



RGPVNOTES.IN

Program : **B.E**

Subject Name: **Cyber Law and Ethics**

Subject Code: **CS-8004**

Semester: **8th**



LIKE & FOLLOW US ON FACEBOOK

facebook.com/rgpvnotes.in

JURISDICTION

Jurisdiction can be defined as the limit of a judicial authority or the extent to which a court of law can exercise its authority over suits, cases, appeals etc. The rationale behind introducing the concept of jurisdiction in law is that a court should be able to try and adjudicate only in those matters with which it has some connection or which fall within the geographical or political or pecuniary limits of its authority. A 1921 Calcutta High Court judgment in the case of *Hriday Nath Roy v. Ram Chandra* sought to explain the meaning of the term 'jurisdiction' in a great detail. The bench observed:

'An examination of the cases in the books discloses numerous attempts to define the term 'jurisdiction', which has been stated to be 'the power to hear and determine issues of law and fact;' 'the authority by which three judicial officers take cognizance of and decide cause;' 'the authority to hear and decide a legal controversy;' 'the power to hear and determine the subject-matter in controversy between parties to a suit and to adjudicate or exercise any judicial power over them;' 'the power to hear, determine and pronounce judgment on the issues before the Court;' 'the power or authority which is conferred upon a Court by the Legislature to hear and determine causes between parties and to carry the judgments into effect;' 'the power to enquire into the facts, to apply the law, to pronounce the judgment and to carry it into execution.'



Types of Jurisdiction:

In India, there are mainly 5 types of jurisdiction which can be classified as follows:

- Subject-matter jurisdiction:

It can be defined as the authority vested in a court of law to try and hear cases of a particular type and pertaining to a particular subject matter. For example, District Forums established under the Consumer Protection Act, 1986 have jurisdiction over only consumer-related cases. It cannot try criminal cases.

- Territorial jurisdiction:

Under this type of jurisdiction, geographical limits of a court's authority are clearly delineated and specified. It cannot exercise authority beyond that territorial/geographical limit. For example, if a certain offence is committed in Madhya Pradesh, only the courts of law within the boundaries of Madhya Pradesh can try and adjudicate upon the same unless otherwise provided for in a particular piece of legislation.

- Pecuniary jurisdiction:

Pecuniary means 'related to money'. Pecuniary jurisdiction tries to address whether a court of law can try cases and suits of the monetary value/amount of the case or suit in question. For example, consumer courts have different pecuniary jurisdictions. A district forum can try cases of value upto Twenty lakh rupees only.

- Original jurisdiction:

It refers to the authority of a court to take cognizance of cases which can be tried and adjudicated upon in those courts in the first instance itself. It is different from appellate jurisdiction in the sense that in case of the latter, the courts rehear and review an already decided matter whereas in case of the former the cases are tried for the very first time. For example, the High Court of Allahabad has original jurisdiction with respect to matrimonial, testamentary, probate and company matters.

- Appellate jurisdiction:

It refers to the authority of a court to rehear or review a case that has already been decided by a lower court. Appellate jurisdiction is generally vested in higher courts. In India, both the High Courts and the Supreme Court have appellate jurisdiction to hear matters which are brought in the form of appeal before them. They can either overrule the judgment of the lower court or uphold it. At times they can also modify the sentence.

Some of the other types of jurisdiction include:

- Concurrent jurisdiction: A situation in which more than one court of law has the jurisdiction to try certain matters. Sometimes, this type of jurisdiction is also referred to as 'co-ordinate jurisdiction'.
- Admiralty jurisdiction: Jurisdiction pertaining to mercantile and maritime law and cases.
- Probate jurisdiction: Matters concerning the administration of an estate belonging to a dead person and its guardianship come under probate jurisdiction. For example, cases involving administration and execution of the will of a deceased person.
- Summary jurisdiction: It refers to the authority of a court to try matters in accordance with the summary procedure. Such cases take form of summary trials in order to speedily resolve a dispute

Indian context of jurisdiction

The **original jurisdiction** of a court is the power to hear a case for the first time, as opposed to **appellate jurisdiction**, when a higher court has the power to review a lower court's decision. Original jurisdiction refers to the right of the Supreme court to hear a case for the first time. It has the exclusive right to hear all cases that deal with disputes between states, or between states and the union government. It also has original jurisdiction over cases brought to the court by ordinary people regarding issues to the importance of society at large.

