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UNIT -5 INTRODUCTION TO SECURITY POLICIES AND CYBER LAWS

TOPICS TO BE COVERED:

- Need for An Information Security Policy
- Introduction to Indian Cyber Law
- Objective and Scope of the Digital Personal Data Protection Act 2023
- Intellectual Property Issues
- Overview of Intellectual Property Related Legislation in India
- Patent, Copyright, Trademarks.

Information Security Policy

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- A Formal Document
- Outlines Organisation Approach to Protect Information Assets
- Rules & Procedures for Stakeholders and Employees
- To ensure - Confidentiality, Integrity & Availability of information

Importance :

- To protect Information Assets from:
  - Unauthorized access
  - Use, disclosure, disruption
  - Modification, or destruction
- Comply with Applicable Laws and Regulations
- Reduce risk of :
  - Financial losses, Reputational Damage, and other Negative consequences
- Create a culture of Security Awareness and Accountability within the Organization.

Benefits:

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1. Reduced risk of security incidents.
2. Improved compliance with laws and regulations.
3. Reduced financial losses.
4. Protected reputation.
5. Increased customer trust.
6. Improved employee awareness and accountability.

Key components of an Information Security Policy

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1. A statement of purpose.
2. A definition of the scope of the policy.
3. A description of the organization's information assets and their classification..
4. A description of the security controls that will be used to protect information assets.
5. A description of the roles and responsibilities of employees and other stakeholders.
6. A description of the process for reporting and responding to security incidents.

Development and implementation:

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1. **Assess your risks:** Identify the information assets that are most critical to your organization and identify the threats and vulnerabilities that could impact those assets.
2. **Develop your policy:** Based on your risk assessment, develop a policy that outlines the rules and procedures that will be used to protect your information assets.
3. **Communicate and train your employees:** Once your policy is developed, communicate it to all employees and provide training on the policy requirements.
4. **Monitor and enforce your policy :** Monitor employee compliance with the policy and take disciplinary action against employees who violate the policy.
5. **Review and update your policy regularly:** Review your policy regularly to ensure that it is up-to-date and effective.

Indian Cyber Law

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Indian cyber law: Indian Cyber Law, formally known as the Information Technology Act, 2000 (ITA 2000) along with its amendments, is the primary legal framework governing cyberspace and electronic transactions in India.

Primary objective of Indian Cyber Law

- Legal recognition of electronic documents, digital signatures, and transactions.
- Addressing cyber crimes such as hacking, identity theft, data breaches, and malware.
- Ensuring data protection and privacy for sensitive personal information.
- Recognition and authentication of digital signatures.
- Facilitating electronic commerce with legal certainty for online contracts and transactions.
- Promoting cyber security through the establishment of CERTS and development of standards.
- Defining intermediary liability for content hosted on internet platforms.
- Addressing cyber terrorism offenses.
- Outlining jurisdiction of Indian courts in cybercrime matters.
- Prescribing penalties including fines and imprisonment for cyber crimes to deter illegal activities.

Evolvement of Indian Cyber Law

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- ITA 2000: Provided the initial framework for Indian cyber law, focusing on legal recognition of electronic transactions and records.
- Amendments in 2008: Enhanced legal provisions to tackle cyber security issues, including data protection, cybercrimes, and intermediary liability.
- Data protection and privacy: Introduced rules governing the handling of sensitive personal data and information.
- Cyber crimes: Expanded definitions and introduced new offenses to address unauthorized access, identity theft, and malware spread.
- Cyber security: Promoted CERTS establishment and emphasized cyber security practices and standards.
- Intermediary liability: Clarified the liability of intermediaries while protecting freedom of expression.
- Cyber terrorism: Defined offenses related to using computers for terrorist activities.
- Subsequent amendments: Continued revisions to align with international practices, focusing on digital payments and critical information infrastructure protection.
- Cyber security policies: Developed policies to strengthen cyber security infrastructure and promote awareness and best practices.

Legal Framework that governs Cyber Activities in India

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The legal framework that governs cyber activities in India is primarily based on the Information Technology Act, 2000 (IT Act).

The IT Act is a comprehensive law that covers a wide range of issues related to electronic commerce, digital signatures, and cyber security.

Key Provisions:

i. Section 43: This section defines various cyber offences, such as hacking, data theft, and denial-of-service attacks.

ii. Section 66F: This section defines cyber terrorism and provides for punishment of up to life imprisonment for this offence.

iii. Section 72A: This section empowers the government to block websites and other online content that is found to be obscene, defamatory, or harmful to children.

iv. Section 79: This section provides for compensation to victims of cyber crimes.

