

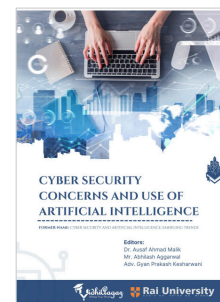
CHAPTER 49

Role of Police in Investigating Digital Crimes

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in *Cyber Security Concerns and Use of Artificial Intelligence*, edited by Ausaf Ahmad Malik, Abhilash Aggarwal and Gyan Prakash Kesharwani (VidhiAagaz 2024), pp. 407–416

ISBN 978-81-947620-5-8



CITATIONS

BLUEBOOK (21ST ED.)

Sunil Kumar, *Role of Police in Investigating Digital Crimes*, in *CYBER SECURITY CONCERNS AND USE OF ARTIFICIAL INTELLIGENCE* 407 (Ausaf Ahmad Malik, Abhilash Aggarwal & Gyan Prakash Kesharwani eds., VidhiAagaz 2024).

OSCOLA (4TH ED.)

Sunil Kumar, 'Role of Police in Investigating Digital Crimes' in Ausaf Ahmad Malik, Abhilash Aggarwal and Gyan Prakash Kesharwani (eds), *Cyber Security Concerns and Use of Artificial Intelligence* (VidhiAagaz 2024) 407.

CHICAGO (17TH ED.)

Kumar, Sunil. "Role of Police in Investigating Digital Crimes." In *Cyber Security Concerns and Use of Artificial Intelligence*, edited by Ausaf Ahmad Malik, Abhilash Aggarwal and Gyan Prakash Kesharwani, 407–416. Maihar: VidhiAagaz, 2024. <https://vidhiaagaz.com/books/cyber-security-concerns-and-use-of-artificial-intelligence/chapter-49/>.

APA (7TH ED.)

Kumar, S. (2024). Role of police in investigating digital crimes. In A. A. Malik & A. Aggarwal & G. P. Kesharwani (Eds.), *Cyber security concerns and use of artificial intelligence* (pp. 407–416). VidhiAagaz. <https://vidhiaagaz.com/books/cyber-security-concerns-and-use-of-artificial-intelligence/chapter-49/>

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ROLE OF POLICE IN INVESTIGATING DIGITAL CRIMES

Dr. Sunil Kumar¹⁴⁶

ABSTRACT

As digital technology continues to permeate every aspect of modern society, the nature of threats in cyberspace is evolving dramatically. This paper explores the transition from cyber-terrorism to cyber warfare, highlighting the changing motivations, tactics, and implications for national security. Initially characterized by politically motivated attacks aimed at instilling fear or causing disruption, cyber-terrorism has increasingly intersected with state-sponsored activities, blurring the lines between non-state actors and nation-state aggressors. Examination of recent case studies illustrating this shift, including high-profile incidents that demonstrate the capabilities of state actors to conduct cyber operations that can achieve strategic objectives, disrupt critical infrastructure, and manipulate public perception. The implications of this evolution are profound, necessitating a re-evaluation of existing cybersecurity frameworks and defence strategies. This paper discusses the role of emerging technologies, such as artificial intelligence and machine learning, in shaping both offensive and defensive cyber capabilities. It emphasizes the importance of international collaboration and intelligence sharing to mitigate the risks posed by these evolving threats. By understanding the dynamics of this shift, policymakers and cybersecurity professionals can develop more effective responses to safeguard national interests in an increasingly interconnected and hostile digital landscape. This study ultimately calls for a holistic approach to cybersecurity that integrates technological innovation, legal frameworks, and cross-border cooperation to counter the complexities of contemporary cyber threats.

Keywords: Cyberterrorism, Cyber threats, Cybercrimes, Artificial Intelligence

INTRODUCTION

In today's interconnected world, digital crime, also known as cybercrime, has become a significant challenge for law enforcement agencies across the globe. The rapid advancement of technology has not only provided unprecedented opportunities for growth and development but also paved the way for criminals to exploit vulnerabilities in digital systems. Digital crime encompasses a wide array of offenses, including hacking, identity theft, cyberstalking, financial fraud, and even cyberterrorism. Given the complexities associated with such crimes, police forces are now required to adapt and enhance their investigative capacities to effectively combat the growing threat¹⁴⁷.

