



GEOSPATIAL TECHNOLOGIES IN INDIA-LEGAL PERSPECTIVES

A PRESENTATION

BY

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HUB

FOUNDER-CUM-CHANCELLOR, CYBERLAW UNIVERSITY

HEAD, PAVAN DUGGAL ASSOCIATES

INCREASING CYBER ATTACKS

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Prophet remark: Slew of cyber attacks on Indian govt, private sites

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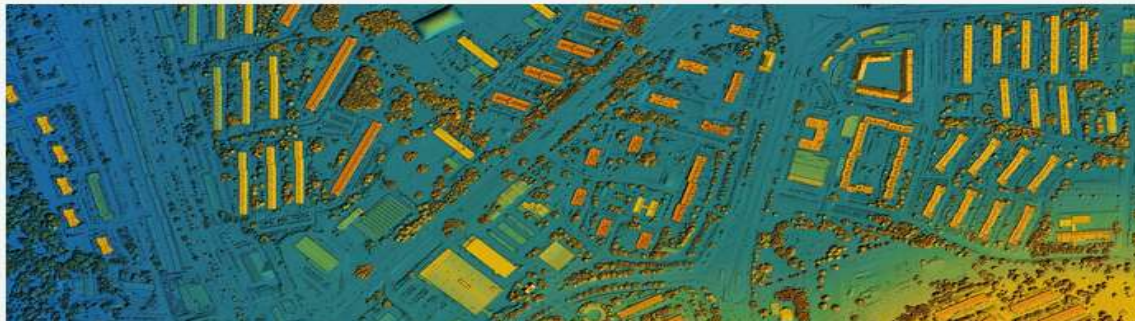
GEOSPATIAL TECHNOLOGIES IN INDIA-LEGAL PERSPECTIVES



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By Lachlan Colquhoun on June 13, 2022



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The Department of Science and Technology launches the Geospatial Self Certification portal

It is being hailed as a significant step toward the liberalisation of India's geospatial industry, making geospatial data more easily accessible.



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India's entire highway network to get GIS mapping

The mapping is being done by the Bhaskaracharya National Institute for Space Applications and Geo-informatics (BISAG-N), Gandhi Nagar.

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MapmyIndia inks pact with ISRO to boost 3D mapping; stock tumbles ~4%

The company is working to develop new maps as part of its debut in the metaverse.

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GEOSPATIAL TECHNOLOGIES IN INDIA-LEGAL PERSPECTIVES

- Geospatial Technologies represent the present and the future.
- This is so because data directly linked to specific geographical locations becomes of crucial necessity for all stakeholders in the data economy.



GEOSPATIAL TECHNOLOGIES IN INDIA-LEGAL PERSPECTIVES (CONTD...)

- For advertisers, it opens up gold mines, for profiling users, it opens up new ramifications.
- Geospatial Technologies are throwing up various legal and policy issues.

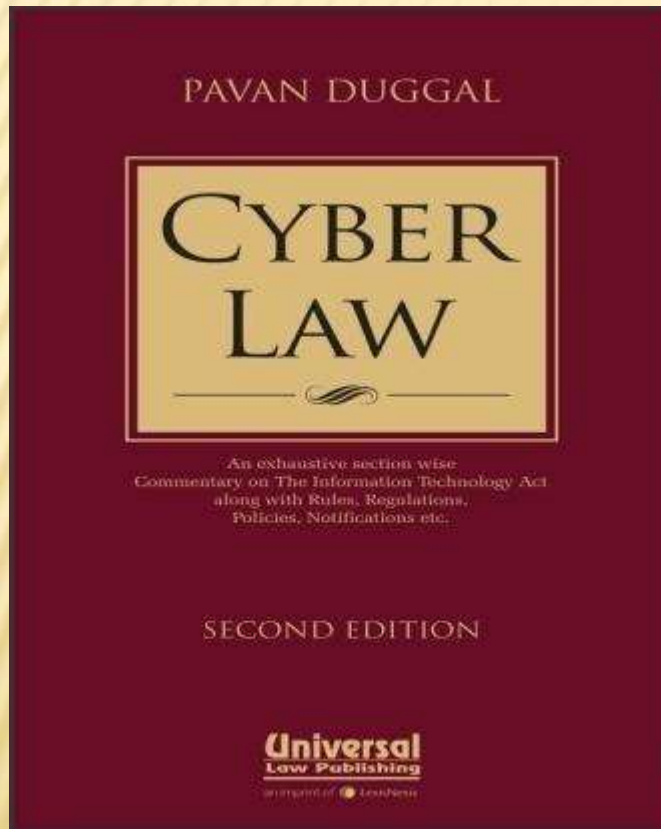


GEOSPATIAL TECHNOLOGIES IN INDIA-LEGAL PERSPECTIVES (CONTD...)

- India doesn't have dedicated law on Geospatial Technologies.
- However, since Geospatial Technologies deal with data pertaining to geographical location, this gets covered under the broad umbrella of the Indian Information Technology Act, 2000.



INDIAN CYBERLAW

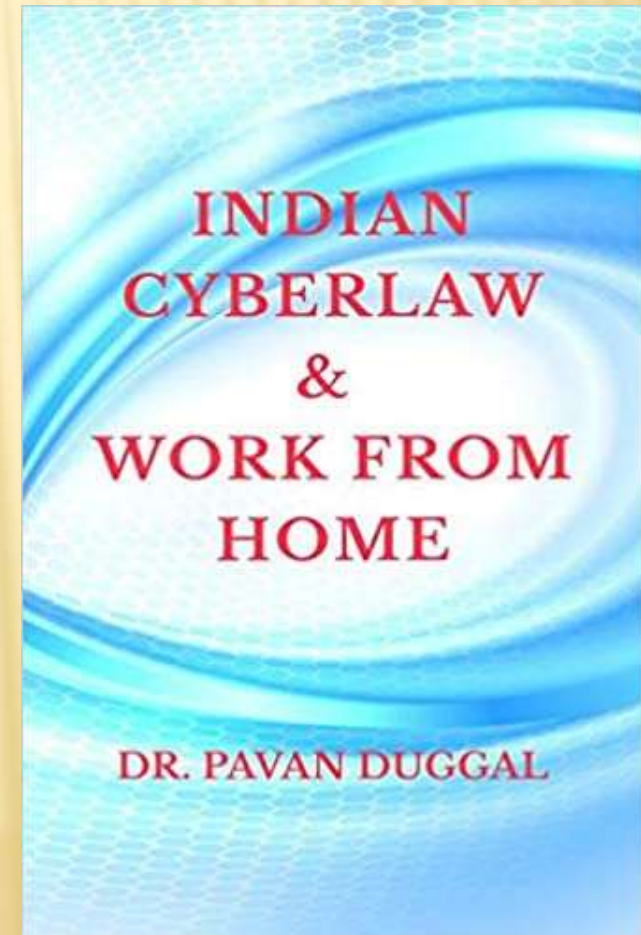


- ❑ The Information Technology Act, 2000 is the first amongst a series of cyber legislations, which India will require, to effectively become a super power in cyberspace.
- ❑ It provides for a legal infrastructure, aimed at promoting E-commerce in India.



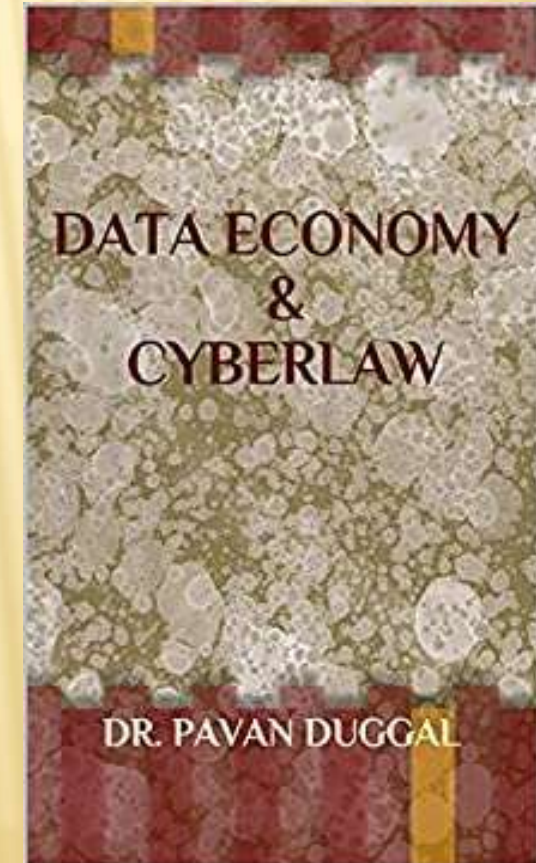
INDIAN CYBERLAW (CONTD...)

- By virtue of Section 81 of the Information Technology Act, 2000, this is a special law and the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.



INDIAN CYBERLAW (CONTD...)

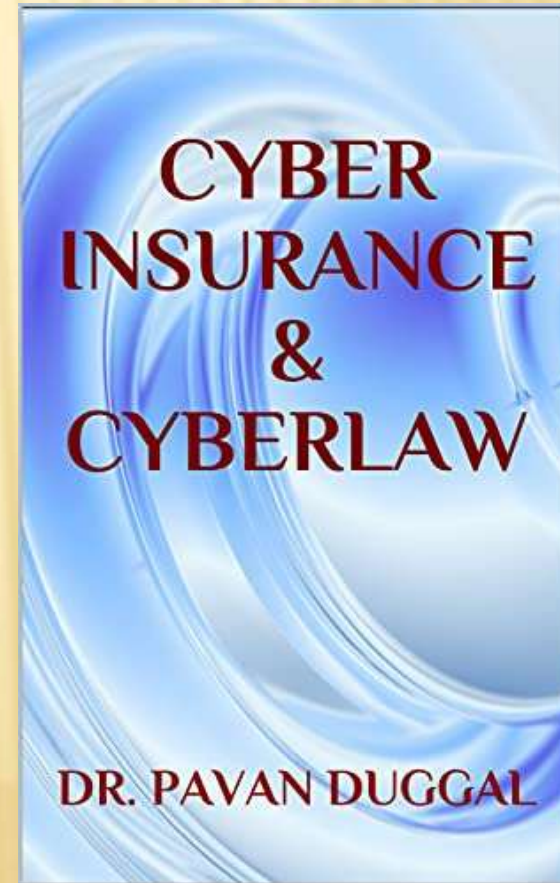
- ❑ The definition of data under the Information Technology Act, 2000 includes geospatial data.



