

# **A Balancing Act: Human Rights and Criminalisation, Procedures & Law Enforcement**

***N. S. Nappinai***  
***Advocate***

***[nappinai@nappinai.com](mailto:nappinai@nappinai.com)***

***Founder – Cyber Saathi Foundation***

***[www.cybersaathi.org](http://www.cybersaathi.org)***

***& Author***

# Laws & Regulations – Brakes Enable Speed!



- Nappinai N. S. (2017): *Technology Laws Decoded*:
- ***“Technology may be propelling us into a “new century with no plan, no control, no brakes” and it may now very well be the time for “reprising control before we cross the “fail-safe point”***
- *(Draws on Thoreau from Joy, B. (2000). “Why the future doesn’t need us. Nanoethics”)*

# Liberty, Democracy & Human Rights

- UN as the Arbiter of Human Rights;
- Incorporating Human Rights covenants to ensure their protection on online domains;
- Identifying the expanding understanding of Human Rights – making it inclusive and representative;
- Balancing Human Rights with the needs of law enforcement & Governance;
- Balancing Human Rights *inter se* (Eg: security v. privacy debates);
- Expanding applicability – Corporates & Human Rights;
- Highlighting Duties – User duties;

# Crimes & Punishments

- Addressing territoriality concerns through soft laws;
- Delineating Crimes – against Individuals, Economy & Nation & structuring commensurate punishments;
- Laws as Deterrence rather than mere punitive mechanisms;
- Harmonizing criminal provisions – in nomenclature, structure and format;
- Using harmonization to assure victim remedies;
- Reality Checks – Ensuring Enforcement of the proposed provisions;

# Privacy & Procedures

- Harmonizing Procedures across jurisdictions – soft laws repairing broken windows in enforcement mechanisms;
- Procedures to address internal and international enforcement mechanisms;
- From search & seizure to surveillance – to be addressed to balance rights;
- Understanding and delineating existing provisions and its applicability for emerging technologies;
- Mediating privacy through technology tools;

# In The Name of Security

- Law Enforcement & its requirements – drawing Lakshman Rekhas (boundaries that cannot be breached) in the name of security;
- Enabling enforcement across jurisdictions;
- Identifying applicability of jurisdictional issues;
- Assuring proportionality;
- Checks and balances in surveillance;
- Role of International Agencies in ensuring an open, free, safe & Secure Internet;

# Technology Tools & Human Rights

- Use of technology mediated solutions in combating digital crimes;
- AI as a tool for active filtration of child sexual abuse content and violent imagery of women i.e., quarantining at the stage of upload – implications for free speech;
- Blockchain as a solution for financial crimes – transparency and implications for privacy;
- Responsibility of Corporates in assuring digital safety – be it social media, digital payments, gaming or Web 3.0, to name a few;
- Expanding the responsibility of Corporates to assure Human Rights;



# Thank you

**N S Nappinai**  
**Advocate, Supreme Court**  
**Founder – Cyber Saathi**  
**&**  
**Author**

nappinai@nappinai.com; nappinai@gmail.com;