

A STUDY ON THE ROLE OF INFORMATION TECHNOLOGY ACT IN E-GOVERNANCE

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ABSTRACT

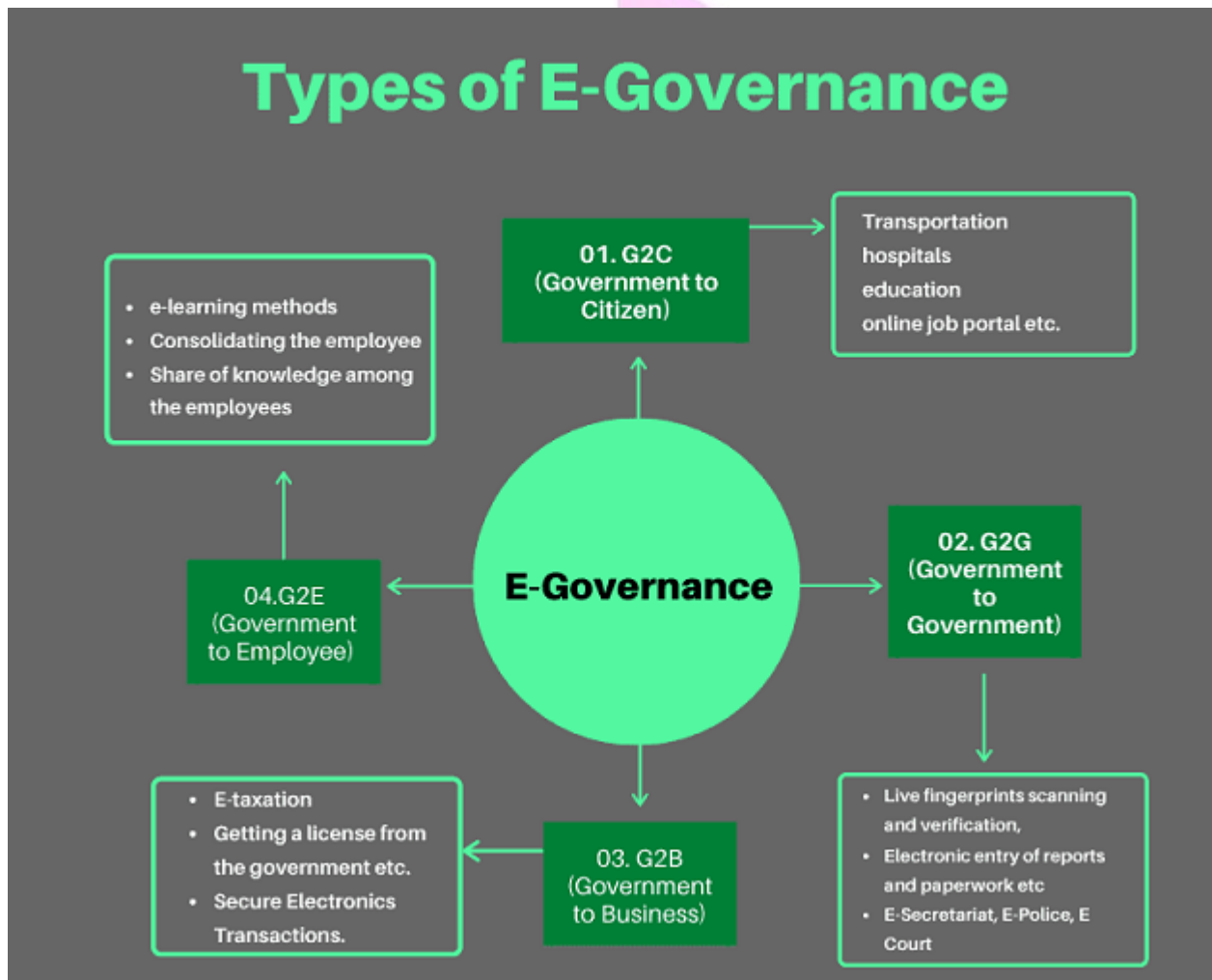
Technology has developed so much that we could find everything in our finger tips today, from commercial activities to social networking from gaming to advertisements, today almost everything is done in just a matter of seconds. Cyber space may have various technical definitions but the logical fact is that cyber space is the parallel life where every person lives either with or without his will. Initially digitalization was a choice but today it has become a necessity. Most of the public or private activities requires its people to enter into the cyber world. Though the dream of making Digital India sounds astonishing, the question here is that –Are we ready for it? Is the Virtual world protected enough for its netizens? Whether the laws of our nation are stringent enough to deal with issues relating to cyber securities and cybercrimes. No country is crime free of both conventional and modern technological crimes but that doesn't brings an end to the questions raised above. It is the duty of the State to enact stern laws with the consultation of the members of law enforcement bodies and stake holders to protect the virtual world which in turn makes its netizens feel protected and safe to carry out their day to day work with the help of technology. This study highlights the lacunas in the existing laws and the need for bringing in new stringent legislations

