

I.T. Law in the Technology-Driven Global Marketplace

By

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The computer technology revolution is reshaping few, if any, areas of the law more than any other law. Our new technology has enabled commerce and communication to be conducted by such new methods and at such unprecedented speeds that the new global marketplace is rendering national and even continental boundaries nugatory.

In response to these challenges, individual nations and international organizations have taken initiatives to harmonize national I.T. laws and to create new treaties to improve and standardize internet protection internationally.

Pakistan Law is a very vast field and it has a lot of branches like criminal, civil, corporate, banking and taxation. These days corporate are very popular and there is also a lot of money in it. At the start of the 21st century it is becoming more diverse. Now due to the new era of Information Technology, Cyber Law or IT Law has come into being. This law is increasingly impinging all the old laws. In it I.T. and its relationship with law is expressed.

It examines I.T. actively taking place within the shadow of the law and includes analysis of such criminal and tortuous issues as defamation on the internet, sexually orientated expression, child pornography, hate speech, hacking, virus's fraud, encryption and privacy rights.

Weaker I.T. surveillance laws have hurt the anti-terror fight. With stronger powers, the security services might have detected some of the 11 suicide hijackers of the World Trade Center and Pentagon, who are now known to have passed through the UK on their way to the US.

Law enforcement authorities are able to investigate criminal acts involving the use of electronic communications systems and to take legal measures against their perpetrators. Particular efforts should be made to strike a balance between the protection of personal data and the law enforcement authorities' need to gain access to data for the purposes of criminal investigations.

Spies and terrorists have long used tradecraft such as chalk marks on a park bench, or everyday language with a veiled meaning. In cyberspace, these equate to an innocent phrase in a chat-room, or weaving the bits comprising a message into a sound or picture file so it cannot be detected. Without knowing who and what to look for, it is impossible to screen for every variation. Those who want a nostalgic return to the era of phone-tapping are either naive or impervious to reason.

The only way to stop terrorist cells communicating via the internet is to disinvent it. Encryption is irrelevant. Law enforcement authorities are able to investigate criminal acts involving the use of electronic communications systems and to take legal measures against it.

Cyber-liberty advocates have threatened the I.T. Regulator's decision to close down newsgroups that are known to regularly contain child pornography. A proper balance needs to be ensured between the interests of law enforcement and respect for fundamental human rights, the balance is certainly in favor of the law enforcement agencies with no due respect for human rights.

I, being a member of Human Rights Commission of Pakistan, am working to ban children access to x-rated sites. I contacted Asad Ali, operations in-charge of one of the biggest internet service providers in Pakistan. He said this is very difficult as most of their clients surf on these sites and if they block it then their business will be affected. It means they don't want to do anything. The Government should take action against this and threaten the ISPs of dire consequences if they do not restrict their users. In Saudi Arabia no one can access these sites.

The development of the Internet requires the introduction of trust in internet users and affirmation that their expectation of privacy in correspondence is legitimate. Lawyers can structure legal rules to forbid information misuse. Emerging technology infringes consumer privacy on the Internet which is not safe for credit card merchants and military sites especially of NASA and arms sellers.

Internet shopping sometimes becomes risky. People steal credit card numbers and then use them for shopping. There is no set rule to check it. If such rules are not made it can become very difficult in the coming years when everything will be done on it. It will be a great set-back for Pakistan and it will remain behind in information technology. Foreign stores do not recognize Pakistan's credit cards and deliver articles at an address in Pakistan. This is only due to the bad reputation of Pakistanis. This is created because some people misused the great facility of internet shopping and put a ban for the rest of the good people who intent to utilize it properly.

I.T. legislation is needed to protect investors from massive, individualized losses and promoting technological advances on the part of online brokerages. It is very popular abroad, but in Pakistan some of them like Harvest Top Worth, again misused it. They wrongly claim they are not like other brokerages who deal in Pakistani company stocks but in foreign (U.S.) stocks. They ask their customers to try it with a minimum of \$ 1000 and see the result. Initially they give good profits but when the confidence of the client is built and he increases his investment, then they give the client huge losses which are usually unbearable. Such tactics of online brokerages should be checked by the promulgation of a law.

Pakistan should have its own I.T. law, though as a British law (common-wealth country), its laws closely parallel those of the United Kingdom and India. Its courts seldom rely on British decisions as persuasive or authoritative, especially when there is no Pakistani court decision directly on a point. All the cases dealt by a lawyer are different, although they will appear to be the same. The lawyer has to work hard on it and have to consult many books. When Britain and India has its own I.T. law so we should also have it.

The worldwide trends in I.T. law seem to be going in a positive direction. The European and WIPO (World Intellectual Property Organization) initiatives seem designed to produce a higher

degree of harmony in national laws and the Trademark Law Treaty will eliminate much of the unnecessary and frustrating red tape that has traditionally attended the process of international trademark registration.

It should be finally adopted as seems inevitable, will also provide a lower cost international filing mechanism that will enable many smaller, mid-size companies to take advantage of I.T. protection. Laudable focus upon the realities of marketplace perceptions in determining whether alleged I.T. laws are eligible for implementation should be made.

