



# Cyber IT Laws in India

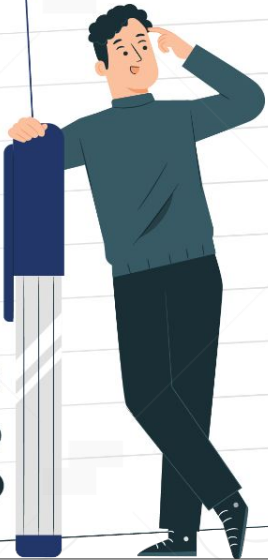
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## Lecture 2

### Approaches and Ethics in Cyber Law



# Let's Recall



1

Evolution of Technology & Cyberspace

2

Cyber Jurisprudence vs Traditional Law

## Session Objective

**By the end of this class, you will be able to:**

- Examine the doctrinal, consensual, and real approaches as key frameworks in cyber law.
- Explore ethical challenges and responsibilities in navigating cyberspace.
- Analyze the complexities of determining legal jurisdiction in the global digital landscape.

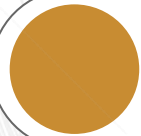




Key Legal Approaches



Cyber Ethics



Cyber Jurisdiction

A top-down view of a yellow desk with various items: a laptop, a pair of black glasses, a yellow stapler, a yellow pen, a blue pen, a black calculator, a small green succulent in a yellow pot, and a rainbow-colored sticky note.

# Checkpoints



**Doctrinal approach, Consensual  
approach, Real Approach**

## Doctrine approach

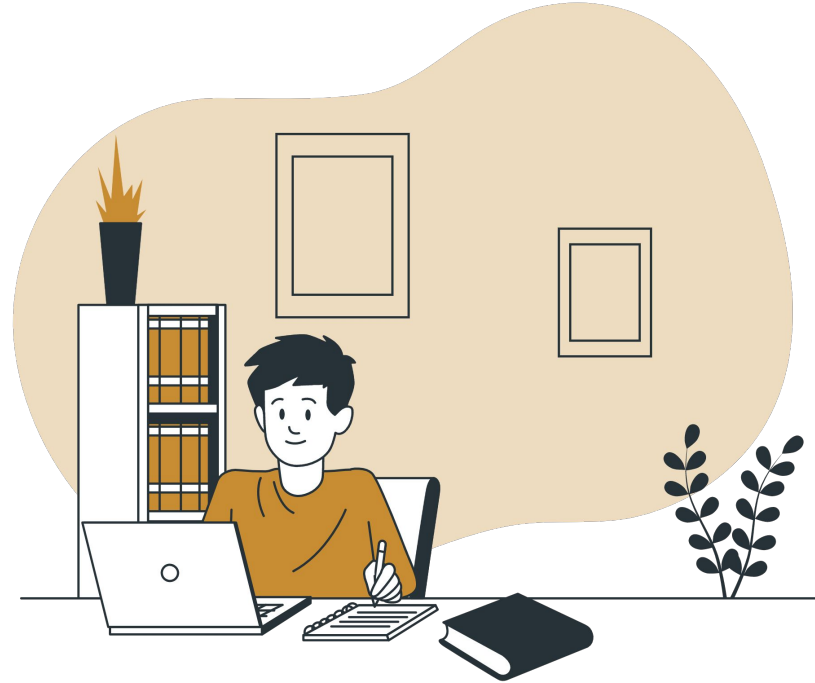
# Key Characteristics

- Focuses on the formal structure of legal rules.
- Relies on authoritative sources such as statutes, court decisions, and legal codes.
- Systematic analysis of case law and legislation to understand legal doctrines.
- It is often seen as the traditional method of legal study, where scholars and practitioners closely study what the law is rather than what it ought to be.