Keywords: Information Technology, Cyber Space, E-Governance, Digital India, Cyber Security.

INTRODUCTION

E-Governance is the mechanism or control of the activities taking place in the cyberspace. The computer generated era of technology where people get in touch with each other without having any physical contact is known as cyberspace and e-governance is the laws governing cyberspace. The users of cyberspace or very commonly known as netizens are under the realm of e-governance. It can also be understood as that area of law dealing with the legal concerns related to internet and technology. E-Governance is no more or less than governance in an electronic environment. It is both governance of that environment and governance with that environment, using “Electronic tools.” This is a very broad definition reflecting the far-reaching implications of information and communication technologies.¹ E-Governance is an umbrella term with multi facet which deals with information technology considering it as a tool of governance. E-Governance is diverse. It manages data innovation as a device of administration and plays an important role in forming an economic and social atmosphere in the cyber space. It includes all facet of public services. The advancement and growth in E-commerce as well as social media connectivity has driven the requirement and need for more effective and vibrant governing mechanism.to build up a legal framework which plays a crucial role in the era of E-Commerce.

Table: Types of E-Governance



E-GOVERNANCE AND E-GOVERNMENT

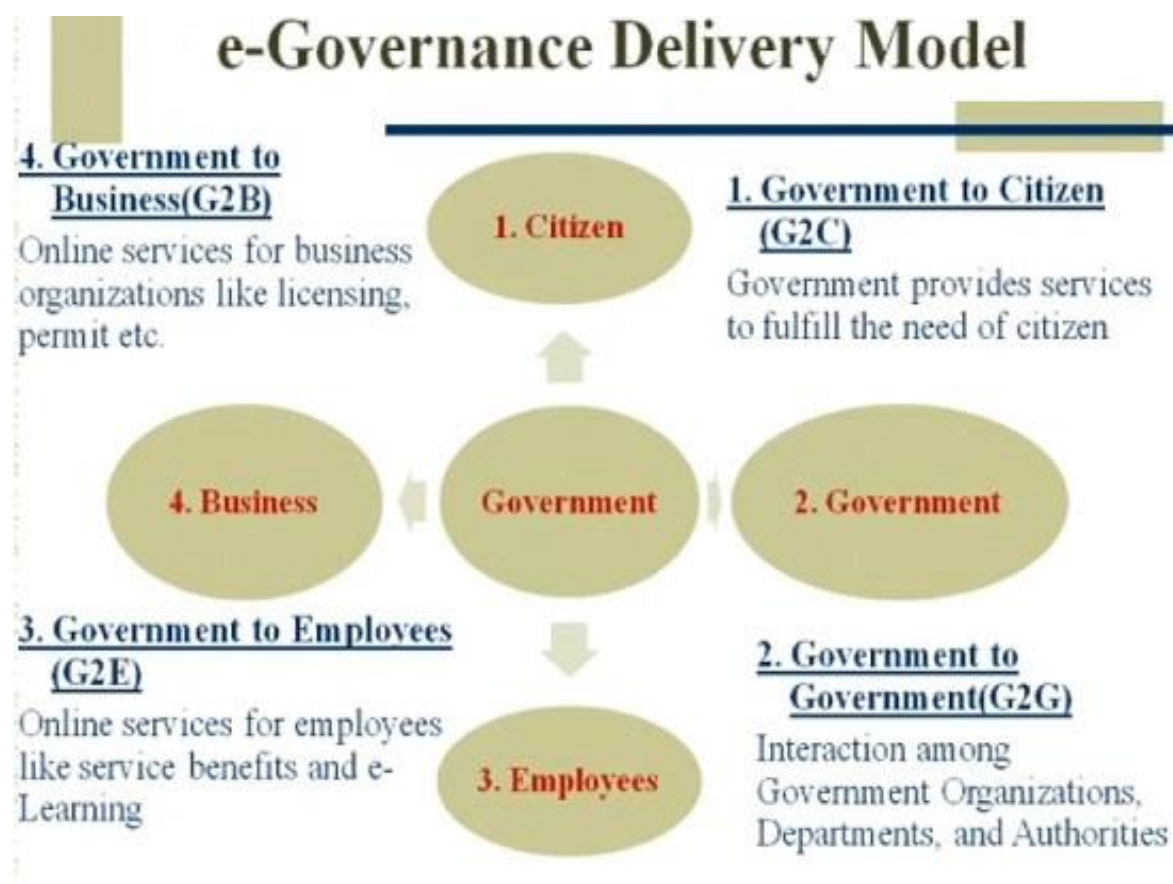
E-governance in a revolution in the field of information and communication technology- Governance is the form of governance with the help of communication and information