Legal infrastructure of I.T. laws becomes more harmonious than discordant; companies will be able more efficiently to utilize the new technologies to distribute their products globally and with a minimum of problems.

Disputes over internet domain names (web addresses) have become an extremely hot area of activity and to do it justice would require a separate paper. Suffice it to say, for purposes of this overview, that WIPO has again taken laudable initiative towards achieving a global rule structure for dealing with this difficult and rapidly-changing area of disputes. WIPO has constituted and made available a panel of arbitrators to decide disputes under the Internet Corporation on assigned names and numbers ("ICANN") Uniform Dispute Resolution Policy ("UDRP"). While the UDRP primarily applies to generic top level domain disputes in the United States, some of the CCTLD (Country Code Top Level Domain) registrars have accepted the UDRP. In other countries, resolving domain name disputes will require resort either to the courts or alternative local dispute resolution mechanisms.

Judiciary and lawyers have well adapted themselves to internet. Lahore High Court has made its own web site with the address www.lhc.gov.pk, while the Supreme Court's web site's is www.supremecourt.gov.pk. They contain information about their respective constitution, jurisdiction, causes list, history, rules, orders, judgments and honorable judges of the courts including their tenure and retiring age. The rest of any ambiguity can be clarified by emailing them on their respective mailing address.

There is a web site made for the lawyers, law students and other people who want to know about Pakistani law by the address www.pakistanlawyer.com. This web site provides complete information about various aspects of law. It includes Arbitration Law, Banking, Insurance Law, Commercial Law, Intellectual Property Law, Labor Law, Limitation Law, Marriage and Family Law, Tax Law. Apart from this it also has the information on Securities and Exchange Commission of Pakistan, Pakistan Law Commission, Law Dictionary, Lawyers web sites and links to foreign law web sites. This web site is used by almost all the lawyers who have access to computers in Pakistan. I am myself a fan of it and it is the best law site I have ever seen. There is a similar foreign web site by the address www.hg.org.

One can also find the web sites of a few popular bar associations like American Bar Association (www.abanet.org), International Bar Association (www.ibanet.org), World Bar Association (www.wba.com) and etc.

Through the link www.lawjobs.com one can locate new job positions in private and government law firms. They will inquire about your potential in law, other information and your expected salary. They make a bond between the employer and the employee and free both sides of the hustle of finding a job or an employee. When they will find the job they will tell us themselves. As our law firms in Pakistan are not used to internet jobs sites, so they usually do not use them and so in Pakistan one can't find a job by applying on these web sites. Awareness about it will come but it will take some time.

There is a new web site by the address www.lawinfo.com. It is a foreign site which has information about law and its uses. It is not so popular but it can be of some help to lawyers.

Pakistan Law Commission suggests reforms in laws and statutes including their modernization, unification and codification. Its web site is www.paklawcon.gov.pk.

Human Rights activists and organizations are also dominant in Pakistan, which seeks to promote greater awareness and realization of human rights in the Pakistan and to mobilize Pakistan and international public opinion to obtain relief and redress for the victims of human rights violations. Pakistanis derive their basic rights from Constitution of Pakistan. According to the rule of law all people are free and there is no distinction of cast, color and creed. No one is above the law. Human Rights Commission of Pakistan is striving hard to implement it. Their web site is www.hrcp.net. HRCP promotes civil and political rights, as well as economic, social and cultural rights.

Amnesty International is an international organization campaigning to free all prisoners of conscience; ensure fair and prompt trials for political prisoners; abolish the death penalty, torture and other cruel treatment of prisoners; end political killings and disappearances; and oppose human rights abuses by opposition groups. Its web site is www.amnesty.org.

There is an Indian web site by the name of Tehelka. Its investigation team keeps an eye on all the government and military officers' dealings. They try to catch them in corruption and kick back charges. They have caught many people like Former defence minister of India George Fernandes, who misappropriated military funds in the purchase of Armored Recovery Vehicles (ARV) and of the escape of underworld don of India, Choota Rajan from police custody in Bangkok, Thailand. There is no material office of Tehelka in this whole world, but its presence is felt only on its web site. This is also a very popular site and many people have been made accountable for the blunders they have made through this site. No other source of media could do what ever this web site has done. Although India has a very good intelligence agency by the name of RAW, but still it is not doing better than Tehelka.

Monthly law Digest and Pakistan Legal Decisions should also be made available on net. It is easy to locate a case on computer rather than on printed materials. On computer there is an option of search and one can find every kind of case or information through it.

Advertising is not permitted by our legal ethics and so we refrain from it. The introduction of internet has broken it and now law firms and lawyers do advertise on internet. They names are in

law directories on internet, including the names of retired judges of high courts and supreme courts of Pakistan on their official web site enumerated above.

Scope of local qualified lawyers is good but that of foreign ones are excellent. Leading law firms and clients prefer LL.M.s from America, Canada and England. They draw better salaries and if working independently they get better cases and clients. They are also more respected by judges and other lawyers. They have their own dignity and circle of friends.

Hence, in order for lawyers to excel in their profession they should acquire the required computer knowledge and use it their profession.