

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIAL TEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

A STUDY ON LEGAL CHALLENGES FACED IN CYBER INVESTIGATION AND PROSECUTION, ACCESS TO JUSTICE

AUTHORED BY - SHREYANK KUMAR.B

B.COM.LLB(Hons) 1st Year

Saveetha School Of Law

Saveetha Institute Of Medical And Technical Sciences (Simats), Chennai 600077

Abstract:

Cybercrimes have become a prevalent threat in the digital age, presenting unique challenges to the legal system. This study focuses on the legal challenges faced in cyber investigation and prosecution, with a special emphasis on access to justice in Chennai, India. Chennai, as a major metropolitan city, is not immune to the growing menace of cybercrimes. However, the legal framework and resources available for addressing these crimes are often inadequate, leading to challenges in effectively investigating and prosecuting cyber offenders. One of the primary challenges is the lack of specialized cyber investigation units within law enforcement agencies. The existing units are often understaffed and undertrained, resulting in delays and inefficiencies in handling cybercrime cases. Moreover, the rapid evolution of technology poses a constant challenge for investigators to keep pace with new trends and techniques used by cybercriminals. Another significant challenge is the complexity of cyber laws and procedures, which can be daunting for both law enforcement agencies and the judiciary. The lack of clarity in legal provisions and the absence of standardized procedures often lead to confusion and delays in the investigation and prosecution process. This study contributes to the existing literature by providing insights into the specific legal challenges faced in cyber investigation and prosecution in Chennai, and by offering practical recommendations to address these challenges. These include enhancing legal capacity through specialized training programs and workshops, improving coordination between law enforcement agencies and legal professionals, and raising public awareness about cyber laws and available legal remedies.

Keywords: cybercrime, prevalent, standardized, investigation, pursuing, secure conviction and procedures.

INTRODUCTION:

Cybercrime is a growing concern worldwide, including in Chennai, India. As technology advances, so do the methods used by criminals to commit cybercrimes, such as hacking, online fraud, and data theft. These crimes pose significant challenges to law enforcement and the legal system, requiring specialized skills and knowledge to investigate and prosecute effectively. In Chennai, like in many other cities, the legal system faces specific challenges in addressing cybercrimes. These challenges include the complex nature of cybercrimes, the rapid pace of technological advancements, and the need for specialized training and resources for law enforcement and legal professionals. One of the key challenges in cyber investigation and prosecution is the identification and attribution of cybercrimes. Unlike traditional crimes, which often leave physical evidence, cybercrimes can be committed anonymously and across borders, making it difficult to trace the perpetrators. This challenge is further compounded by the use of sophisticated tools and techniques by cybercriminals to hide their identities and locations. Another challenge is the gathering and preservation of digital evidence. Digital evidence, such as email records, chat logs, and metadata, is often fragile and can be easily altered or deleted. Law enforcement and legal professionals need specialized training and tools to properly collect, preserve, and analyze digital evidence to ensure its integrity and admissibility in court. Access to justice is another critical issue in cyber investigation and prosecution. In Chennai, as in many other cities, there is a lack of awareness among the general public about cybercrimes and their legal implications.

Objectives:

- **Identify Legal Challenges:** To identify and analyze the specific legal challenges faced in cyber investigation and prosecution in Chennai, including issues related to the legal framework, procedural challenges, and evidentiary issues.
- **Examine Access to Justice:** To examine the access to justice for victims of cybercrimes in Chennai, including the availability of legal remedies, support services, and redress mechanisms.