In **India**, the **Supreme Court** has original, appellate and advisory jurisdiction.^[1] Its exclusive original jurisdiction extends to all cases between the **Government of India** and the **States of India** or between Government of India and states on one side and one or more states on other side or cases between different states. Original jurisdiction is related to cases which are directly brought to the Supreme Court. Cases which require the interpretation of the constitution or cases relating to the denial of fundamental rights are heard In the supreme court. In case there is a dispute between two or more states or between the union and the states, the Supreme Court decides such cases. In addition, Article 131 of the **Constitution of India** grants original jurisdiction to the Supreme Court on all cases involving the enforcement of fundamental rights of citizens.^[1] It is empowered to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari to enforce them.

The appellate jurisdiction of the **Supreme Court** can be invoked by a certificate granted by the High Court concerned under Article 132(1), 133(1) or 134 of the Constitution in respect of any judgement, decree or final order of a High Court in both civil and criminal cases, involving substantial questions of law as to the interpretation of the **Indian Constitution**.

The **Supreme Court** has special advisory jurisdiction in matters which may specifically be referred to it by the President of India under Article 143 of the **Indian Constitution**.

IT act 2000

The Government of India enacted The Information Technology Act with some major objectives which are as follows –

- To deliver lawful recognition for transactions through electronic data interchange (EDI) and other means of electronic communication, commonly referred to as **electronic commerce** or E-Commerce. The aim was to use replacements of paper-based methods of communication and storage of information.
- To facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Bankers' Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto.

The Information Technology Act, 2000, was thus passed as the Act No.21 of 2000. The I. T. Act got the President's assent on June 9, 2000 and it was made effective from October 17, 2000. By adopting this Cyber Legislation, India became the 12th nation in the world to adopt a Cyber Law regime.

Salient Features of I.T Act

The salient features of the I.T Act are as follows –

- Digital signature has been replaced with electronic signature to make it a more technology neutral act.
- It elaborates on offenses, penalties, and breaches.

- It outlines the Justice Dispensation Systems for cyber-crimes.
- It defines in a new section that *cyber café* is any facility from where the access to the internet is offered by any person in the ordinary course of business to the members of the public.
- It provides for the constitution of the Cyber Regulations Advisory Committee.
- It is based on The Indian Penal Code, 1860, The Indian Evidence Act, 1872, The Bankers' Books Evidence Act, 1891, The Reserve Bank of India Act, 1934, etc.
- It adds a provision to Section 81, which states that the provisions of the Act shall have overriding effect. The provision states that *nothing contained in the Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957.*

Scheme of I.T Act

The following points define the scheme of the I.T. Act –

- The I.T. Act contains **13 chapters** and **90 sections**.
- The last four sections namely sections 91 to 94 in the I.T. Act 2000 deals with the amendments to the Indian Penal Code 1860, The Indian Evidence Act 1872, The Bankers' Books Evidence Act 1891 and the Reserve Bank of India Act 1934 were deleted.
- It commences with Preliminary aspect in Chapter 1, which deals with the short, title, extent, commencement and application of the Act in Section 1. Section 2 provides Definition.
- Chapter 2 deals with the authentication of electronic records, digital signatures, electronic signatures, etc.
- Chapter 11 deals with offences and penalties. A series of offences have been provided along with punishment in this part of The Act.
- Thereafter the provisions about due diligence, role of intermediaries and some miscellaneous provisions are been stated.
- The Act is embedded with two schedules. The First Schedule deals with Documents or Transactions to which the Act shall not apply. The Second Schedule deals with electronic signature or electronic authentication technique and procedure. The Third and Fourth Schedule are omitted.

