

In Indian context: Cyber law Implementation & its Hurdles

Deepak Tripathi

Ph.D. Research scholar

Alabbar School of Management , Raffles University, Neemrana Rajasthan

Under the guidance of Dr. Preshita Neha Tudu

Abstract:

Cyber law often called as internet law is the part of law that deals with the protection of information access, retain privacy, makes secure communication, and deals with legal informatics while maintaining intellectual property intact. Cyber Law or Internet Law uses electronic media like computer, Cell phones, tablet, palmtop ...etc. It involves softwares and hardwares including physical based storage media & software-based storage media like cloud. Cybercrime involves following criminal activities - Phishing scams like cybercriminal or hacker attempting to obtain sensitive or personal information from a computer user, Identity Theft scams, Online Harassment, Cyber stalking, Invasion of privacy and Defamation & mischief. To address all above forgeries, Indian parliament has given birth to one act is called as "Information Technology Act, 2000".

Keywords – Cyber Law , Internet Law , Implementation , Hurdles , IT Act 2000.

Introduction:

Nowadays Internet is part of our day to day life activities as an indispensable tool for every life aspects like: communication, business, study, research, Entertainments, shopping and many more. We can categorize internet usage for the followings:

- Electronic mail
- Research
- Downloading files
- Discussion groups
- Interactive games
- Education and self-improvement

- Friendship and dating
- Electronic newspapers and magazines

Despite of all positive tools, many users specially culprit mind people started using internet in negative ways such as online fraud, identity theft, hacking, defamation, cheating and many more. Because of this government of India is compelled to take a step to overcome all those problems. Government of India has taken a step to provide legal recognition for electronic transaction introducing a new act called as **“IT Act 2000”**.

The cyber law of India encompasses laws relating to cybercrimes for electronic data. It also encompasses f electronic & digital signatures, Data Privacy, Data protection & safety of intellectual property. Cybercrimes also include cyber harassment and stalking, child & Adult pornography, spoofing, credit & Debit Card fraud, identity theft, human trafficking and many more.

Cybercrimes differs from other crimes as Cybercrime is concerned with electronic device as a tool with the use of information technology for illegal purposes which involves illegally attack or hack individuals or corporate private information. In Cybercrime mainly computer is used either as a tool or target or both. Not only computers, sometimes mobile phone or ATM card or electronic cards are also used as a tool to commit such unlawful activities. The victim would be either persons or property or government and sometimes all at a time. The act emerged into India with the purpose to provide legal recognition to such electronic commerce and to facilitate the safety and privacy against them.

Electronic commerce is introduced in India effectively for 2000AD to facilitate electronic filling of documents against such activities. This Cyber law is applicable to any kind of information either in the form of data or message used for commercial purpose. The main feature of Cyber law is that it grants legal recognition to digital signature or electronic signature which overcomes the traditional hand signature. The main advantage of e-commerce is it facilitates electronic storage of data, its manipulation and access globally. Government official and government department can store, access, and retrieve data as electronic documents from any part of world where internet is accessible.

