

Cyberlaw: Indian Culture And Government's Role

A PRESENTATION
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TECHNOLOGY –THE NEW AGE

- **Technology is the mover of change, economies, governance and thought processes. Coming of technology has paved the way for growth of new vistas and horizons.**

INTERNET

- **The coming of the Internet is one of the most important development in the human history after the advent of fire.**
- **The coming of Internet has dramatically changed the way we think, the way we govern, the way we do commerce and the way we perceive ourselves.**

NEW TECHNOLOGY IN ADMINISTRATION OF JUSTICE

- **The coming of new technology facilitates greater access, transparency, comfort level and ease of operations.**
- **Technology acts as a social tool for governance and dispensation of justice.**

NEW TECHNOLOGY IN ADMINISTRATION OF JUSTICE

- **Technology becomes an integral part of governmental action and policy in its endeavors reach out to the rules of social justice and for ensuring justice and equity for one and all.**

CHALLENGES

- **The important issue before government and policy makers is how to piggy ride advantages of new technology and how to harness its benefits for the purpose of administration of justice.**

INNOVATION & IMPROVEMENT

- **For that there is a need for a constant innovation and improvement. There is a need for incorporating new technologies. There is a further need towards adoption of new technologies.**

INFORMATION TECHNOLOGY ACT, 2000

- **We in India also have had a vision to become the 12th nation in the world to enact a Cyberlaw. We have enacted the Information Technology Act, 2000.**



THE IT ACT, 2000 – OBJECTIVES

- **To provide legal recognition for transactions:-**
- **Carried out by means of electronic data interchange, and**
- **Other means of electronic communication, commonly referred to as "electronic commerce", involving the use of alternatives to paper-based methods of communication and storage of information,**

THE IT ACT, 2000 – OBJECTIVES (contd)

- **To facilitate electronic filing of documents with the Government agencies**
- **To amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker's Book Evidence Act, 1891 and the Reserve Bank of India Act, 1934**

ELECTRONIC CONTRACT

- **ACCEPTANCE OF CONTRACT MAY BE EXPRESSED BY ELECTRONIC MEANS OF COMMUNICATION.**
- **The same shall have legal validity and enforceability.**

AUTHENTICATION OF ELECTRONIC RECORDS

- **Any subscriber may authenticate an electronic record**
- **Authentication by affixing his digital signature.**
- **Any person by the use of a public key of the subscriber can verify the electronic record.**

ELECTRONIC GOVERNANCE

- **Legal requirements of any information or any other matter being in writing or in the typewritten or printed form, shall be deemed to have been satisfied if such information or matter is—**

ELECTRONIC GOVERNANCE (contd.)

- (a) rendered or made available in an electronic form; and**
- (b) accessible so as to be usable for a subsequent reference.**

DIGITAL SIGNATURES & ELECTRONIC RECORDS

- **LEGAL RECOGNITION OF
DIGITAL SIGNATURES**

OFFENCES & PENALTIES

- **Penalties and adjudication for various offences involving computers, computer systems and computer networks.**

PRACTICAL CHALLENGES

- **WE MUST ENSURE THAT THE FINAL OUTPUT OF ANY ELECTRONIC GOVERNANCE PROJECT MUST BE LEGAL IN A COURT OF LAW**
- **NEED TO COMPLY THE STRICT REQUIREMENTS OF IT ACT, 2000 AND AMENDED INDIAN EVIDENCE ACT**

THE IT ACT, 2000 – GRAY AREAS

- **A COUPLE OF GRAY AREAS IN
THE IT ACT, 2000 CAUSE GREAT
CONCERN!!**

TECHNOLOGY SPECIFIC

- **We need to make amends in the said law. It is the cardinal principle in Cyberlaw drafting that a legislation should not be technology specific but should vouch for technological neutrality.**

TECHNOLOGY SPECIFIC

- **However, the Indian IT Act, 2000 is a technology specific law and it specifies a specific technology namely, Assymatric Crypto System and Hash Function.**

DOMAIN NAME ISSUES NOT ADDRESSED

- **IT ACT, 2000 DOES NOT MENTION ABOUT DOMAIN NAMES AND THE RIGHTS OF DOMAIN NAMES OWNERS**

INTELLECTUAL PROPERTY RIGHTS ISSUES NOT ADDRESSED

- **IT ACT, 2000 DOES NOT MENTION ABOUT INTELLECTUAL PROPERTY RIGHTS :-**
- **COPYRIGHT**
- **TRADE MARK**
- **PATENT**

APPLICABILITY

- **IT Act purports to be applicable to not only the whole of India**
- **but also to any offence or contravention thereunder committed outside of India by any person.**
- **This provisions in section 1(2) is not clearly and happily drafted.**

APPLICABILITY (contd.)

- **Not clear as to how and in what particular manner, the said Act shall apply to any offence or contravention thereunder committed outside of India by any person.**

ENFORCEMENT

- **Enforcement aspect of the IT Act is an area of grave concern.**
- **Numerous difficulties likely to arise in the enforcement of the said act**
- **Internet has shrunk the size of the world and slowly, national boundaries shall cease to have much meaning in Cyberspace.**

NO RIGHT TO INSIST ON ELECTRONIC FILING

- **The IT Act talks about the use of electronic records and digital signatures in government agencies.**
- **Yet, strangely it further says in section 9, that this does not confer any right upon any person to insist that the document in questions should be accepted in electronic form.**

PAYMENTS

- **ELECTRONIC PAYMENT ISSUES NOT ADDRESSED**
- **NO MENTION OF ELECTRONIC FUND TRANSFER**

CYBERCRIMES

- **NEW FORMS AND MANIFESTATIONS OF CYBERCRIMES EMERGING EVERYDAY.**
- **NEED FOR NEW LEGISLATIVE MECHANISMS TO CONTROL CYBERCRIME!**

NEED TO ENACT NEW LAWS

- **CONCERNING ELECTRONIC
PAYMENTS**
- **ON ELECTRONIC FUND TRANSFER**
- **INTERNET BANKING LAW**

NEED FOR NEW LAWS ON

- **DATA PROTECTION**
- **SPAM**
- **INFORMATION SECURITY**

NEED FOR NEW LAWS ON

- **PRIVACY**
- **PROTECTION OF INDIAN CHILDREN
ONLINE**

I.T. ACT 2000 - OVERALL PERSPECTIVES

- **The IT Act is a first step taken by the Government of India towards promoting the growth of electronic commerce. Despite all its failings, it is a first historical step.**

I.T. ACT 2000 - CONCLUSION

- **The other steps have to follow. However, the government has to be quick in responding to the challenges raised by the constantly changing technologies. Just as time does not wait for anyone, so does Internet. The time to act is right now.**

FUTURISTIC APPROACH

- **There is a need for adopting a futuristic approach while using new technology to leap frog into future growth and development.**

FUTURISTIC APPROACH

- **We need to establish a regulatory and policy framework in such a manner so that, the same is enabling in nature and allows the adoption and easy access to technologies.**

FUTURISTIC APPROACH

- **We also need to change mindsets of political leadership in the country in such a manner so as to make it more technology savvy. Our proclaimed goals are for the establishments of a sovereign, socialist, security, democratic, republic**

FUTURISTIC APPROACH

- **What is important is the need for the relevant enabling infrastructure, a vibrant observing mindset and enabling a legal policy framework.**

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**THAT WAS A PRESENTATION
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