

Ethics in Information Technology and Law— A Mismatch

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Abstract—Information Technology is a fastest growing technology of the present era. It has rapidly changed not only our lives but also the business, trade, commerce, education and research. Since all these areas of human life generate social relations, the interference of law, therefore, becomes obviously essential. In this area of inter-se relation of law and Information Technology, set in motion by United Nation General Assembly Resolution of 30th January, 1997 adopting the Model Law on Electronic Commerce by the United Nations Commission on International Trade Law, paved a way for (Indian) Information Technology Act 2000.

In this game of providing floods of information alluring the businessman and scholars to learn and use foul means for financial and academic advantages at the cost of loss to the other parties, the violators are far more clever and aware than those engaged in putting them in place and deterring the offenders by heavy punishments. Resultantly, the law though continuously upgrading and equipping itself by way of rapid amendments in the laws on Information Technology, Intellectual Property as well as Penal Substantial and Procedural Areas, yet leaves a wide gap unbridged. Even otherwise, ethics are not only law embraced but much more that is a regulated by the moral and social agency.

When we analyse the available provisions of law and the surrounding contours of IT violations, it is strongly felt that law is lagging, ethical regulation is missing which provides open flood gates of violations, misused and exploitations. Legal control by Adjudication officers and the Cyber Appellate Tribunal is not only inadequate, less coordinated but also largely unknown to large section of Indian society that is suffering helplessly. It needs active role of State and professional agencies with strong cooperation and coordination for which we need is instant and large.

1. INTRODUCTION

Information technology is all embracing in our modern lives. Business, trade and education are important areas of such lives; however, the other areas like crime through use of computers and terrorism across the boundaries of the nation are more serious problems in this cyber age. This paper, however, is confined only to the areas of business, trade and education. The information Technology Law has been upgraded in India after UN Resolution of 1997 in the form of IT Act 2000 but the reports of misuse of information technology in business, trade as well as education have been flooding in the form of frauds, cheating, thefts, plagiarism,

etc., etc.. All this shows that when such violations are largely on the increase, law seems to be lacking and lagging despite periodic amendments in the law. International boundaries have also been broken in the area of IT, may be education, business or trade, but the ethical issues in IT as well as in law are yet confined to the national systems. Therefore, an international set of legal and IT ethics is required to be worked out and implemented.

2. LITERATURE REVIEW

The authors have searched and scanned 8 articles in the area of our interest.

‘*Information Technology Ethics, Professionalism and Law*’ by *Ossama Khalil*, [1], identifies the areas of violation in IT and categorizes them as Equity, Privacy, and Honesty guidelines to distinguish the right from the wrong. He underlines self-regulation by the nations.

‘*Legal and Ethical Issues in Obtaining and Sharing Information*’, by *Robert H. Myers*, [2], confines to insurance business and the competitive intelligence, unfair competition issues as well as the areas of privacy, confidentiality and trade secret. The author points out that an information lawful for one purpose may become unlawful if used for other purpose. The inconsistency in State and Federal law also become problematic.

‘*Information Technology, Marketing Practice and Consumer Privacy: Ethical Issues*’, by *Ellen R. Foxman and Paula Kilcoyne*[3]. The authors deal with personal privacy and its large scale erosions. In the research undertaken by the authors they find that the 76% consumers make a complaint of personal privacy erosion by the companies where no permission is obtained from the employees.

‘*Four Ethical Issues of the Information Age*’, by *Richard O Mason*, [4], refers to privacy, accuracy, property and accessibility in the study confined to Florida State.

'*Legal and Ethical Aspects of Telemedicine*' by Benedict Stanberry,[5], confines to health information leakages referring to confidentiality and privacy of patient records as in area of IT concern.

'*Legal, Ethical and Professional Issues in Information Security*' [6], is a discussion under chapter III in the book by Earl Warren. The author refers to the research study of different ethical attitudes at the global level pointing out the privacy and security risks therein. He underscores the need for education. Referring to the laws in the United States like USA PATRIOT ACT 2001, COMPUTER SECURITY ACT 1987, the author underlines IT ethics observed in business and suggests code of business ethics in company regulations.

'*Security and Ethical Issues in IT: an Organization's Perspective*', by Devendra Kumar Tiwary[7]. It is a research study of company violations and the policy of the companies. The author concludes that comprehensive ethical guidelines are not possible, therefore voluntary regulation and continuous upgradation of ethical guidelines is the solution of the problem.

