THE PARADIGM OF PRIVACY TOWARDS DIGITAL COLONIALISM- AN INTRODUCTION

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Abstract

It is our deemed right and ability to ask about the right of which we take reference for our considerable liberty and permission; what is the essence in that right, which leads us to find the most obscure solutions in an individual, a group or a state's life. Privacy, being a civil right, is thus in that line. However, when we categories rights as positive and negative rights, we do forget that the element of ethics must be completely removed in some special kinds of implicit rights, which pertain to the idealistic theory of rights. Digital Colonialism is the wake of not only an outcome of Information Technology but also a specific relation with cyber contingencies. Thus, when there exist the fate of IHRL, we do not understand that human rights are the core application of any possibility that you can possibly achieve. The story of privacy spreads the essence and idea of personal liberty and social coherence. Without the character and presence of law and ethics, privacy exists as a neutral right towards a world, where from the historical chores to reality, the understood advent of cyber realm creates the wake of Digital Colonialism, when mere ethics is just variant cum arbitrary or variable sometimes; it does not have a confined locus nor a finalized or connected set of loci. Hence, in the light of the sociological, economic and historical aspects of India, such questions have been dealt by the article. Emerging as a pervading problem, Digital Colonialism has its own aspects globally, which has an intimate connection with the Right to Privacy and the question of its exposure and regulation. The article provides an earnest effort to discover the basic realm by the author.

Keywords: *Jurisprudence, Privacy, Constitutional Law, Civil Liberty, Digital Colonialism etc.*

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INTRODUCTION

Privacy is the qualitative right of mankind, which does not confine itself to personal liberty and is a method by which a human fulfils the need to shape his two perspectives- those of his circumstantial attributes and those of his personal attributes. According to Davis, *"When we speak of human society, therefore, we have in mind not merely the objective set of relationships between the members but the subjective set of norms as well. Unless we know both we cannot understand the society; for since they are not identical the normative order can never be completely deduced from knowledge of the factual order, nor vice versa. If there were no normative order there could be no normative society; for the innate equipment of the human organism is not sufficiently comprehensive or integrated to give automatic responses that are functionally adequate for the society.[1]"* From the point of view of conduct, of course, this doesn't really matter: bad behaviour is bad behaviour, whether it is a violation of a right or not. But if we want to be clear about why this or that bit of bad behaviour is bad, then these distinctions do have to get made and looked into.[2] If we analyse the definition of privacy by Parker[3], which is that privacy is control over when and by whom the various parts of us can be sensed by others[4], then it is easily ascertainable that the intrinsic attribution to relation with a functionary relevance towards revelation under sensible considering limitation.

Privacy, in its conceptual realism, is devoid of the directive of any subjective presence or element; even if it is, then it shall be always bound by application. It creates the sui generis basis of the concept. It can be defined as a 'neutral right' by the virtue of 'its own interactions, relations and revelation' on an imitative basis. Hence, the emergence of digital colonialism gives us an insight of the diversity that realms to underline as well as undermine. Well, a colonial emergence is never so obvious. It emerges from the persistent or recurring mechanisms to pinch and intrinsically violate the IHRL. The events of the Second World War, and concern to prevent a recurrence of catastrophes associated with the policies of the Axis Powers, led to a programme of increased protection of human rights and fundamental

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[1] Kingsley Davis, *Human Society* 53 (Surjeet Publications, New Delhi, Reprint 2004).
[2] Judith Jarvis Thomson, *The Right to Privacy*, 4 *PPA* 298 (1975
[3] In Richard B. Parker, *A Definition of Privacy*, *RLR* 281 (I974)
[4] Supra note 1 at 304.

freedoms at the international level.[5] Similar contingencies arose in response to the moving of a Soviet War Memorial, when hackers began interfering with Estonian government websites through distributed denial of service attacks[6] ascribing the NATO treaty, which guarantees its members against a territorial intrusion, yet the era of cyber war and electronic intrusion represents a threat akin to traditional warfare that is of a new, still-developing nature.[7] Well, the uncertainty in the international environment provoked by these shifts has added to the sense of complexity surrounding discussions and debates on 'cyberspace' and the use of information and communications technologies (ICTs) for attaining political, military or economic advantage.[8]

However, this is also imperative that "the broadest positive opportunities for the further development of civilization, the expansion of opportunities for cooperation for the common good of all States, the enhancement of the creative potential of humankind and additional improvements in the circulation of information in the global community[9]" is also an imperative subject-matter of consideration. Thus, Digital Colonialism is much of a specifically political, social and economic play, which governments and heads of states intend to do. It seems to be political, but even the law can introduce it.