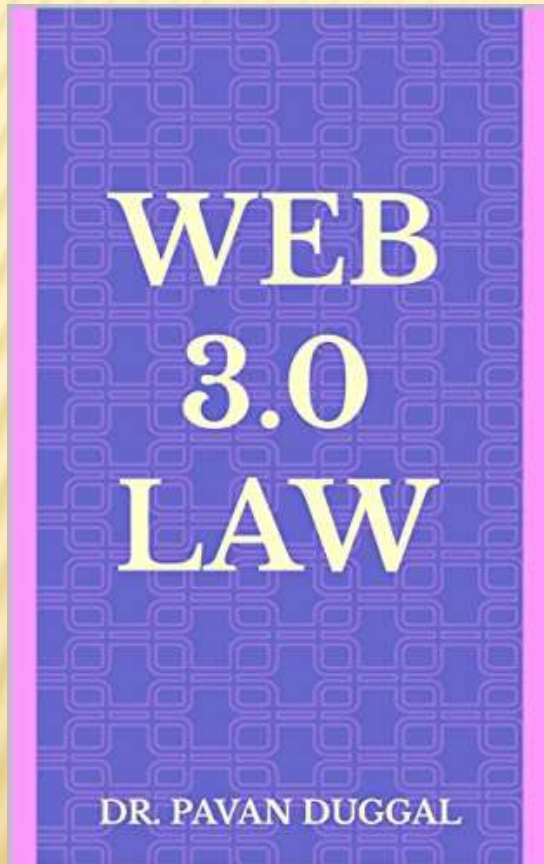
INDIAN CYBERLAW (CONTD...)

- Similarly, the term “information” has been defined under the Information Technology Act, 2000 as under:-

2(1)(v). "information" includes data, message, text,] images, sound, voice, codes, computer programmes, software and data bases or micro film or computer generated micro fiche.



INDIAN CYBERLAW (CONTD...)

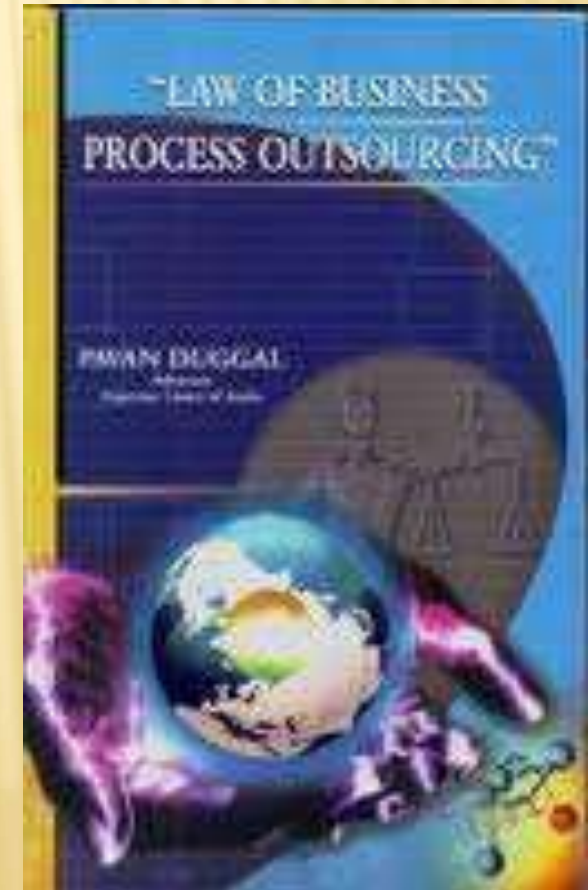


- ❑ There are no specific provisions pertaining to Geospatial Technologies.
- ❑ However, Geospatial Technologies in India require that the legal issues surround the Geospatial information must be effectively addressed.

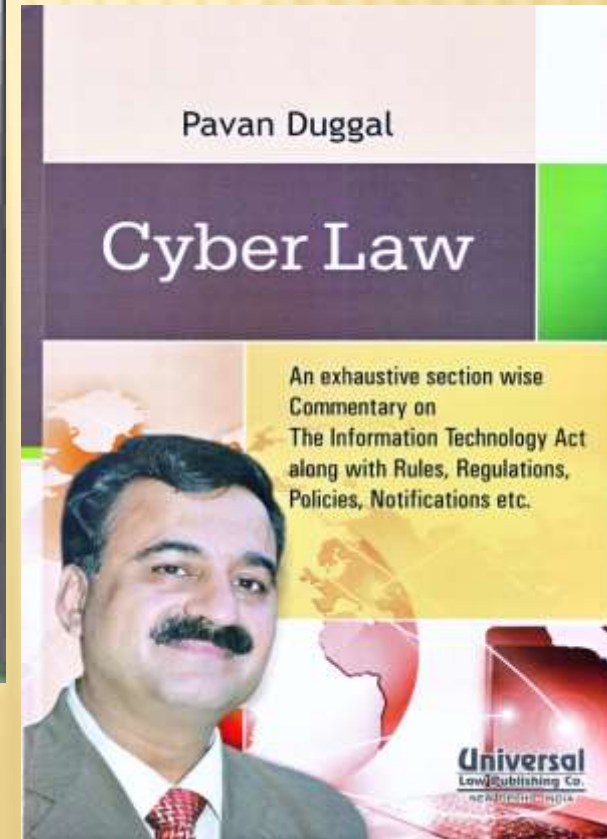
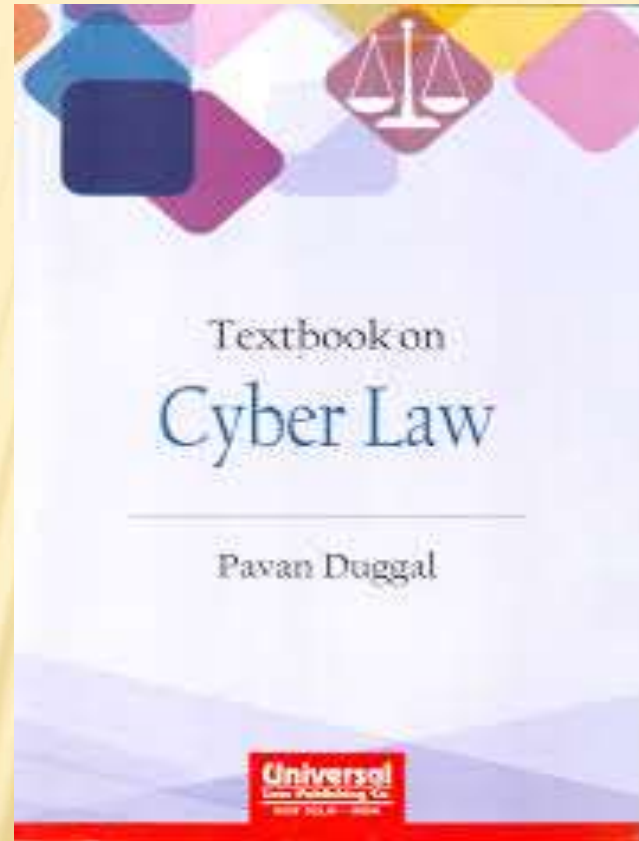
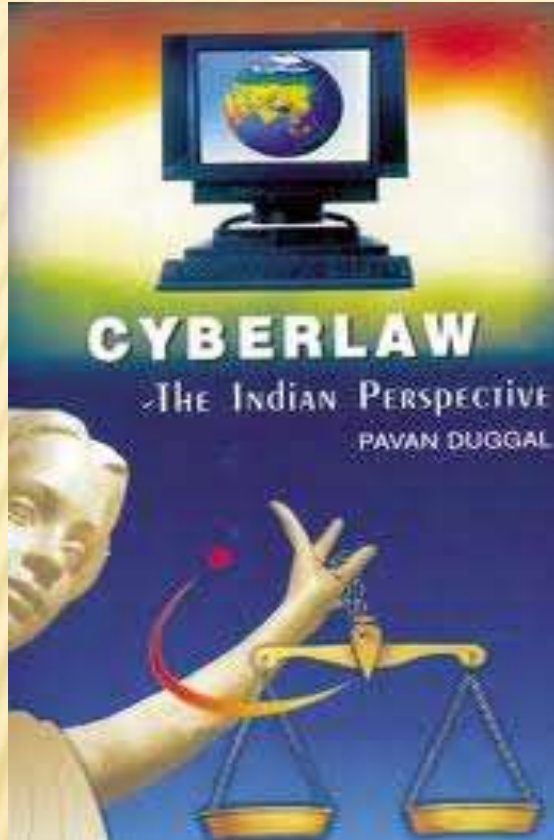


INDIAN CYBERLAW (CONTD...)

- ❑ The legality of Geospatial data is granted under Section 4 of the Information Technology Act, 2000.
- ❑ However, Geospatial data today is a fertile ground for targeting by cyber criminals and cyber security breaches.