# Advantages

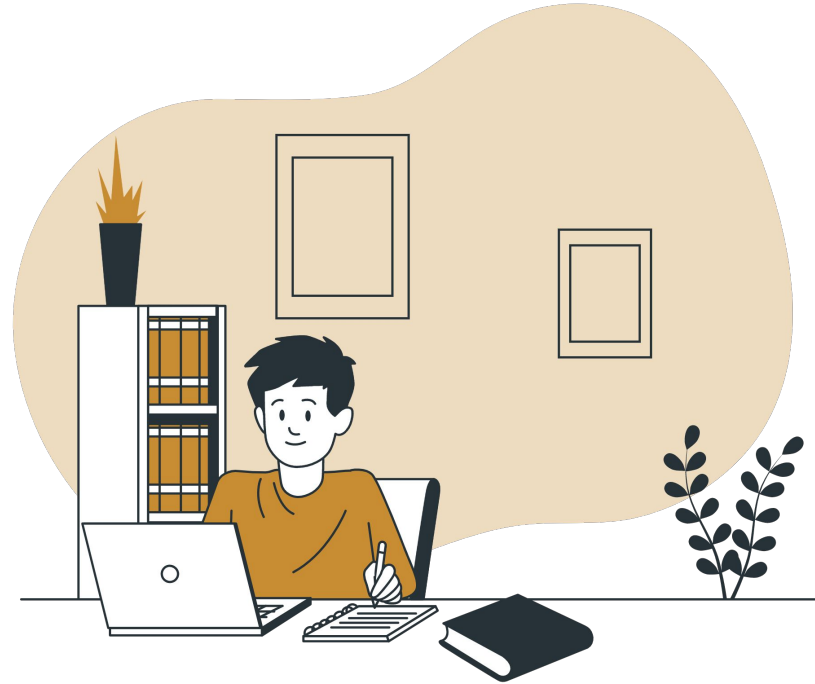
- Focuses on voluntary cooperation and autonomy of individuals or states.
- Encourages negotiation and democratic participation in the creation of laws.
- Reflects the will of the people or the involved parties, making laws more acceptable and legitimate.





# Criticism

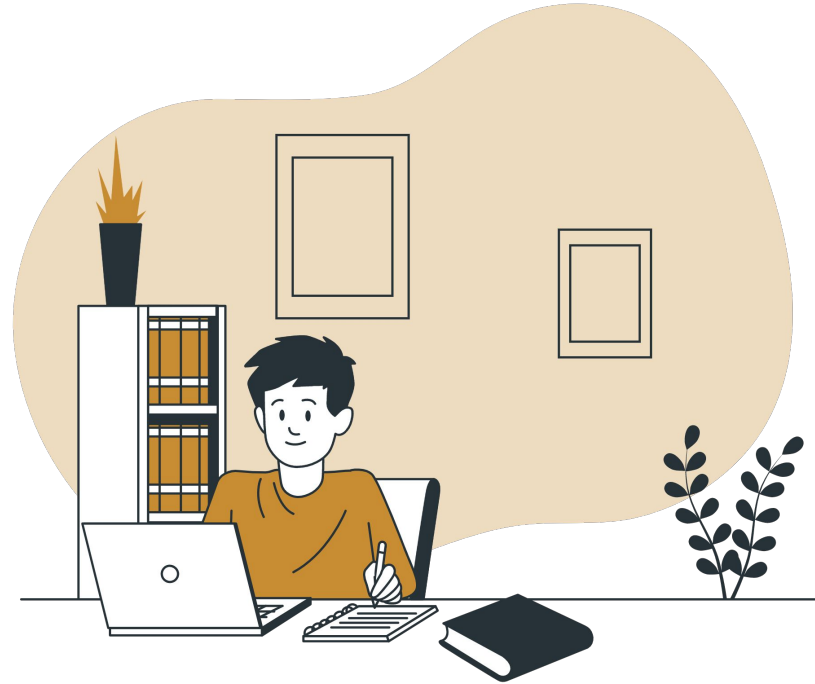
- May lead to inequality if one party has more power or leverage during negotiations.
- In international law, it can be difficult to enforce obligations if one state decides to withdraw its consent from a treaty or agreement.
- Laws based solely on consensus may lack the coercive power necessary to ensure compliance in broader society.