Application of the I.T Act

As per the sub clause (4) of Section 1, *nothing in this Act shall apply to documents or transactions specified in First Schedule*. Following are the documents or transactions to which the Act shall not apply –

- **Negotiable Instrument** (Other than a cheque) as defined in section 13 of the Negotiable Instruments Act, 1881;

- A **power-of-attorney** as defined in section 1A of the Powers-of-Attorney Act, 1882;
- A **trust** as defined in section 3 of the Indian Trusts Act, 1882;
- A **will** as defined in clause (h) of section 2 of the Indian Succession Act, 1925 including any other testamentary disposition;
- Any **contract** for the sale or conveyance of immovable property or any interest in such property;
- Any such class of documents or transactions as may be notified by the Central Government.

Amendments Brought in the I.T Act

The I.T. Act has brought amendment in four statutes vide section 91-94. These changes have been provided in schedule 1-4.

- The first schedule contains the amendments in the Penal Code. *It has widened the scope of the term "document" to bring within its ambit electronic documents.*
- The second schedule deals with amendments to the India Evidence Act. *It pertains to the inclusion of electronic document in the definition of evidence.*
- The third schedule amends the Banker's Books Evidence Act. *This amendment brings about change in the definition of "Banker's-book". It includes printouts of data stored in a floppy, disc, tape or any other form of electromagnetic data storage device. Similar change has been brought about in the expression "Certified-copy" to include such printouts within its purview.*
- The fourth schedule amends the Reserve Bank of India Act. *It pertains to the regulation of fund transfer through electronic means between the banks or between the banks and other financial institution.*

Intermediary Liability

Intermediary, dealing with any specific electronic records, is a person who on behalf of another person accepts, stores or transmits that record or provides any service with respect to that record.

According to the above mentioned definition, it includes the following –

- 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

Highlights of the Amended Act

The newly amended act came with following highlights –

- It stresses on privacy issues and highlights information security.
- It elaborates Digital Signature.
- It clarifies rational security practices for corporate.
- It focuses on the role of Intermediaries.
- New faces of Cyber Crime were added.

International law

Overview

International law consists of rules and principles governing the relations and dealings of nations with each other, as well as the relations between states and individuals, and relations between international organizations.

Public international law concerns itself only with questions of rights between several nations or nations and the citizens or subjects of other nations. In contrast, *private international law* deals with controversies between private persons. These controversies arise out of situations which have a significant relationship to multiple nations. In recent years the line between public and private international law has become increasingly uncertain. Issues of private international law may also implicate issues of public international law, and many matters of private international law have substantial international significance.

Domains of International Law

International Law includes the basic, classic concepts of law in national legal systems (i.e. statutes, [property law](#), [tort law](#), etc). It also includes [substantive law](#), [procedural law](#), [due process](#), and [remedies](#). The following are major substantive fields of international law:

International economic law

International economic law, broadly conceived, is a field of [international law](#) that encompasses both the conduct of sovereign states in international economic relations, and the conduct of private parties involved in cross-border economic and business transactions. This includes, among other things, [international trade law](#), law of [international financial institutions](#) (or what is known as [international financial law](#), and traditional [private international law](#) fields. Additionally, international economic law includes the following fields:

- [Regional Economic Integration](#), such as the European Union, ASEAN and other regional trade organizations.
- [International law and development](#)
- [International commercial arbitration](#)
- [International intellectual property law](#)
- [International business regulation](#)

International criminal law

International criminal law is a field of [international law](#) that seeks to regulate the behavior of states, organizations and individuals operating across national boundaries in commission of [international crimes](#). International criminal law also regulates the commission of grave crimes occurring on the territory of sovereign states where those crimes constitute [genocide](#), [crimes against humanity](#), [war crimes](#), or other violations of [jus cogens](#) norms.

International criminal law is practiced by, and prosecuted within, [international criminal tribunals](#), such as the [International Criminal Tribunal for Rwanda](#), [International Criminal Court](#) and similar courts.

International environmental law

International environmental law (sometimes, *international ecological law*) is a field of [international law](#) regulating the behavior of states and international organizations with respect to the environment. *See* Phillippe Sands, *Principles of International Environmental Law* (2nd ed., Cambridge, 2003). Core domains for international regulation include management of the world's oceans and fisheries, the polar ice caps, and the regulation of carbon and other particulate emissions into the atmosphere

Diplomatic Law

Diplomatic law is a field of [international law](#) concerning the practice of diplomacy, and the rights and obligations of state representatives on the territory of other states. The broad corpus of diplomatic law derives from one of the oldest principles of [customary international law](#), that of [state immunity](#) and [sovereign immunity](#).

