

Cyber Laws & its Scope

- Information Technology (Amended) Act, 2008
- Enacted on 9th June 2000
- Commenced 17th Oct 2000 (23 years)
- Major amendment in 2008
- On 24 March 2015, the Supreme Court of India, revoked Section 66A (Offense Message) of IT Act considering it to be unconstitutional as invades the right to freedom of speech under Article 19(1) of constitution of India

Major amendment in various sections of acts :

Indian Penal Code 1860

u Evidence Act 1872

Banker's Book u - 1891

Reserve Bank of India Act 1934

divided in

- 94 Sections, 13 chapters & 4 schedules
- Provides legal base for Electronic governance
- Given recognition to electronic records & digital signatures
- Apply to whole of India
- Other nationalities can also be indicted under law, if crime involves a comp/lnr located in India.

Scope :-

1. Crypto Law

→ Cryptocurrency, Blockchain assets, CBDC, Decentralized

2. Smart contracts, Stable coins & tokens

(Central Bank Digital
Currency)

(Decentralized
Finance)

- 2) E-commerce Law - under IT Act & Consumer Protection Rules 2020
- 3) Cyber Crime Prosecution & Defence - 125,000 crore losses due to cyber crimes
- 4) Presenting Digital Evidence in Court -
→ Bitmap, emails, IoT devices, laptops, networks, servers, smartphones, websites & more
- 5) IP registration & license drafting Services
→ for apps, software, source code, digital content (videos, eBooks), websites, etc.

Chronology of Indian Cyber Law

2000 17th Oct IT Act Commenced
Imprisonment upto → life (Cyber terrorism)
IPC Ammended, Banker's Book Evidence Act
IEA, CPC, CRPC, RBI Act amended

Cyber Regulations Appellate Tribunal (Procedure).
came into force.

2001 IT Regulations → 9th July 2001
provide technical standards & procedures to be used by
Certifying Authority

section 9
of IT

2002 12th September Executive Order regard to protected systems
Application for issue of Digital Sign-Certi
19th Sept IT (Removal of Difficulties)

2003 17th March 2003 IT → Adjudicating officers qualification rules
~~Imp~~ → IT Security Procedure Rules

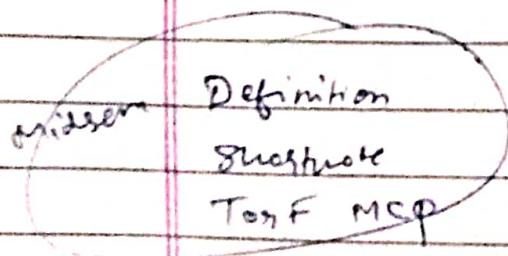
2004 Gujarat IT Rules for regulating cyber cafes → Karnataka ~~andhra~~

2009 IT Amendment 27th Oct

2011 IT (Reasonable Security Practices & Procedures.) Rule

Some Due Diligence

2018 Security & Intelligence Agencies authorised to monitor, intercept



2006 IT Certifying Technology Rules Ammended.

2007 Rajasthan Cyber Cafe Rules

2009 IT Act ammended 2008 → 27th Oct 2009

2010 Kerala ~~IT~~ IT (Electronic Delivery of Services) Rules 2010

2011 IT reasonable security practice & procedures - Rules, passed

2013 IT (Intermediary Guidelines) Rules 2011 → Clarifications
Indian Computer Emergency Response Team Came into force.

2015 UPIAI → Protected systems under section 70 of IT Act.

2016 Computer Emergency Response Team (CERT) authorized to collect data
Digital Signature authentication rules
Aadhar

2017 Government Open Data License National Data Sharing

Indian Information Act

Deals with issues related to cyber crimes & digital evidences

Chapter I: Preliminary

→ Sec 1 and 2

Short title,

Chapter II: Digital Signature/Electronic Signatures 3 and 3A

Chapter III E Governance

→ Sec 4 to 10, 10A

→ Legal recognition of electronic record, signatures, retention of electronic records, Audit of electronic records, Validity of Electronic contracts, etc.

