

Law of Electronic Verification of Identity and Data Protection in India

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Abstract

India has realized quite early the importance of E-Commerce and the need to promulgate appropriate Legislation for its regulation. The UNCITRAL Model Law on E-Commerce was kept in view in drafting the Information Technology Act 2000 (IT ACT) that came into force from 17 October 2000. The Act focused on 1) giving Legal recognition to Digital Signatures 2) creating provision for Electronic Contracts 3) accord a Legal foundation to E-Governance.

The Act is prescriptive in nature. It lays an elaborate regulatory edifice of Certifying Authority, Controller of Certifying Authorities and the Cyber Appellate Tribunal. This regulatory structure helps in bestowing **certainty** and **finality** to dispute resolution. This is a commendable feature of the IT Law of India worthy of emulation by other Countries where such laws are absent.

Certain Amendments were proposed to the IT Act in 2005 keeping in view the fast changing nature of Technology. In step with several Western Countries, the Act is made **Technology-neutral** in giving legal recognition to Electronic Signature (Digital Signature is a specific form of the class of Electronic Signatures) Also, the **formulation and validity of Electronic Contracts** is now clearly defined in a new Section

There is no separate Act in India for **Data protection** and **privacy** which is perceived to be a glaring deficiency by the BPO Industry. This urgent need is addressed by revisiting some existing sections of the IT Act and providing for stringent provisions and suitable amendments for the same. A critical analysis is presented in this paper regarding such provisions and where appropriate, compared with similar provisions of the Data Protection Directive of the EU.

The implementation of the Act in actual practice is made more effective by notifying an **examiner of electronic evidence** by the Central Government. This will help the judiciary and or the adjudicating officers in handling technical issues

It is felt that the IT Act certainly needs some more urgent modifications. It is shown that the present provisions of the IT Act dealing with cyber offences and related criminal issues be dealt with a more elaborate and separate **Cyber Offences Act**. Stringent measures to deal with Cyber Terrorism be incorporated therein,