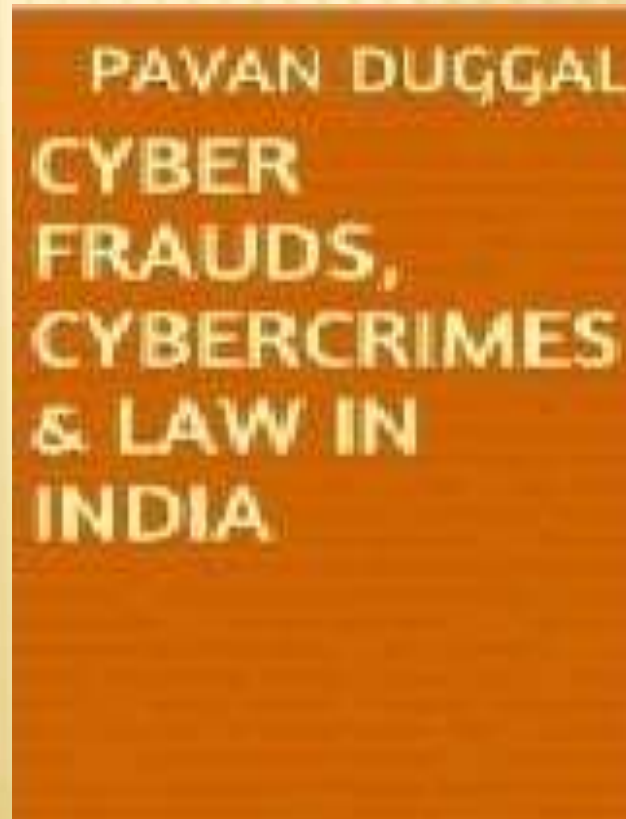


CYBERCRIMES IN INDIA AND INDIAN CYBERLAW



CYBERCRIMES DEFINED UNDER THE IT ACT, 2000

- ❑ Section 43 - Penalty and compensation for damage to computer, computer system, etc
- ❑ Section 65- Tampering with computer source documents
- ❑ Section 66- Computer related offences

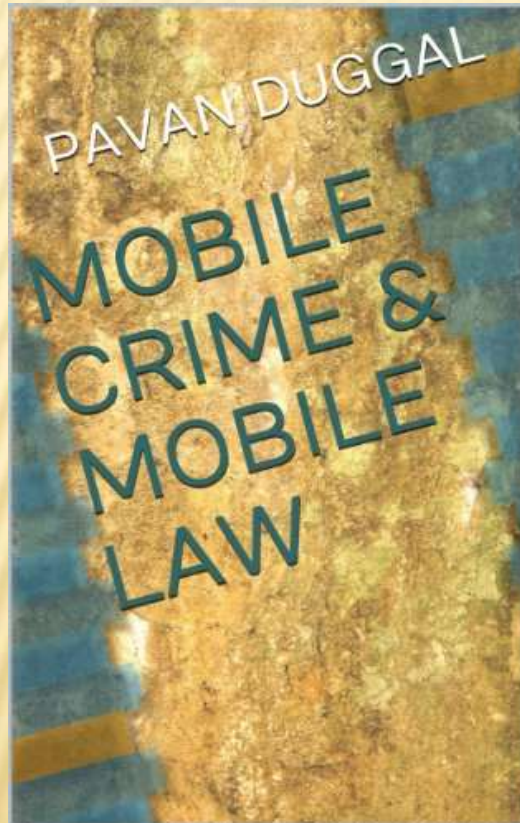


CYBERCRIMES DEFINED UNDER THE IT ACT, 2000 (CONTD...)

- ❑ Section 66B - Punishment for dishonestly receiving stolen computer resource or communication device.
- ❑ Section 66C - Punishment for identity theft.
- ❑ Section 66D - Punishment for cheating by personation by using computer resource. 66E. Punishment for violation of privacy.
- ❑ Section 66F - Punishment for cyber terrorism.



2008 AMENDMENTS & ALL CYBERCRIMES AS NON-BAILABLE OFFENCES

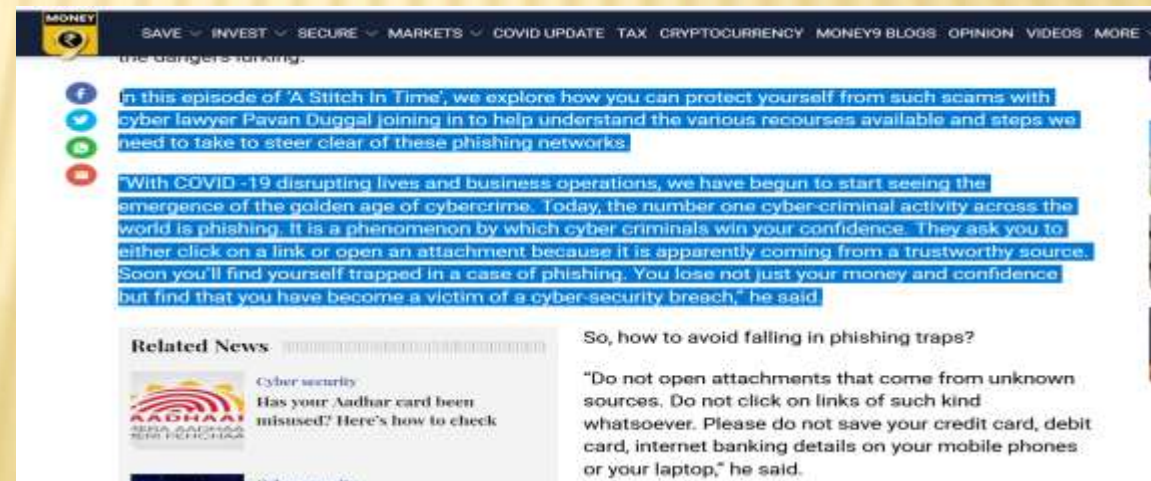


The image is a screenshot of the Law Street Journal website. At the top, there is a 'Tip Off' banner and a 'Subscribe' button. The navigation menu includes 'Top Stories', 'News Update', 'Legal Insider', 'Columns', 'Interview', 'Celebstreet', and 'Environment'. Below the menu, there are social media icons for Facebook, Twitter, WhatsApp, Instagram, LinkedIn, and YouTube. A 'Breaking News' section is visible, with a link to 'Read This Before Buying Any Property'. A large banner for 'BECOME CYBER CRIME INVESTIGATOR' is displayed, with a price of '2999 INR' and a 'STOP MOBILE SPY' offer. The main article is titled '[Cyber Crime] Everything You Wanted To Know About Cyber Crimes Under The IPC And IT Act'. To the right, there is a 'TRENDING' section with three articles: 'Is Places Of Worships Act A Conspiracy Against...', 'Law Student Reprimanded By Supreme Court For...', and 'Are We Really Equal As Per Article 14 Of The...'. The bottom of the page features a large graphic with the text 'EVERYTHING YOU WANTED TO KNOW ABOUT CYBER CRIMES UNDER THE IPC & IT ACT' and an illustration of a smartphone with a padlock and a key.

THE GOLDEN AGE OF CYBERCRIMES



- Lack of effective convictions in Geospatial Technologies cybercrime matters.
- The advent of Covid-19 has ushered the world into the Golden Age of Cybercrime.



ALARMING BELLS

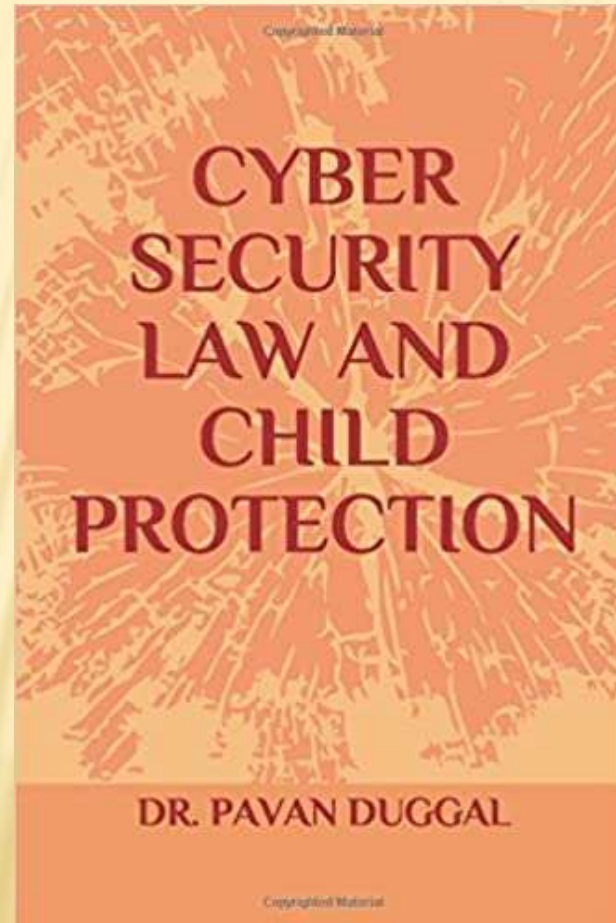


CYBER SECURITY & GEOSPATIAL TECHNOLOGIES

- Breaching cyber security of Geospatial Technologies gives access to gold mine of data which can be used.
- India lacks a dedicated law on cyber security.



CYBER SECURITY – NEED FOR ADOPTION AS A CULTURE



NO INTERNATIONAL CYBER SECURITY LAW

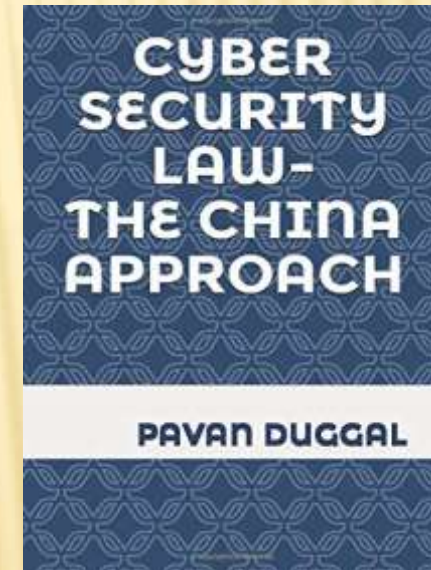
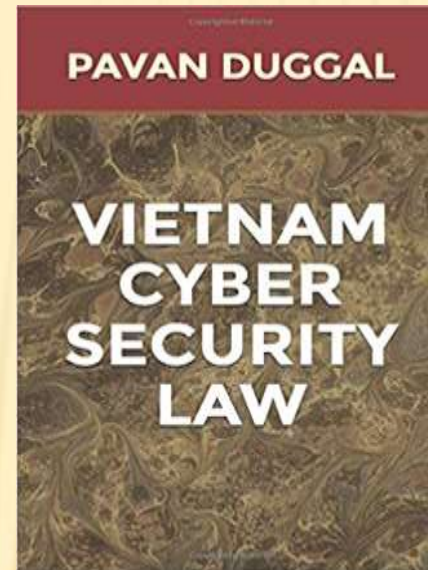


- **NO INTERNATIONAL CYBER SECURITY LAW IN PLACE.**
- **DIFFERENT COUNTRIES HAVE IN PLACE THEIR OWN DISTINCTIVE NATIONAL LAWS ON REGULATING CYBER SECURITY.**