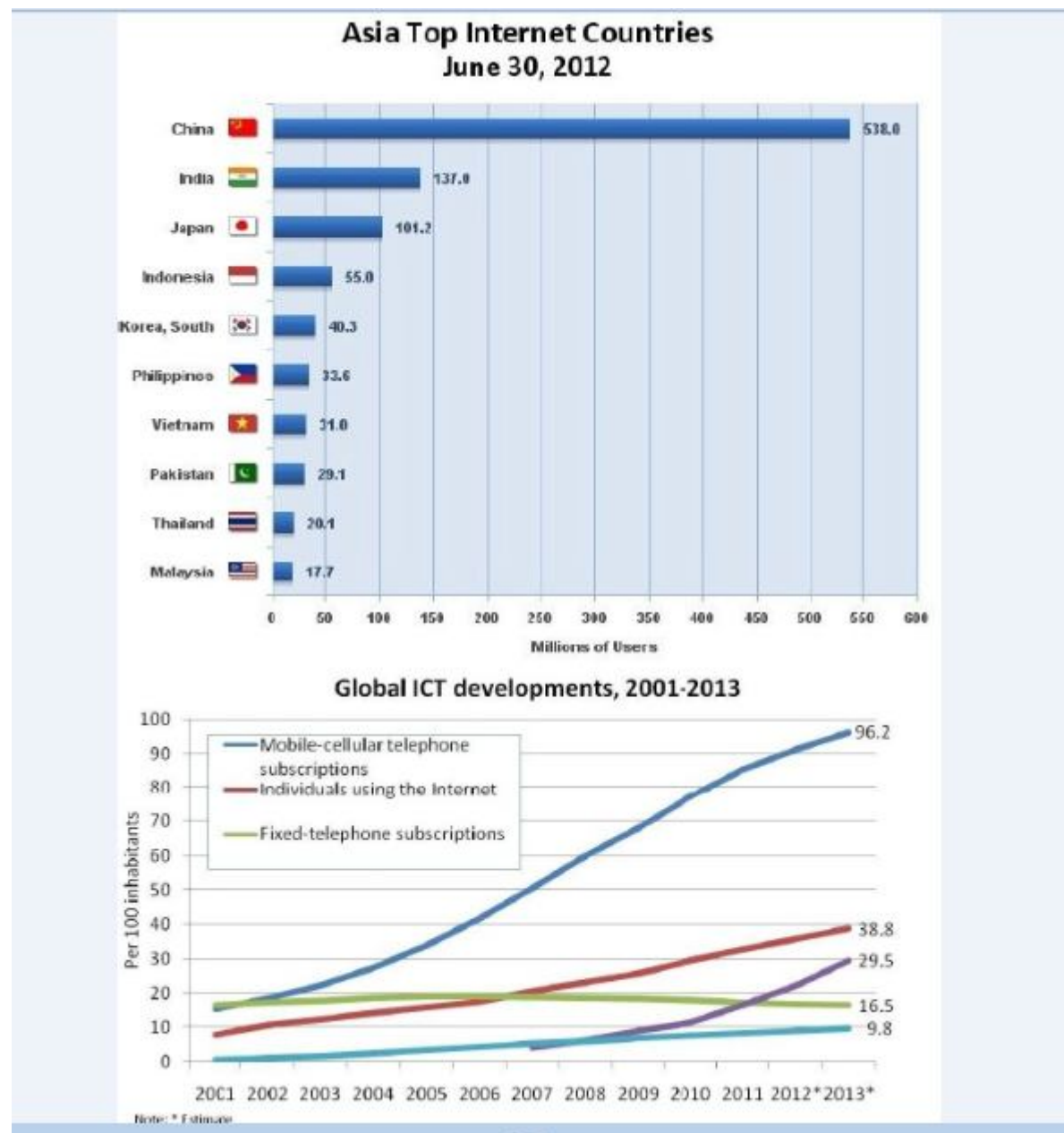
Cyber law provides legal recognition and legal sanction for those data with security & integrity. Additionally it facilitates legal sanction to electronic fund transfer between the banks, financial institutions and insurance companies too.

Nowadays cybercrime like child pornography, Harassment and cyber terrorism has increased with increase in internet era. Cybercrimes involves electronic & digital signatures, intellectual property and data protection with privacy.

There are various types of computer crime makers also known as cybercrimer which are as follows:

- 1) Fraudster
- 2) Hackers
- 3) Phreakers
- 4) Pornographer
- 5) Viruses intruder
- 6) Crackers
- 7) E-mail security destructor

....etc.





The e-commerce users in graphical chart.

(Source: <https://www.youtube.com/watch?v=nchRV1jFvOc>)

Hurdles in implementation of cyber law in India:

In amendment act 2008 in Indian cyber law “Cyber security”, It is defined under section 2(b). But this is not really fixed definition for cybercrime. The Indian law is not precise & clear to define. In fact the Indian penal code does not use the term “Cyber Crime” yet.

