

ABSTRACT

PROTECTING eHEALTH INFORMATION PRIVACY: TOWARDS A LEGAL FRAMEWORK FOR SRI LANKA

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Right to privacy has long been recognised as an inherent inalienable right of the human beings. Personal health information, being one of the most sensitive types of information that an individual would wish to best protect, warrants extensive legal protection for privacy. The advancement of information technology gave birth to the concept of eHealth. Parallel to this technological advancement and despite its great facilitation for efficient delivery of healthcare services, the eHealth technology created a floor for the unauthorised access and misuse of personal health information due to fast and easy access. In this context, upholding the individual right to privacy while maintaining a balance with the rights of the other individuals in the society for the public benefit has become a huge challenge in all the jurisdictions around the world.

This research specifically examines whether an adequate legal framework exists to protect eHealth information privacy in Sri Lanka. The research is designed as a comparative study with International Law and legal frameworks of the United Kingdom and India. The research is designed using qualitative research methodology with an inductive approach. The population of the research represents all the public and private hospitals in Sri Lanka. The samples consist of the 30 public and private hospital in which eHealth technology is being presently implemented and practiced. The sample also includes 7 expert officials. Sampling was done using the purposive sampling method. The data collection tools were semi structured interviews, unstructured interviews, analysis of legal instruments and secondary data.

It is observed in this research that the need to circumvent the threat felt upon privacy of personal health information due to the eHealth technology has been clearly identified and given significant attention in many international legal instruments as well as in the two comparative jurisdictions namely the United Kingdom and India. However, this research finds that Sri Lanka stands a number of steps behind in affording legal protection for eHealth information privacy. The Common Law and the Law of Contract provide a limited protection for privacy of personal information and the Sri Lankan Constitution of 1978 lacks a reference to right to privacy in the Chapter on fundamental rights. Accordingly, this research recommends the introduction of right to privacy as a fundamental right in the Constitution of Sri Lanka. It is also recommended to introduce a legislation on protection of personal information including personal eHealth information in Sri Lanka, containing provisions compatible with the international legal standards and fair information practices.

KEY WORDS: eHealth information privacy, personal eHealth information, legal protection

The law is correct as on 30th April 2019