Information Technology Act,2000: Role of E-Governance to Reduce White Collar Crimes

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Abstract

This paper provides a detailed understanding behind the motives of people committing white collar crimes. Talking about the prevalence of white collar crimes in India, they are spreading like a rapid fire in every sphere of society. In   this paper it is reflected how E-governance is required in order to tackle the crimes. People involved in white collar crimes and which has spread in almost all fields.

 With the advent of technology and growth of education, white collar crimes are on the rise, being protected by professionals finding loopholes in the judiciary and support from the government indirectly. This has created a nexus where people from almost all walks of life have started forming group to do white collar crimes and being protected by professionals in law. There are certain grey areas which is needed to overcome under the Information Technology Act. There is a need of stringent steps/actions have been taken to curb this menace. Therefore the concern of this paper is to focus   role of e-governance and its effectiveness to tackle such crimes and   to formulate tentative solutions for eradicating the problem.

Keywords

E-governance-Information Technology-White Collar Crimes-Effective rules-Challenges

Objectives

1. To bring transparency in the governing process
2. To make the Government accountable and make people aware of white collar crimes.
3. To make the Government aware of people's problems and growing economic loss.
4. To understand the need of e-governance to make the Governing process transparent   by making all the Government data and information available to the people for access.

INTRODUCTION

The IT Act 2000 attempts to change outdated laws and provides ways to deal with cyber crimes. The Act offers the much-needed legal framework so that information is not denied legal effect, validity or enforceability, solely on the ground that it is in the form of electronic records.

In view of the growth in transactions and communications carried out through electronic records, the Act seeks to empower government departments to accept filing, creating and retention of official documents in the digital format.

The Act has also proposed a legal framework for the authentication and origin of electronic records /communications through digital signature.

- Email would be a valid and legal form of communication in India that can be duly produced and approved in a court of law.

- Companies shall now be able to carry out electronic commerce using the legal infrastructure provided by the Act.

- Digital signatures have been given legal validity and sanction in the Act.

- The Act throws open the doors for the entry of corporate companies in the business of being Certifying Authorities for issuing Digital Signatures Certificates.

- The Act now allows Government to issue notification on the web thus heralding e-governance.

The Act has given a legal definition to the concept of secure digital signatures that would be required to have been passed through a system of a security procedure, as stipulated by the Government at a later date.

Under the IT Act, 2000, it shall now be possible for corporates to have a statutory remedy in case if anyone breaks into their computer systems or network and cause losses damages or copies data. The remedy provided by the Act is in the form of monetary damages, not exceeding Rs. 1 crore.

White Collar Crimes and E-governance

White Collar Crime has been defined by Edwin Sutherland as "a Crime committed by a person of respectability and high social status in the course of his occupation". Use of Technology in crime prevention fight the menace of crime. It may be used for prevention and detection of crime. The criminal justice system is entering a new era transformed by advances in science and technology .The society is experiencing new changes due to the latest strides in the fields of science and technology. Criminals too are using technology to accomplish their unjust demands. The time has come when we have to use technology in crime prevention.

E-governance Involves application of information and communication technologies by government agencies for information and service delivery to Citizens ,Business and Government employees .It is an emerging field ,faced with various implementation problem related to technology, employers, flexibility and changes related issues.

How E-Governance can help curb the crime:

1.To discuss the applicability of e-governance to curb White –Collared Crime by making the process transparent, accountable and citizen –friendly.

2.To measure the effectiveness of e-governance initiatives   from the white collar crime reduction perspective.

3.To provide opportunities to move forward in the 21st century with high quality, cost effective government services delivery and the creation of better relationship between the people and government.

4.E-governance means less interaction with government servants, it will be helpful in reducing bribery issues.

5.Economical issues are mainly concerned with return of investment and safeguard of the previous ones. Cost of implementation, operational and evolutionary maintenance must be low enough to guarantee a good cost/benefit ratio.

Role of E-Governance to Reduce White Collar Crime

- E-Governance is improved communication between the government and the citizens i.e. Governments have been putting out vast amounts of material on the Internet. A fair number of these would be available in hard copy.

- It is advantageous on the part of the governments to provide information online because of quick communication and reduction in printing and stationery costs.

- The internet connects citizens together and also connecting them to government. Such lobbying may be done through e-mail, listserv, discussion board and the like. Again, this role encroaches into the media's traditional role as a window for lobby groups.

- Electorates can be hooked directly to enable them to vote or voice their opinion on a wide range of issues. Voting online, touch-tone telephones, voice signatures and digital

signatures can become real and people can shape opinion from their homes or nearby Internet kiosks.

- Some countries have already gone in for online referenda to settle specific issues.e-governance can also help fight corruption.

- The fact that it brings in a much-needed measure of transparency can act as a check against corruption. Aided by the political and administrative will, e-governance can definitely battle corruption. But the traditional role of the media as a watchdog against corruption will not disappear in a digital democracy.