International humanitarian law

International humanitarian law (law of war) is a field of [international law](#) regulating armed conflict between states, and more recently, between states and informal groups and individuals. *See* Jean Pictet, *Development and Principles of International Humanitarian Law* (1985). International humanitarian law governs both the legality of justifications for war and the legality of wartime conduct International humanitarian law should not be confused with [international human rights law](#). International humanitarian law is one of the oldest fields of [conventional international law](#). Core principles of international humanitarian law can be found in major [international treaties](#) such as the [Geneva Conventions of 1949](#), and the first [Geneva Convention of 1864](#).

International Human Rights Law

[International human rights law](#) lays down the obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups. One of the great achievements of the United Nations is the creation of a comprehensive body of human rights law—a universal and internationally protected code to which all nations can subscribe and all people aspire. The United Nations has defined a broad range of internationally accepted rights, including civil, cultural, economic, political and social rights. It has also established mechanisms to promote and protect these rights and to assist states in carrying out their responsibilities.

Dispute Resolutions

Dispute resolution is a term that refers to a number of processes that can be used to resolve a conflict, dispute or claim. Dispute resolution may also be referred to as alternative dispute resolution, appropriate dispute resolution, or ADR for short.

Dispute resolution processes are alternatives to having a court (state or federal judge or jury) decide the dispute in a trial or other institutions decide the resolution of the case or contract. Dispute resolution processes can be used to resolve any type of dispute including family, neighborhood, employment, business, housing, personal injury, consumer, and environmental disputes.

In addition, the United States Federal Government utilizes dispute resolution processes to assist government employees and private citizens resolve complaints and disputes in many areas including workplace, employment, and contracting matters.

TYPES

Arbitration

Arbitration is a private process where disputing parties agree that one or several individuals can make a decision about the dispute after receiving evidence and hearing arguments.

Arbitration is different from mediation because the neutral arbitrator has the authority to make a decision about the dispute.

The arbitration process is similar to a trial in that the parties make opening statements and present evidence to the arbitrator. Compared to traditional trials, arbitration can usually be completed more quickly and is less formal. For example, often the parties do not have to follow state or federal rules of evidence and, in some cases, the arbitrator is not required to apply the governing law.

After the hearing, the arbitrator issues an award. Some awards simply announce the decision (a "bare bones" award), and others give reasons (a "reasoned" award).

The arbitration process may be either binding or non-binding. When arbitration is binding, the decision is final, can be enforced by a court, and can only be appealed on very narrow grounds. When arbitration is non-binding, the arbitrator's award is advisory and can be final only if accepted by the parties.

Mediation

Mediation is a private process where a neutral third person called a mediator helps the parties discuss and try to resolve the dispute. The parties have the opportunity to describe the issues, discuss their interests, understandings, and feelings; provide each other with information and explore ideas for the resolution of the dispute. While courts can mandate that certain cases go to mediation, the process remains "voluntary" in that the parties are not required to come to agreement. The mediator does not have the power to make a decision for the parties, but can help the parties find a resolution that is mutually acceptable. The only people who can resolve

the dispute in mediation are the parties themselves. There are a number of different ways that a mediation can proceed. Most mediations start with the parties together in a joint session. The mediator will describe how the process works, will explain the mediator's role and will help establish ground rules and an agenda for the session. Generally, parties then make opening statements. Some mediators conduct the entire process in a joint session. However, other mediators will move to separate sessions, shuttling back and forth between the parties. If the parties reach an agreement, the mediator may help reduce the agreement to a written contract, which may be enforceable in court.

Negotiation

Negotiation is a voluntary and usually informal process in which parties identify issues of concern, explore options for the resolution of the issues, and search for a mutually acceptable agreement to resolve the issues raised. The disputing parties may be represented by attorneys in negotiation. Negotiation is different from mediation in that there is no neutral individual to assist the parties negotiate.

