

LAW RELATING TO COMPUTERS, INTERNET AND E-COMMERCE. Edited By Nandan Kamath. Delhi : Universal Law Publishing Co. Pvt. Ltd., 2000. Pp XXIV + 516, Rs. 395/-.

These days Computers play an important role in the functioning of the society. More so in business one cannot operate efficiently without the use of computers. Through Internet the world has become so small that you can find any information relating to everything at your desk. Now a days business is gradually becoming operational through e-commerce. However, conventional laws relating to contract, crime or trade or business have become subject to intricate cases of bugging, hijacking and tricky manipulations on the computer services. Municipal laws are not sufficient to tackle the legal problems regarding computer related crimes. This reviewer is of the firm view that we need concerted efforts to bring about International rules and regulation to control the menace of cyber practices in the world. So far nothing has been done in this regard and this is very imperative because of the cyber revolution which has come. There is an urgent need to have relevant Cyber Laws which should be in tune with the functioning of computer and the international implications of the transactions on the computer which has become very complicated today.

The book under review¹ is the edited version of the various articles written by learned authors from the National Law School of India University, Bangalore. It contains seventeen research papers on various aspects of cyber laws. Some of the important articles are 'Sweeping Cobwebs Off The Law.... The Law, Lawyers And Cyberspace', 'Jurisdiction And The Internet,' 'Understanding Digital Signatures', 'Protecting Software Copyrights in The Age Of The Internet,' 'Cyberspace And The Law Of Trademarks', 'Crime On The Internet: A Challenge', 'Pornography On The Inernet & The Indian Penal Law', 'Censoring Cyberspace : In Search Of An International Regulatory Norm', and "Letterless" Letters of Credit.

The paper written by Rahul Rao 'Sweeping Cobwebs Off' The Law... The Law Lawyers And Cyberspace', the learned author has very cogently pointed out that the information provided by the web pages would be quiet unremarkable in respect of commercial enterprise, but what is interesting here is that lawyers are prohibited from advertising by

1. Hereinafter referred to as LAW RELATING TO COMPUTERS.

Rule 36 of the Bar Council of India Rules, framed under Section 49(1) of the Advocates Act, 1961. As with many other professions such as medicine and architecture, the chief objective of the ban on advertising has been to preserve the dignity of the legal profession.

This has been recognised in *Government Pleader v. S.A. Pleader*,² where it was held that advertising was unprofessional conduct on the part of a professional man.

Mr. Rao has pointed out that the application of Information Technology promoted the revolt called Zapatista revolt of January 1994. In Harry Cleaver documents he calls it the 'electronic fabric of struggle'.³ We have seen that E-Commerce has grown to become buzzword in corporate circles. The lure of conducting global operations through a web site has become irresistible for business people internationally. A page on the World Wide Web can reach web surfers in any country or a state in the world and thus led to issues and disputes as to where lies the jurisdiction of the court in case a dispute arises between the parties who have entered into the contract. The whole trouble with Internet jurisdiction is the presence of multiple parties in various parts of the world who have only a virtual nexus with each other.⁴ For example sending an e-mail to an individual whose location is known to the sender is similar to sending regular mail addressed to an individual at a known location. Hence one could reasonably argue that there is little reason not to exercise jurisdiction over the sender in the location to which the e-mail was sent. In *Resuscitation Technologies Inc. v. Continental Health Care Corp*⁵, the New York defendant had extensive communication with the Indiana plaintiff, the court held that the level of activity directed to Indiana was substantial and therefore, Indiana had the personal jurisdiction over the defendant.

In the book under review it has been pointed out that in the area of jurisdiction lessons have to be drawn from the cases. For instance there may be certain jurisdiction where one may not like to do business at all. More so if users are required to be of certain age or if business is banned or regulated in certain areas, for example gambling, then it may be necessary to identify all such persons before they can be permitted to engage in transactions and to prohibit transactions with certain users and in certain jurisdictions.⁶

It is difficult to provide evidence in disputes on the Internet as legal rules assume the existence of original and signed a paper records. The

2. AIR 1929 Bom 335.

3. LAW RELATING TO COMPUTERS at 15.

4. *Id.* at 22.