technologies to improve the delivery of service and information which would gain confidence and encourage the users to contribute in making the government transparent, effective and more accountable-Governance denotes the lawful system of administration, control and management which includes all forms of government services provided online from exchange of various services and information with other organs of the government, business and people.

E-government is conventionally considered to be the use of Information and Communication Technology for efficient functioning of the government agencies to provide online services. Recently, the perspective has changed and framework of e-government has been widened to include the functioning of Information and Communication Technology by government for directing wide ranging interactions with various business organization, users as well as for various government organizations to facilitate innovation in e-governance.

E-governance is usually taken in wider notion than e-government as it plays an important role in bringing about change in the way how users connect with the government and amongst each other. E-Governance thus helps in enhancing and redefining the social, environmental, and economic values of citizens.ⁱⁱ

The main objective of e-governance is for the development of its citizen. To encourage to participate, support and empower its citizens. Electronic Governance is the application of Information and Communication Technologies (ICTs) for delivering government services through integration of various stand-alone systems between Government-to-Citizens (G2C), Government-to-Business (G2B), and Government-to-Government (G2G) services.ⁱⁱⁱ

Table: E-Governance Delivery Model

E-GOVERNANCE CHALLENGES IN INDIA

There are an enormous number of obstacles in execution of e-Governance in India. These difficulties are clarified below:

India is a nation with people practicing diverse culture. Every State has its own unique language. E-governance can be carried out only with the help of official language and in country like India where the literacy level is low which makes it difficult for the operation of e-governance. Hence, the accessibility to the e-government projects shall be limited to literate people alone. Moreover due to lack of computer understanding and knowledge the functioning or usage of e-government might not seem to be easily manageable by all. Recognition of e-government projects by the public is yet another encounter to be looked upon. The biggest

challenge on the side of the government is to design user-friendly applications for making it easy to the public. It also brings an obligation on the part of the government to provide websites that are easily accessible to all and is also safe in terms of security. Balancing both user-friendly as well as secured websites is a challenge on the part of the government. This would in turn create a trust factor for the public to proceed with the electronic medium for filling of any document like tax return, updating personal information or retrieving any information such as birth or death certificate, land registration etc.

THE INFORMATION TECHNOLOGY ACT, 2000

The Information Technology Act, 2000 has brought a streamline for the bodies in the management and administration in dealing with all aspect of cybercrime. It is the first act to be considered as a uniform platform in India to discuss the issues related to cybercrimes. The IT Act legally recognizes e-Governance. Understanding the need and requirement of IT Act with other laws of the country, The Evidence Act, The Indian Penal Code, The Bankers Book Evidence Act etc. are amended for smooth functioning of the legislation. It gives legal recognition to both public as well as private undertakings.