Review of Literature:

Prakash Kanive, 2024, This research paper delves into the critical examination of women's access to justice in India through the lens of legal aid services. The study is motivated by the imperative to address the pervasive gender disparities and barriers faced by women in seeking

and obtaining justice within the legal system. With a focus on India, a country characterized by its diverse socio-cultural landscape, this research investigates the extent to which legal aid services serve as an effective means to bridge the access to justice gap for women. The paper employs a comprehensive review methodology, analyzing existing literature, legal frameworks, and case studies to identify patterns, challenges, and potential solutions in the realm of women's access to justice. The research explores the socioeconomic, cultural, and institutional factors that impact women's ability to avail themselves of legal aid services. Additionally, it critically evaluates the responsiveness of the legal aid system to the unique needs and vulnerabilities of women, considering the intersectionality of factors such as caste, class, and regional disparities.

Sadikov ruslan, 2023, This article examines the challenges and opportunities faced by legal professionals in the digital age, focusing on the impact of technological innovations, cybersecurity and data protection issues, and ethical considerations in legal practice. The rapid evolution of technology has transformed the legal landscape, with artificial intelligence and machine learning streamlining legal services, and block-chain and smart contracts reshaping the way legal professionals conduct their work. However, these advancements also raise concerns surrounding data privacy, security, and ethical obligations. Legal professionals must navigate complex data protection regulations, such as the GDPR and the California Consumer Privacy Act, to ensure compliance and protect their clients' data. The article discusses the importance of data privacy and security in legal practice and the measures that legal professionals need to take to comply with these regulations. Furthermore, the article analyzes the balance between technology adoption and ethical obligations in the legal profession, exploring the challenges of maintaining the attorney-client relationship and ensuring access to justice in a digital world.

A.Nazarko, 2023, This article navigates the complexities of domestic prosecution of war crimes in Ukraine following Russia's invasion in February 2022. The unprecedented scale of atrocities has presented significant challenges to domestic prosecutors and judges in addressing the multifaceted legal landscape. The research aims to provide a nuanced understanding of various actors' roles, responsibilities, and investigations within Ukraine's national legal and judicial system. The article offers a comprehensive overview of the infrastructure of domestic criminal prosecution, emphasising the pivotal role played by the national legal and judicial system. It explores the accountability, methods, and investigations associated with war crimes and outlines the general challenges that Ukraine's domestic judicial prosecution system faces.

The research unravels the intricacies of Ukraine's domestic criminal justice system and illustrates its multifaceted responsibilities and functions. By highlighting the critical role of the national legal and judicial system, the article identifies challenges that underscore the complexity of prosecuting war crimes domestically. The analysis reveals crucial aspects of prosecuting war crimes in Ukraine. Hurdles in navigating the legal terrain, collecting and preserving evidence, securing credible witnesses, and overcoming jurisdictional barriers underscore the need for bolstering investigative capacities and fostering international cooperation.

Pradeep kumar Pandey, 2023, In general, the State has taken responsibility to protect the person and property of every individual. If any person commits any offence, it is not considered only against the respective victim rather against the State also. In such scenario, the State and its machineries, particularly the Executive and the Judiciary, are under legal obligations to quickly come forward to decide the innocence or guilt of an accused. The process and procedure of criminal justice system may vary as per existing legal system but it is correct that the State, in its sovereign power, has authority to institute and withdraw the criminal proceedings. The Indian criminal justice system is based on delivering justice to the victim as well as to the accused also. It has adopted the system of fair trial in which the prosecution and defence both parties have been given proper opportunity to bring the correct facts of the matter before the court. To deliver effective justice to the parties and safeguard the societal interests, the system of public prosecution in case of cognizable offence has been accepted and introduced.

Chang -on Lee, 2022, Investigation should not have any meaning on its own, apart from the prosecuting authority's decision. This is because these judgments can not be properly made unless the legal and normative viewpoints of the prosecuting authority are applied. There is no purpose of investigation itself, and there should not be because there is no reasonable grounds in terms of protecting constitutional rights and human rights that the independence of the investigative authority should be guaranteed. Therefore, if the purpose of the investigation is to evaluate the possibility of proving guilt and to decide whether to initiate a prosecution, and the validity of the decision is ultimately evaluated by the court's decision or judgment through the trial process. the authority and responsibility of the investigation should belong to the prosecuting authority according to the principle of purposiveness and the principle of professionalism. If the organizational structure and authority are set so that the incentives and decision-making of the members in the organization are contradictory to each other in the areas