5. 1997 WL 148567 (SD Ind 1997).

6. LAW RELATING TO COMPUTERS at 46.

law of evidence traditionally relies on paper records, although of course oral testimony and other kinds of physical objects have always been part of our court rooms for evidence. On the Internet the situation of prosecution may be more complex. A hacker logging in to a computer on the way to his victim will often login under a different identity this is called as 'spoofing'. The hacker is able to do this by having previously obtained actual passwords, or having created a new identity by fooling the computer into thinking he is the system's operator.⁷

Bhakta Batsal Patnaik in his paper 'Crime On The Internet-A Challenge' pointed out that ordinarily, the law keeps pace with the technological changes in the society. However, technological advancement like the Internet clearly threatened to leave the law behind. To a technical specialist, Internet is a global network of computers based on TCP/IP and other high speed communications protocols with thousands of nodes and millions of users. He said that in 1980's a digitisation and cheap and widely available personal computers have made copying easy, perfect and fast — regardless of how many generations of copies have been made, how the information is stored, or how many people are copying it.

In his paper titled 'Pornography On The Internet & The Indian Penal Law', Dev Saif Gangjee observed that the technology serves to facilitate commercial activity and pornographers have never shied away from it. A huge amount of pornographic material can be reproduced more quickly and cheaply on new media like hard disks, floppy disks, CD-ROMs. Not only still pictures and images, full motion video clips with sound and complete movies are also available. He points out in fact the latest trend seems to be towards interactive 'live sex' where people perform on and according to requests by subscribers to the services. The U.S.A, Australia and Canada have made attempts to identify the pornography problem and bring about suitable legislation to curb the menace of pornography on the minds and morality of people. In India the law relating to pornography are provided under Sections 292 to 294 of the Indian Penal Code which in fact is a British legacy.⁸ The I.P.C. has borrowed the word obscenity from the English statute and its foundations are basically on Lord Cockburn's famous test in the Hacklin case.⁹

In India this problem has been tackled by the Information Technology Act, 1999. The author suggests that by multilayered governance system using mixture of National and International legislature and self-imposed

7. *Id.* at 60.

8. *Id.* at 264.

9. 1868 LR 3 QB 360 at 371.

regulations by ISPs and users, hotlines and special organisations to report pornographic content, a more comprehensive approach can be taken to tackle the problem and that is how the balance between the freedom of the individual and the greatest good for society can be maintained.¹⁰

In a paper written by Dipen Sabharwal titled 'Censoring Cyberspace — In Search Of An International Regulatory Norm', the author has pointed out that global based communications cut across territorial borders, creating a new realm of human activity and throwing up a multitude of questions regarding the need for and manner of regulating this virtual world. There are two streams of arguments to regulate the Internet or Cyber Laws. One is that municipal or a particular country's laws can regulate the problem relating to Internet misuse. Secondly, whatever municipal laws you make they are bound to fail. In this context it is essential to have International Regulatory Authority with proper rules and regulations to curb the illegal use of the Internet. As there are inherent limitations for the national enforcement of laws the imperative solution lies in the International Regulatory Norms. The book further deals with some important and learned papers written by various authors like 'Cryptography, Privacy And National Security Concerns'; 'Regulating Electronic Money : Tackling The Challenge To National Monetary Sovereignty' and 'An Introduction To The Indian Tax Structure And The Challenges Posed By Internet Commerce' In the last mentioned paper written by Chetan Nagendra it has been very eloquently pointed out that with the use of Internet technology the problem of tax evasions are bound to happen and accordingly the tax structure has to be changed in order to curb the menace of Cyber misuse.

The book on the whole is a very learned presentation on Cyber Laws by various authors. This has been published in a very attractive jacket by Universal Law Publishing Co. Pvt. Ltd. The book is impeccably published with flawless printing and the Universal Book Company deserves to be congratulated for having published such a book which is so essential in the present times. Being a book on important subject like cyber laws which is written by a number of learned authors, this book is very useful for lawyers, computer experts, scholars, students and researchers who are interested in law relating to computers. It is a must for all law libraries.

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10. *Id.* at 271.

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