

# **PAVAN DUGGAL ON IMPORTANT INTERNATIONAL CYBER LAW DEVELOPMENTS IN 2017**

## **PART 2 - A YEAR OF INCREASING CYBERCRIME AND NEW CYBERLAW CHALLENGES**

*(This is the Second Part Of The Three Part Series Of The Articles Written By Pavan Duggal, Internationally Renowned Expert And Authority On Cyberlaw, As He Embarks On His Annual Review Of Important International Cyberlaw Events In 2017)*

The year 2017 was yet another momentous year in the history of mankind. This year showed increased adoption of internet by those sections of the world population who had erstwhile not been using the internet. Not just the world population grew, but also the total number of internet users increased at a very impressive pace.

The year 2017 was also the year of hope. Different initiatives were started for the purposes of fighting against the bad guys in cyberspace. Different cybersecurity professionals started gathering together to come up with their own practical real time approaches to deal with cybersecurity breaches, thus adding a common man's contribution to the evolving cyberlaw jurisprudence across the World.

Another important trend of cyberlaw jurisprudence was that cyberlaw frameworks across the World increasingly began to find themselves being inadequate or insufficient to deal with newly emerging cyber crimes. Cybercrime grew at a very rapid pace. New kinds of Cybercrimes have emerged which have not ever been envisaged, predicted nor covered under the existing national laws. Cybercriminals have increasingly begun to demonstrate inadequacy of existing national cyberlaw frameworks by coming up with more innovative cyber criminal activities.

This is hardly surprising given the fact that Cybercrime continues to grow at a very rapid pace, with the global cost of cybercrime expected to cross 6 Trillion Dollars by 2021. The year 2017 saw substantial increase in Cybercrime development and enhancement of cybercrimes as a paradigm.

The year 2017 also saw a distinct new trend where numerous service providers increasingly started bending backwards to comply with national regulations and demands for data sought by different national governments for protecting national interest and for fighting cybercrime.

The year 2017 was also the year when law makers became increasingly concerned with how to regulate the use of encryption and related technologies that are increasingly now being used on the internet by numerous stakeholders to hide not just their identities but also their digital footprints. Different countries are faced with the ethical dilemma of how much to regulate the use of encryption and to what levels.

Countries soon began to start realizing that their national cyber legal frameworks need to be beefed up so as to deal with the newly emerging challenges of cyber terrorism and cyber radicalization.

The year 2017 also saw investigations being launched in the US pertaining to hacking of US Elections by Russia. While the investigation is still undergoing, this year demonstrated in crystal clear terms that today the ambit and scope of the vision of cyber crime actors has hugely expanded from just doing Cybercrime activities to causing monetary loss to the victims and monetary gains to themselves. Cyber criminals have now clearly glued their eyes on to new ventures. Hence, impacting and even targeting elections in the year 2017 and with reports emerging of potential tampering complaints of Indian Electronic Voting Machines coming in, the year 2017 increasingly was very clear that cyber criminals increasingly would now, not just be targeting at monetary gains but also elections and even critical information infrastructure.

The year 2017 was also important as different efforts were made to contribute to the evolving jurisprudence of cyberspace. The Global Conference on Cyber Space aimed to further the discussions amongst various stakeholders. The International Conference on Cyberlaw, Cybercrime & Cybersecurity in New Delhi, further identified common minimum parameters which nation states have to keep in mind as they go about legislating their cyber legal frameworks in the year 2017-18 to deal with newly emerging yet topical and current cyberspace challenges.

A large number of countries, who have in place their national cyber laws, continued to face the onslaught of newly emerging technological changes. The propensity of large number of nation governments to argue that their laws are the best in the World and they do not need amendment or constant updation fails logic. Countries need to quickly wake up to the ground reality that laws are always ten steps behind the advances of technologies. Legal frameworks must not only be drafted in very broad general terms but also be constantly adapted and updated so as to deal with emerging new cyber space challenges.

Way back in 2015 at the WSIS forum I had advocated the need for having in place an International Convention on Cyberlaw and Cybersecurity. Well, experts agree on the utility and value of such a convention. However, I have seen very little enthusiasm amongst countries to take any cogent steps in this direction. Negotiating an International Treaty will be a very time consuming process and hence Countries need to look at some common minimum denominators of commonly accepted principles impacting cyberlaw and cybersecurity which can become as initial starting points for moving forward, in the direction of creating an orderly legal order in cyberspace.

The year 2017 continued to be an important year with talks of evolving cyberlaw jurisprudence. The year 2017 laid down the foundations for strong cyber legal jurisprudential development in the year 2018. It will be interesting to see how the year 2018 builds on the various cyberlaw developments at the international level in the year 2018.

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