## Consensual approach

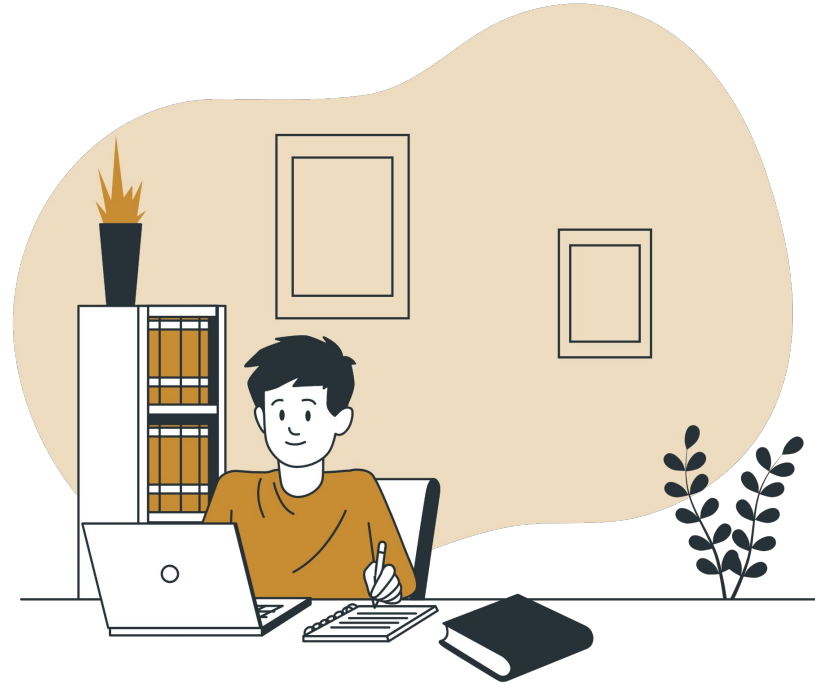
# Key Characteristics

- Laws are seen as legitimate when they are based on the consent of the governed.
- It emphasizes social contracts and the consensus among parties as the foundation for legal norms.
- Often applied in contexts like international law, contracts, and democratic governance.
- Recognizes that laws arise from mutual agreements between parties (e.g., treaties, conventions, and contracts).



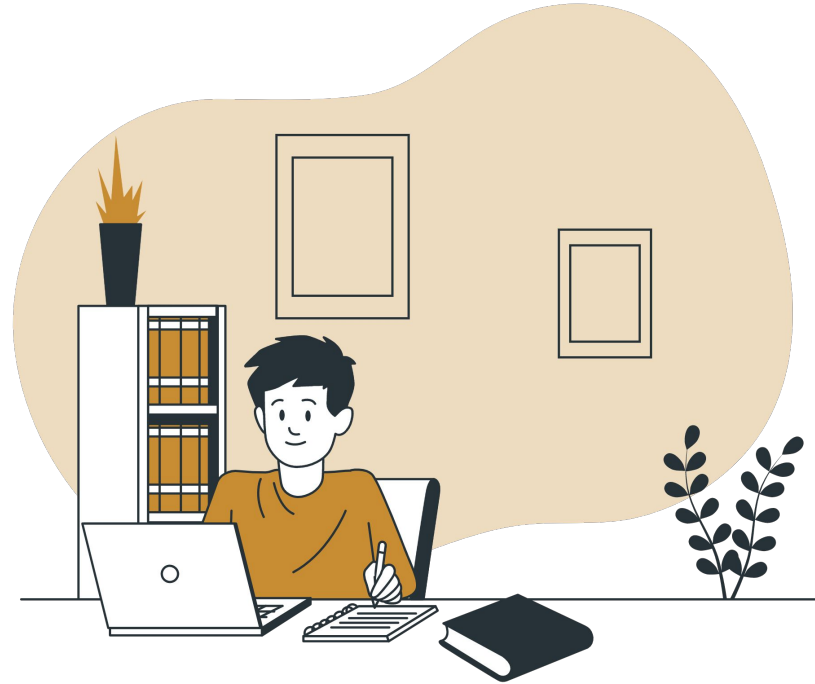
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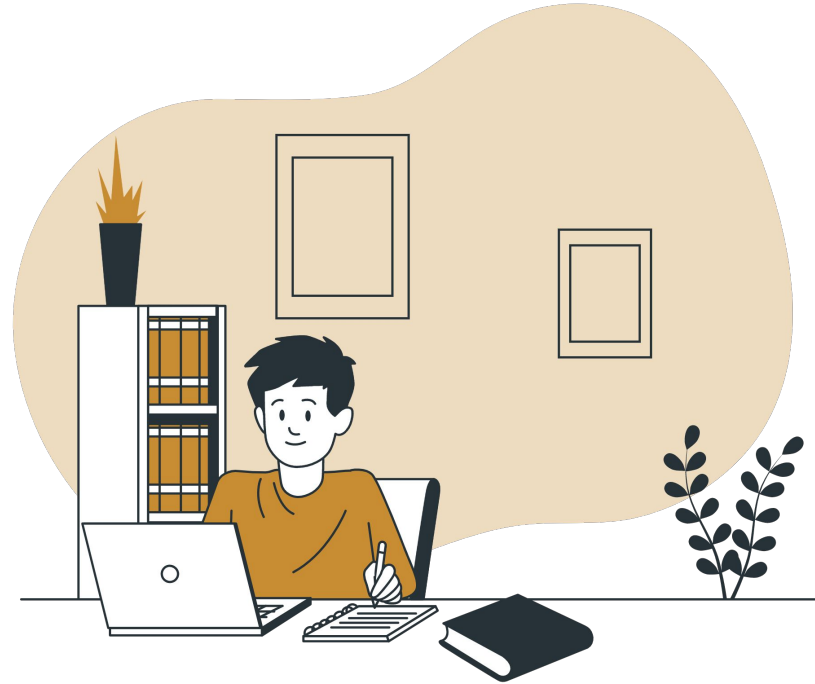