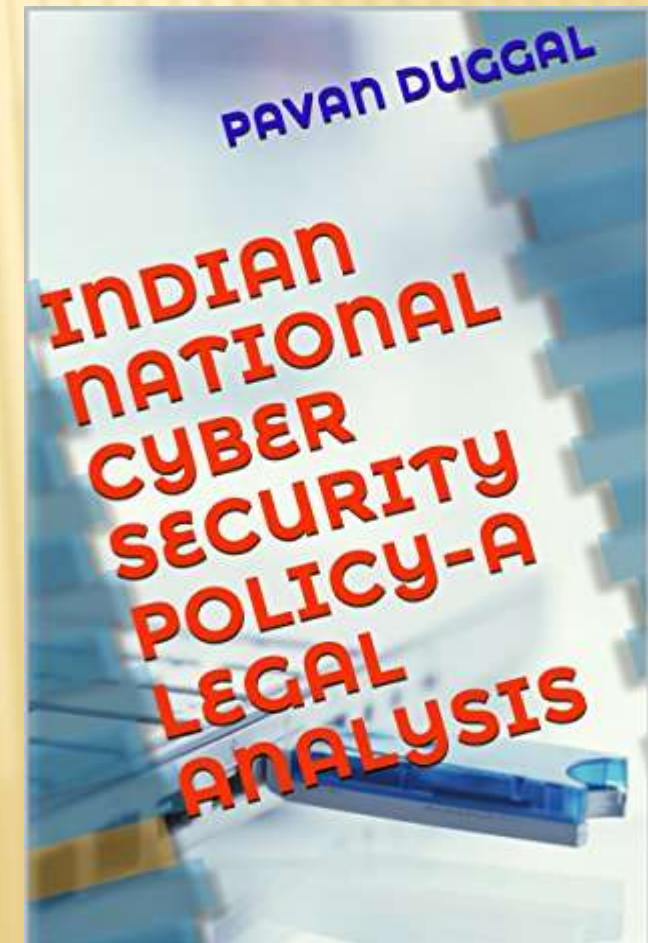
CYBER SECURITY LAWS OF DIFFERENT COUNTRIES

- ✓ China
- ✓ Russia
- ✓ Vietnam
- ✓ Thailand
- ✓ Australia (Anti-Encryption law)
- ✓ Singapore
- ✓ Egypt
- ✓ New York
- ✓ Germany
- ✓ Zimbabwe
- ✓ California
- ✓ Macau / Taiwan



INDIA'S CYBER SECURITY LEGAL REGIME (CONTD...)

- India came up with its National Cyber Security Policy 2013 which collated India's vision on cyber security.
- National Cyber Security Strategy is not implemented in India.
- Now India has come up with new legal regime on cyber security.



NEW IT SECURITY DIRECTIONS OF 2022

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Web Exclusive

Why new CERT-In rules will be game changer in India's cyber security space

Experts believe that though the rules are very broad in nature, this is the first time that a mechanism is being put in India that makes reporting cyber incidents mandatory

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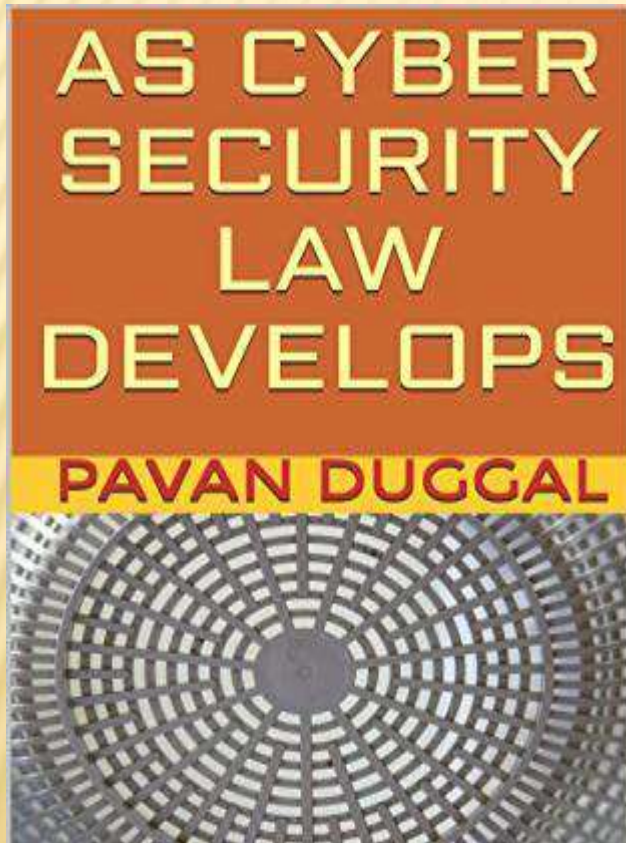
1 in 2 citizens surveyed,

INDIA'S CYBER SECURITY LEGAL REGIME (CONTD...)

- These are in the form of the Directions under sub-section (6) of section 70B of the Information Technology Act, 2000 relating to information security practices, procedure, prevention, response and reporting of cyber incidents for Safe & Trusted Internet bearing No. 20(3)/2022-CERT-In dated 28th April, 2022 issued by the Government of India, Ministry of Electronics and Information Technology (MeitY), Indian Computer Emergency Response Team (CERT-In).



INDIA'S CYBER SECURITY LEGAL REGIME (CONTD...)



- These Directions have been issued under Section 70B(6) of the Information Technology Act, 2000.
- Under Section 70B(6), Indian Computer Emergency Response Team (CERT-In) has the powers to call for any information and also give directions to service providers, intermediaries, data centres, body corporate and any other person.



INDIA'S CYBER SECURITY LEGAL REGIME (CONTD...)

- These IT Directions 2022 are aimed at strengthening cyber security of the cyber ecosystem specifically also Geospatial ecosystem.
- All service providers, intermediaries, data centres, body corporate and Government organisations shall mandatorily enable logs of all their ICT systems and maintain them securely for a rolling period of 180 days and the same shall be maintained within the Indian jurisdiction. These should be provided to CERT-In along with reporting of any incident or when ordered / directed by CERT-In.

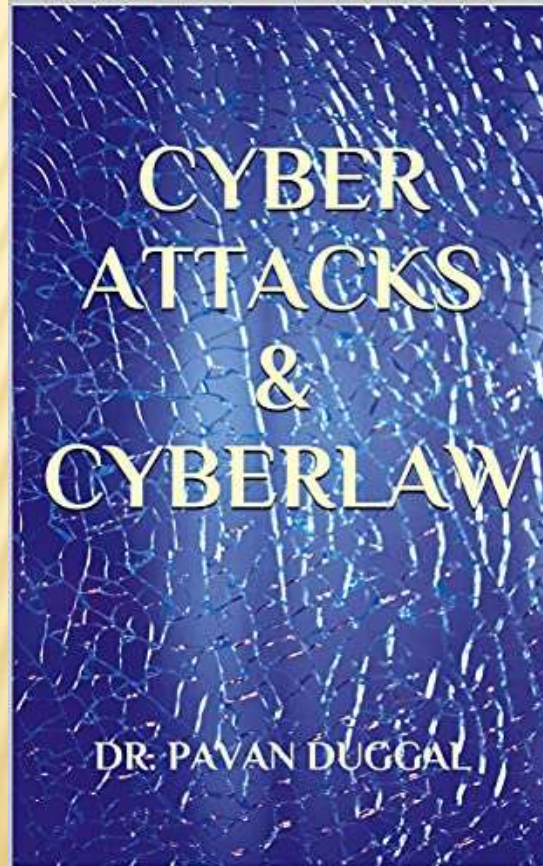


INDIA'S CYBER SECURITY LEGAL REGIME (CONTD...)

- With respect to transaction records, accurate information shall be maintained in such a way that individual transaction can be reconstructed along with the relevant elements comprising of, but not limited to, information relating to the identification of the relevant parties including IP addresses along with timestamps and time zones, transaction ID, the public keys (or equivalent identifiers), addresses or accounts involved (or equivalent identifiers), the nature and date of the transaction, and the amount transferred.



INDIA'S CYBER SECURITY LEGAL REGIME (CONTD...)



- Though these provisions primarily meant for cyber security, they can also be used in the context of furthering the cause of Geospatial Technologies.



INDIAN LEGAL POSITION ON REGULATION OF GEOSPATIAL INFORMATION

- On 15th February, 2021, the Department of Science & Technology, Government of India issued guidelines for acquiring and producing Geospatial data and Geospatial data services including maps.



INDIAN LEGAL POSITION ON REGULATION OF GEOSPATIAL INFORMATION

- Today there are no restrictions on the export of Geospatial data mining within the prescribed threshold limits.
- Foreign companies are prohibited in India from collecting and owning certain categories of data / maps but permitted to license the same from Indian entities.



INDIAN LEGAL POSITION ON REGULATION OF GEOSPATIAL INFORMATION

- Further, the guidelines empower both the government and private sector entities to process or acquire Geospatial data and role of applications by selling, disseminating and distributing such data.
- Compliance required by entities for self-regulation process.



INDIAN LEGAL POSITION ON REGULATION OF GEOSPATIAL INFORMATION

- The guidelines clarified that there is no negative list of prohibited areas.
- However, subject to negative attributes list, Indian entities are free to inter alia create, generate, digitize, store and publish all Geospatial data of geospatial accuracy and within the territory of India including territorial matters.



INDIAN LEGAL POSITION ON REGULATION OF GEOSPATIAL INFORMATION

- Restricted entities cannot own and/or create Geospatial data / maps for special accuracy / value finer than the prescribed threshold values but they can obtain license for the same for use of such data from Indian entities.



INDIAN LEGAL POSITION ON REGULATION OF GEOSPATIAL INFORMATION

- A Geospatial Data Promotion and Development Committee constituted under the said guidelines.
- Legal questions on the legality of the said guidelines.