The role of the police in investigating digital crime has evolved significantly over the past two decades. Traditional crime-fighting techniques have proven inadequate in the face of highly technical cyber offenses, leading to the development of specialized units, cyber forensics, and international cooperation. This article explores the role of the police in investigating digital crime, examining the challenges they face, the techniques employed, and the legal frameworks that support this investigation.

WHAT IS CYBER CRIME?

Cyber crime refers to illegal activities that are carried out using computers, digital devices, or the internet. It encompasses a wide range of offenses, including hacking, identity theft, online fraud, cyber

¹⁴⁶ Assistant Professor of Law, Jagannath University, India.

¹⁴⁷ Lee, Y. H. (2020). How police policies and practices impact successful crime investigation: Factors that enable police departments to "clear" crimes. *Justice System Journal*, 41(1), 37-62.

stalking, phishing, and the distribution of illegal content. Cyber criminals exploit vulnerabilities in computer systems, networks, and digital platforms to gain unauthorized access to sensitive data, disrupt services, or inflict damage on individuals, organizations, or governments. The anonymity offered by the internet, coupled with the global reach of digital networks, has made cyber crime a growing concern for law enforcement agencies worldwide¹⁴⁸.

The complexity of cyber crime lies in its often transnational nature, with perpetrators operating across different jurisdictions, making it difficult for local authorities to address such offenses effectively. Additionally, the tools used in cyber crime, such as encryption and malware, continually evolve, posing significant challenges for investigators. Law enforcement agencies, private sector entities, and international organizations are required to collaborate closely to develop effective strategies for combating cyber crime, which remains a major threat to personal, financial, and national security in the digital age¹⁴⁹.

TYPES OF CYBER CRIME

Cybercrime encompasses a broad range of illegal activities that target or exploit digital systems and networks. The primary types of cybercrime include¹⁵⁰:

1. Hacking: Unauthorized access to computer systems or networks, often aimed at stealing or manipulating data, or disrupting services. This may also include the use of malware, such as viruses or trojans, to infiltrate systems.
2. Phishing: Fraudulent attempts to deceive individuals into providing sensitive information, such as login credentials or financial details, by posing as a legitimate entity through emails, messages, or websites.
3. Identity Theft: The unauthorized acquisition of personal information with the intent to impersonate an individual and commit fraud, such as opening bank accounts, securing loans, or making unauthorized purchases.
4. Ransomware Attacks: The deployment of malicious software that encrypts a victim's data, with the attacker demanding a ransom to restore access to the information.
5. Cyber stalking and Harassment: The use of digital platforms to harass, threaten, or stalk individuals, often causing emotional distress or fear.
6. Online Fraud: Various forms of deceptive practices, such as financial scams, auction fraud, or counterfeit product sales, conducted through digital platforms.

These cybercrimes pose significant risks to individuals, businesses, and governments, requiring coordinated efforts in digital forensics, cyber security, and international cooperation to mitigate their

¹⁴⁸ Saini, H., Rao, Y. S., & Panda, T. C. (2012). Cyber-crimes and their impacts: A review. *International Journal of Engineering Research and Applications*, 2(2), 202-209.

¹⁴⁹ Bjelland, H. F., & Dahl, J. Y. (2017). Exploring criminal investigation practices: The benefits of analysing police-generated investigation data.

¹⁵⁰ Datta, P., Panda, S. N., Tanwar, S., & Kaushal, R. K. (2020, March). A technical review report on cyber crimes in India. In *2020 International conference on emerging smart computing and informatics (ESCI)* (pp. 269-275). IEEE.

impact.