THE DIVERSITY OF IMPLICATIONS TOWARDS A THEORETICAL PARADIGM IN THE CONCEPT OF PRIVACY

Privacy as a concept is clung by the diversity if implications towards a theoretical paradigm by the virtue of precedents, historical comprehensions and sociological understanding required so forth.

HISTORICAL AND SOCIOLOGICAL SIGNIFICANCE

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[5] James Crawford, *Brownlie's Principles of Public International Law* 634 (Oxford University Press, Seventh Edition, 2008).

[6] Mary Ellen O'Connell and Louise Arimatsu, "Cyber Security and International Law", International Law: Meeting Summary, Chatham House 3 (29 May 2012).

[7] Kertu Ruus (2008). *Cyber War I: Estonia Attacked from Russia*, The European Institute, Available at: http://www.europeaninstitute.org/index.php/component/content/article?id=67:cyber-war-i-estonia-attacked-from-russia

[8] Camino Kavanagh, Tim Maurer and Eneken Tikk-Ringas., *Baseline Review ICT-Related Processes & Events Implications for International and Regional Security*, BR 8 (2014), Available at: http://f.cl.ly/items/0t073Y3i3P0v2o2x0q39/Baseline%20Review%202014%20ICT%20Processes%20colprint.pdf

[9] *United Nations General Assembly, sixty-sixth session*, Resolution adopted by the General Assembly on 2 December 2011 [on the report of the First Committee (A/66/407)], *A/RES/66/24*, 1

India has been a hub of historic-social beauty that its societies have experienced and put to an advent. Rig Vedic society was relatively egalitarian in the sense that a distinct hierarchy of socio-economic classes or castes was absent.[10] However, political hierarchy was determined by rank, where *rajan* stood at the top and *dasi* at the bottom.[11] The psychological basis of Varna remains in thought and practice until the epical age of Ramayana and Mahabharatha. But in the post-epical age even the psychological basis of Varna recedes into the background, leaving only a life-less skeleton of a caste-system based mainly on material factors like birth and hereditary.[12] It shows that Privacy was a right but not for all. It was limited to the sovereign King and the aristocratic people, where an authoritarian cum patriarchal adversity affected its evolution as self-determination. The age of medieval India, being a diverse period in all its facets, was under continuation with the same system of privacy among the Hindu rulers and the Hindu society. As for the Hindus, their social life was relatively unchanged, although during military operations they suffered losses in property and life. Even when the harsh laws of war gave place to peace, the Hindus were burdened by certain handicaps. The loss of sovereignty itself was a major loss, especially in the case of the Brahmans and the Kshatriyas. The sultanate period was more difficult for them than any other period of Muslim rule.[13] The *Sati*, the *Purdah* system, the *Jauhar* system and other customs itself illustrate the worst position of women at that time. In this way, a newer idea of maintaining privacy of women was applied. However, these attempts later on became worthless enough to save privacy of women and so personal dignity was always injured. In this age, privacy was joined with the idea of personal dignity. Then, we observe that the concepts of privacy and personal dignity were blooming in the age of modern India. There were still discriminatory practices in India. However, before the British Raj, concepts like *Sati* and Child Marriage were put to an end in the light of Hindu Renaissance under Raja Ram Mohan Roy, Dayanand Sarasvati, Jyotiba Phule and others. The concept of Harijans was introduced by Mahatma Gandhi and women became a part of the National Movement during the years of the Raj. At that time, Privacy had not become a right. Still, the society of modern India was connecting Privacy

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[10] Frits Staal, *Discovering the Vedas: Origins, Mantras, Rituals, Insights*, 54 (Penguin Books India, 2008)

[11] Upinder Singh, *A History of Ancient and Early Medieval India: From the Stone Age to the 12th Century*, 191 (Pearson Education India, 2008)

[12] M. S. Srinivasan, *The Vedic Society and Culture: A Psycho-Spiritual Perspective–M.S. Srinivasan,* (2012, September 6), Available at: https://integralmusings.wordpress.com/2012/09/06/the-vedic-society-and-culture-a-psycho-spiritual-perspective-m-s-srinivasan.html