Chapter IV E-Contracts

→ Sec 11 to 13

→ Attribution of electronic record & acknowledgement of electronic receipts, etc.

(4 to 6)

Chapter V Secure Electronic records & secure electronic signature

6 Certifying authority

7 Electronic Signature certificates 35 to 39

8 Duties of subscriber 40 to 42

9 Penalties, Compensation & Adjudication
Sec 43 to 47

Penalty / Compensation for damage computer.

10 The Appellate Tribunal
48 to 64

11 Offences 65 to 78

Relating to cyber crimes & power to investigate offences

Sec
(79)

12 Intermediaries not to be liable in certain cases

Exemption of liability in certain cases

12A Examines of electronic evidence (7A)

13 Miscellaneous. (Sec 80 to 90) (91 to 94 omitted)

Power of Police, Offenses by Companies, abetment of offences, etc

Section 75 of IT Act Imp to mention

Persons of other nationalities can also be made liable under the law, if the crime involves a computer or network located in India

Ex- Jasmine Thumkele Australian national, residing in USA,
Gains unauthorized access to

President of India
Governor of Indian State
Foreign heads of state

Ambassadors of foreign country

Applicability of IT Act

→ IPC 1860

- Indian Penal Code IPC is official criminal code of India
- After IT Act, various sections of IPC were amended to make it competent with modern tech.
- Defamatory websites is penalised by section 500 of IPC section 500
- Upto 2 years /or fine

Indian Evidence Act 1872

- Due to peculiarities of digital evidence
- Most imp amendment was introdⁿ of section 85B which relates to admissibility of electronic records. It mainly nⁱ nⁱ Secondary Evidence.

Code of Criminal Procedure (CrPC)

- Procedure to be followed for filing criminal complaints
- . by police for investigation
- . the conviction of offenders
- search & seizure operation
- confiscation of computers
- hierarchy of courts in India
- sentences that various Courts can pass
- Summons & warrants
- Appeals, reference & review of judgments & court orders
- bonds & bails

Banker's Book Evidence Act

- Lays down the rules of evidence in rel. to banker's book
- Generally, banker's book would be cited as evidence equal status to electronic records as paper document

Non Applicability of IT Act

- Negotiable instrument (other than a cheque) as a promissory note, bill of exchange or cheque payable either to order or to bearer.

IT Act applies to cheque but not to others.

✗ Powers of Attorney: Instruments empowering a specified person to act for and in the name of person executing it.

✗ Trust:

According to section 3 of Indian Trusts Act, 1882, a trust is an obligation annexed to the ownership of property.

When a property is held by one person as trustee for the benefit of another, it can be regarded as a trust.

A testator sets up a trust for the benefit of beneficiary.
The trustee looks after the trust property.

✗ Any contract for the sale of immovable property
A sale is a transfer of ownership in exchange of price.

No need to stamp

WILL

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- Legal declaration of the intention of the testator, with respect to his property, which he desired to be realized after his death.
- Document made by a person whereby he disposes of his property. However, such disposal comes into effect only after the death of the testator.
- ~~Future amendment possible~~ Any such class of documents or transactions as may be notified by the Central Govt. in Official Gazette.

Key Terms under IT Act (as amended 2008)

Access → "access" with :

Computer i

Data o

Computer System Sec. 2 (1) (l) Devices or collection of devices including i/p & o/p support devices & excluding non programmable

Computer Network 2 (1) (j) calculators
interconnection of one or more computer systems or devices through
com media, Terminals, etc

Access:

As per section 2(1)(a) of the IT Act

"access" with its grammatical variations means gaining entry into, instructing or communicating with the logical, arithmetical or memory for resources of a computer, computer system or computer n/w.