CRITICAL VIEW OF CYBER CRIME AND CYBER POLICING

In the fast-paced, ever-changing world that characterizes the fields of cyber policing and cybercrime investigation, there are an abundance of challenges and obstacles that need to be overcome, as was previously said. These have been discussed in the following ways¹⁵¹:

Legal Framework:

The most critical issue in cyber policing and investigation of cybercrime is the legal framework within which it operates. Before the Information Technology (IT) Act, 2000 was passed, the cyber world within the context of India remained unregulated, and there was an element of doubt among the law enforcing authorities regarding the acceptable course of action to be followed in response to criminal offenses that were committed in cyberspace. The legislative initiative that gave rise to the creation of the IT Act, 2000 helped to define cyber crime and make cyber policing and investigation a practical possibility for the first time. Besides, since the Act is dynamic, it was felt that some provisions required updating. What's more, meeting the ends of the Act remained to be incorporated in the year 2008. This placed powers to inquire into cyber offenses in the hands of an Inspector instead of the Deputy Superintendent of Police that was granted by the existing legislation. This Act also encompasses further forms of illegal action that could be performed online, including cyber terrorism and child pornography¹⁵². As a result of this, the legal framework seeks to answer a range of questions, one of which is the following:

What type of investigation will be conducted on that computer crime? What type of consequences might an individual end up if they are caught committing such a cyber crime? In the context of the internet, what is "evidence"?

Cyber Crime Investigation:

Section 78 of the IT Act deals with the investigation of cyber crimes. Section 80 of the Act grants the rights of entry and search, and other similar rights to police officers and other officers. With the rise of even more dangerous cyber crimes, one would logically anticipate a corresponding rise in those who are determined to be convicted of such crimes¹⁵³.

This has not always been the case, however, as reflected by the fact that thousands of investigations and prosecutions have been lagging behind. Brown (2015) holds the opinion that some of the primary reasons behind this outcome are trans-jurisdictional barriers, dishonesty, and incapacity of major actors in the criminal justice systems to understand the basic aspects of technology-assisted crime. Most jurisdictions have only one or a very few police stations which dedicated to investigating cybercrime, which may not be sufficient enough to keep up with the exponential rise in the number of

¹⁵¹ Harkin, D., Whelan, C., & Chang, L. (2018). The challenges facing specialist police cyber-crime units: An empirical analysis. *Police Practice and Research*, 19(6), 519-536.

¹⁵² Datta, P., Panda, S. N., Tanwar, S., & Kaushal, R. K. (2020, March). A technical review report on cyber crimes in India. In *2020 International conference on emerging smart computing and informatics (ESCI)* (pp. 269-275). IEEE.

¹⁵³ Katos, V., & Bednar, P. M. (2008). A cyber-crime investigation framework. *Computer Standards & Interfaces*, 30(4), 223-228.

crimes that are committed online. Furthermore, it is daunting for victims to reach a specific police station in order to file complaints (Kaumudi, 2016)¹⁵⁴.

The crucial challenges faced in cyber crime investigation are :

- Lack of trained cyber investigators.
- Very few cyber forensic facilities are available in Forensic Labs.
- Massive pile-up of reports not received till date.
- No institutional mechanism is there to seek the help from cyber experts at the industrial level.

Supreme Court Judgment of 2006 & Model Police Act:

According to the judgment rendered by Supreme Court of India on September 22, 2006 in the case of Prakash Singh and Others vs. Union of India and Others, there was also a directive forming the judgment which stated, "The investigating police shall be separated from the law and order police to ensure faster investigation, better expertise, and improved rapport with the public.". The directive stated that this separation was necessary to assure these things. However, complete coordination between both wings is something that has to be achieved. This fact has been further brought out in the Model Police Act of 2006, which was enacted in 2006. Apart from this, several state legislatures have enacted resolutions that are similar to these acts. It is not a task that could be referred to as routine while taking into consideration the current state of the criminal environment; people must receive special training and policing and investigation of cyber crime is not something that can be dealt with within routine or by anyone. The personnel have to be chosen very carefully, trained, and given sufficient time to master their skills over a period of years.