Other Laws: Indian Penal Code, Evidence Act, Copyright Act, and Trade Marks Act also applicable.

Institutions:

- Indian Computer Emergency Response Team (CERT-In): Nodal agency for cyber security, responds to incidents and issues advisories.
- Cyber Appellate Tribunal (CAT): Hears appeals against orders under the IT Act.
- National Cyber Security Coordinator (NCSC): Apex body coordinating efforts to protect against cyber threats.

Rights and Obligations of Individuals and Organizations under Indian Cyber Law

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Rights of individuals under Indian cyber law include:

- Privacy: Right to protect personal information from unauthorized access.
- Access to Information: Right to access information held by government or organizations about them.
- Free Speech: Right to express views and opinions freely online, with limitations.
- Compensation: Right to compensation as victims of cyber crimes from perpetrators.
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Obligations of individuals under Indian cyber law include:

- Avoiding Cyber Crimes: Individuals must refrain from engaging in cyber crimes like hacking, data theft, or cyber terrorism.
- Respecting Privacy: Individuals must not breach others' privacy by accessing their personal information without consent.
- Avoiding Defamatory or Obscene Content: Individuals should refrain from posting defamatory, obscene, or harmful content online.

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Rights of organizations under Indian cyber law include:

- Intellectual Property Protection: Right to safeguard intellectual property rights like copyright and trademark from online infringement.
- Business Data Protection: Right to protect business data from unauthorized access, use, or disclosure.
- Legal Action Against Cyber Criminals: Right to take legal action against cyber criminals causing harm to their business or reputation.

Obligations of organizations under Indian cyber law include:

- Implementing Security Measures: Obligation to implement reasonable security measures to safeguard information assets from cyber threats.
- Reporting Cyber Incidents: Obligation to report specific cyber incidents to CERT-In within a defined timeframe.
- Compliance with Laws: Obligation to comply with other relevant laws and regulations concerning cyber security and privacy.

Latest Developments in Cyber Law

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Latest developments in Indian cyber law:

- Digital Personal Data Protection Act, 2023: India's first comprehensive law on data protection, establishing rights and obligations for individuals and organizations regarding personal data.
- Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021: Imposes new obligations on intermediaries like social media platforms, including content takedown, providing information to law enforcement, and appointing grievance officers.
- Indian Cyber Crime Coordination Centre (I4C): Established in February 2021 to enhance coordination among law enforcement agencies in investigating and prosecuting cyber crimes, providing a platform for victims to report complaints.
- National Cyber Security Strategy, 2020: Outlines the government's approach to cyber security for the next five years, focusing on capacity building, awareness, education, and international cooperation.

Digital Personal Data Protection (DPDP) Act, 2023

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- Scope: Applies to processing digital personal data by organizations within India's territory or providing goods/services to individuals within India.
- Definition: Defines "digital personal data" as any data identifying individuals directly or indirectly.
- Examples: Includes name, address, date of birth, email, phone number, IP address, location, and financial data.
- Objectives:
  - Protect individuals' privacy and personal data from unauthorized access, use, disclosure, modification, or destruction.
  - Promote responsible data processing practices by organizations.
  - Establish a governance framework for digital personal data in India.
- Impact: Expected to significantly influence how organizations collect, use, and disclose personal data in India.

Rights and Obligations of Individuals and Organizations under Indian DPDP Act

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A. Rights given to individuals:

1. Access their personal data.
2. Correct their personal data.
3. Erase their personal data.
4. Object to the processing of their personal data.
5. Port their personal data.

B. Obligations imposed on organizations:

1. Obtain consent from individuals before processing their personal data.
2. Implement reasonable security measures to protect personal data.
3. Notify individuals of data breaches.
4. Respond to individual requests regarding their personal data.

Intellectual Property (IP)

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Intellectual property: Intellectual property is a category of property that includes intangible creations of the human intellect.

1. Patents: Patents protect inventions for a limited period of time, typically 20 years from the date of filing. Inventions can include new products, processes, or machines.

2. Copyrights: Copyrights protect original works of authorship, such as books, movies, music, and software. Copyright protection lasts for the life of the author plus 70 years.

3. Trademarks: Trademarks protect words, symbols, and designs that are used to identify the source of goods or services. Trademarks can be

- Trade secrets: Trade secrets are confidential information that gives a business an advantage over its competitors. Trade secrets can include formulas, recipes, and manufacturing processes.