Ex:-

A Govt computer contains critical info in its hard disk. Some one unscrews the cabinet of computer in order to steal the hard disk. He has gained into the computer.

Computer

Section 2 (1)(i) of IT Act

"computer" means any electronic, magnetic, optical or other high speed data processing device or system

- which performs logical, arithmetic, and memory functions
- by manipulation of electronic, magnetic or optical impulses
- & includes all input, output, processing, storage, computer software, or communication facilities which are connected or related to the computer in a computer system or computer network.

high speed data processing device or system

Data

Section 2 (1)(o)

Comp System

Com Net

2 (1)(l)

2 (1)(j)

Certifying authorities & Subscribers

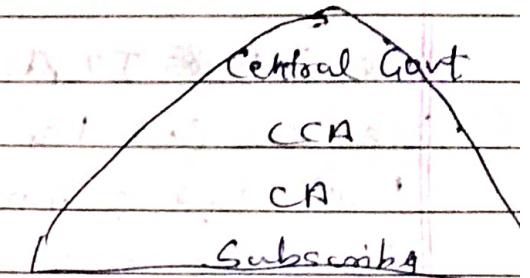
A CA business organization that issues Electronic signature certificates to the subscribers.

- Sets base for development of E-commerce & governance in India.
Ex: NIC e-Mudhra
- Subscriber means a person in whose name electronic certificate is issued.

CA & Controller of CAs

IT (CA) Rules, 2000 cover various issues relating to including

- Creation & verification of digital signatures (DS)
- IT architecture
- info that DS must contain
- Eligibility for licensing
-



Controller of CAs (CCA)

- Central Govt. may appoint a controller of CA after notifying in the Official Gazette. They may also Deputy Controllers & Assistant Controllers as it deems fit.
- Primary role: To regulate the working of CA.
- CCA has investigation powers u/s 26 of the IT Act
- CCA can also direct a person to decrypt info under his control
- If refused, upto 7 years imprisonment u/s 69 of IT Act

Investigative framework under IT Act

- Minimum officer Inspector of Police for cyber crime if covered by IT Act.

Sec 69 of IT Act Powers to issue directions

- Central / State have power to give direction to any agency of the appropriate Govt. for interception or monitoring or decryption of any info through any computer.
- Any person who fails to assist the agency shall be punished upto 7 years imprisonment & shall also be liable to

Sec 69 A IT Act

Power to issue directions for Blocking public access

→ Central Govt has power to issue direction to block

of any information through any computer resource

(Same punishment for violating as sec 69)

Sec 69 B IT Act

→ Central Govt. has Power to authorize to monitor and collect traffic data or information through any computer resource for Cyber Security.

→ anyone who intentionally knowingly violates → upto 3 years liable to fine

Sec 70 IT Act Protected System

(Pages A few)

70A IT Act National Nodal Agency

70B IT Act In CERT (Indian Computer Emergency Response Team)

Very Imp Cases: Objectives (MCQ TIF)

1) ~~ANWAR~~ PV v/s RK BASHIR AND OTHERS
ANVAR

2) SHAFI MOHAMMAD v/s State of HP

3) Arjun Pandit Rao Khotkar v/s Kailas Khusanrao and Others

Sec 75

LAW OF INDIA

As per Sec 75 Persons of other nation.

comp - located in India.

Sec 78 Power to Investigate the Offences.

CPC 1973 (2 of 1974)

Minimum PI

Sec 76 Act Confiscation or Seizure

Any computer, related material in respect of which any provision of this Act has been contravened, shall be liable to confiscation or seizure. But Evidence should be gathered in way accepted by court of law.

- Sec 78, 80 of IT Act, CRPC 165 should be taken care
- list of Seizure (Panchnam)
- Chain of custody & Digital evidence collection form

US 72 of IT Act Criminal liability

for providing original material to accused (not imaged copy)

Sec 79 A IT Ad Central Govt notify Examiner of Electronic Evidence

* CDR (Call Data Record) Analysis Scenario

Issue police work slip by SIT

Punjab Police Anti Corruption Case → Interesting

Gajraj vs State (NCT Delhi) (2011) 10 SCC 675

→ IMEI number considered to be conclusive evidence.