**Real approach**



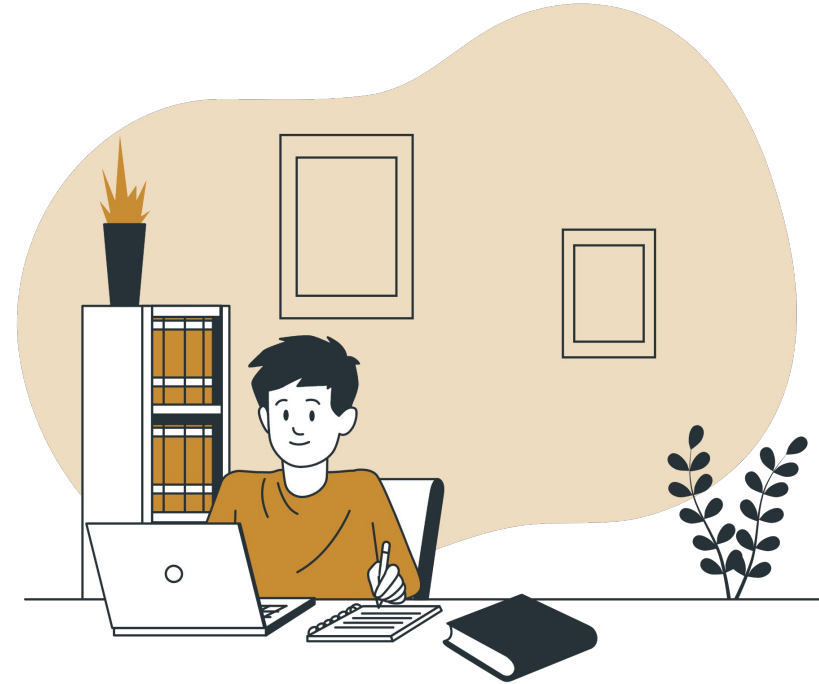
# Key characteristics

- Recognizes that law is not autonomous from the broader society but is influenced by external factors like politics, economics, and social norms.
- Emphasizes the practical outcomes of legal decisions and how they affect real people in society.
- Legal Realists argue that judges' personal beliefs, experiences, and biases may influence legal rulings, leading to unpredictable outcomes.



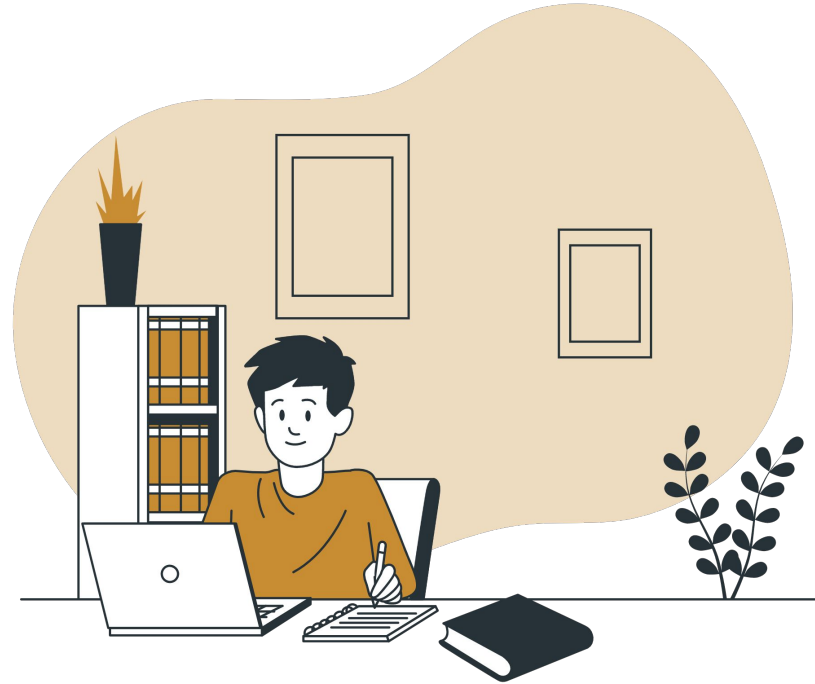
# Advantages

- Provides a realistic perspective on how the law operates in society.
- Highlights the importance of social context and practical consequences of legal rulings.
- Encourages legal reforms based on the actual needs of society rather than rigid adherence to doctrine.



