



CYBER LAW COMPLIANCE

Lesson # 15


CHALLENGES

- ▶ Need of Cyber Law
 - ▶ Laws of Electronic Transactions
 - ▶ Electronic Transactions Ordinance 2002
 - ▶ International Consensus Principles
 - ▶ Cyber Laws Situation in Pakistan
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NEED OF CYBER LAW

- ▶ Trade and business communications through electronic means give rise to a number of legal issues.
 - ▶ For instance if a service were sold over the Internet across countries, in which geographical location can the transaction be deemed to have occurred? This question may be important from the point of view of consumer protection and establishing jurisdiction.
 - ▶ Furthermore electronic transactions require electronic contracts and electronic signatures which have not been provided for in the contract laws of many countries. Most countries that wished to participate in electronic commerce needed to undertake major legislative reforms in this regard.
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LAWS FOR ELECTRONIC TRANSACTION


- ▶ United Nations Commission on International Trade Law (UNCITRAL) is a core legal body of United Nations with universal membership, specializing in commercial law reform.
 - ▶ In order to increase trade worldwide, UNCITRAL is formulating modern, fair, harmonized rules on commercial transactions, including;
 - ▶ Conventions, model laws and rules that are acceptable worldwide.
 - ▶ Legal and legislative guides and recommendations of great practical value.
 - ▶ Technical assistance in law reform projects.
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A report was prepared by the UNCITRAL experts on “Legal value of computer records” and based on that report the Commission adopted the following recommendations to states to review legal requirements:


- Affecting the use of computer records as evidence in litigation.
 - That certain trade transactions or trade related documents be in writing.
 - Necessitate handwritten signature or other paper-based method of authentication on trade related documents; and
 - That documents for submission to governments be in writing and manually signed .
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ELECTRONIC TRANSACTIONS ORDINANCE 2002

Government of Pakistan adopted its IT Policy in the year 2000 and after studying UNCITRAL model laws, looking at various legislations of both Civil and Common law countries, reviewing different implementation schemes of electronic authentication, regulatory models and best practice guidelines and appreciating the above-mentioned three approaches being followed all over the world, has followed the “International Consensus Principals on Electronic Authentication” designed by Internet Law and Policy Forum and “two-tier” approach.




TWO-TIER APPROACH


- ▶ Some jurisdictions have begun to realize that first two approaches are not necessarily mutually exclusive, and so have adopted “two tier” approach representing convergence and synthesis of the first two approaches.
 - ▶ This consolidated approach generally takes the form of enacting laws that prescribe standards for operation of PKIs, and concurrently take a broad view of what constitutes a valid electronic signature for legal purposes.
 - ▶ This “two-tier” approach has found increasing support, most notably in the European Union and Singapore.
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INTERNATIONAL CONSENSUS PRINCIPLES

International Consensus Principles prepared by Internet law and Policy Forum (ILPF) in Sept' 2000 to create a predictable legal environment are as below:

- ▶ Remove legal barriers to electronic authentication.
 - ▶ Respect freedom of contract and parties' ability to set provisions by agreement.
 - ▶ Harmonization: make laws governing electronic authentication consistent across jurisdictions.
 - ▶ Avoid discrimination and erection of non-tariff barriers.
 - ▶ Allow use of current or future means of electronic authentication.
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CYBER LAW SITUATION IN PAKISTAN

- ▶ Overall the situation of cyber laws is very encouraging in Pakistan and we are ahead of many developing countries in this respect.
 - ▶ **The Analysis of the above laws shows that :**
 - There should be some well-coordinated effort to critically review drafts already prepared.
 - Prepare drafts of remaining required laws with single focal point in the Federal Government to avoid conflicts, overlapping and gaps.
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Reference

<http://www.supremecourt.gov.pk/ijc/articles/10/1.pdf>