In India, e-Governance is recognized by Information Technology Act, 2000. This act provides legal framework for electronic commerce conducting through computer and transmitted over the computer network through the internet. It discuss all the types' offences that causes damage to the computer or system by hosting viruses. At present the IT Act is not only to expedite e-commerce but it also promotes all forms of electronic filing including government documents. To provide a feasible approach for its users the IT Act of 2000 was enacted. Later due to various lacuna and requisites the IT Act, 2000 was amended by the IT Act of 2008. The amended act includes and promotes e-government scheme. The amended act has provided an opportunity to both the State as well as the Central Government to connect along with the private companies to carrying out the activities.

IT ACT PROVISIONS ON ELECTRONIC GOVERNANCE

The provisions of the IT Act that facilitates electronic governance are as follows:

1. Section 4: Legal Recognition of Electronic Records^{iv}

Section 4 gives that the lawful necessity of any data or matter being recorded as a hard copy or typewritten or printed is considered to be fulfilled assuming such data or matter is: (i) delivered or made accessible in electronic structure; and (ii) available to be usable for an ensuing reference. This segment has made electronic records as a utilitarian likeness written by hand records.

2. Section 5: Legal Recognition of Electronic Signature^v: Where any regulation gives that data or some other matter will be validated by joining the signature or any record will be marked or bear the mark of any individual, then, at that point, such prerequisite will be considered to have been fulfilled, assuming such data or matter is confirmed through electronic mark attached in such way as might be endorsed by the Central Government. This part has made electronic marks as a practical likeness manually written marks. In basic words carefully marked agreement would be substantial and lawful according to regulation.

3. Section 6 :Use of Electronic Records and Electronic Signatures in the Government Offices and its Agencies^{vi}

Sec. 6 sets out the underpinning of electronic administration. According to Sec.6, where any regulation accommodates - a) the recording of any structure, application or some other archive with any office, authority, body or organization claimed or constrained by the suitable Government in a specific way; b) the issue or award of any permit, license, assent or endorsement by anything that name brought in a specific way; c) the receipt or installment of cash in a specific way, then, at that point, despite anything contained in some other regulation for the time being in force, such prerequisite will be considered to have been fulfilled, if such documenting, issue, award, receipt or installment, by and large, is affected through such electronic structure as might be recommended by the

proper Government. Likewise, the proper Government might endorse: (I) the way and arrangement where such electronic records will be documented, made or gave; and (ii) the way or strategy for installment of any expense or charges for such purposes. It makes a viable e-administration model.

Information Technology Act works with suppliers by fitting Government e-administration by Legal acknowledgment electronic records Legal acknowledgment of electronic marks Electronic structures for managing government specialists Mechanism of specialist co-ops by suitable government Electronic maintenance of records Audit of electronic records Publication of Electronic Gazette Rules for Electronic marks by means of Schedule II Validity of e-contracts.

Conveyance of Services by Service Provider inserted Vide IT (Amendment) Act, 2008 (Section 6A)]: According to this Section the Appropriate Government might approve specialist organizations for offering effective types of assistance through electronic means to people in general against suitable help charges. Further, the Appropriate Government may, by notice in the Official Gazette, determine the size of administration charges to be charged by the specialist co-ops, which might be different for various sorts of administrations.

4. Section 7: Retention of Electronic Records

Where any regulation gives that archives, records or data will be held for a particular period, then, at that point, that prerequisite will be considered to have been fulfilled assuming such reports, records or data are held in the electronic structure, if: (a) the data contained in that stays open to be usable for an ensuing reference; (b) the electronic record is held in the organization in which it was, or can be shown to address precisely the data initially produced, sent or got; (c) the subtleties which work with the recognizable proof of the beginning, objective, date and season of dispatch or receipt of such electronic record are accessible in the electronic record. Yet, the above rule applies to no data which is consequently produced exclusively to empower an electronic record to be dispatched or gotten. Further, this standard applies to no regulation that explicitly accommodates maintenance of reports, records or data as electronic records.

