

Lecture- 01



Introduction to Cyber Crime

1. Jurisprudence of Cyber Law

Jurisprudence studies the concepts of law and the effect of social norms and regulations on the development of law.

Jurisprudence refers to two different things.

1. The philosophy of law, or legal theory
2. Case Law

Legal theory does not study the characteristics of law in a particular country (e.g. India or Canada) but studies law in general i.e. those attributes common to all legal systems.

Legal theory studies questions such as:

1. What is law and legal system?
2. What is the relationship between law and power?
3. What is the relationship between law and justice or morality?
4. Does every society have a legal system?
5. How should we understand concepts like legal rights and legal obligations or duties?
6. What is the proper function of law?
7. What sort of acts should be subject to punishment, and what sort of punishments should be
8. permitted?
9. What is justice?
10. What rights do we have?
11. Is there a duty to obey the law?

12. What value does the rule of law have?

Case law is the law that is established through the decisions of the courts and other officials. Case law assumes even greater significance when the wordings of a particular law are ambiguous. The interpretation of the Courts helps clarify the real objectives and meaning of such laws.

This chapter first discusses the meaning of cyber law and the need for the separate discipline of cyber law.

This chapter covers the following topics:

1. What Is Cyber Law?
2. Need for Cyber Law
3. Jurisprudence of Indian Cyber Law
4. Evolution of Key Terms and Concepts
5. Evolution of Cyber Crime

1.1 What is Cyber Law?

Cyber Law is the law governing cyber space. Cyber space is a very wide term and includes computers, networks, software, data storage devices (such as hard disks, USB disks etc), the Internet, websites, emails and even electronic devices such as cell phones, ATM machines etc.

Law encompasses the rules of conduct:

1. that have been approved by the government, and
2. which are in force over a certain territory, and

3. which must be obeyed by all persons on that territory.

Violation of these rules could lead to government action such as imprisonment

or fine or an order to pay compensation.

Cyber law encompasses laws relating to:

1. Cyber Crimes
2. Electronic and Digital Signatures
3. Intellectual Property
4. Data Protection and Privacy

Cyber crimes are unlawful acts where the computer is used either as a tool or a target or both. The enormous growth in electronic commerce (e-commerce) and online share trading has led to a phenomenal spurt in incidents of cyber crime. These crimes are discussed in detail further in this chapter. A comprehensive discussion on the Indian law relating to cyber crimes and digital evidence is provided in the ASCL publication titled “Cyber Crimes & Digital Evidence – Indian Perspective”.

Electronic signatures are used to authenticate electronic records. Digital signatures are one type of electronic signature.

Digital signatures satisfy three major legal requirements – signer authentication, message authentication and message integrity.

The technology and efficiency of digital signatures makes them more trustworthy than hand written signatures. These issues are discussed in detail in the ASCL publication titled “Ecommerce –Legal Issues”.

Intellectual property is refers to creations of the human mind e.g. a story, a song, a painting, a design etc. The facets of intellectual property that relate to cyber space are covered by cyber law.

These include:

- copyright law in relation to computer software, computer source code, websites, cell phone content etc,
- software and source code licences
- trademark law with relation to domain names, meta tags, mirroring, framing, linking etc
- semiconductor law which relates to the protection of semiconductor integrated circuits design and layouts,
- patent law in relation to computer hardware and software.

Data protection and privacy laws aim to achieve a fair balance between the privacy rights of the individual and the interests of data controllers such as banks, hospitals, email service providers etc. These laws seek to address the challenges to privacy caused by collecting, storing and transmitting data using new technologies.