Facilitation

Facilitation is a process in which a trained individual assists a group of two or more people to discuss issues to be addressed by the group. This may include assistance in defining and analyzing issues, developing alternatives and executing the agreed upon solutions. A facilitator can help to enhance communication, consensus building and decision making among individuals in a variety of settings, including community, corporate, educational and family groups.

Case Evaluation

Case evaluation is a non-binding process in which parties to a dispute present the facts and the issues to be determined to an experienced neutral case evaluator. The case evaluator advises the parties on the strengths and weaknesses of their respective positions, and assesses how the dispute is likely to be decided by a jury or other adjudicator. The parties may then use this feedback to help reach a mutually agreeable resolution.

Collaborative Law

Collaborative Law of Collaborative Practice is an out-of-court settlement process where parties and their lawyers try to reach an agreement satisfying the needs of all parties and any children involved. The parties agree to provide all relevant information. If the parties engage in contested litigation, their Collaborative lawyers cannot represent them in court. The process typically involves "four-way meetings" with the parties and lawyers and possibly other professionals such as neutral financial specialists, communications coaches, child specialists, or appraisers.

Divorce Coaching

Divorce coaching is a flexible, goal-oriented process designed to support, motivate, and guide people going through divorce to help them make the best possible decisions for their future, based on their particular interests, needs, and concerns. Divorce coaches have different

professional backgrounds and are selected based on the specific needs of the clients. For example, some divorce coaches are financial planners, mental health professionals, lawyers, or mediators who have experience dealing with divorcing clients.

Family Group Conference

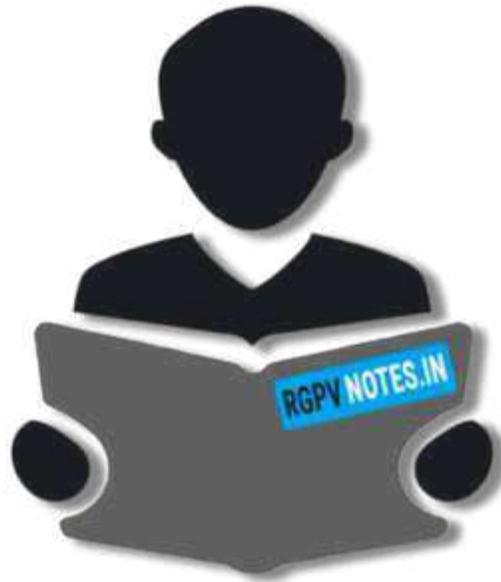
Family Group Conference is a meeting between members of a family and members of their extended kinship group. At this meeting, the family becomes involved in making a plan to stop the abuse or other ill-treatment between its members. Family Group Conferencing involves family and friends in resolving the abuse rather than leaving the decision-making entirely in the hands of the legal authorities and service providers. All participants are given a great deal of preparation, support and protection so that all family members can be both safe and informed in having a say in the decision-making.

Litigation

Litigation is a process for handling disputes in the court system. Litigation is a *contested action*, where someone else, such as a judge may make the final decisions for the parties unless the parties settle before trial. Settlement can happen at any point during the process. During the litigation process, there may be a series of hearings and temporary orders (e.g. temporary custody and support), culminating in the final orders. Final orders regarding the real issues in the case (e.g. custody, support, division of assets) are usually entered only after there has been a trial with witnesses.

Mini-Trial

A mini-trial is a private, consensual process where the attorneys for each party make a brief presentation of the case as if at a trial. The presentations are observed by a neutral advisor and by representatives (usually high-level business executives) from each side who have authority to settle the dispute. At the end of the presentations, the representatives attempt to settle the dispute. If the representatives fail to settle the dispute, the neutral advisor, at the request of the parties, may serve as a mediator or may issue a non-binding opinion as to the likely outcome in court.



RGPVNOTES.IN

We hope you find these notes useful.

You can get previous year question papers at
<https://qp.rgpvnotes.in> .

If you have any queries or you want to submit your
study notes please write us at
rgpvnotes.in@gmail.com



LIKE & FOLLOW US ON FACEBOOK
facebook.com/rgpvnotes.in