with the same purpose and function, serious disharmony and burden will occur within the system. Whether the legal nature of the investigation of a specific case is judicial or administrative depends on the philosophical and institutional perspectives with which how important and realistically achievable the culture of the relevant legal system regards the fairness of the investigation procedure. The ideal investigative agency for which our Constitution and the Criminal Procedure Act aims should only discover the actual truth and implement judicial justice, while maintaining objectivity and neutrality in criminal procedures.

Shyam Lal, 2023, The criminal justice system plays a crucial role in upholding social order and harmony, encompassing the characterization of offenses, the protocols for addressing crime and criminals, the appropriate punishments for offenders, and the safeguarding of victims within a society. In contemporary society, this system comprises three key institutions: the police, the prosecution, and the judiciary. Regrettably, in Pakistan, the criminal justice system has been severely impacted by flaws, exhibiting numerous idiosyncrasies and vulnerabilities. In the Haider Ali Case (2015 SCMR 1724), the Supreme Court of Pakistan pointed out that approximately 65% of cases are resolved without any convictions. Even if convictions secured in trial courts, offenders are often released during the appeal process, primarily due to inadequate investigations and a lack of admissible evidence. However, it is important to acknowledge another crucial component of the criminal justice system, namely the prosecution, which has been identified as weak and ineffective in administering justice, particularly in Pakistan. Through qualitative data collection from the relevant population, the study's findings suggest that prosecutors in Pakistan perceive themselves as vulnerable, caught between two powerful institutions: the police and the judiciary.

Samridhi Sharma, 2024, The Internet is often described as a wonderful tool, an engaging place and a liberating experience but for whom? There is the potential for many of us to become victims to the growing pool of criminals who skilfully navigate the Net. Cyberspace often known as Web is an environment that is intangible and dynamic. This paper argues that Cyber Crime or e-crime presents a new form of business and Hi-tech Criminals. This paper explores an overview of Cyber Crimes, the cyber-crime perpetrators and their motivations also I want to discuss in detail of different cyber crimes, and unique challenges and response issue which may be encountered during the prevention, detection and investigation and also outlined the different section of IT Act 2000 of India also proposed new provision in IT Act 2000. With the rapid development of information technology, people more and more dependent on cyberspace, cyberspace connects billions of users all over the world. It offers great convenience to people;

but it also provides a lot of opportunities for criminals to commit crime using the new information tools.

Prateeksha batman, 2023, The aim of this research is to study cyber crimes in India with reference to banking sector of India. This research topic is chosen for the premise that Information Technology has gained attention of the common people, as still there remains a considerable challenges and fear among common people of India regarding the frauds and crimes. The research has been conducted to know the present scenario of the cyber crime in India with special reference to Banking sector, to know the various types of financial frauds in Banking sector and the various statistics regarding the trend financial frauds in India especially in Scheduled Commercial Banks in India. An understanding of the cyber crime will help the common people while dealing in electronic transactions. Thus, there is the need to carefully understand cyber crimes in respect of financial frauds and its trends in the recent years among the banks which will be directed towards finding the categories of financial frauds, amount involved and amount recovered by in Scheduled Commercial Banks in India.

