



INDIAN
NATIONAL
BAR
ASSOCIATION

A roundtable discussion on Legislative Gaps in The Cyber Era - Harmonising Indian Law With The International Legal Regime

April 29, 2016

**Parliament House- Annexe
New Delhi**

India is leading the global e-economy and the technological revolution but unfortunately its legal regime has often fallen short of catering to and regulating the fast evolving technological landscape and the information revolution.

Series of major initiatives by both, the Law Makers (Govt. of India) and the Judiciary (Supreme Court) recognize the imperative need for developing a culture for appreciation of the issues involved with cybercrimes and the law in India.

India as a country, was the twelfth nation in the world to legislate on cyber law, adopting an Information Technology Act, and has also brought about certain amendments to the Indian Penal Code and the Indian Evidence Act to aid in cyber-crime investigation and prosecution. The government has made efforts towards putting in place a National Cyber Security Policy that addresses several areas related to cyber security, particularly incident response, vulnerability management and infrastructure security.

Cyberspace being the fifth common space, it is imperative that there be coordination, cooperation and uniformity of legal measures among all nations with respect to Cyberspace. The peculiar nature of cyberspace implies that existing laws are largely ineffective in curbing cyber-crime and terrorism, thus creating an urgent need to either modify existing legislation or to enact laws that are effective in checking the growing menace online. Internet security is a global problem and cyber-crime and terrorism are increasingly becoming a worldwide nuisance. Only international cooperation will enable the nations of the world to better crackdown on cybercrime and ensure healthy development of the internet.

Since the internet is not limited by national geographical boundaries, it requires that any regime that is set up with regard to the internet be one that is applicable not only to a given state, but should have global application, anywhere on the internet. To meet this end, it is now the need of the hour that nations of the world cooperate and make constructive efforts to reduce

vulnerabilities, threats and risks to manageable levels. Attempts that have been made so far, including the EU Convention on Cybercrime or the OECD Guidelines and even the probable extension of the Law of Armed Conflict to Cyberspace are not without their respective glaring loopholes and deficiencies.

The Govt. on its part enacted the Information Technology Act in 2000 which was subsequently amended in 2008 and additional Rules were framed there under in 2011 to deal with issues relating to cybercrimes and data protection but still the law fails to catch-up with the fast changing technological developments and nature of digital crime in the cyberspace. In 2015 the Supreme Court of India passed the landmark judgment striking down the legality of section 66A of the Amended IT.

While the Supreme Court decision and the recent directives issued under the IT Act all steps in the right direction and argue well for India as a technological destination and outsourcing hub, which under the leadership of Hon'ble Prime Minister is encouraging foreign companies to come & invest here as part of the "Make in India Campaign".

The Make in India Campaign can only be successful if there is a proper legislative and effective prosecution mechanism in place to deter cybercrimes and punish any offenders, we need to develop not only attractive campaigns but also effective culture of Cyber literacy to prevent cybercrimes.

The participants profile for this roundtable discussion includes reputed In-house counsel, CISOs, Lawyers, Privacy Professionals, Senior Corporate officials, Partners of Tier I Law Firms, Investors and CEO's of Fortune 500 Companies navigating the complex and business issues involved in India/ abroad.

With this thought process in mind and mindful of its social obligation as a responsible body, Indian National Bar Association (INBA), thought it prudent to initiate this think-tank interaction.

It is hoped that the Round Table discussion / thoughts on "Legislative Gaps in the Cyber Era - Harmonizing Indian Law with the International Legal Regime" will aid India and enable it to compete internationally with countries like U.S., Singapore, Germany, UK etc. as a true international leader in technology.



Supported by