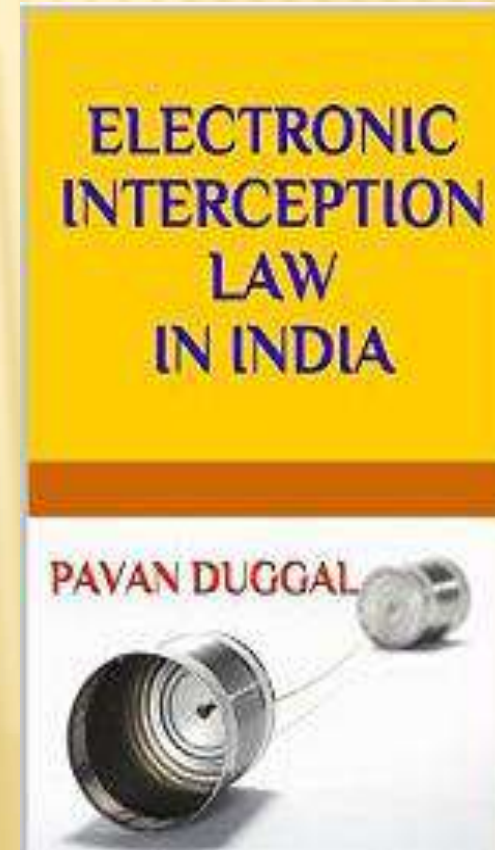


INDIAN LEGAL POSITION ON REGULATION OF GEOSPATIAL INFORMATION

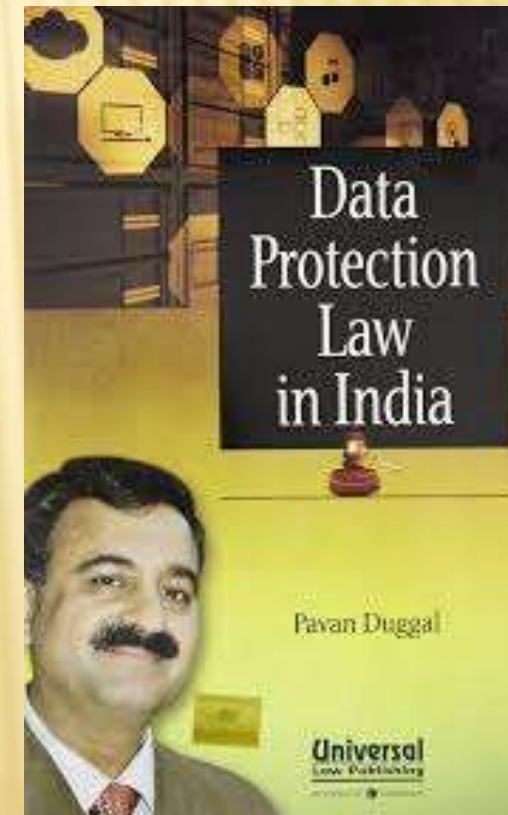
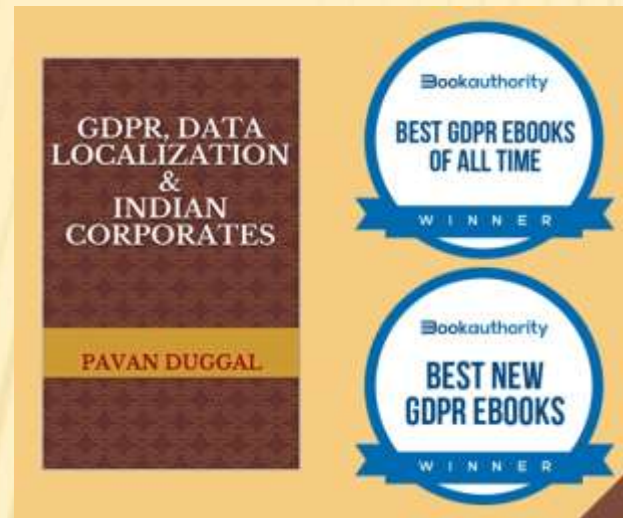
- There is no specific act of Parliament empowering Department of Science & Technology, Government of India to issue guidelines.
- However, the guidelines represent Government's increasing intent of liberalizing the regime on Geospatial data.



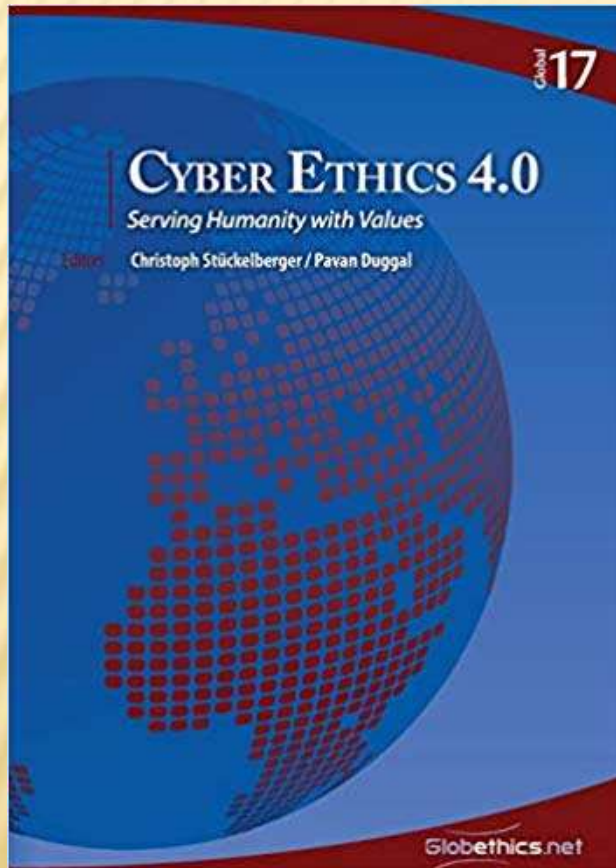
GEOSPATIAL TECHNOLOGIES AND ITS IMPACT ON PERSONAL AND DATA PRIVACY



DATA PROTECTION – CRITICAL NEED OF THE HOUR



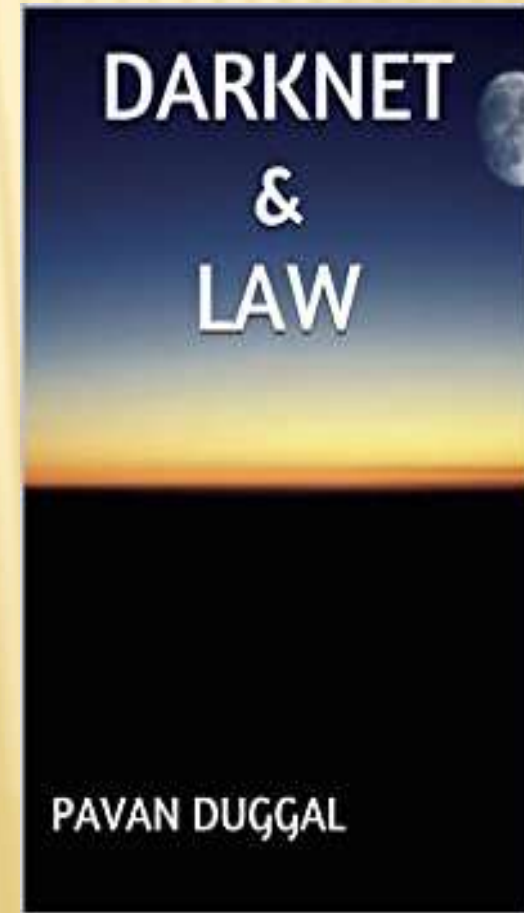
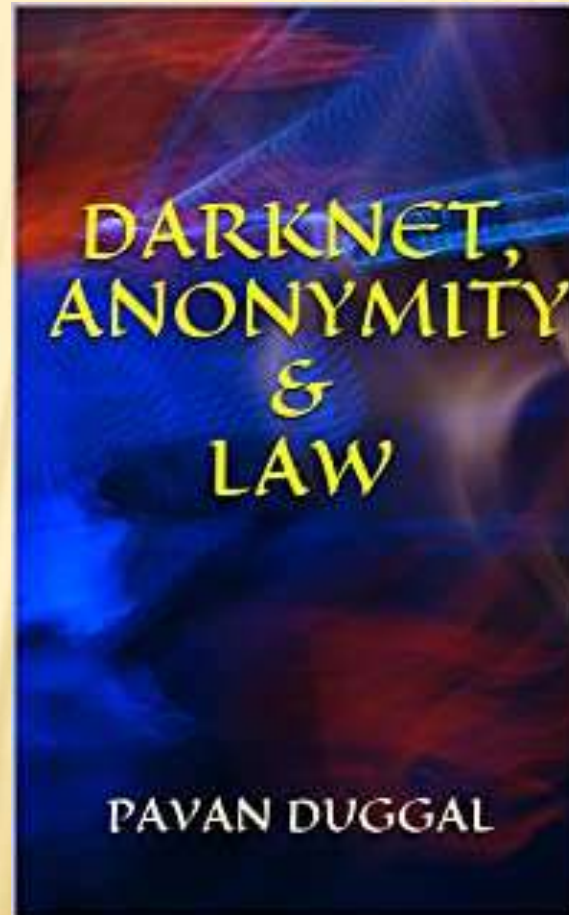
ETHICAL ISSUES



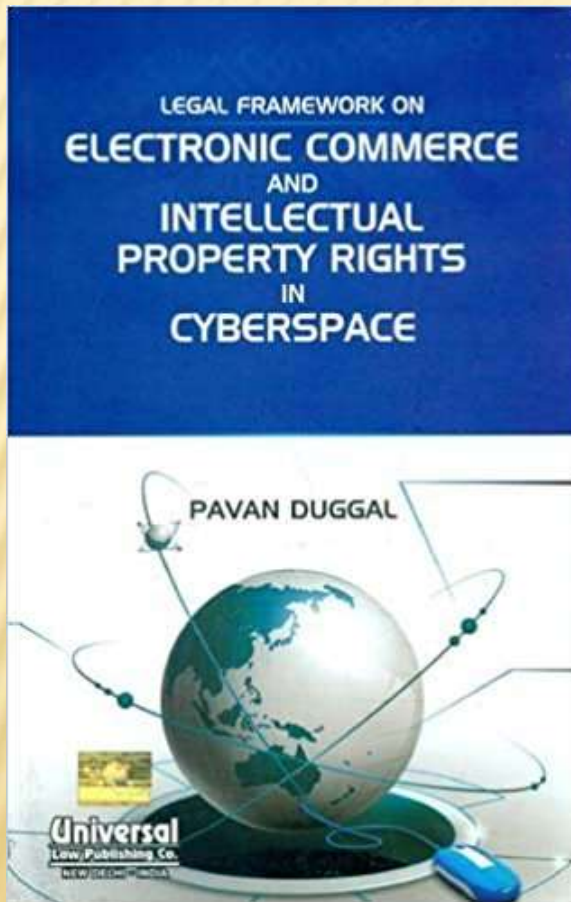
- ❑ There are various ethical issues on using Geospatial data and it is already being misused for cybercrime purposes and on the darknet.



