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Cyber Crime and Its Laws in India as Developing Country

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ABSTRACT

The world is facing a great malady called cybercrime since the last two decades. Use of the malevolent programs in computers and over internet by malicious people to attack data or sell contraband and someone else's identity is known as cybercrime. This type of crime is committed with the use of computers and internet.

A cybercrime criminal is capable of hacking and planting viruses to destroy website and other portals across the world. Fraudulent transactions and online banking frauds are carried out by them by gaining access to highly confidential information as well as cyber pornography and various other crimes are committed.

In simple words, no one is secure in the cyber world. Like the conventional concept of crime, cybercrime is also an act or omission which results in breach of law and backed by sanction of the state.

Two essential ingredients of cybercrimes are actus reus and mens rea. The main reason behind the growing menace of cybercrime is our heavy dependence on computers and internet. Cyber spaces have advantages as well as disadvantages. Conventional crime can be prevented to an extent by patrolling of policemen, but in the cyber space, information is open to Trojan Horses and other viruses as well as to cyber stalking and cyber terrorism. This type of crime poses a bigger challenge to the polic, prosecutors and legislators.

Keywords: *Cybercrime; Internet Technology; social media; Cyberspace.*

I. INTRODUCTION

Social networking sites have been very popular right from the beginning of the new millennium. These sites provided space for many to relax, connect with old friends and also get new also.

But the cyber-criminal organizations have sadly misused these sites to serve their criminal acts. In the past couple of years, people started spending more time on these networks as the populations are gradually dependent on them. In the digital era, information technology growth influences the lives of people all over the world.

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Day after day, modern inventions and discoveries have broadened the science spectrum and created new problems for the legal community. With the rapid development of this technology leads to the commission on cyber space with emerging different types of new cybercrime today, which has also been a topic of global interest in the future. In the cyber world era as computer use became more widespread, the rise of technology also grew, and people became more familiar with the word 'cyber.' The evolution of IT gives rise to the "cyber space" in which internet provides all people with equal opportunities to access information , analysis, data storage, etc. by using high technology.

Such offences are like the assault on people, companies, or governments' guarded records. Such types of attacks don't exist on the physical body but on virtual body, either personal or corporate. Technology has exploded into communities, businesses, and individual’s life over the last two decades, altering the way people study, work and interact. People in different parts of the world can connect on a range of devices, such as computers, cell phones or tablets in real time.

A text message, photo, video, or email exchanged by a single person can be seen by hun Dreds users in a couple of seconds, and can go viral. The IT has now become a modern tool for harassing, doing misconduct or bullying, manipulating and harming others.

Research Methodology

The researcher has undertaken this topic to analyse the law of cybercrime in a comprehensive manner and achieve new insights to it. The main objectives of the present study are under:

- To understand the basic concept of the cybercrime and forms of cyber crimes
- To analyse Indian cyber crime
- To decipher as to how the issue of cybercrime has been dealt with in the Indian scenario;
- To point out the possible defects in the existing law relating to cybercrime;
- To suggest the reform and remedial measure for the prevention and control of cybercrime.

The researcher has undertaken a doctrinal method of research for the purpose of this paper. The researcher has made use of primary as well as secondary sources of research like books, articles from journals, articles from newspapers and law dictionaries.

The scope of the study is to do a detailed study of cyber-crimes, their magnitude and nature and throw light on who are the ones responsible for it. The researcher will also analyse the success and failure of the efforts taken by India in combating this type of crime. Efforts will be made to analyse the law as laid down in the IT Act, 2000, its implementation, shortcomings and efforts to repair them as well as referring to the ITAA, 2008. The researcher will also compare the selected provisions of Indian legislation with that of US and UK wherever necessary. The only limitation of this paper is that it covers only the laws of India and only two other developed countries i.e. US and UK

The cyber space is not adequately protected. A huge number of populations is present in the cyber space every moment and are using very well developed complicated technologies. Developed technologies require developed protection mechanisms. These demands for having comprehensive and effective laws and regulations for the protection of the population from the various cyber-crimes. It would be effective to have a universal legal framework accepted globally since 3 cybercrime does not have any boundary. The legal framework should also be backed by the specialized enforcement mechanisms.

