



# 1<sup>ST</sup> INTERNATIONAL CYBER LAW MOOT COURT COMPETITION, 2021

9<sup>TH</sup> – 12<sup>TH</sup> DECEMBER, 2021

IN ASSOCIATION WITH



KNOWLEDGE PARTNER



## MOOT PROPOSITION

- I. The Republic of Cyber Pluto is a sovereign country, having its own sovereign government. It is governed by its Constitution adopted in the year 1985 and its laws prevailing for the time being in force. The Constitution and laws prevailing for the time being in force of Cyber Pluto are based exactly on the Constitution of India and laws prevailing for the time being in force, in the Republic of India respectively.
  
- II. The Government of the Republic of Cyber Pluto has in place its Cyber Legal Act of 2000. The said cyber legal framework has been developed exactly on the lines of the UNCITRAL Model Law on Electronic Commerce of the United Nations which was adopted by the General Assembly of the United Nations in end January 1997. The said law has been in place for the purposes of promoting electronic commerce transactions since the year 2000. The said law has provided the basis for the growth of electronic commerce and the digital ecosystem in the country.
  
- III. As a result of the said law, the digital economy of the Republic of Cyber Pluto has been growing at a remarkable pace. The next general elections of the Republic of Cyber Pluto were scheduled on 30/06/2020. Meanwhile in the beginning of 2020, COVID 19 hit the Republic of Cyber Pluto in a very severe manner. The said public health emergency had a daily count of more than 200,000 new cases of COVID-19 being reported from the country. The entire effort of the government of the Republic of Cyber Pluto was aimed at fighting the pandemic. The Election Commission of the Republic of Cyber Pluto announced that it would not be possible to hold the general elections on 30th of June 2020 because of the pandemic. While the said announcement was supported by members of the general population, three opposition parties, who were not in power, openly criticized and opposed the said announcement.
  
- IV. Thereafter, the said opposition parties colluded with some military generals and with the help of the Army of the Republic of Cyber Pluto, they were able to

overthrow the existing government out of power. The said three opposition parties backed by the military, seized power in and started governing the said Republic of Cyber Pluto. This move was met with lot of protests by members of the general public. In order to quell the said protests, the new government of the Republic of Cyber Pluto suspended all Internet telecommunications and facilities and imposed a curfew on the ground of the same being necessary to fight the pandemic. However, most of the people saw the said curfew as more of an exercise by the current government to keep holding on to power rather than for fighting the pandemic.

V. Meanwhile, the new government of the Republic of Cyber Pluto suspended the Cyber Legal Act, 2000 and instead notified a new Cyber Security Law. The said Cyber Security Law was passed with the view to protect the sovereign interests as also the cyber security of the Republic of Cyber Pluto. The said law has been inspired by some of the salient features of some existing cyber security legal frameworks in other countries. The said law came up with sweeping powers given to the Government. Some of the important provisions of the new Cyber Security Law are as under:-

- i) All online service providers are mandated to store personal information of each user, including their username, IP address, telephone number, and ID number, of users locally in their computer resources in the Republic of Cyber Pluto.
- ii) All online service providers are mandated to grant free access to the government of the Republic of Cyber Pluto, to any or all of the information stored by them regarding their users on request.
- iii) The government of the Republic of Cyber Pluto reserves the power to order internet service providers to “prevent, remove, destroy, and suspend” content that “triggers hatred, destroys unity and peace, content that is identified as fake news and pornographic materials.”
- iv) The government requires servers used by tech companies operating in Republic of Cyber Pluto to be hosted within the country.

- v) If any company fails to comply with the said law, its top management could face up to five years in prison and a fine of up to USD 20,000 per contravention.
- vi) The said law provides for ongoing surveillance and elimination of freedom of speech in the online ecosystem. The law has further put all communications in the Republic of Cyber Pluto under the control of the military.
- vii) All human rights have been suspended.
- viii) Any action leading to questioning any act of existing government or the military would lead to life imprisonment and heavy fines.
- ix) All foreign companies, who are operating in the Republic of Cyber Pluto would be now required to comply with the new law and would be subject to strict surveillance of all acts that they do.
- x) Further all phone, internet and communication companies were mandated by the new Cyber Security Law to collaborate with the military authorities in terms of providing all information asked for and provide all facilities, technical or otherwise, for overall complete surveillance of their users.

VI. The Government of the Republic of Cyber Pluto also came up with a detailed Cybercrime Law. The said law came into effect from 1st of March, 2021.

VII. Under the said law, any written or verbal statement made against any existing government, regime, authorities and law has been made a cybercrime. The act of any person commenting on any laws, legal provisions or policies of the Republic of Cyber Pluto is also made a crime. Both these cybercrimes are made punishable with imprisonment for a term, which may extend to 7 years and fine which may extend to USD 10,000/-.