Intellectual property (IP) issues:

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- Intellectual property (IP) issues involve legal and ethical challenges regarding the protection and management of IP rights.
- IP encompasses intangible creations like inventions, artistic works, literary works, designs, symbols, names, and trade secrets.
- Various forms of IP rights include patents, copyrights, trademarks, and trade secrets.
- Importance of IP in the digital era:
- Copyright infringement: Unauthorized copying or distribution of copyrighted material, prevalent in online piracy of music, movies, and software.
- Trademark infringement: Unauthorized use of a trademark leading to consumer confusion, common online through improper domain names or website content.
- Trade secret theft: Unauthorized acquisition or use of trade secrets, often occurring through hacking or downloading confidential information from the internet.

Examples of IP Issues:

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- Copyright infringement: Unauthorized copying or distribution of copyrighted material like books, movies, music, or software.
- Trademark infringement: Unauthorized use of a trademark causing consumer confusion, such as using a competitor's trademark in advertising or product packaging.
- Trade secret theft: Unauthorized acquisition or use of trade secrets like formulas or manufacturing processes.
- Patent infringement: Making, using, or selling a product/process protected by a patent.
- Counterfeiting: Manufacturing or selling goods designed to resemble genuine products of another company.
- Plagiarism: Copying someone else's work and passing it off as one's own.

How can businesses and individuals protect their intellectual property rights in the digital domain?

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For businesses:

- Register IP rights: Registering trademarks and copyrights deters infringement and facilitates enforcement.
- Develop IP policy: Create a comprehensive policy outlining IP creation, protection, and usage.
- Use technical measures: Employ encryption and digital watermarking to safeguard IP from unauthorized access.
- Educate stakeholders: Educate employees and customers about IP rights and their significance.
- Monitor online activity: Keep track of online activity to detect potential IP infringement.
- Take legal action: If infringement occurs, pursue legal action to uphold IP rights.

For individuals:

- Understand IP laws: Educate yourself about IP laws, especially relevant to digital activities like content creation or software development.
- Respect copyright and licensing: Adhere to copyright laws when using digital content, obtaining necessary permissions or licenses.
- Protect personal data: Be cautious with online data sharing, understand privacy policies, and manage access to personal data.
- Use strong passwords: Safeguard online accounts and assets with robust, unique passwords.
- Report infringements: Report online IP infringements, such as piracy or plagiarism, to relevant authorities or copyright holders.
- Seek legal advice: Consult with an IP attorney if you have queries about your rights or believe they've been violated.

What are the key intellectual property-related legislations in India?

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- Patents Act, 1970: Governs patents in India, defining rights and procedures for protecting inventions.
- Copyright Act, 1957: Deals with copyright protection for creative works, performers' rights, and cinematographic films.
- Trade Marks Act, 1999: Governs registration and protection of trademarks, outlining owners' rights.
- Designs Act, 2000: Regulates registration and protection of industrial designs, ensuring exclusive usage rights.
- Geographical Indications of Goods Act, 1999: Protects geographical indications, maintaining products' regional identity and quality.
- Semiconductor Integrated Circuits Layout-Design Act, 2000: Protects layout designs of integrated circuits, granting exclusive rights to creators.
- Plant Varieties Protection and Farmers' Rights Act, 2001: Governs protection of plant varieties and rights of plant breeders and farmers.
- Information Technology Act, 2000: Focuses on electronic transactions and cybercrimes, also addressing electronic records and digital signatures.

Patent

- Legal document granting inventor exclusive rights to invention for a period.
- Aims to encourage innovation by providing limited monopoly.
- Requires inventor to disclose invention details to the public.

Requirements for obtaining a patent:

- Novelty: Invention must be new.
- Non-obviousness: Invention must not be obvious to skilled in the field.
- Usefulness: Invention must have practical application.
- Subject matter eligibility: Must be eligible for patent protection.
- Adequate disclosure: Clear description enabling replication.
- Claim specificity: Claims define precise scope of invention.

Rights of a patent holder:

- Exclusive use: Sole right to make, use, sell invention.
- Monopoly: Temporary control over invention's commercialization.
- Legal enforcement: Right to take legal action against infringement.
- Licensing: Can grant others permission for use.
- Transferability: Can sell or use as collateral.
- Exclusivity: Rights apply within jurisdiction.
- Prevention of use: Right to prevent unauthorized use.
- Right to seek damages: Can seek compensation for infringement.

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How can individuals or businesses apply for and protect their patents?