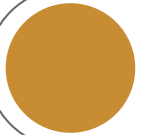
# Criticism

- Can be seen as unpredictable or lacking clear guidelines for legal decision-making.
- Some critics argue that it may lead to judicial activism, where judges make law based on their personal views rather than the intent of the legislature.
- The Real Approach can undermine the stability of the legal system if too much emphasis is placed on individual circumstances.

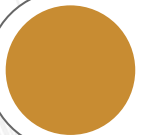




**Key Legal Approaches**



**Cyber Ethics**



**Cyber Jurisdiction**



# Checkpoints

# Cyber Ethics

- Cyber ethics refers to the moral principles guiding the behavior and decisions of individuals, organizations, and governments in the digital environment.
- It covers issues like online behavior, data privacy, intellectual property rights, and digital security.



## **Key areas of cyber ethics**



# Privacy and Data Protection

- **Issue:** The collection, storage, and sharing of personal data by governments, corporations, and other entities raise concerns about user privacy.
- **Ethical Concern:** Is it ethical for companies to track users without explicit consent? How should data breaches be managed?
- **Example:** Facebook-Cambridge Analytica scandal, where users' data was harvested without consent for political manipulation.



# Intellectual Property Rights

- **Issue:** Digital content like software, music, and videos can be easily copied and distributed without permission.
- **Ethical Concern:** Is downloading or sharing copyrighted material without permission ethical?
- **Example:** Torrenting sites that allow users to download movies, music, and games illegally.



# Cyberbullying and Online Harassment

- **Issue:** Anonymity in cyberspace has led to the rise of cyberbullying and online harassment, with devastating psychological effects.
- **Ethical Concern:** How can we ensure accountability for harmful online behaviors? Should platforms regulate free speech to curb abuse?
- **Example:** High-profile cases of cyberbullying, such as that of Amanda Todd, who suffered from online harassment before her tragic suicide.



# Hacking and Cybercrime

- **Issue:** The ethics of hacking can be viewed in various lights — while black-hat hacking is illegal and unethical, white-hat hackers help improve security.
- **Ethical Concern:** Is it ethical to hack into systems to expose vulnerabilities without permission?
- **Example:** Ethical hacking efforts, such as those carried out by white-hat hackers to secure systems before malicious actors can exploit them.



# Digital Divide and Access to Technology

- **Issue:** There's a global disparity in access to technology and the internet, leading to unequal opportunities.
- **Ethical Concern:** Is it ethical for advanced countries and corporations to monopolize digital resources? How can access to the internet be treated as a human right?
- **Example:** Programs like Facebook's Internet.org aim to bring free internet to underserved areas, raising debates about corporate control of information access.



# Why Cyber Ethics Matter:

- Cyber ethics helps ensure that the use of digital technology aligns with principles of fairness, transparency, and respect for privacy.
- It ensures accountability in the development and use of technologies and shapes trust between users and technology providers.





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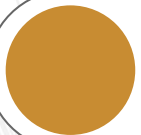




**Key Legal Approaches**



**Cyber Ethics**



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# Checkpoints

# Cyber jurisdiction

# Cyber jurisdiction

- Cyber jurisdiction refers to the legal authority and territorial reach of a country or state to enforce its laws over activities conducted in cyberspace.
- It is challenging to define due to the global, borderless nature of the internet.



# Key concepts

- **Territorial Jurisdiction:** This principle is traditionally based on geographical boundaries.
- **Personal Jurisdiction:** Personal jurisdiction concerns the ability of a court to exercise authority over an individual or entity involved in a legal dispute.



## Key concepts (contd.)

- **The Effects Doctrine:** A country may claim jurisdiction over online activities if those activities have a significant impact within its territory, even if the actions occurred elsewhere.
- **Subject-Matter Jurisdiction:** Courts have the authority to hear cases related to a particular subject.





# Challenges in cyber jurisdiction

- **Anonymity and Attribution:** The internet allows individuals to hide their identity, making it difficult for law enforcement to attribute criminal activities to a specific person or group.
- **Conflicting Legal Systems:** Different countries have varying laws regarding cyber crimes, privacy, and intellectual property.
- **Cross-border Enforcement:** Enforcing laws across borders is complex, as some countries may refuse to cooperate, or their legal frameworks may not align.



# Why jurisdiction is important?

- Cyber jurisdiction helps ensure that legal disputes in the digital world are resolved fairly and efficiently.
- International cooperation is necessary to tackle global cybercrimes and ensure that online activities adhere to local laws while accounting for the global nature of the internet.





**Key Legal Approaches**



**Cyber Ethics**



**Cyber Jurisdiction**



# Checkpoints

Thank  
you!

