

Lecture- 06



Jurisprudence of cyber law

Jurisprudence can be defined as the science and philosophy or theory of the law. Applying jurisprudence to cyber law gives rise to the legal study that concentrates on the logical structure, the meanings and uses of its concepts, and the formal terms and modes of operation of cyber law. Cyberlaw is a very recent concept and if compared with other older branches of the law, is a little structured study.

The term cyberspace was originally coined by a science fiction writer William Gibson to depict data matrices existing in a dark distant future which means the information spaces made by the technology of digital networked computer systems that ultimately connect with the mother of all networks that is the Internet. With the advent of the internet and technology, cyberspace along with a number of crimes related to the same emerged and expanded. As we enter the cyber age, the law on all fronts is struggling to keep pace with technological advances in cyberspace. While there is a prosperous discussion of the nature of cyber law and its challenges, still a

fundamental body of scholarly contributions to the discussion is lacking. The outgrowth of cyber jurisprudence around the world has promoted the emergence of newer dimensions in Law. The focus is on the practical aspect of cybercrime with the initial attempt to extend the known physical society concepts to the virtual space rather than the theory, philosophy, and science of cyberlaw generally. Hence in due course, we need to develop separate Cyber Jurisprudence to deal with future disputes.

The modern jurists have been cautious to endow with the rationale pedestal of jurisprudence to this ruling and now ascertained utmost exact definition of cyber jurisprudence as this describes the principles of legal issues, which exclusively regulates the cyberspace and internet can be termed as cyber jurisprudence with a virtual approach

Jurisprudential Aspects of Cyber Laws

Cyber jurisprudence gives an analysis of the land with land and no border, different from the physical world, they may be virtual from origin and nature. This covers the virtual world with virtual rules and policies, along with the virtual subject matter, virtual contracts, virtual disputes, virtual property, virtual possession, and virtual court.

The existence of an item in the context of a virtual world, such as an e-mail account or an online game, is also a form of virtual property. It emphasizes the composite idea of cyber jurisdiction, cyber court's venue in the cyberspace, and recognize uniform cyber rules and policies at the international level. Framing rules and laws to cover every aspect will be an arduous task since the cyber world has no boundaries.

However, a balance has to be maintained and laws be evolved in order to keep a check on cybercrimes. Whenever a conflict is encountered in implementing existing laws of the real space to Cyber Space, the laws of the real space have prevailed, overtime this tendency is likely to develop into a principle of "Primacy of Meta Space" and become the bedrock of Jurisprudence. However, the principle fails when two laws of the real space itself come into conflict in the Cyber Space.

Applying Jurisprudence to Cyber has three possible outcomes:

There exists no relationship between jurisprudence in general and cyber law in particular: Here we return to The Law of the Horse. Everything existing at present is sufficient and determining outcomes with a special view to cyber science is unnecessary. No special philosophy or theory of law is necessary to treat events occurring in cyberspace.

Such a relationship exists but it does not require a new jurisprudence to understand it: Here the cyber law is recognized as a special area of the law and acknowledges that current jurisprudential thinking is adequate to apply existing theory to its study and analysis.

A new jurisprudence and a new view of cyberlaw are necessary: This concludes that cyber law is a special and unique field of the law and it requires a special and unique philosophical and theoretical treatment of its own.

Eventually, the question of whether is it feasible and necessary to create an extensible jurisprudential approach to law that acknowledges and keeps pace with cyber science without being a set of restrictive and inhibitory guidelines that are both confining and resistant to change should be taken into consideration.

Evolution of Cyber Law

Cyber Crimes

In India, Cyber Crime is not directly defined by either IT Act, 2000, IT Amendment Act, 2008, or any Other Legislation. However, the Offence or Crime has been defined by The Indian Penal Code 1860: as any Offence or Crime in which a computer is used is a Cyber Crime. Cyber or Computer Crimes were defined as unethical, unauthorized, and illegal behavior of Individuals or

as Groups relating to the automatic processing and transmission of data use of Computer Systems and Networks.

Cyber Crimes are majorly classified into four types:

- Against Individuals:
 - Harassment through E-Mails / Messages
 - Cyber-Stalking
 - Propagation of Obscene Material on the Internet
 - Defamation
 - Hacking/Cracking
 - Indecent Exposure.
- Against Property of an Individual:
 - Computer Vandalism
 - Transmitting Virus
 - Internet Intrusion
 - Unauthorized Control over Computer System
 - Hacking / Cracking
- Against Organization:
 - Hacking & Cracking
 - Custody of Unauthorized Information using Cyber Terrorism in opposition to the Government Organization
 - Distribution of Pirated Software
- Against Society at large:
 - Pornography (especially Child Pornography)
 - Spoil the Youth through Indecent Exposure
 - Trafficking