VIII. The said law has provided for extraterritorial applicability of its provisions. The said law has stipulated that its provisions shall be applicable to offences committed both within and outside the Republic of Cyber Pluto.

IX. It also has specific provisions which state that any person, who is located outside the Republic of Cyber Pluto and who criticizes the new government or the

military actions and policies of the Republic of Cyber Pluto, would be subject to criminal prosecution under the new law.

- X. Further provisions of the new Cybercrime law have provided for strict speech controls on Internet of things.
- XI. The object of the said law is to stifle any kind of dissent in the Republic of Cyber Pluto against the present ruling government.
- XII. One of the key objectives of the said legislation is to stop the free flow of information as also all information pertaining to repression of fundamental rights and liberties of the citizens of Republic of Cyber Pluto.
- XIII. The said law also gives authorities sweeping powers to block any content which according to their opinion, is against the sovereignty, security and integrity of the Republic of Cyber Pluto, friendly relations with foreign states, public order, decency or morality or to prevent the commission of any cognizable offence.
- XIV. The said law also provides for sweeping powers to authorities to access all kinds of user data, blocking any kinds of websites, mobile applications and web platforms, ordering Internet shutdowns in the interests of the nation as also for public order.
- XV. Telecom and Internet service providers are further mandated to provide all data pertaining to incriminating activities on their networks and platforms happening on a daily basis to the government authorities.
- XVI. The legislation also has the provisions to enable the authorities to ban social networks and also to suppress the freedom of expression online, by all means under their power.
- XVII. The said law has further provided that all local services which are being offered through cyber space or using internet, can be temporarily suspended by the authorities "for public sake".

- XVIII. Further, the said law also has provisions empowering the authorities to imprison any critic or official or company' employee or representative, who is not complying with the provisions of the new law.
- XIX. The new law also provides for provisions which enable authorities to arrest anyone, who accesses any blocked website(s) including blocked social media websites via Virtual Private Network applications.
- XX. Non compliance to the said law has been made strict offence made punishable with 7 years imprisonment and fine.
- XXI. Further, the law has also provided that the licenses of existing service providers could be temporarily suspended/revoked, in the event of non compliance of law apart from exposing the non complying legal entities to fine and imprisonment.
- XXII. The law has also provided for detailed provisions that have to be complied with by the online service providers and they are directed to block or remove a wide range of information which could be directed by the government authorities. This information could include misinformation and disinformation, as also information causing hate, disrupting the unity, stabilization and peace of the Republic of Cyber Pluto as also statements made against any existing law.
- XXIII. The law further has provided that it is up to the subjective discretion of the governmental authorities to determine as to what information could be deemed to be misinformation or disinformation or information causing hate, disrupting the unity, stabilization in peace or tantamount to any statement against any existing law.
- XXIV. Any person who publishes or transmits or causes to be published or transmitted on/to a computer resource or communication device, any misinformation or disinformation, could face up to 5 years imprisonment under the new law if there were found if the said acts were done with the intention to cause public panic, loss of trust or social division.

- XXV. The said new law has also stipulated that any person who creates a fake account, fake website or fake portal, with the intention of causing public panic, loss of trust or social division also committed cybercrimes is punishable with 5 years imprisonment and a fine of US\$ 10,000.
- XXVI. Any activity which could be seen as a criticism, critique or opposition of the existing new government or the military authorities of the Republic of Cyber Pluto, would be deemed under the new law to be acts, which are intended to cause loss of trust or social division and are liable to be punished with imprisonment for a term, which may extend to 7 years and fine upto USD 10,000/- per contravention.
- XXVII. Further the said law has empowered the governmental authorities to order various levels of the Internet censorship and also information censorship in the Republic of Cyber Pluto.
- XXVIII. The said new legislation has sought to curb online anonymity.
- XXIX. The said legislation also had provisions which stipulate that all persons are prohibited from accessing illegal or unauthorized online material.
- XXX. The new law also provides the military authorities power over all service providers in the Republic of Cyber Pluto to conduct comprehensive interceptions on various grounds including on public order, investigating cybercrime and safeguarding public life, property and public welfare.
- XXXI. The new legislation has also provided for the new "license raj" as all online service providers and, all data repositories and data intermediaries are required to apply for a fresh license to the military authorities within 8 weeks from the implementation of the new law . In case the license is not granted, the said decision of the military authorities would be final and the same cannot be challenged in any court of law.