Literature Review

- Anirudh Rastogi, “Cyber Law- Law of Information Technology and Internet” - In this book author analysed and provided critique of laws relating to IT and different kinds of cybercrime in India. It also covered IT Act together with laws which governing jurisdiction, e-contracts IPR end E- evidence. This book also includes emerging fields of study and issue such as state surveillance, cloud computing, virtual currencies and social media regulation conditions and terms of the website, and e-governance.

- Mohak Rana, “Crimes in Cyberspace: Right to Privacy and Other Issues”- This article deals with meaning and types of the cybercrime in India as well as US and UK. Also discuss about the evolution of the cybercrime, cybercrimes’ categories, Indian prospective of cyber space law and cyber space crime, different types of liability under IT Act and cases of cyber-crime in india.

- Talat Fatima, "Cybercrimes” - In this book Dr. Fatima (i) highlights the novel issues the legal world faces in current cyber-age. (ii) Identifies online crime offences; and (iii) Analyse the legal problems and the arraignment measures for cyber criminals;. The book extensively analyses and discusses the cyber laws and judicial practices in India alongside those of the United Kingdom and the United States.

- Vakul Sharma, “Information Technology- Law & Practice”- It has been written lucidly with examples, anecdotes and diagrams, which the readers may not find in any other book of this genre. This book also discusses the different challenges and aspects of the IT. And issues related to the cybercrime, Internet blocking, virtual currency, child pornography, cyber terrorism, cyber security and social media covered in legally, also covered international prospective of jurisdiction and other issues.

- Talwant S. “CYBER LAW & INFORMATION TECHNOLOGY” An AD&S Judge has made a discourse on harmony between law enforcement agencies and the computer professionals. According to the author, both are very important for securing a strong cyber security regime in the country and make cyberspace safe. The author has also made comparative study on the law definition in US and India.

II. ANALYSIS AND INTERPRETATION

India

- Information Technology Act, 2000
- Indian Penal Code

UK

- Computer Misuse Act, 1990
- Serious Crime Act 2015
- The Police and Justice Act 2006

US

- Consumer Privacy Protection Act 2017
- Computer Fraud and Abuse Act 1984
- Electronics Communication Privacy Act 1986
- Credit Card Fraud Act
- Identity Theft Assumption and Deterrence Act
- Child Pornography Prevention Act
- Cyber security Information Sharing Act
- Cyber security Enhancement Act Of 2014
- Federal Exchange Data Breach Notification Act Of 2015

- •National Cyber security Protection Advancement Act Of 2015

III. Conclusion & recommendation

In India, the only legislation dealing with cybercrimes is the Information Technology Act. The Act does not provide any definition of the term ‘cybercrime’. However, the scope of cybercrime has be made clear under the various provisions of the Act. The main purpose of this Act is to protect the field of e-commerce, e-governance, ebanking as well as provides penalties and punishments in the field of cybercrime. The Act has been amended by the ITAA, 2008.

However, a single piece of legislation is not enough to protect a country with such a high rate of crime. Further, territorial jurisdiction is a major issue which has not been adequately addressed in the Act. Preservation of evidence is also big concern. However, most of the cybercrimes are also covered by the Indian Penal Code which is comforting factor for the investigating agencies. This is because criminals, even if 71 they are able to evade the IT Act, they will not be able to evade the provisions of the IPC.

There is an urgent need for unification of laws relating to internet to reduce any kind of information. For example, for the offence of publication of harmful contents, we have IPC, IT Act, Data Protection Act, etc. all of which vaguely deal with the subject but lacks efficient enforcement mechanism. Due to many laws dealing with the same subject, there is always a confusion regarding their applicability and none of the laws deal with the subject specifically.

Thus, there is a need for one cyber legislation. One crucial problem in combating cybercrime is the inefficient enforcement mechanisms. Harsher laws are required to deal with criminals and also certainty of punishment is required. Thirdly, it is very important to have Extradition Treaties among countries to make extra territorial provisions workable.

Lastly, all countries need to update their laws either by amendments or by adopting unified laws. There is a strong need to have better law enforcement mechanism to make the laws better workable.

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