



## IDIA JUDGMENT WRITING COMPETITION, 2019

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The Republic of Oceania is one of the largest countries whose southern border is occupied by the smaller but more densely populated country called Winstonhill.

Oceania was a laissez-faire state which became the primary victim of global economic meltdown in 2008. It soon shifted course to a welfare economy but poverty prevails within the nation due to large scale outsourcing of work. On the other hand, Winstonhill has been at the receiving end of allegations related to abysmal sex ratios, land grabbing, lack of employment, absence of law enforcement and infrastructure deficiency.

Winstonhill, however, has been always lauded for a lively & liberal judiciary that is unfettered in its interpretation and expansion of its Constitution. The judges often implement the best practises from across the world in their courts.

Despite Winstonhill's drawbacks, it enjoys ample foreign investment in its technology sector, with several IT Parks cropping up and the Government engaging with several Multi-National Data Processing Corporations. These IT Parks have been the sole source of the boost in employment, with the Corporations enjoying great leeway in the regulations that govern them, especially enhanced by the lack of data protection policies in Winstonhill.

On the eve of winter session in 2017, attacks were carried out against the National Legislature of Winstonhill, with successful bombings shaking through the buildings and killing 28 members of the Legislature and several other casualties.

There were media reports about the terrorists having used MailApp, a global messenger service application operating out of Oceania, for their communication for and during the attack. It is unclear where the news agencies have sourced their information, but it causes pandemonium in the media, with the larger public demanding that MailApp keeps to its promise of a strictly encrypted service. People feared that if given a chance to process data, government would soon creep into the citizens private affairs leading to a surveillance state.

MailApp meanwhile got involved in a global scandal wherein the biometric information of its customers who had enrolled for the application's new payments scheme were sold to private corporations for money. The biometric information were acquired by several companies for targeted advertising. People from both Oceania and Winstonhill were targeted. In this backdrop, the pressure has been further mounting on the company to protect user information and encryption keys.

Despite persistent demands and threats from Winstonhill government, MailApp refused to disclose information regarding the private chats of the terrorists, and claims:

- 1.The benefit of contractual obligations with consumers in light of the lack of a data protection policy in the country.
- 2.The benefit of the fundamental right to privacy of its consumers and their right to reject such a request, for disclosure of information, from the government.

Mail app's official reply has been that the consumers have not consented to the disclosure of such information. However, the government believes that for the greater public good, it is imperative that surveillance be expanded to the application and that the unfettered power to make this decision lies with the government.

Several petitions were filed before the Supreme Court to intervene in the matter, and the Court recently accepted one such petition. One of the accused in the bombing case, Sarah, who is a foreign national residing in Winstonhill on a passport, claims that she has the right to have her chats and user information protected from governmental scrutiny. Subsequently, MailApp was impleaded in the case.

The following were the issues recognised by the Supreme Court of Winstonhill on a Writ Petition filed under Article 32 of the Constitution:

- 1.Whether MailApp acted lawfully in utilising the biometric data of their users?
- 2.Whether the right to privacy protected under the Constitution would protect the chats of all including the accused?
- 3.Whether MailApp would have to disclose any information requested by Winstonhill?

The laws governing Oceania and Winstonhill are *pari materia* with those of the United States of America and India respectively.