DARKNET – AN ANONYMOUS IDENTITY HIDER TECHNOLOGY



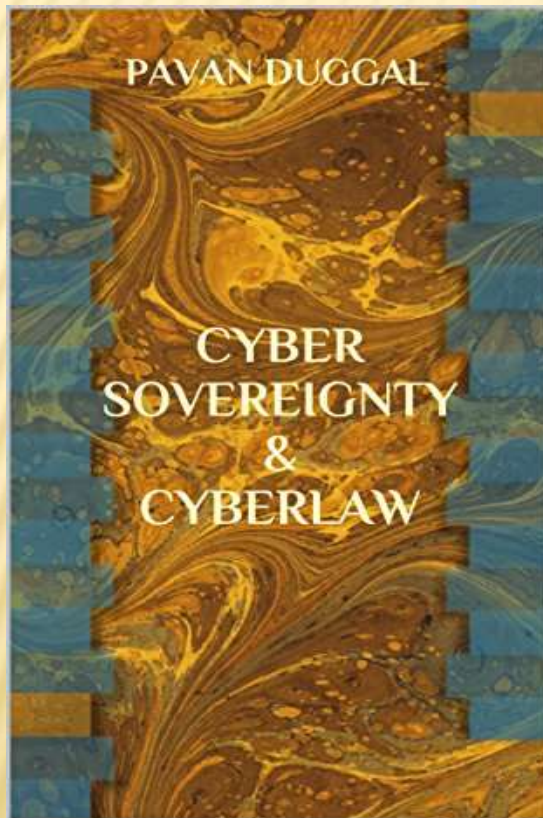
INTELLECTUAL PROPERTY RIGHTS & GEOSPATIAL TECHNOLOGIES DATA



- ❑ Intellectual property rights issues have to be addressed.
- ❑ Similarly, copyright issues also have to be addressed.



INTERNET JURISDICTION & GEOSPATIAL TECHNOLOGIES

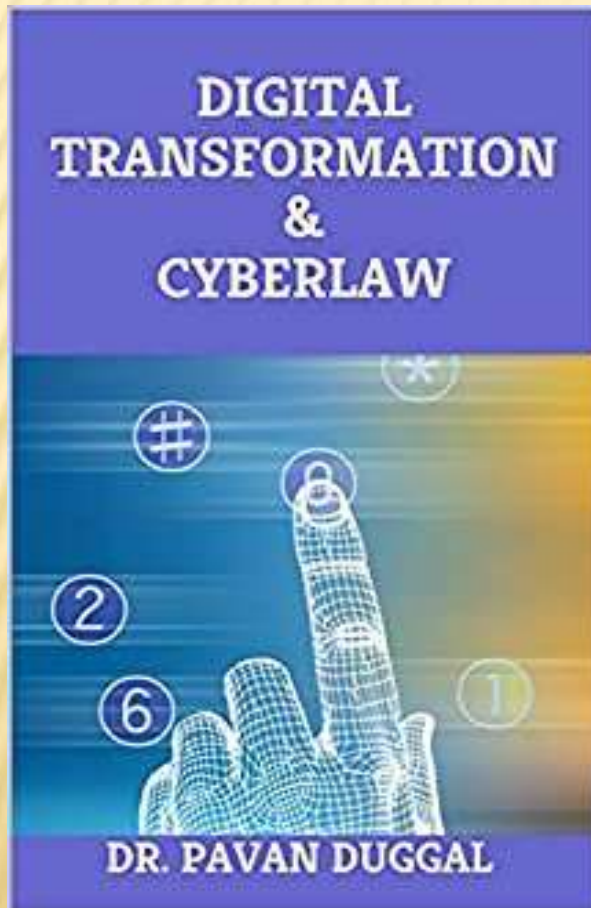


- ❑ Geospatial data is being used across networks, thereby bringing across internet jurisdiction issues.



AUTHENTICITY AND CORRECTNESS OF GEOSPATIAL DATA

- ❑ The authenticity and correctness of Geospatial data are important issues.



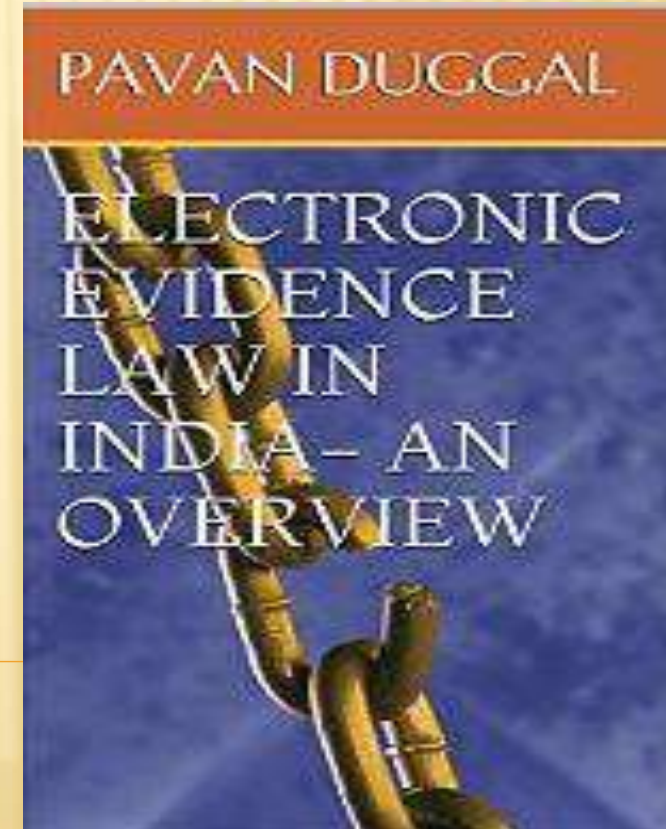
INTERNATIONAL LAW ISSUES

- ❑ International law issues in the context of Geospatial Technologies.
- ❑ Use of Geospatial data for tracking suspects to bring whereabouts by the law enforcement agencies.



ELECTRONIC EVIDENCE IN INDIA

- In India, electronic evidence is becoming increasingly important.
- Geospatial data alone is not admissible.
- Geospatial data has to be also accompanied by appropriate certification under Section 65B of the Indian Evidence Act, 1872.



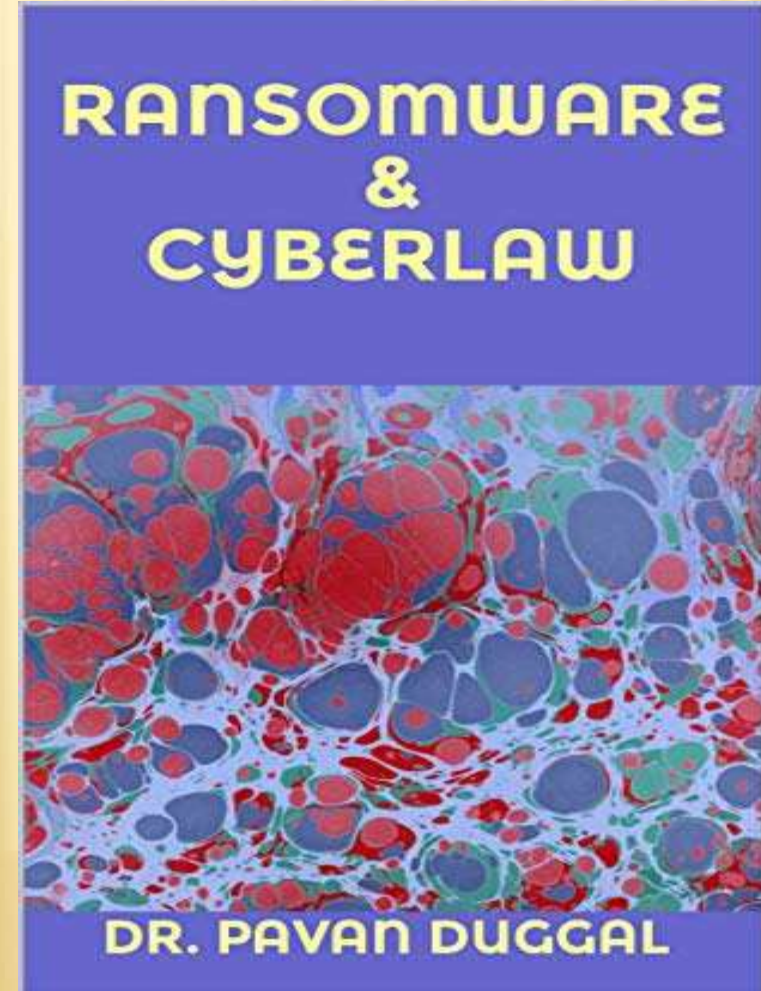
EVOLUTIONARY PROCESS OF THE LAW ON ELECTRONIC EVIDENCE VIS-À-VIS JUDICIAL PRONOUNCEMENTS (CONTD....)

➤ In addition, video conferencing in the digital format as an evidence gathering mechanism is also going to increasingly engage the attention of the courts and judicial officers.



ANVAR P.V. VERSUS P.K. BASHEER AND OTHERS

- The Supreme Court of India has given a landmark judgment in the case entitled “Anvar P.V. versus P.K. Basheer and others” reinforcing the law pertaining to electronic evidence.