Review of Documents, Records or Information Maintained in Electronic Form Inserted vide IT (Amendment) Act, 2008 Section 7A The lawful necessity for review of reports, records or data will likewise be pertinent for the review of archives, records or data handled and kept up with in the electronic structure.

5. Section 8 : Publication of Rule, Regulation, etc. in Electronic Gazette

This necessity will be considered as fulfilled if such rule, guideline, request, byelaw, warning or some other matter is distributed in electronic structure for example Electronic Gazette. Electronic Gazette (accessible at egazette.nic.in) will be likeness Official Gazette. 8. Sections.6, 7 and 8 not to Confer Right to Insist that Document will be Accepted in Electronic Form Section 9: This part gives that arrangements contained in Sections 6, 7 and 8 will not present a right upon any individual to demand that any Ministry or Department of the Central Government or the State Government or any power or body laid out by or under any regulation or controlled or subsidized by the Central or State Government ought to acknowledge, issue, make, hold and save any report as electronic record or impact any money related exchange in the electronic structure. The reasoning behind this arrangement is that the public authority and its organizations are as yet during the time spent executing IT processes.

6. Section 10: Power of the Central Government to make Rules in Respect of Electronic Signature

The Central Government may, with the end goal of this Act, by rules, endorse: (a) kind of electronic mark; (b) way and configuration of attachment of electronic mark; (c) system for ID of individual fastening the electronic mark (e-confirmation strategy utilizing Aadhar, e-KYC administrations was permitted to be involved by addition in the second timetable with impact from 28th January, 2015. Nonetheless, w.e.f., 1st March, 2019 Aadhar e-KYC administrations or e-KYC administrations are utilized). (d) Control cycles and techniques to guarantee sufficient respectability, security and

classification of e-records or e-installments; (e) some other matter which is important to give lawful impact to electronic mark.

Legitimacy of Contracts shaped through Electronic Means [Inserted Vide IT (Amendment) Act, 2008 Section 10A: Where in an agreement development, the correspondence of recommendations, the acknowledgment of proposition, the denial of recommendations and acknowledgments, all things considered, are communicated in electronic structure or through an electronic record, such agreement will not be considered to be unenforceable exclusively on the ground that such electronic structure or means was utilized for that reason. This segment gives lawfully restricting person to internet business exercises.

CONCLUSION

Some E Governance Projects in India:

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.^{vii}

Bhoomi:

This project was started by the state of Karnataka which involves computerization of more than 200 treasuries all over the state and it was mainly for computerization of land record system.^{viii}

E governance Centre at Haryana Secretariat

The Haryana government has set up E governance centre at the secretariat to effectively monitor information technology in the state.^{ix}

In India, the main thrust for E governance was provided by the launching of NICNET in 1987- The National Satellite Based computer Network. This was followed by the launch of district information system of national informatics Centre programme to computerize all district offices to the state government.^x

Parliament of Indian website

Website of Indian parliament carries information of the parliament, the constitution of India, various budgets, resume of work, parliamentary debates, committee and members of the house and links to other central and state government website.^{xi}

ENDNOTES

ⁱ Pankaj Sharma, “e-Governance- The New Age Governance” (New Delhi: APH Publishing Corporation, 2012) p19.

ⁱⁱ Vanya Verma, Role of e-governance and digital India in empowering Indian citizens, i-pleaders.in, 2021

ⁱⁱⁱ Maria Manuela Cruz-Cunha, Handbook of Research on ICTs for Human-Centered Healthcare and Social Care Services (2 Volumes), 2013, IGI Global, Publisher of Timely Knowledge

^{iv} The Information Technology Act, 2000

^v Ibid

^{vi} Ibid

^{vii} <https://www.karnikaseth.com/electronic-governance-under-information-technology-act2000.html>

^{viii} Ibid

^{ix} Ibid

^x <https://www.legalserviceindia.com/legal/article-2672-e-governance.html>

^{xi} Ibid