Collaboration between Police and Administrative Agencies in Cyber Crimes:

Indian cyber crimes investigation is all about teamwork. Police and administrative authorities have to reenact their buddy cop to bust those cyber culprits. This means efficient

communication, joint task forces, and a sharing of a common mission, which is to protect the digital world. In the land of cybercrime, sharing is indeed caring. Information is the key to unlock mysteries regarding cyber offenses. Police and administrative agencies will have to exchange data even faster than children trade Pokémon cards. Effective information-sharing protocols can make them stay ahead of all the cyber baddies¹⁵⁵.

EMERGING CRIMES IN CYBER CRIME INVESTIGATION IN INDIA

As India accelerates its adoption of digital technologies, the scope of cyber crime also transforms. With increasing dependence on these platforms for banking, commerce, communication, and governance,

¹⁵⁴ Ciardhuáin, S. Ó. (2004). An extended model of cybercrime investigations. *International Journal of Digital Evidence*, 3(1), 1-22.

¹⁵⁵ Anwary, I. (2023). Evaluating Legal Frameworks for Cybercrime in Indonesian Public Administration: An Interdisciplinary Approach. *International Journal of Cyber Criminology*, 17(1), 12-22.

cyber criminals have found ways to exploit these platforms. Some of the emerging cyber crimes in India, as of October 2023, are¹⁵⁶:

Ransomware Attacks:

Definition: Ransomware is malicious software that encrypts a victim's data and renders it inaccessible unless a ransom is paid, typically in cryptocurrencies.

Emergence in India: Hackers are targeting Indian organizations, and vulnerabilities in the security systems are being exploited. It has caused critical operational disruptions and financial losses.

Phishing and Smishing Scams:

Phishing: It refers to deception through e-mails where fraudsters obtain personal information from the user. Smishing is a similar fraud that uses SMS messages. Emergence in India: With millions accessing the Internet using mobile devices, the fraudsters use bank or government institution's identity to extract passwords and all other financial information.

UPI Frauds:

Uplines Description: UPI enables instant money transfers between bank accounts through mobile devices.

Emergence in India: The fraudsters take advantage of innocent users who are not aware of the features of UPI. It sends a fake payment request or codes and sends money when authorized from the victim's account.

Cyber stalking and Online Harassment:

Description: Harassment or stalking through digital media.

Rise in India: It has progressed along with the mushrooming of social media and largely affects women and children. Cyberstalkers can blackmail or threaten with the help of personal information.

Deep-fakes and Synthetic Media:

Description: Deep-fakes, basically AI-generated pictures or videos, are perceived as true.

Emergence in India: These technologies are being used to create fake content by spreading misinformation, defamation, or even fraud¹⁵⁷.

Cryptocurrency-Related Crimes:

Description: Crimes made using digital currency, including Bitcoin.

Emergence in India: Fake investment schemes, unauthorized mining, and use of cryptocurrencies for money laundering because of their semi-anonymous nature¹⁵⁸.

¹⁵⁶ Gupta, T. (2023). EMERGING TRENDS OF CYBER CRIME IN INDIA: A CONTEMPORARY REVIEW. *Journal of Law and Policy Transformation*, 8(1), 57-65.

¹⁵⁷ Rana, M. S., Nobil, M. N., Murali, B., & Sung, A. H. (2022). Deepfake detection: A systematic literature review. *IEEE access*, 10, 25494-25513.

¹⁵⁸ Maurushat, A., & Halpin, D. (2022). Investigation of cryptocurrency enabled and dependent crimes. In *Financial Technology and the Law: Combating Financial Crime* (pp. 235-267). Cham: Springer International Publishing.

Internet of Things (IoT) Vulnerabilities:

Description: IoT devices comprise any internet-connected devices like smart home appliances.

Emergence in India: Poor security in IoT devices allows hackers to create botnets or gain unauthorized access to personal networks, leading to data breaches.