LATEST JUDGMENT ON ELECTRONIC EVIDENCE - RAVINDER SINGH @ KAKU VS STATE OF PUNJAB

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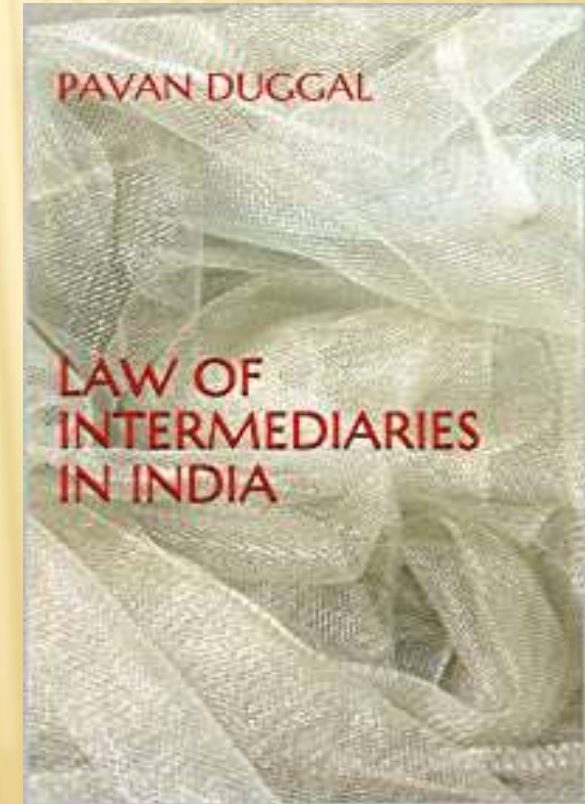
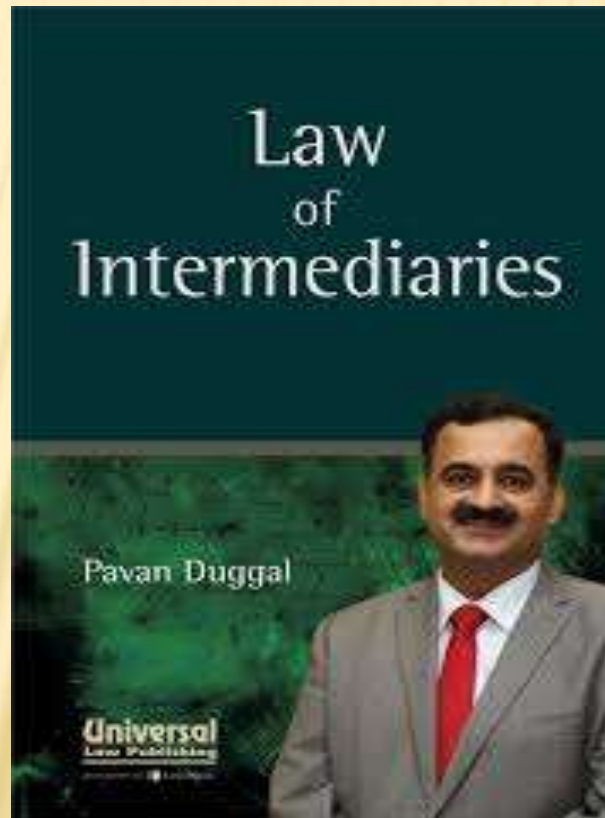
LIVELAW NEWS NETWORK 10 May 2022 7:00 PM

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Referring to the judgment in Arjun Panditrao Khotkar vs Kailash Kushanrao Gorantyal [(2020) 7 SCC 1], the bench of Justices Uday Umesh Lalit and Vineet Saran observed:

"The electronic evidence produced before the High Court should have been in accordance with the statute and should have complied with the certification requirement, for it to be admissible in the court of law. As rightly stated above, Oral evidence in the place of such certificate, as is the case in the present matter, cannot possibly suffice as Section 65B(4) is a mandatory requirement of the law."

GEOSPATIAL TECHNOLOGIES SERVICE PROVIDERS AS INTERMEDIARIES

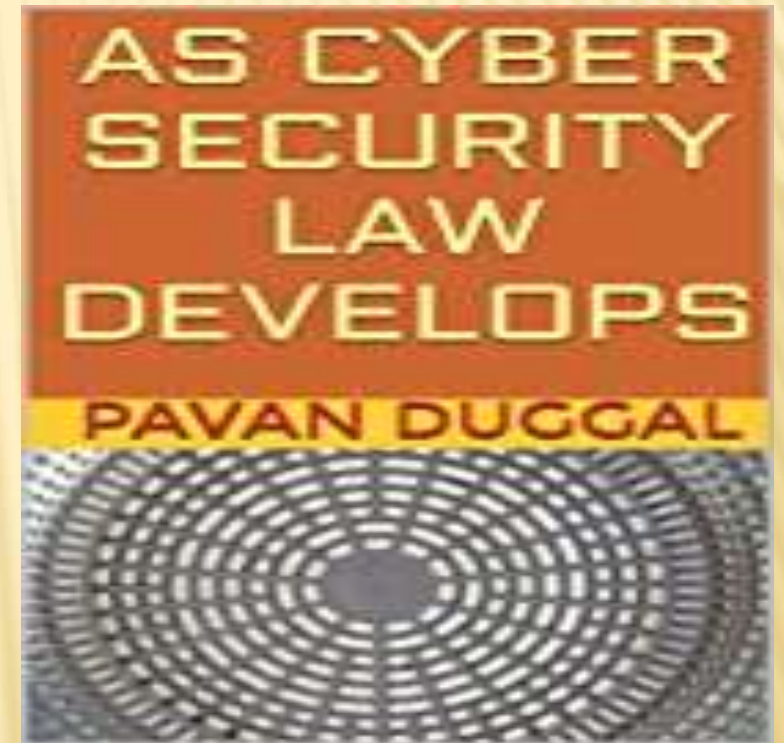


INTERMEDIARIES

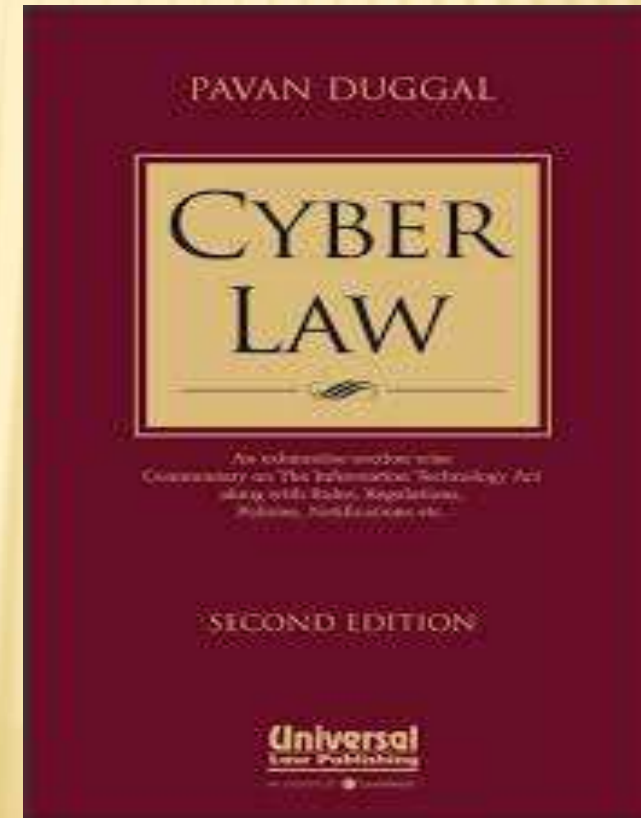
"Intermediary" with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes Telecom Service Providers, Network Service Providers, Internet Service Providers, Web Hosting Service Providers, Search Engines, Online Payment Sites, Online-auction Sites, Online Market Places and Cyber cafes.

11TH APRIL, 2011 – A HISTORICAL DAY IN THE INDIAN CYBERLAW JURISPRUDENCE

- ✓ Information Technology (Electronic Service Delivery) Rules, 2011
- ✓ Information Technology (Reasonable Security Practices And Procedures And Sensitive Personal Data Or Information) Rules, 2011
- ✓ Information Technology (Intermediaries Guidelines) Rules, 2011
- ✓ Information Technology (Guidelines for Cyber Cafe) Rules, 2011



SHREYA SINGHAL V/S UNION OF INDIA JUDGMENT



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LIABILITIES OF INTERMEDIARIES AND THE INDIAN CYBERLAW

- There could have exposure to legal consequences, both civil and criminal, for the company and its top management.
- Civil liability-damages by way of compensation upto 50 million INR per contravention
- Criminal Consequences - The top management could also be exposed to criminal consequences ranging from imprisonment of 3 years to life imprisonment and fine from 1 Lakh INR to 10 Lakhs INR.



INTERMEDIARIES NEED TO TIGHTEN THEIR BELT

रजिस्ट्री नं. डी.एल.-33004/99

REGD. No. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

सी.जी.-डी.एल.-अ.-25022021-225464
CG-DL-E-25022021-225464

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 98J
No. 98J

नई दिल्ली, बुधवार, फरवरी 25, 2021/फाल्गुन 6, 1942
NEW DELHI, THURSDAY, FEBRUARY 25, 2021/PHALGUNA 6, 1942

MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

NOTIFICATION

New Delhi, the 25th February, 2021

G.S.R. 139(E).—In exercise of the powers conferred by sub-section (1), clauses (z) and (zg) of sub-section (2) of section 87 of the Information Technology Act, 2000 (21 of 2000), and in supersession of the Information Technology (Intermediaries Guidelines) Rules, 2011, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:—

PART I

PRELIMINARY

1. Short Title and Commencement.—(1) These rules may be called the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

LANDMARK DECISION BY DELHI HIGH COURT

via Video-conferencing

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 20th April 2021

+ **W.P.(CRL) 1082/2020 & CrI. M.A. Nos.9485/2020, 10986-87/2020**

‘X’

Through: Mr. Sarthak Maggon, Advocate
alongwith petitioner in-person.
.....Petitioner

versus

UNION OF INDIA AND ORS.

Through: Dr. Pavan Duggal, *Amicus Curiae*.
.....Respondents

-
27. Since this court is informed that the 2021 Rules have been challenged in certain proceedings which are pending before a Division Bench of this court as also before other High Courts; which proceedings have since been stayed by the Hon'ble Supreme Court which is seized of transfer petitions calling such matters before itself, it is necessary to clarify that no view is being expressed in the present matter as to the constitutional *vires* or any similar aspects of the 2021 Rules.
28. Moreover, this court is informed that the principal thrust of the challenge to the 2021 Rules is in relation to the Part III thereof which lays-down the “Code of Ethics and Procedure and Safeguards in Relation to Digital Media”, which is not subject matter of consideration or application in the present matter. As presently advised there is no stay on the operation of the 2021 Rules, which have come into effect *vidé* notification dated 25.02.2021.