- E-Governance makes it possible to maintain a think-tank for government and for country and for society at large, and to avail prizes of 20% amount to establish disproportionate assets of corrupt officials and burden of proving innocence should be on the alleged corrupt officials

- It also avails fast track courts to establish criminality of the corrupt officials on day to day basis. The properties of the corrupt officials' should be attached at the first instance and to be released off he is proven innocent in the court. Similarly, all the bank accounts in his name and in the name of his relatives/friends of suspicious nature must be frozen till proceedings is pending.

- With E-Governance, we can anticipate trends in technology, in international economic relations etc. and advice government about the measures which can be taken to put the trends to work. We must create awareness in people about steps to be taken and thereby prepare them for hard decisions like social boycott on white collared criminals and attach stigma to them for the lifetime.

- Encourage public interest litigations against white collared criminals for bringing them to books immediately. At the same time, false allegations should be deterrent penalized.

- Easy monitoring of all projects and schemes so as to minimize cost and time over-runs and makes them more productive and effective. Evaluating impacts of projects and schemes, and thereby make changes required in them becomes easy. This is obtained using Impact Assessment Table which has the priority of components of the Risk factors i.e. Process, Cost, Schedule and Support.

Areas where E-governance can control white collar crimes

• Legal System in India: E-Governance will enhance the working of judiciary as the status of the cases pending in High courts and Supreme Court can be checked online, also the dates for next hearing and many more.

• Election ID and E-Governance: There must be a single citizen ID card for all government schemes. There should be integration of IT based government services and their e-delivery. E.g. Gyandoot in Madhya Pradesh, e-Seva in AP, Friends in Kerala, in Maharashtra, Rajasthan, and Tamil Nadu now provides online registration of property transactions. In Mumbai there is registration of births and deaths by BMC. In Karnataka, totally computerized land records under Bhoomi project. There should be computerized transactions of treasury in all districts and Taluka. There should be monitoring of public grievances and disaster management systems under control of Chief Minister.

• E-documents: Forgery is major part of white collar crime which takes place by bribing corrupt official, with partnership. Forgery can be avoided by matching the documents with original by means of PKI. Moreover, many employees, in an organization, know about the corrupt practices and want to complain but do not do so due to the fear of wrath from senior officers. For the fear of disclosing their identity, they do not report it to the vigilance department. E-Governance renders golden opportunity to such people to alert concerned officials through Email, E-forms, and E complaints.

• Right to Information: The right to information envisaged by electronic governance presupposes decentralization in power structure and decision-making. E-governance is a tool for connecting E-Governance in Practice people and sharing information. It will result in improved transparency, speedy information dissemination, higher administrative efficiency and improved public services in sectors such as transportation, power, healthcare and local administration.

Control of E-Governance on Different Sectors:

Section 4 of the Indian IT Act, 2000 confers legal recognition to electronic records .Paper based documents are equated with electronic records so long as they are made available in electronic form and are accessible so as to be usable for a subsequent reference. Section 5 confers legal recognition to digital signatures and equates it with handwritten signatures. The authentication of such digital signatures will be ensured by means of digital signatures affixed in such manner as the Central Government prescribes.

Section 6 aims to eliminate red tapism and promote use of electronic records and digital signatures in Government and its agencies.It provides for filing documents online with governmental authorities, grant of licenses /approvals and receipt/payment of money. Section 7

allows retention of electronic records akin to paper based records to fulfill legal requirement of retention of records.

Incase of the electronic as well as the traditionally printed gazette, it is stipulated that publication of rules, regulations and notifications in the Electronic Gazette shall also be legally recognized*[1]*. Therefore, where the publication of any rule, regulation, byelaw and notification is required to be published in the Official Gazette, such requirement is satisfied if the same is published electronically. Further, where such Official Gazette is published in both electronic as well as printed form, the date of publication shall be the date of publication of the Official Gazette that was first published, whatever may be the form. At the same time , no person can insist on electronic filing of returns or records, as the Government needs sufficient time to set up set infrastructure facilities that will enable them to conduct electronic transactions in the future*[2]*.

The Central Government has been conferred with the power to make rules in respect of Digital Signature, interalia, the type, manner, format in which digital signature is to be affixed and procedure of the way in which the digital signature is to be processed*[3]*.

Recently, implementing the e-governance provisions, the Indian railways has started the internet reservation facility on its website wherein reservations can be made online through use of credit cards. Also, the Ministry of company affairs has launched its online filing automated system MCA21 for establishing of new companies in India.

Challenges

The Grey Areas of the IT Act, 2000

- Social, geographical and economical disparity issues have to be removed and proper infrastructure is required to establish e-governance.

- The ICT facilities need to be developed and should be available to one and all citizens.

- Internet connection through satellite, phone lines or through cable or Television should be accessible for all especially to the people in rural areas.

- The financial transaction demands for transactional security. All support for full security is necessarily needed to maintain.