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- Determine patent eligibility: Check if invention meets novelty, non-obviousness, utility, and industrial applicability criteria.
- Conduct patent search: Verify if invention has been patented before to assess novelty.
- Prepare detailed description: Draft comprehensive description with drawings if needed.
- Draft patent claims: Create precise claims defining scope of protection sought.
- Choose patent type: Decide between provisional or complete patent application.
- File patent application: Submit application online or physically to Indian Patent Office.
- Pay application fees: Pay required fees based on applicant type and claims.
- Examination and publication: Patent application undergoes examination and publication after 18 months.
- Respond to office actions: Address examiner's objections or requests during examination.
- Grant of Patent: If all requirements met, patent is granted, and patentee receives certificate.

Copyright

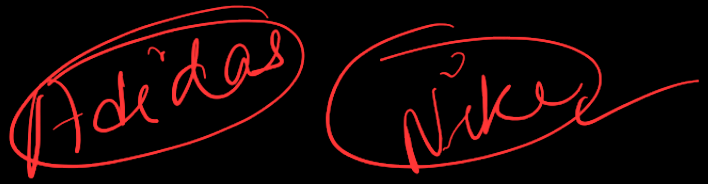
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- Copyright is legal protection for creators of original works, granting exclusive rights over reproduction, distribution, performance, and display.
- Requirements for copyright: Work must be original, fixed in a tangible medium, and authored by the creator.
- Duration: Copyright lasts for author's lifetime plus 60 years.
- Rights of a copyright holder include reproduction, distribution, public performance, public display, derivative works, digital and online rights.
- Copyright holders have exclusivity, lasting duration, transferability, and the right to enforce their rights through legal action.

Individuals and businesses in India can apply for and protect their copyright by following these general steps:

- Create original work: Generate literary, artistic, or creative content.
- Document and fix: Record work in tangible form.
- Copyright notice: Include copyright symbol(©), year of publication, and owner's name.
- Optional registration: Register copyright with Copyright Office in India.
- Maintain records: Keep detailed records of drafts and revisions.
- Licensing agreements: Draft agreements for granting usage rights.
- Enforcement: Take legal action against copyright infringement.

Trademark



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A trademark is a distinctive sign used to identify and distinguish goods or services offered by one party from those of others. It includes words, phrases, logos, symbols, designs, or combinations thereof.

Requirements for registering a trademark:

- Distinctiveness: The trademark must be unique and capable of distinguishing the goods/services of one entity from others.
- Non-descriptiveness: It should not directly describe the goods or services it represents.
- Non-deceptiveness: The trademark must not mislead the public about the nature or quality of the goods/services.
- Not similar/confusing: It should not resemble existing trademarks in the same or related classes of goods/services.
- Not offensive: Trademarks must not be offensive, scandalous, or immoral.
- Not prohibited by law: It should comply with legal requirements and not be contrary to public policy or morality.
- Proper representation: The trademark must be graphically represented in a clear and specific manner.

Rights of a trademark holder:

- Exclusive use: Holders have the exclusive right to use the registered trademark for specified goods/services.
- Prevent others: They can stop others from using identical or similar trademarks.
- Protection against infringement: Holders can take legal action against trademark infringements.
- Licensing: They can grant licenses for others to use the trademark.
- Protection against dilution: Trademarks are protected against dilution, preserving their distinctiveness.
- Enforcement: Holders can enforce their trademark rights legally.
- Use as collateral: Trademarks can be used as collateral for financial transactions.

Individuals or businesses can apply for and protect their trademark in India by following these general steps:

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- Conduct trademark search: Ensure uniqueness and absence of conflicts with existing trademarks.
- Determine classes: Identify relevant classes of goods/services for trademark use.
- Create trademark: Design and develop the trademark.
- Draft application: Prepare the trademark application.
- Specify goods/services: Clearly define associated goods/services.
- Pay application fee: Submit required filing fee.
- Examination: Application undergoes examination by Trade Marks Registry.
- Publication and opposition: If approved, trademark is published; third parties can oppose.
- Registration: Upon successful completion and resolution of any opposition, trademark is registered.

Fundamental differences between patents, copyrights, and trademarks

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S.No.	Aspect	Patents	Copyrights	Trademarks
1	Purpose	Protects inventions and innovations.	Protects original creative works.	Protects brand names, logos, symbols.
2	Type of protection	Inventions, processes, products.	Literary, artistic, expressions.	Symbols, names, logos, slogans.
3	Subject matter	Novel and useful ideas.	Original creative expressions.	Distinctive signs for goods/services.
4	Duration	Typically 20 years from filing.	Generally life of the author + 60.	Indefinitely renewable.
5	Registration required	Yes	No	Yes