NON-COMPLIANCE AND POTENTIAL EXPOSURE

- ✓ **The statutory exemption of legal liability granted to the intermediaries, shall stand evaporated;**
- ✓ **The intermediary and its top management can be booked for civil and criminal liability under the Indian Cyberlaw;**
- ✓ **The intermediary and its top management will also be booked for their non-compliances and commission of various offences under the Indian Penal Code, 1860 as well.**



CRIMINAL LIABILITY OF TOP MANAGEMENT OF STARTUPS

Rule 7-

“Non-observance of Rules.—Where an intermediary fails to observe these rules, the provisions of sub-section (1) of section 79 of the Act shall not be applicable to such intermediary and the intermediary shall be liable for punishment under any law for the time being in force including the provisions of the Act and the Indian Penal Code.”

REGULATION OF DRONES & LEGAL CHALLENGES

EDITION  IN ▾

THE TIMES OF INDIA

India

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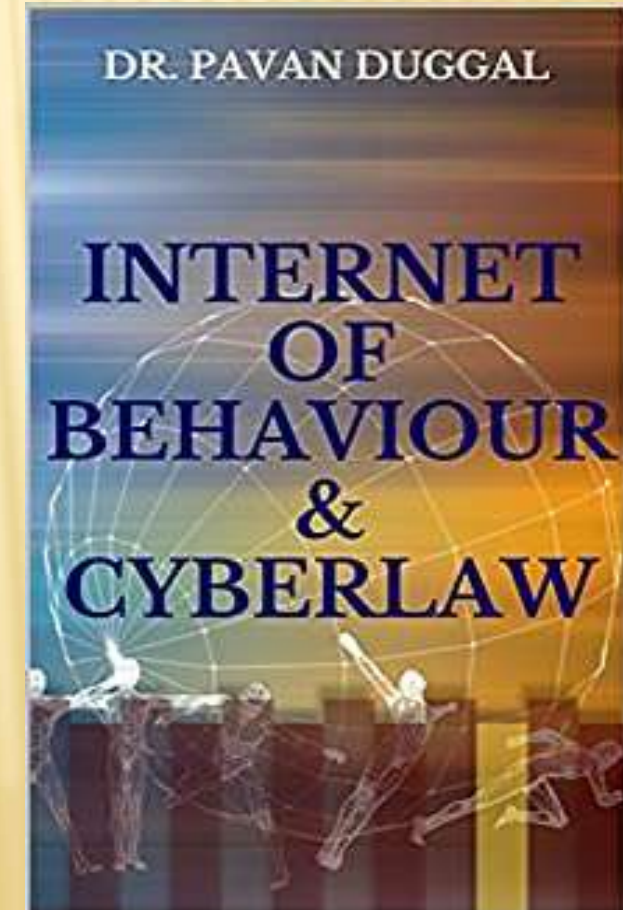
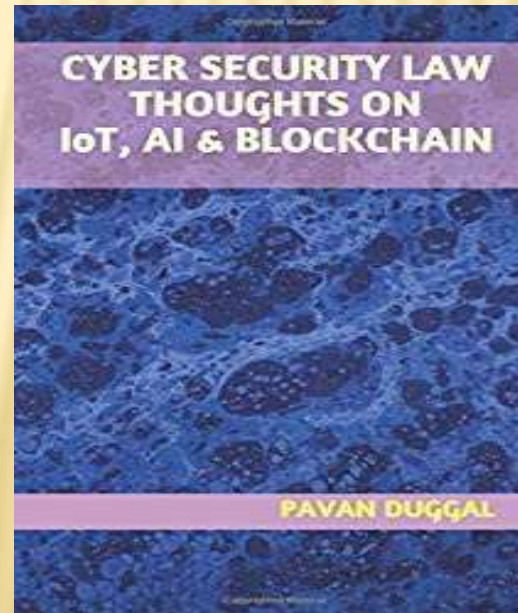
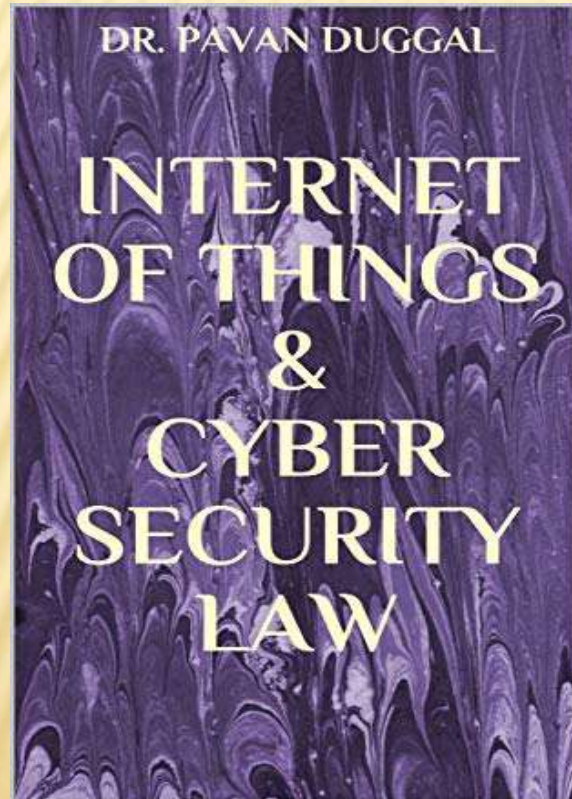
For 1st time, India Post delivers mail using drone in Gujarat under pilot project

PTI / May 29, 2022, 17:45 IST





USE OF INTERNET OF THINGS (IOT) FOR TARGETING GEOSPATIAL DATA



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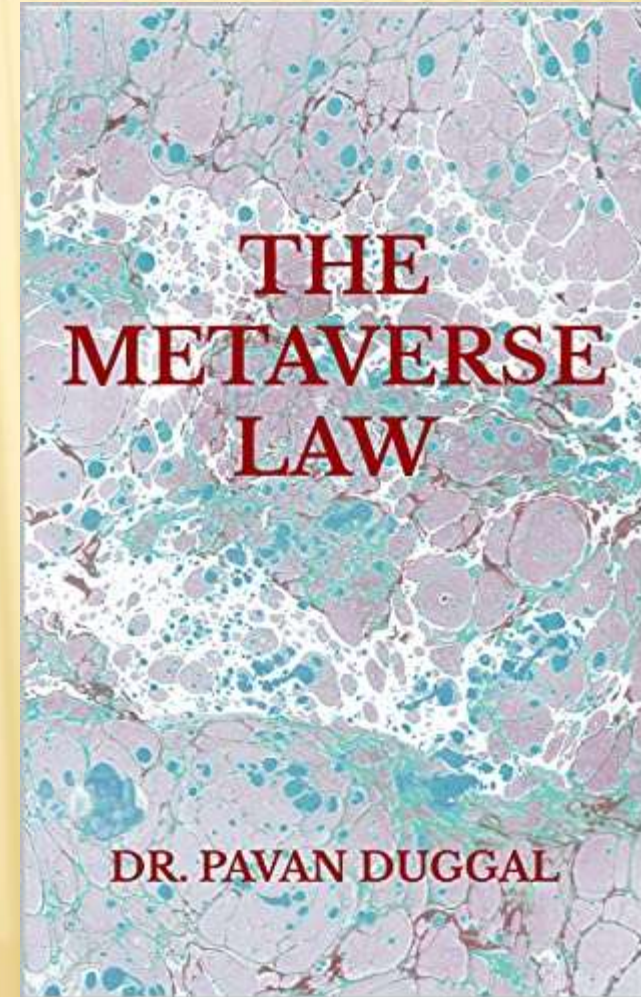
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Zuckerberg says the metaverse won't be created by one company but would rather be built by many creators and developers

Prathik Desai, DHNS, Bengaluru, DEC 05 2021, 23:05 IST | UPDATED: DEC 06 2021, 09:35 IST

The metaverse is, in fact, the stuff of science-fiction. Credit: (Stock Photo)

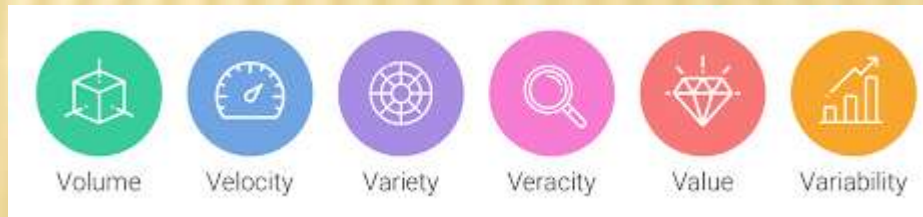
DH PICKS



BIG DATA LEGAL ISSUES

PAVAN DUGGAL

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&
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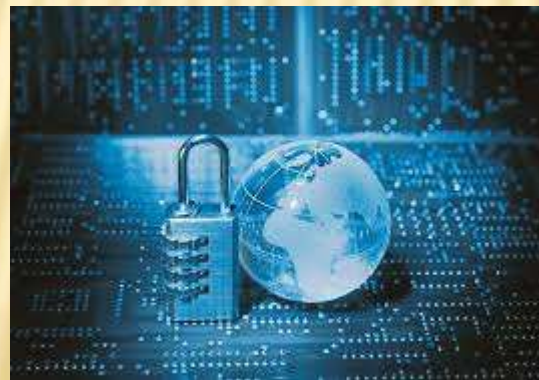
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FIGURES SPEAK

- **Courses** offered by Cyberlaw University, as of now, have been done by more than **27,000 students** from **174** countries speaking **53 national languages**.
- Course entitled “Cyber Security Law” has been adjudged as best course out of 10 best courses by Douglas Hollis, one of the renowned US organization.
- Tech Republic of USA for adjudged the Course entitled “Cyberlaw, Cybercrime & Cybersecurity in the Coronavirus Age” as one of the 16 best online courses.

WAY FORWARD

- ❑ All eyes will be on the Personal Data Protection Bill, 2019 as to how to deal with Geospatial data.
- ❑ Learnings from the Draft Geospatial Information Regulations Bill of 2016 need to be incorporated in the strategy going forward.



WAY FORWARD (CONTD...)

- ❑ The issues of mobile mapping, surveys and licensing terms of geospatial data finer than threshold values need to be given more substantial clarity.
- ❑ Need for dedicated legal approaches on the legal, policy and regulatory of Geospatial data.
- ❑ All eyes will be on the Government on how it come up with innovative approaches in this regard.





- All in all, Cyberlaw today represent important fascinating aspects of our lives.
- Compliance of critical necessity to protect yourself, your organization, your assets and your reputations.

**A PRESENTATION
BY
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CHAIRMAN, INTERNATIONAL COMMISSION ON
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