[13] Columbia Education, *Society and Culture under the Sultanate*, Available at: http://www.columbia.edu/itc/mealac/pritchett/00islamlinks/ikram/part1_08.html

with Ethics and Morality and after 1947, the conjoined ideas of Privacy and personal dignity widens and it is differentiated from personal dignity. The development of constitutionally guaranteed fundamental human rights in India was inspired by historical examples such as England's Bill of Rights (1689), the United States Bill of Rights (approved on 17 September 1787, final ratification on 15 December 1791) and France's Declaration of the Rights of Man (created during the revolution of 1789 and ratified on 26 August 1789).[14] In the Digital Age in India, where technology takes a big leap, rises and dominates many aspects of the society, the social media, the ascent of technological devices such as Computers, Mobile Phones, Tablets and other advanced technological solutions has lead people to connect with others, express their thoughts, showcase their work, communicate with persons and to satisfy or facilitate their demands or needs. This age is a composition of arising risks and opportunities for digital consumers to access in the world of Internet. The point is that, whether we like it or not, we're entering a world where there is going to be massive data generation due to a whole lot of technological advances. So, we definitely need a modern data protection and privacy law.[15]

DIGITAL COLONIALISM: A SPECIAL OVERVIEW

Digital Colonialism is not a general defined theoretical concept- it is a cyber-realm of sovereign states towards a persistent insecurity and manipulative simulation of the reality of self-determination. It is simply a phenomenon of intrusion, where perception, globalization and liberalism are utilized to abridge and lock the privacies of entities. Well, this can also amount to a unilateral extraterritorial coercive measure as in the case of Russia's 'Web War-I' on Estonia in 2008, when on 20 July 2008, weeks before the Russian invasion of Georgia; the 'zombie' computers were already on the attack against Georgia.[16] Here is a simple picture of the new socio-political, economic and representative phenomenon of mankind.

The website of the Georgian president Mikheil Saakashvili was targeted, resulting in overloading the site. The traffic directed at the Web site included the phrase

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[14] B.B Tayal and A. Jacob, *Indian History, World Developments and Civics*, A-23, (2005)

[15] Devjyot Ghoshal, *QZ&A: Nandan Nilekani: Aadhaar is being demonised because it's so transparent*, (2017, April 13), Available at: https://qz.com/957607/nandan-nilekani-aadhaar-is-being-demonised-because-its-so-transparent/

[16] John Markoff, "Before the Gunfire, Cyberattacks", *The New York Times*, (12 August 2008), Available at: http://www.nytimes.com/2008/08/13/technology/13cyber.html.

"win+love+in+Rusia". The site then was taken down for 24 hours.[17] Bill Woodcock, the research director at Packet Clearing House, a California-based non-profit group that tracked Internet security trends, said the attacks bore the markings of a "trained and centrally coordinated cadre of professionals." Russian hackers also brought down the Russian newspaper Skandaly.ru allegedly for expressing some pro-Georgian sentiment. "This was the first time that they ever attacked an internal and an external target as part of the same attack," Woodcock said. Gary Warner, a cybercrime expert at the University of Alabama at Birmingham, said that he found "copies of the attack script" (used against Georgia), complete with instructions for use, posted in the reader comments section at the bottom of virtually every story in the Russian media.[18]

In the vicinity of a wider digital revolution approached by India in these years of the 21st Century, we may find the traces of excessive mass data collection and analysis with a dark side to this new approach due to the drift of our society towards the digital revolution. The dangers posed by hackers, companies, terrorists, governments and other entities have threatened the idea of privacy. The most significant fact to consider is that as we, the people, are connecting us and our personal information & any other possession, we are getting into a new sort of danger because of the fact that this exposure of vast information is misused by certain organizations and individuals, whom we call terrorists, hackers, robbers, etc. in such a way that we may get into an era of digital colonialism. This is the worst case of risks in the vicinity of digital revolution in India. a new theory known as Digital Colonialism is being asserted by different experts. This is just a new form of colonialism with some new propagandas and strategies, which must be stopped. However, let us consider the points given below:

- Conquer or otherwise achieve influence over the target territory[19] (A).

- Secure the new colony militarily through the establishment and maintenance of military and police garrisons (B).

- Create an administrative, transportation and commercial infrastructure capable of

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[17] Georgia president's Web site falls under DDOS attack", *Computerworld*, (21 July 2008) Available at: https://www.computerworld.com/article/2534930/networking/georgia-president-s-web-site-falls-under-ddos-attack.html

[18] Id.

[19] Andrew Updegrove, *Government Policy and Standards – Based Neo-Colonialism*, 4 (2007)

supporting resource extraction, keeping the peace, and managing export and import functions (C).

▪ Recruit (and in some case import), train and supervise a labor force to extract the resources in question and distribute manufactured goods (D).

▪ Defend the colony against internal uprisings and external rivals (E).

These highpoints reflect how to dominate on a target territory and form colonies along with stable dominance over the acquisition. Here, the main idea that is needed to be considered is that the ways of spreading digital colonialism are somehow the same provided that the age and the devised ways of doing it have changed.