- XXXII. The aim of the new legislation is to make the nation's data, communications as also the underlying infrastructure more cyber secure.
- XXXIII. Section 96 of the new Cyber Crime Law specifically stipulates that if any person published, transmitted or caused to be published or transmitted, by means of a computer resource or communication device, any information that is grossly offensive or has menacing character, the same is a cyber crime punishable with 7 years imprisonment and a fine up to \$ 10,000/- per contravention. Further, the said provision also made an offence when someone sent, by means of a computer resource or communication device, any information for the purposes of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, or ill will, persistently by making use of such computer resource or communication device. The said offence is punishable under section 96 of the said new cyber security law punishable with 7 years imprisonment and a fine of US\$ 10,000/- per contravention.
- XXXIV. The new Cyber Crime law also provided for the offence of cyber terrorism under section 99 thereof. The said provision has made cyber terrorism as an offence which is made punishable with life imprisonment and fine of USD 50,000/-. Under the said provision, it has been stipulated that if any person, with the intent to threaten the unity, integrity, security or sovereignty of the Republic of Cyber Pluto or to strike terror in the heart of the people or any section of the people by denying or causing the denial of access to any person authorized to access a computer resource; or attempting to penetrate or access a computer resource without authorization or exceeding authorized access; or introducing or causing to introduce any information against the government or military authorities of the Republic of Cyber Pluto and/or any other computer contaminant and by means of such conduct, causes or is likely to cause death or injuries to persons or damage or destruction to the national property or national interests of the sovereignty of the Republic of Cyber Pluto or disrupts or knowing that is likely to damage or disrupt or not likely to cause damage or disruption of supplies or services essential to the life of the community or adversely affecting the critical information infrastructure, the said person shall be deemed to have committed the offence of cyber terrorism.



- XXXV. Critics of the said law have criticized the law on the ground that it would actually be consolidating the power of the new government and the military authorities to conduct extensive censorship, pervasive surveillance, curtailing online freedoms and online expressions and also digital liberties as also cutting off access to essential information and services.
- XXXVI. On 1st July, 2021, the government also passed a new law called the Republic of Cyber Pluto Anti-Cryptocurrency law which bans all use of crypto currencies in the Republic of Cyber Pluto. The said law has banned the use of all crypto currencies including bitcoins.
- XXXVII. Meanwhile international pressure started growing against the new government of Republic of Cyber Pluto, which toppled the existing democratic processes of the said nation. Consequently, cyber hacker groups engaged on a massive cyber attack targeted at critical information infrastructures of the Republic of Cyber Pluto including banking networks, electricity grids and the nuclear power grids of Republic of Cyber Pluto in order to teach the said nation and its government a lesson.
- XXXVIII. There were massive intrusions and cyber security breaches in the Critical Information Infrastructure, banking networks and nuclear facilities of Republic of Cyber Pluto as a result of which the said systems became compromised. Numerous computer contaminants including malware and ransomware were inserted in the Critical Information Infrastructures of the Republic of Cyber Pluto. These activities were all ultimately aimed to destabilize the nation.
- XXXIX. As a result, the Republic of Cyber Pluto suspended the Constitution of the Republic of Cyber Pluto, all human rights of the citizens of the Republic of Cyber Pluto were suspended. Further, the rights to freedom of speech and expression, data protection and privacy of the individuals, in cyberspace and in the actual world, were also suspended under the aforesaid laws. Meanwhile, the government of Republic of Cyber Pluto banned popular social media applications.

- XL. However, the judicial network and framework was left intact. As a result, Supreme Court and all other courts in the Republic of Cyber Pluto continue to operate.
- XLI. All intermediaries and data repositories who were responsible for managing user data, were directed to share all user data with the governmental authorities. As a result of the powers under the said law, the authorities directed service providers to block Facebook, Instagram & Twitter and LinkedIn in the Republic of Cyber Pluto.
- XLII. The said legislation also provided unlimited powers to the governmental authorities to access any kind of user data, including user data of legitimate users, who the government suspected could be involved at a future point of time in antinational activities against the Republic of Cyber Pluto. Further, the law mandated online service providers to keep a broad range of user data including the person's name, IP address, phone Numbers, ID card Number, physical address upto 7 years at a place to be designated by the government within the Republic of Cyber Pluto.
- XLIII. On 10/07/2021, the authorities arrested John Trawalgo being a citizen of the Republic of Cyber Pluto under the new Cyber Security Law, Cyber Crime Law and called the Republic of Cyber Pluto Anti-Cryptocurrency law.
- XLIV. The charges levied against John Trawalgo were that he violated the Cyber Security Law by unauthorizedly accessing the banned social media websites like Twitter and Facebook Instagram and LinkedIn, using Virtual Private Networks. It was further charged that the said John Trawalgo had been galvanizing support for overthrowing the existing new government of the Republic of Cyber Pluto. It was further stated that Trawalgo, along with other international stakeholders, had created a toolkit which was available as an open source document on social media. The said toolkit was a collection of all online tools in the digital ecosystem, which could be utilized by international and national stakeholders for purposes of destabilizing the new government of the Republic of Cyber Pluto and its military authorities.

