

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR****Course: Information Technology Law
Semester- X (Batch: 2017-22)****End Semester Online Examination: May 2022****Date: 04th May, 2022****Duration: 8 hours****Max. Marks: 50****Instructions:**

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: 600 -700 words.

Marks

- Q.1 'A', is a software engineer working with Google. 'B', is Bank Manager, working with the Axis Bank. Both met at one conference in Hyderabad and shared their details with each other. They follow each other over different social media platforms such as Facebook, Instagram etc. During one of their conversations 'A' asks 'B' the process of opening the account in any financial institution/Bank. 'A' comes to know that a financial institution make a micro deposit when an account is opened to test the functionality of an account. The amounts deposited are in the range of Rs. 10/- to Rs. 50/-. Knowing this, 'A' opens 10,000 different accounts in different banks, to steal the micro-deposits. In order to cover his identity, he uses the data that he has collected by breaking into 'B's' official account and copying the sensitive personal information of different customers. When the deposits took place, 'A' diverted the funds into his own bank accounts or onto prepaid debit cards without the authorization or knowledge of its victims. This resulted in 'A' obtaining tens of thousands of rupees which he used for his personal expenses. Almost 10-12 financial institutions/banks in parallel notified the law enforcement agency when they detected the fraud. (10)

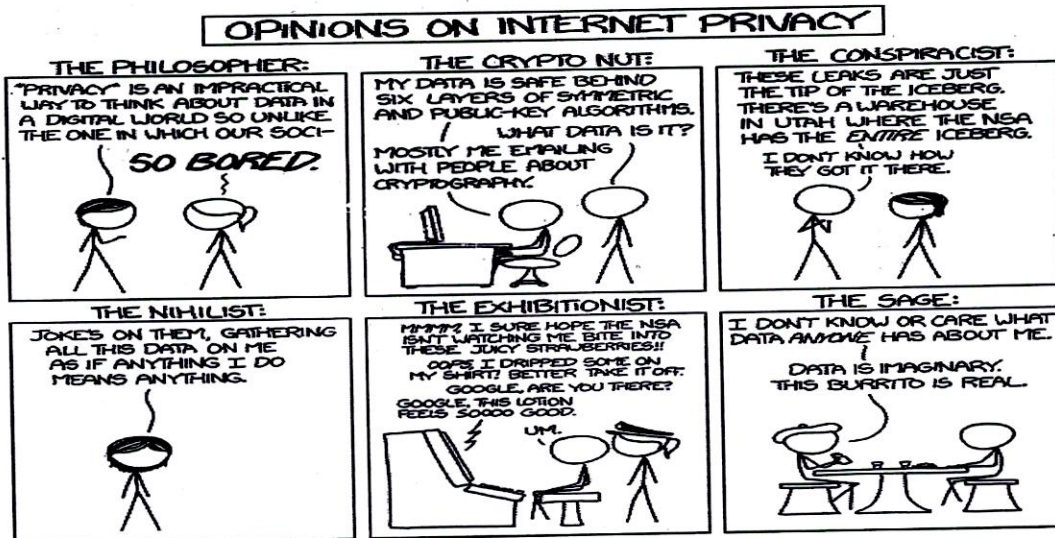
Discuss with appropriate legal provisions and case laws:

1. Crime/s are committed by 'A'.
2. Tools used by 'A' to commit the crime.
3. Charges that can be levelled against 'A' and punishment for the same.

- Q.2. The advent of the internet has required courts to frame the guidelines for 'when personal jurisdiction can be based on a defendant's operation of a website'. Courts have sought to articulate the standard that embodies both traditional rules and accounts for new factual scenarios created by the Internet. Under the traditional jurisdictional analysis, discuss in detail, whether the operation of a commercially interactive website accessible in the forum state is sufficient to support specific personal jurisdiction? OR whether there must be additional evidence that the defendant has 'purposefully availed' itself of the privilege of engaging in activity in that state. Support your answer with decided case laws. (10)

Q.3

(10)



*Source: xkcd.