A.V. Voitsikhovskiy, 2023, The article is one of the first attempts to provide a comprehensive study of the theoretical and practical foundations for the scientific idea of establishing a Special International Tribunal on investigation of the russian aggression against Ukraine and determining its place in the system of international criminal justice. The problematic issues of establishing a Special International Tribunal to investigate the russian aggression against Ukraine have been studied. The organisational and legal efforts of the Council of Europe, NATO, OSCE and the EU in creating an international mechanism to bring the top political and military leadership of russia to justice for its aggression against Ukraine have been revealed. The attention is focused on the international legal analysis of the models for the future special tribunal, as well as its jurisdiction. The main challenges for the international community in establishing a special international tribunal to investigate the russian aggression against Ukraine are identified. It has been noted that the establishment of a Special International Tribunal to investigate the crime of russian aggression against Ukraine should become an effective mechanism for investigating and documenting violations of International Human Rights Law and International Humanitarian Law committed by russia on the territory of Ukraine with the identification of those responsible; compensation for victims and restoration of justice for the Ukrainian people from russia's full-scale armed attack; deterrence of aggressive and destabilising actions of the russian federation, which violates the sovereignty and territorial integrity of Ukraine.

J.Christopher upton, 2021, In recent decades, the Taiwan judiciary has taken steps toward securing Indigenous people's access to the justice system. These measures reflect a vision of access to justice framed narrowly on national courts and legal actors through the provision of free legal counsel, courtroom interpreters, and special court units dedicated to Indigenous people. These measures embrace a thin understanding of access to justice that overlooks important hurdles to both seeking and providing such access to Indigenous people. This article considers some of the key challenges of Indigenous people's access to justice in Taiwan and the role of the judiciary in both perpetuating and addressing those challenges. It argues for a thicker understanding of access to justice that addresses the circumstances of contemporary Indigenous life and confronts the entrenchment of colonialism in the state framework. Field research in eastern Taiwan shows how aspects of normativity, spatiality, economics, order, language, and institutions, ensconced in a legal framework that reinforces an unequal power relationship between the state and Indigenous people, have shaped the character of access to the justice system and, in turn, continue to operate as obstacles to meaningful access to justice for Taiwan's Indigenous people.

Olukunle oladipupo Amoo, 2024, This paper provides a glimpse into the complex and evolving legal terrain surrounding cybercrime and its profound impact on the criminal justice system. In the digital era, the perpetration of cybercrimes poses unprecedented challenges, necessitating a comprehensive understanding of the contemporary legal issues that law enforcement, policymakers, and the judiciary confront. The paper delves into the multifaceted aspects of cybercrime, examining challenges such as jurisdictional complexities, technological advancements outpacing legal frameworks, and the global nature of cyber threats. The analysis encompasses an exploration of the difficulties in attribution, investigation, and prosecution of cybercriminals operating across borders, emphasizing the need for enhanced international collaboration and harmonization of legal standards. Moreover, the paper sheds light on the intricacies of defining and categorizing cybercrimes, considering the dynamic nature of cyber threats that continually adapt to exploit vulnerabilities in the digital landscape. It underscores the urgency for legal frameworks to keep pace with emerging technologies, ensuring that the criminal justice system remains agile and effective in combating cyber threats.

Sapam Dilipkumar Singh, 2023, Attempt to unfold the secrets of nature marks the progress of human civilization. With the extreme advancement of science and technology particularly in the field of information science, man can communicate and act in the virtual space. In the 21st century, it is almost impossible to live in this world without depending on cyber space as