Cyber Espionage:

Description: Unauthorized access to confidential information for strategic or competitive advantage.

Emergence in India: It includes government agencies and companies where attackers are searching for sensitive data on national security or intellectual property.

Child Exploitation and Abuse Material (CEAM):

Description: The production, distribution, or possession of child sexual abuse material.

Surge in India: The anonymity of the internet enables CEAM proliferation, which further complicates law enforcement efforts to identify and prosecute these perpetrators¹⁵⁹.

Financial Frauds and Investment Scams:

Description: Cons involve deceiving people into putting their money in investments with false promises.

Surge in India: Online platforms are used to circulate Ponzi schemes, fake stock tips, or other investment scams that promise supposed high returns.

Dark Web Activities:

Definition: Illegal activities conducted on the dark web, that portion of the Internet which is not indexed by typical internet search engines.

Emergence in India: This has included exchanging contraband, hacking software, and stolen data. Indian users are increasingly both victims and offenders in dark web transactions¹⁶⁰.

Malware and Spyware:

Definitions: Malicious programs designed to harm or gain unauthorized access to systems.

Emergence in India: Attackers use malware associated with an infected attachment to an email, compromised website used by attackers or downloading otherwise free or pirated software to collect data or track user activity.

CHALLENGES IN INVESTIGATING EMERGING CYBER CRIMES IN INDIA

Investigating emerging cybercrimes in India poses a complex set of challenges for law enforcement agencies, the police, policymakers, and the judiciary. The sophistication of the cybercrime fraternity coupled with the worldwide and decentralized nature of the internet makes the detection, investigation,

¹⁵⁹ Cream, J. (1993). Child sexual abuse and the symbolic geographies of Cleveland. *Environment and Planning D: Society and Space*, 11(2), 231-246.

¹⁶⁰ He, S., He, Y., & Li, M. (2019, March). Classification of illegal activities on the dark web. In *Proceedings of the 2nd international conference on information science and systems* (pp. 73-78).

and subsequently, prosecution of such offenses complex. Some of the most prominent challenges include¹⁶¹:

Lack of adequate technical expertise -

Challenge: Cybercrimes are highly sophisticatedly cyber-based with technical methods like encryption, blockchain, and anonymization methods such as VPN the Dark Web. In India, there might be a scarcity of personnel with special technical skills to investigate crimes.

Impact: The lack of cyber forensic experts and trained personnel bars effective analysis of digital evidence as well as tracing the culprit.

Jurisdictional Issues and Cross-Border Nature of Cybercrimes -

Challenge: Cyber prosecutions for crimes in many countries across borders where hackers are beyond Indian borders using servers from other countries. It is difficult to identify whose jurisdiction prevails¹⁶².

Impact: International cooperation is delayed due to legal and bureaucratic red tape, thereby making it arduous to track and apprehend such offenders who make use of jurisdictional openings.

Anonymity of Cyber criminals -

Challenge: Cybercrime allows criminals to mask their identities as better usage encryption, proxy, and dark web make it difficult for them to trace.

Impact: In such cases, tracing his physical movements or even the digital footprints may go out of hands of an observer using traditional methods of an investigation, meaning that the prosecution may fail to proceed or can be delayed since the accused cannot be traced due to lack of vigilance¹⁶³.

Inadequate Existence of a Holistic Legal Framework -

Challenge: Although Indian law has enactments like the Information Technology Act of 2000, the ongoing advancements in cybercrimes involving cryptocurrency and deepfakes cannot be kept in pace by the same.

Impact: Loopholes created by this existing framework create challenges in some cases of cybercrime, especially those utilizing very advanced technologies like deep fakes or cryptocurrency.

Slow Judicial Process -

Challenge: The Indian judicial system suffers from delayed processes, the underutilization of technology in courts, and procedural delays in handling cybercrime cases.

Impact: Such delays can cause cases to become long-drawn affairs, dilute the punishments, and allow cyber-criminals to gain the lead against law enforcement.