Internet is now part of almost every aspect of our lives. What happens to us on the internet that impact our autonomy, our freedom to act, our freedom to decide for ourselves how we live, our lives and not just our autonomy online but our autonomy in the 'real', offline world. Part of this impact arises from the way that our privacy is infringed upon, directly and indirectly, intentionally and unintentionally, by a wide variety of people, companies and government agencies. People are increasingly becoming aware of these problems: internet privacy issues, once of interest to only those loosely described as geeks and nerds, are now headline news all around the world. Internet privacy not only matters, but it is beginning to be seen to matter.

It has been argued that privacy is 'dead', that privacy is 'outdated', even that privacy is in itself damaging and that we should embrace transparency and openness in its place. These arguments are not trivial or simplistic, and there is evidence to support all of them, but ultimately, they are fundamentally flawed. If we want autonomy, if we want freedom, we need privacy to protect it. We need privacy rights.

With this background, discuss the following: -

1. What in your opinion reflect the rights that people believe they have and people need to have in order to function freely on the internet?
2. What these rights are, why they are appropriate and how they could help people and help shape the internet into a more privacy friendly in the future?

Support your answer by discussing the legal framework both at national and international level.

- Q.4 A popular social media influencer Q, organises a rally regarding a sensitive political issue through a social media platform 'ConnectOnline'. The rally is intended to be a peaceful protest. At the rally, there is a screen on which content is being projected. While the rally was initially peaceful, some inflammatory content hosted on ConnectOnline displayed on the screen. A small breakaway group is incited by this content and proceeds to turn violent and cause damage to public property, including pelting stones and burning (2+4+4=10)

vehicles. Multiple users post images and videos from this rally on various social media platforms, including ConnectOnline.

- a) Is ConnectOnline liable for the inflammatory content being circulated on its platform that incited the group to violence?
- b) X and Y are two individuals who attended the rally, and claim that they did not engage in any illegal or violent activity. Another social media influencer Z posted pictures from the rally on a social media platform 'Social247' which contained the faces of X and Y and were taken without X and Y's knowledge. However, X and Y were identified through this photo and are now being investigated and questioned by the police in connection with the violent incidents. Do they have any course of action against:
 - i) user Z who posted the photo; and
 - ii) the platform Social247 from which the images were accessed?
- c) Subsequent to separate written orders from the Indian government and State police forces directing them to do so, both ConnectOnline and Social247 disable the accounts of users who shared content from the rally. Not all users posted content which was inflammatory or hate mongering and not all users attended the rally themselves. Some of the users whose accounts were suspended are noted journalists and free speech activists who now claim that the suspension is illegal.
 - i) Do the government and the State police force have the authority to direct the social media platforms to disable the accounts?
 - ii) Are the orders constitutional in light of the provisions of S. 69A of the IT Act, 2000 and the Freedom of Speech and Expression?

Q.5 Here are four points observed by the SC in one of its landmark verdicts:

(10)

1. Describing liberty of thought and expression as "cardinal", a bench of Justice J. Chelameswar and Justice R.F. Nariman said, "The public's right to know is directly affected by section 66A of the Information Technology Act."
2. Elaborating the grounds for holding the provision "unconstitutional", the court said terms like "annoying", "inconvenient" and "grossly offensive", used in the provision, are vague as it is difficult for the law enforcement agency and the offender to know the ingredients of the offence.
3. "When judicially trained minds can reach on different conclusions" while going through the same content, then how is it possible for law enforcement agency and others to decide as to what is offensive and what is grossly offensive, the bench said, adding, "What may be offensive to a person may not be offensive to the other."
4. "Governments come and go but section 66A will remain forever", the bench said, adding the present government cannot give an undertaking about its successor that they will not abuse the same.

Discuss the legal debate around section 66A of the Information Technology Act by citing relevant case laws and the judicial response to such cases.