'*Legal and Ethical Issues in Multimedia: a Technical Perspective*' by Leone Woodcock, is the article studying student perceptions of ethics. It points out that students largely feel that use of copyright issues is not bad even if violating the law.

3. IT ISSUES AND ETHICS

The business enterprises, in the present era of cut throat competitions are in the mad race of hacking information of others. It may be the matter of accounts, prices, clientage, product and process processing, the secret of companies arising out of research achievements. The information is used by the companies as their own or for achieving competitive race, invitation to the customers with more offers and earning more and more profits with lesser spendings than the companies whose data and information they have stolen and upgraded making it as their own. In the area of education and research, the educational institutions use the fee structure, the data of research achievements, and databank of present and future students of the other institutions. There are large scale copyright violations in the field of education which has become very popular as plagiarism in academics and research. The ethical issues are security and privacy which is flouted by the organizations and within the organization, the employers wage on the privacy of their employees and the employees also steal the company information and sell it to other organizations while in service or after they leave the service and join another along with the information available with them which is the bargaining point in settlement of their wages etc.

In India, we find that there is little regulation of information technology. Emails and the accounts of the organizations are freely stolen and used by the competitors. Companies and managements are required to adopt self-regulation and stop mad race of unhealthy competition.

4. LEGAL ETHICS AND FRAMEWORK

The regulation of IT violations is largely required to be done by the state through the enactment and enforcement of laws, both central and state. To meet the demands of the times, both civil and criminal laws have been amended in India. The amendments in the Indian Penal Code, Code of Criminal Procedure, Law of Evidence and The Code of Civil Procedure are only the surface level amendments providing for the IT information to be recognized in law and cybercrime to be taken note of. The major law in this area has been the Information technology Act of 2000, where the focus is on use of information technology and dealing with the violations. The law inter-alia provides for certifying authority for electronic signature, certificates and their use in an authorized way. The adjudication officers have been provide under the law to be appointed by the central Government for dealing with the disputes and also there is a provision for appointment and working of the cyber appellate tribunal for the purpose of adjudication for all such violations. All such authorities are appointed by the central government.

Indian Copyright Act of 1957 has been largely amended in the year 2012 and new rules under the law have been adopted in 2013. As per the new provisions, the concept of copyright society and performer societies have been adopted for undertaking the business of copyrights in a lawful manner. The amendments also provide for technical protections making a provision for seeking technical assistance by the copyright board for this purpose. So far as the agencies dealing with the increasing copyright violations are concerned, it continues to be registrar's office and the copyright board established at the national level, however, with a provision for holding meetings at the zonal levels. The law does not provide for any state level regulations of IT and Copyright violations. In addition, the legal framework also leaves little room for voluntary initiatives and self-regulations by the individuals and organizations.

5. THE GAP AND MISMATCH

IT ethics provide for making information available to large and large sections of the society, but legal ethics cover only procedures for registration, licencing and adjudication of violations. In the area of security and privacy ethics in IT, law is seen controlling it not to the possible extent. Education as an area of IT violations is largely missing in the legal framework, the role and obligations of companies and managements are found no way discussed in both IT and legal ethics. As law is creation of the State, and ethics many times

flow outside its domain, there remains a need for independent professional bodies created by law to provide for ethical guidelines to the concerned individuals and organizations. But in the case of IT, no such institution like the Bar Council of India and The Medical Council of India, have been provided.

[11] Indian Copyright Act 1957

[12] The Copyright (Amendment) Act, 2012, No. 27 of 2012, The Gazette of India

6. CONCLUSION

IT is growing with its full speed caring little for the ethics, misuse and the boundaries of regions and areas of life. Right to Information is a part of Fundamental Right to a freedom of speech and expression under Article 19 of the constitution. Therefore, an encouragement is required to be given for more works and research as well as the sharing of the information not amongst individuals alone, but also amongst the organizations and institutions. All the same, there is also a need that the flow of information and the use is also regulated in the interest of the society and its values. In addition, the interest of the authors and research bodies is also required to be kept in mind. At present, there is a large scale gap of legal and ethical issues in IT in different nations on the globe, which needs to be bridged because IT has eroded all these boundaries. India, being a developing society needs more awareness being a vast country with large population, much of which is ignorant. In the present framework of ethics and law, the role of state is largely missing, even though India is a federal country. The professional bodies are also largely not recognized for playing their role in managing the IT violations by way of formulating and implementing the ethics. Police is yet recognized as the principal investigating agency of all kinds of IT crimes but, the Indian police are not trained in knowing the violations of information technology. As a result, the cybercrimes and IT violations are increasing with everyday passed.

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