- XLV. In this regard, the authorities had directed XYZ telecom service provider operating in the Republic of Cyber Pluto to provide all details pertaining to the activities of Mr. John Trawalgo. The said details were duly provided under duress by XYZ to the authorities who had access to the relevant logs. On the basis of the said logs, criminal charges have been prepared and levied against Mr. John Tarago. It has also been stated that Mr. John Trawalgo was doing activities which are prejudicial to the sovereignty, security and integrity of the Republic of Cyber Pluto and is also detrimentally impacting its friendly relations with other nations and are prejudicially impacting public order, decency or morality. Mr. John Trawalgo has further charged with offence of cyber terrorism as his activities were aimed at creating terror in the hearts of the people.
- XLVI. The charge sheet further states that John Trawalgo has played an important role in the publication and transmission of the toolkit, aimed at destabilizing the government and military authorities of the Republic of Cyber Pluto. The charge sheet further states that a perusal of the seized computers, mobiles and the computer logs of John Trawalgo shows that he has been collecting bitcoins in donations, so that the said bitcoins could be used to pay for cybercrime as a service for conducting various ransomware attacks on different critical information infrastructures of the Republic of Cyber Pluto, as also for funding anti national activities.
- XLVII. The charge sheet further states that John Trawalgo has his own blog at [www.johntrawalgo2345.com](http://www.johntrawalgo2345.com), wherein he has written various blog posts containing incriminating electronic content that triggers hatred, destroys unity and peace, content that is identified as fake news and pornographic materials. The charge sheet further states that John Trawalgo has a hand behind the various ransomware attacks on the critical information infrastructures of the Republic of Cyber Pluto.
- XLVIII. Mr. Trawalgo is charged with the offence under various offences under the new Cyber Security Law, Cyber Crime Law and called the Republic of Cyber Pluto Anti- Cryptocurrency law.

- XLIX. Consequently, a charge sheet was filed against Mr. John Trawalgo and presented to the relevant court.
- L. Mr. John Trawalgo got convicted by the Sessions Court and he thereafter appealed against the Session Court's conviction order before the Hon'ble High Court. The Hon'ble High Court dismissed the said appeal and upheld the conviction of the Sessions Court.
- LI. Mr. John Trawalgo preferred Special Leave to Appeal before the Hon'ble Supreme Court of the Republic of Cyber Pluto, challenging his conviction and the charges made against him as also challenging the constitutional validity of the new Cyber Security Law, Cyber Crime Law and the Republic of Cyber Pluto's Anti-Cryptocurrency law.
- LII. The Supreme Court of the Republic of Cyber Pluto is the apex court of the country and works exactly on the same lines as the Supreme Court of India, having same powers as have been bestowed on the Supreme Court of India by the Constitution of India.
- LIII. He argues that all the three laws are themselves illegal and violative of the Constitution of Republic of Cyber Pluto. He further argues that the suspension of the Constitution of the Republic of Cyber Pluto is itself illegal and not permissible under law.
- LIV. John Trawalgo further argues that the said three new laws are ultra vires and hence no prosecution and conviction against him can be sustainable in the eyes of law interlay amongst others on the grounds that the said three laws are in complete contravention of the constitutional principles enshrined in the Constitution of the Republic of Cyber Pluto. The Supreme Court issues Notice in his SLP to the respondent State of Republic of Cyber Pluto. The Government of the Republic of the Pluto strongly defends the constitutionality of the provisions of the three new laws and further defends the suspension of the Constitution and the imposition of appropriating criminal charges against Trawalgo.

- LV. John Trawalgo argues that his actions are those of a law abiding citizen, who is entitled to his own freedom of speech and expression and the right to access the Internet. He further argues that the government and the military authorities do not have the legal rights to suspend the right to access the internet. He argues that the right to access the Internet is an integral part of the fundamental of life and that the said act cannot be deprived by means of a law implemented by the new government of the Republic of Cyber Pluto. It is further argued that the said three new laws cannot be a basis for depriving access to the basic human rights and fundamental rights of the citizens of Republic of Cyber Pluto.
- LVI. It is pertinent to note that the Republic of Cyber Pluto is not a signatory of the Budapest convention of Council of Europe. XYZ service provider has also raised written objections to the governmental and military authorities of the Republic of Cyber Pluto about the excessive ambit of the provisions of the new three laws and that the said three laws are in gross violation of principles of applicable international law as also the principles of the Budapest convention or the Convention on Cybercrime of the Council of Europe.
- LVII. You are requested to prepare detailed written submissions/ memorials on behalf of the side of the petitioner supporting the cause of the petitioner and also from the side of the respondent, being State of Republic of Cyber Pluto arguing that the criminal charges and actions taken under three new laws of Republic of Cyber Pluto are legally correct and valid and do not require any interference by the Supreme Court.