Penalty & Compensation under IT Act

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Sec 43 (a-j)

→ Civil section / Base of IT Act

→ Unlimited compensation

- a) Unauthorized access
- b) download data
- c) contaminate with virus
- d) damage
- e) disrupt
- f) denial of access to authorized person
- g) assisting
- h) charge money
- i) damage, delete or alter data and diminishing its value
- j) damage, steal, alter any computer source code

~~corporate possessing dealing or handling data
Any body maintaining security practices & procedures
negligent causes wrongful loss or gain~~

Sec 43A →

→ In relation to service provider (Also civil)

→ Designated as Civil remedies

Sec 65 IT Act : Source Code Theft

Impairing with Computer Source Documents intentionally,
knowingly or dishonestly : Section 65 of ITAA 2008.

upto 3 years imprisonment or

₹ 2 L fine or both

+ Guilty under IPC & other related act.

Sec 66: Computer Related Offences

If any person dishonestly or fraudulently, does any act referred to in section 43,

3 years, 5 Lakh, + Guilty under IPC & other acts.

Sec 66A : Offensive Message

sending offensive messages in Cyber Space.

→ Abolished March 2015 → Unconstitutional

→ Cyber defamation can go under IPC s24, 506,

Sec 66B : Receiving Stolen Device

Data or comp. or mobile phone owned by you is found in the hands of someone else. Intention is imp

3 years or 1 Lakh or both + Guilty under IPC & other related act.

Sec 66C Identity Theft by using computer resource

Dishonestly pretends to be some other person

3 years or 1 L or both + Guilty under IPC &

Sec 66D Cheating by Personation by -

Dishonestly cheats by pretending to be some other per

Sec 66E Punishment for violation of privacy

Whoever intentionally or knowingly violating privacy of other person without their consent

3 years, 2 L,

* Sec 66F Cyber Terrorism

Acting against state by any means in Cyber Space

Whoever commits → Imprisonment for Life

~~Upto 3 years~~ Cognizable → Without warrant police can arrest
Bailable

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Sec 67 IT Act ~~Cyber~~

Cyber Pornography

Punishable for publishing or transmitting obscene/childish material in electronic form (debatable)

First time: Upto 3 yrs + SL

Later: 5 yrs + 10L (fix).

Sec 67A Cyber Pornography - Sexually Explicit Act

5 yrs + upto 10L

7 yrs + upto 10 L +

→ Exception: Justified or religious

Sec 67B Child Pornography (Below 18)

Sec 67C

Preservation & Retention of Information by Intermediaries

upto 3 yrs + fine

Sec 85 Offences by Company

Contravention of any of the provisions of this Act by Company. Every person who, at the time the contravention was in charge of, responsible to ~~or~~ company as a whole shall be punishable

Sec 354D IPC Cyber Stalking

1st : upto 3 years + fine

Later : upto 5 years + fine

< 3 years. Bailable
Non cognizable

⇒ Sec 72 Penalty for Breach of Confidentiality & privacy
2 years & L

Sec 72A Punishment for disclosure of info in breach
of lawful contract. (Service provider, any contract)
3 yrs & L

Sec 77B ITAA (2008)

→ § 77B Offences with three years imprisonment to
be cognizable
Notwithstanding

84B Punishment for abetment of offences

→ Same punishment as

84C Punishment for attempt to commit offence
upto half of ~~actual punishment~~ longest term of punishment

~~Not in syllabus~~
Adjudication Under ITAA (2008) → ^{Cognate Appellate} Tribunal
Adjudicating officers - CAT & HC
by the way of compensation (Nitsani) which comes
under Civil remedies.