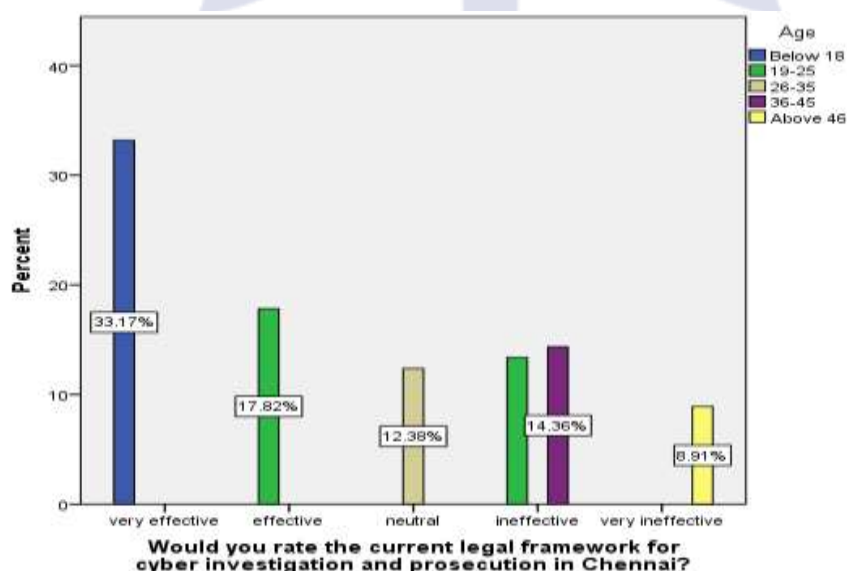
most of human activities are going to carry out in such space. The flip side of this advancement is the misuse of cyberspace for various purposes in the contemporary world. Cybercrime, different from traditional crime, is a new form of crime committed in cyberspace having swept and widespread impact on human society. Since cybercrime knows no national boundary, all out effort of nation states is required to combat the menace of cyber crime. However, the international community could not able to negotiate and adopt internationally binding legal instrument for preventing and combating cybercrime. On the other hand, nation states including India meet the challenges posed by cyber criminals, which necessitates to enact specific law for preventing and combating cybercrime. The paper attempts to explore national and soft international law that prevents and combats the menace of cybercrime.

METHODOLOGY:

The type of research adopted here is empirical research. A total of 225 samples have been collected. The samples have been collected through a non-probability- convenient sampling method. The sample frame taken here is through online, in and around Chennai, Tamil Nadu. The independent variables are age, gender, occupation, and educational qualification. The Dependent variables are the scaling question, public opinion, Agreeability.

ANALYSIS:

Figure 1:

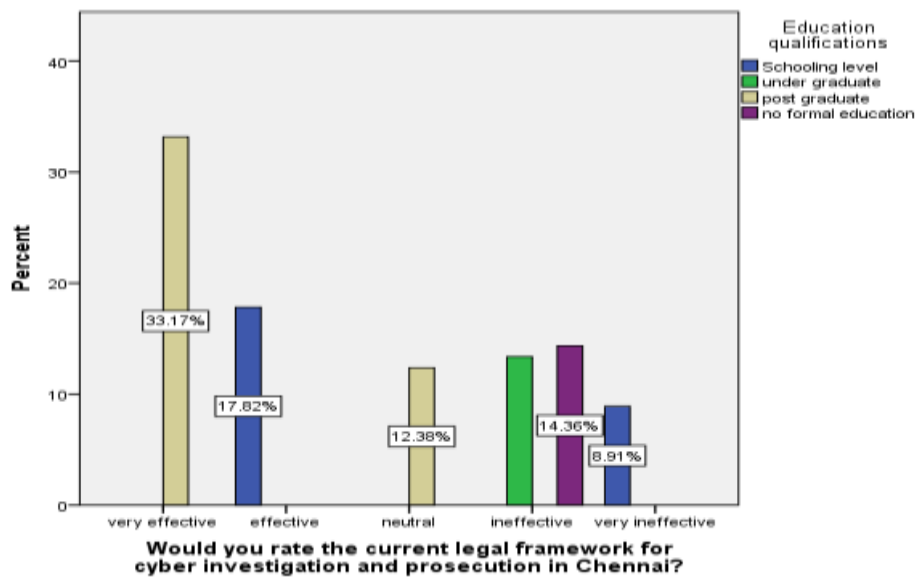


Legend: The above graph shows the age distribution between sample population and Would you rate the current legal framework for cyber investigation and prosecution in Chennai.

Result: shows that 33.17% of the age distribution respondents said very accessible for the Would to rate the accessibility to legal remedies for cybercrimes victims in Chennai.