But Cybercrime is increasing day by day & criminal activities still increasing using the medium of electronic media like computer and cell phone via internet. Cyberspace & World Wide Web (WWW) is very high in India. We would find United States of America, definition of cybercrime is very clear which defines equipment, computer devices & information stored

in those devices very precisely. The malpractices such as unauthorized access, unauthorized use, disclosure, disruption, modification or destruction of data and information comes under cybercrime.

It is found that cyber act 2000 is likely to cause a conflict of jurisdiction. Globally Electronic commerce is based on the system of domain names, not anything. The IT Act 2000 does not even touch the issue relating to domain names. Even domain names have not been defined under this act. The rights and liabilities of domain name owners do not find anything mentioned in the Indian's Cyber law 2000. The most shameful thing that Today's most unlawful activities **online copying without copyright** is not explained in this act. Another drawback that The IT Act does not deal and does not explain with any issues concerning the protection of intellectual property right in online environment.

By this law today's most discussed issues like copyrights, trademark and patent rights is itself remain untouched. Many forms and current manifestations of cybercrimes which include cloud data storage hacking, cyber stalking, cyber harassment, chat room abuse, debit and credit card misuse is not precisely defined, just name sake it is mentioned. It is found that IT Act 2000 has not tackled several vital issues pertaining to e-commerce spheres. Hence this act needs to be updated, re-defined to address the current scenarios and developments as per global standards. Few other issues which IT ACT 2000 does not cover can be pointed as below :

A) Ethical issue:

Hackers do not have ethical grievances and common courtesy of human sense which increases the process of hacking. The challenge is to train and impart ethical knowledge of grievances and laws to one and every Indians which would discourage them to do such malpractice by their heart.

B) Lack of standardization & Globalization:

The law related to cyberspace in India is not standardized and globalized yet. The law is constrained within India & it's territories only. It cannot face global challenges irrespective of global territory & boundaries.

C) Unable to adopt new evolved technology:

ICT (Information and communication technology) is changing day by day but Indian cyber law still follows a decade back obsolete technology.

Generally ICT changes in every month and Indian Cyber law too needs to be changed or amend at least once in a year.

D) Increasing of social network:

The social network like Facebook, twitter & LinkedIn, Instagram are the main issue of cybercrime.

E) Lack of cyber lawyer:

Still in Indian context, Lawyer are familiar with conventional legal issues, not much aware on current e-commerce trend. They need to update their knowledge and skills to be professional for e-commerce and Cyber law.

Cyber law needs day to day updating for effective law enforcement, regular improvements and amendments of IT Act. Implementation of tech-legal corporate with legal policies, dedicated cyber law formetc.

In Indian scenario, it is not yet fulfilled those requirements which seem the main challenges.

Common Criminal offences on Cyber law:

These activities are categorized as criminal offences as per cyber law:

- 1) Hacking with computer system or electronic devices and tampering with computer source documents.
- 2) Publishing false digital certificate.
- 3) Unauthorized access to protected certificate, and secured documents.
- 4) Confiscation of computers, data ,Network, storages....etc.
- 5) Electronic forgery like false digital signature or false electronic record.
- 6) Breach of confidentiality & privacy in electronic form.

Conclusion:

The use of internet surfing, storing data, accessing and retrieving those data electronically is part of day to day life for every aspect of life nowadays. Despite being it as essential things, Many criminal minded experts started using it in negative ways like fraud, theft and hacking.

To overcome these mischief and to legal informatics and supervises the digital circulation of information, software, information security and e-commerce, government of India has introduced and implemented a laws called as “Cyber Law 2000”

Due to diversified nature of technology, Day by day emerging tools and technology & diversified nature of crime, Implementation of law in India has many hurdles. Neither cyber law in India meet global standard nor every aspect of e-commerce are well explained.

Due to this, cyber act seems to be conflict of jurisdiction of Indian law. Globalization of cyber law is struggling to implement and meet requirement. But in future Cyber law needs to be updated to meet global requirements, to equip with global challenges and to face any updated IT stuffs.

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