal information.

The main objective of this research is to find out the right to privacy with reference to Information Technology Act, 2000. While finding out this the researcher also conducts the study with following objectives.

1. To analyse the privacy bills and data protection bills towards protecting the right to privacy.
2. To identify the preventive measures of infringement of interests and rights of persons.
3. To identify global issues and challenges particularly in countries like U.S.A., U.K, European Union and also national policy in Cyber Laws.
4. To study the opinion of the stake holders.
5. To examine the role of judiciary in protecting the right to privacy of individuals with reference to IT Act, 2000.

To achieve these objectives of the study, the researcher has formulated the following hypothesis-

1. Due to lack of sensitivity and political wish for enacting the law for protection of Right to Privacy, it is difficult to achieve justice or prevent failure of justice.
2. In absence of the clear provisions for protection of Right to Privacy, the judiciary cannot deliver justice and prevent infringement of the rights.

3. The lack of awareness among people about the clear provisions of Information Technology Act, 2000, will result in to infringement of Right to Privacy of individuals.
4. As there is an absence of any check on the government or any entity for gathering and dissemination of information of a person, it is not possible to guard rights of person relating to his privacy
5. Due to lack of the provisions regarding responsibility of intermediaries, service providers, there is a possibility that intermediaries, service providers misuse the power.

Research questions:

1. Is it possible to achieve justice or to prevent failure of justice as there is less sensitivity and political wish to enact law for protection of right to privacy?
2. Can a judiciary deliver justice and prevent infringement of the rights, in absence of clear provisions protecting Right to Privacy?
3. Does lack of awareness among people about the clear provisions of Information Technology Act, 2000, will result in to infringement of Right to Privacy?
4. In absence of the any check on the Government or any other entity for gathering and dissemination of information of a person, is it possible to guard the right of person to his privacy?
5. As there is lack of provisions regarding responsibility of intermediaries, service providers, is there a possibility that intermediaries, service providers misuse the power?

To achieve the above objects of the study, the research was divided in the chapters.

The first chapter dealt with the introduction of the **Right to Privacy with reference to Information Technology Act, 2000**. The researcher has tried to give direction to the summary of what would be track of research. For that the researcher has discussed rationale of the study, object of the Study, scope and delimitation of study, hypothesis/Research questions formulated to conduct research, research methodology, Review related to the related research and its implication and chapter structure.

The **Second chapter** discussed the **Computer Transactions and Right to Privacy: An Overview**. The researcher in this chapter tracked the development of computer from computing machine. The traditional uses of computer and information technology are diminishing very fast. The cognitive functions in decision making which made the human being distinct and incomparable are intended to be replaced by new inventions in science and technology. The privacy threats which may result from the use of such technology which is used in IoT, Machine Learning, Data mining and Artificial Intelligence are not visible yet. In this situation, the privacy, security and confidentiality of the personal information or data is very difficult to maintain. On backdrop of this multi-potent technological advancement, the protection of privacy of any person is serious issue faced by the various legal systems. This critical issue can be effectively dealt with if the scope and nature of privacy is clearly defined.

The **Third Chapter** is the **Right to Privacy: International Perspective**, in which the researcher discussed meaning, scope and development of the concept 'Privacy,' that helped to understand the concept. The researcher discussed the development of the concept in some of the technologically developed countries like United States of America, United Kingdom, European Union that helped to know the gradual development and history of the concept in different periods and in different legal systems and various laws being enacted and adapted by them for protection of privacy and how the same would be helpful in codifying the laws in India. This chapter also discussed these gradual development and history of data protection and to understand its development and to examine the necessity to codify the laws pertaining to it.

The **Fourth Chapter**, discussed the **Right to Privacy and IT Act, 2000: An Interface**. The researcher, in this chapter, studied at length the IT Act, 2000, right to privacy and data protection regulations and directions of European Union, U.S.A and U.K. The researcher has interpreted the codified enactments, provisions, laws and Bills on privacy and data protection. The researcher has further analysed whether there is need of new or improved law or present

provisions regarding privacy and data protection in the IT Act or whether they are sufficient with some of the amendments to be made.

The **Fifth Chapter** discussed **Judicial Response to Right to Privacy**. The researcher discussed the important case laws pertaining to right to privacy and data protection in various countries like United States of America, United Kingdom and European Union. Through this the researcher has highlighted the benefits of a well codified and comprehensive legislation on privacy and personal data protection. The researcher also discussed the decisions given by the judiciary in India. In the end the researcher has analysed that the right to privacy and protection of data was given to individuals in judgements passed nationally and internationally. But there is definite need for some amendments and improvements in the legal system for protection of privacy and personal data in India.

The **Sixth Chapter** dealt with the **Interpretation and Data Analysis**. The researcher used tool of semi structured questionnaire filled by various stake holders using mobile, computer and internet on electronic gadgets in Mumbai, Maharashtra. Tool of face to face conversation was used for interviewing the stakeholders. The researcher studied the awareness of stakeholders about the privacy and protection of personal data while using information technology.

The Seventh Chapter **Conclusion and Suggestions** is the final chapter. In this chapter, the researcher has drawn the conclusion and tried to give the suggestions. For the protection of rights of individuals, there must be well comprehensive legislation. In absence of legislation, it is difficult to provide protection of the right to informational privacy. The Personal Data Protection Bill, 2019 is drafted by the government but it is still pending. So, there is absence of general law for protection of privacy and personal data in India. Moreover, this Bill also has some defects like exempting Government's liability for the access of data. In a strong democracy the liability of the government is twofold one is positive- making of strong legislation against encroachment of privacy and negative- by not encroaching the right to privacy of citizens.

On the basis of the research conducted the researcher has given some major suggestions relating to protection of privacy of personal information or data of the individuals. The researcher suggests that appropriate new legislation relating to Personal Data Protection must be enacted and also recommends for protection of health data the separate legislation.