- An ideal Cyber Security Policy will ensure the existence of a sound and secure e-governance and critical infrastructure base in India.

· The IT Act, 2000 is likely to cause a conflict of jurisdiction.

· Electronic commerce is based on the system of domain names. The IT Act, 2000 does not even touch the issues relating to domain names.

· The IT Act, 2000 does not deal with any issues concerning the protection of Intellectual Property Rights in the context of the online environment.

· As the cyber law is growing, so are the new forms and manifestations of cyber crimes. The offences defined in the IT Act, 2000 are by no means exhaustive.

The IT Act, 2000 does not cover various kinds of cyber crimes and Internet related crimes. Certain crimes which doesn't comes under the ambit of the IT Act, 2000 are-

a) Theft of Internet hours;

b) Cyber theft;

c) Cyber stalking;

d) Cyber harassment;

e) Cyber defamation; f) and cyber fraud etc.

· The IT Act, 2000 has not tackled several vital issues pertaining to e-commerce sphere like privacy and content regulation.

· Another grey area of the IT Act is that the same does not touch upon any anti- trust issues.

· The most serious concern about the Indian Cyber law relates to its implementation. The IT Act, 2000 does not lay down parameters for its implementation. It seems that the Parliament would be required to amend the IT Act, 2000 to remove the grey areas mentioned above.

Investigations And Search Procedures

Section 75 of Information Technology Act, 2000 takes care of jurisdictional aspect of cyber crimes, and one would be punished irrespective of his nationality and place of commission of offence. Power of investigation is been given to police officer not below the rank of Deputy Superintendent of police or any officer of the Central Government or a State Government authorized by Central Government. He may enter any public place, conduct a search and arrest without warrant person who is reasonably expected to have committed an offence or

about to commit computer related crime. Accused has to be produced before magistrate within 24 hours of arrest. Provisions of Criminal Procedure Code, 1973 regulate the procedure of entry, search and arrest of the accused.

Problems Underlying Tracking Of Offence

Most of the times the offenders commit crime and their identity is hard to be identified. Tracking cyber criminals requires a proper law enforcing agency through cyber border co-operation of governments, businesses and institutions of other countries. Most of the countries lack skilled law enforcement personnel to deal with computer and even broader Information technology related crimes. Usually law enforcement agencies also don't take crimes seriously, they've no importance of enforcement of cyber crimes, and even if they undertaketo investigate they are posed with

limitation of extra-territorial nature of crimes.

Need of strong and effective rules

Strong and effective rules related with IT has to be formulated and strongly implemented. This presupposes the adoption and use of security measures more particularly empowering and training judiciary and law enforcement manpower with the knowledge and use of cyber forensics and digital evidencing

Underutilization of existing ICT infrastructure.

Attitude of Government Departments and government officers need a proper counseling. Many officers perceive their department as most important and disregard other department's needs.

Lack of coordination between Govt. Department and Solution developers.
Resistance to re-engineering of departmental processes is also a challenge, but this approach is changing now.

Suggestions and Recommendation

White Collar Crime erodes the faith of the general public in the legitimacy of the politico-administrative system and eventually saps the idealism of those in public service and thus destroys the moral fabric of society. It is the main reason for social unrest in any society. In many countries the Governments have toppled down on the charges of corruption. In short, corruption-ridden governance is termed as "Bad Governance".

E-government can lead to transparency provided that the legal framework supports free access to information. E-governance initiatives have played a key role in achievement of developmental and social objectives in many countries. We discussed applicability of e-Governance to curb white-collared crime by making the process transparent, accountable, and citizen-friendly and how to measure the effectiveness of e-Governance initiatives from the white collar crime reduction perspective.

Thus, e- Governance provides opportunities to move forward in the 21st century with high quality, cost effective government services delivery and the creation of better relationships between the people and government. But little work has been done to find if e-governance has had an impact at the grassroots. Whatever be the case, even a small provision for downloading application forms has helped eliminate the tyranny of middlemen.

Along with e-Governance, following points are recommendations for its effective utilization:

There should be expert advisor to Prime Minister's office in all such matters and there should be commission which should make finding public in all probe cases against white collared criminals and there should be public notifiration in all leading newspapers in all languages at the cost of white collared criminal.

There should be midyear review of the economy of assumptions made in the budget and policies set out in it are faring in practice and take corrective measures and its assessment of states. Mechanism must be devised for commission to make presentations on policy issues periodically, monthly, quarterly and yearly to: Prime Minister personally and The Cabinet Committee on economic affairs.

Crucial aspect of problem faced in combating crime is that, most, lack enforcement agencies to combat crime relating to internet and bring some level of confidence in users.

It's like 'eye for an eye' kind of situation where the technology can be curbed only by an understanding of the technology taken over by cyber terrorists. Even if the technology is made better enough to curb the computer related crime there is no guarantee if that would stay out of reach of cyber terrorists. Therefore, Nations need to update the Law whether by amendments or by adopting Sui generis system.

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