Discussion: In terms of accessibility to legal remedies for cybercrime victims in Chennai, 33.17% of respondents below 20 years of age found them to be very accessible. This indicates that there is room for improvement in ensuring that legal remedies are readily available and easily accessible to all victims.

Figure 2:



Legend: The above graph shows the education qualifications distribution of sample population and would you rate the current legal framework for cyber investigation and prosecution in Chennai.

Result: shows that 33.17 % of the postgraduate respondents said very effective for the statement Would you rate the current legal framework for cyber investigation and prosecution in Chennai.

Discussion: Similarly, 33.17% of postgraduate respondents found the current legal framework for cyber investigation and prosecution in Chennai to be very effective. This suggests that postgraduate respondents, like male respondents, are generally satisfied with the existing legal framework.

Suggestions:

For the study on legal challenges in cyber investigation and prosecution, as well as access to justice in Chennai, several suggestions can be considered. Firstly, conducting a comprehensive review of existing laws and regulations related to cybercrimes in Chennai to identify gaps and areas for improvement. This could involve analyzing the Information Technology Act, 2000, and other relevant legislation to ensure they are up to date and effectively address current cyber threats.

Conclusion:

The study highlights significant legal challenges in cyber investigation and prosecution, particularly in Chennai. The findings underscore the complexity of cybercrimes and the need for robust legal frameworks to address them effectively. Access to justice remains a critical concern, with disparities in awareness and resources affecting outcomes. Recommendations include enhancing legal capacity and expertise, promoting public awareness, and leveraging technology for efficient investigations. Collaboration between law enforcement, legal professionals, and technology experts is vital for effective cybercrime management. The study emphasizes the importance of continuous research and development of legal strategies to keep pace with evolving cyber threats. Ultimately, addressing legal challenges in cyber investigation and prosecution requires a multi-faceted approach that combines legal, technological, and educational initiatives to ensure justice and security in cyberspace. Furthermore, the study emphasizes the importance of addressing access to justice issues, particularly for marginalized communities, to ensure that all individuals have equal opportunities for legal recourse. This includes improving legal literacy and providing legal aid services to those in need. The study also highlights the role of international cooperation in combating cybercrimes, as these crimes often transcend national borders. Efforts to harmonize legal frameworks and improve information sharing between countries are essential to effectively tackle cyber threats. Addressing the legal challenges in cyber investigation and prosecution requires a comprehensive and collaborative approach that involves policymakers, law enforcement agencies, legal professionals, and the public. By working together and implementing the recommendations outlined in this study, Chennai can strengthen its legal framework and improve access to justice in the digital age.

REFERENCE:

- Prakash kanive, 2024, A study of women access to justice through legal aid services in india.
- Sadikov ruslan, 2023, challenges and opportunities for legal practice and the legal professional in cyber age, international journal of law and policy, 10.59022.
- Shyam Lal, 2023, AI with respect to cyber security, journal of advances in artificial intelligence, 10.18178.
- Chang-on Lee, 2022, AI-based cyber security in the context of industry, electronics journal, 10.3390.
- Pradeep Kumar, 2023, potential of private prosecution in Indian criminal justice system, 0976-0237.
- Nazarko, legal tug of war: the institutional challenges of the domestic prosecution of war crimes in Ukraine, Analytical and comparative jurisprudence, 10.24144.
- Sadikov ruslan, 2023, challenges and opportunities for legal practice and the legal professional in cyber age, international journal of law and policy, 10.59022.
- Prakash kanive, 2024, A study of women access to justice through legal aid services in india.
- A.V. Voitsikhovskiy, 2023, duality of AI technologies is assessing cybersecurity risk, conference services materials science and engineering, 10.1088.
- J.christopher upton, 2021, risks of AI in information security crimes, Russian law journal, 2312-3605.
- Olukunle oladipupo Amoo, 2024, the role of cyber security in advancing sustainable digitalisation, 2787-2572.
- Sapam dilipkumar singh, 2023, AI in the field of cybersecurity, 10.22214.