The agents or actors involved in propagating digital colonialism are (1) Government or other agencies associated with it or the system or authority in the level of it, (2) Terrorist organizations, (3) Hackers and IT companies or teams associated with the agenda of it (4) and certain other entities, whose physical existence is probable but uncertain to be discovered in terms of their physical reality. The basic assistant techniques that prove useful for it are (1) Perception, (2) Fundamentalism and (3) Attraction with misuse of curiosity.

A. In the strategy mentioned in this point, the agents or actors involved don't subjugate any mass or crowd, but they plan a special propaganda, join cohesive networks with government and other non-government institutions and communicate certain political, social, economic, ethical, cultural and other psychologically beguiling information in the masses, groups and even the state. Then they make their packet of influence, the main medium for keeping the influence on the masses. Then this medium is increased and controlled in such a way that the influenced entities do determine with ease that they cannot do away with the circumstances, which are they believing to be addressed, which has no probable, direct or indirect connection with reality. Such leads to the companies being made slave-like entities to those propagandist institutions. Such is their way of the conquest and the achievement of influence. Attraction becomes the player to succession of the plan.

B. Like the idea stated in this point, the slavery-like cohesion is maintained by manipulation. Masses, groups and even the state are coerced with gradual effects of the creation of mythical fear, threat and circumstances. Here, physical control may or

may not play an important role, but the role of psychological methods influences severely. The influenced become habitual to the fear and if this impact lasts for more than a century, then it would spread to the future generations as an inherited fear & threat, leading to the formation of a new ideology called the Neo-Psychology of Fear, Threat and Influence (NPFTI). Perception is cultivated as the causers wish.

C. Now, as per this point is concerned, the colonies of a new type are formed, where no traces of its absolute physical existence are found, but this is just created under the influence of perception. Curiosity is threatened and regulated so that the invisible administrative systems are formed. Corruption, education, environment, economy, development, IT, politics, trade, foreign affairs and other common and specific issues become prone to this systematic influence.

D. In terms of the mentioned point, the quasi-pseudo administration and other systems prepare volunteers, bureaucrats, spies, soldiers, labours and other mass and non-mass groups that under the influence, shelter their preserving key sectors related to trade and economy to make their own monopoly in and outside the acquisition to spread colonialism. In this way, this becomes no more than a political, economic and international pandemic.

E. In the dominating institutions, their individuals try to maintain the stability of their establishments and in order to do it; they devise plans to influence external affairs with an innate strategy so that it does not affect them. Moreover, they subjugate the weak, the opposition and those activities pertaining to the realization of the breakdown of their set-up. In this way, they create a required equilibrium of their own kind so as to achieve absolute domination and arbitrarily accessible sovereignty.

All these points devise the worst ideas and plans devised to misuse the existence of massive data collection as the tool of colonization. Now, in case of the present scenario, for example, governments in different countries develop their own propaganda and start spreading fake news, creating tensions in their state to make the system in chaos. Then, they try to control the activities of the individuals via the digital portals and means. They can use GPS and track location, debar any individual from expressing his views on the social media in their territorial jurisdiction and then spread an imaginary feeling of fear among the people so that they may fear and do not raise their voice against the government. Companies, related to

digital media, can do it with ease. They can access to someone's personal information by hacking, gaining easy chains or means to access the users' private information and possession. They may coerce the individuals to follow their plan or they might be ruined as per they communicate or relate. Terrorists can also use this method. The ISIS and other organizations of terrorism are present on the social media sites such as YouTube, Facebook, Twitter, etc. and have spread viral videos in order to threaten people. The governments, ministered by the elected leaders of political parties getting a majority vote try to confine the opposition parties into a mere puppet and turn them into the object of condemnation. It is often observed as a part of their propaganda. However, by the policy of digital colonialism, they can surely make people highly bound to them so that they may even not vote against them. In India, the issue of EVM hacks remained a burning issue for a few months. Still, irrespective of the fact that who is behind all this, the so-called conspiracy, whose proof has not been accepted by the Election Commission of India, is under question as if it is proved to be true, then it is truly a severe invasion to the Right to Privacy. There is no guarantee of this event or plan's uncertainty, but it is yet to be proved. However, informational privacy is a facet of the right to privacy. The dangers to privacy in an age of information can originate not only from the state but from non-state actors as well.

CONCLUSION

Privacy, as a normative and subjective reality of truth and concern, needs to be rebooted. It needs to be brought out of the limitation that has it deeply faced. Moreover, the historical, social, economic and legal significance of mirroring of this concept shall always be a matter of data, but its direction and the rate can be extremely diverse, which is observable everywhere today. Digital Colonialism is just a facet of the expression and concern, which shall be an interest figure of concern always.