Handling and Preserving Digital Evidence -

¹⁶¹ Dhupdale, V. Y. (2010). Cyber Crimes in India and the Challenges Ahead. *Indian JL & Just.*, 1, 102.

¹⁶² Atrey, I. (2023). Cybercrime and its Legal Implications: Analysing the challenges and Legal frameworks surrounding Cybercrime, including issues related to Jurisdiction, Privacy, and Digital Evidence. *International Journal of Research and Analytical Reviews*.

¹⁶³ Lusthaus, J. (2016). *Cybercrime: The industry of anonymity* (Doctoral dissertation, University of Oxford).

Challenge: "The collection, preservation, and presentation of electronic data are technically complex because such data are by nature volatile."

Impact: The case against the offender is compromised in court because of the increased likelihood that data corruption or loss will occur in the absence of standard processes and infrastructure for managing digital evidence¹⁶⁴.

Privacy and Encryption -

Issue: A right to privacy combined with encryption for protecting individual data are what stand in the way of investigators, since they would only gain access to encrypted communication, should they find a suitable balance between privacy rights and safety in public.

Impact: Investigators may be legally restrained from accessing encrypted data, particularly with end-to-end encryption becoming more prevalent in messaging services such as Whatsapp, which would slow an investigation.

Under-reporting of Cybercrimes -

Challenge: Most cybercrimes, especially financial fraud and harassment cases, are underreported because of a lack of awareness, stigma, or fear about damage to the reputation.

Impact: Under reporting limits the ability of the law enforcement agencies to assess the extent of the problem that is at hand, and it also diminishes the chances of building strong cases based on numbers of victims¹⁶⁵.

Lack of Public Awareness and Cyber Hygiene -

Challenge: Massive population in India is not well-versed about basic practices in cyber security, making them vulnerable prey to phishing attacks and social engineering, and glaring vulnerabilities in UPI fraud¹⁶⁶.

Impact: Public unawareness has become a colossal pool of victims, as the scenario is well-overwhelming the law enforcing agencies and making all the Preventive measures ineffective.

Interagency and International Coordination –

Challenge: To probe cybercrime, often multiple agencies from the internal (such as CERT-In, NIA, and CBI) and external (such as Interpol, other nations' agencies on cybersecurity etc.) are required to be coordinated.

Impact: The overall investigation may be delayed or complicated because the agencies do not coordinate with each other properly. Even international cooperation typically is sluggish, at least when MLATs are absent¹⁶⁷.

¹⁶⁴ Granja, F. M., & Rafael, G. D. R. (2015, July). Preservation of digital evidence: application in criminal investigation. In *2015 Science and Information Conference (SAI)* (pp. 1284-1292). IEEE.

¹⁶⁵ Sangari, S., Dallal, E., & Whitman, M. (2022). Modeling under-reporting in cyber incidents. *Risks*, 10(11), 200.

¹⁶⁶ Cain, A. A., Edwards, M. E., & Still, J. D. (2018). An exploratory study of cyber hygiene behaviors and knowledge. *Journal of information security and applications*, 42, 36-45.

¹⁶⁷ Kioskli, K., Fotis, T., Nifakos, S., & Mouratidis, H. (2023). The importance of conceptualising the human-centric approach in maintaining and promoting cybersecurity-hygiene in healthcare 4.0. *Applied Sciences*, 13(6), 3410.

Rapid Technological Change and Evolving Cybercrime Techniques -

Challenge: Rapid progress in technology makes it very difficult for the law enforcement to innovate and respond in the right time through different types of cybercrimes, which may include AI-driven phishing, quantum cryptography, and machine learning-based malware.

Impact: Law enforcement can't keep pace in developing their ability to predict and counter new cyber threats before these are quickly adopted by cyber crime practitioners¹⁶⁸.

Resource Constraints -

Challenge: Indian police face budgetary and resource constraints within most the smaller towns or villages; absence of appropriate funding to set up cyber forensic labs, advanced versions of software tools, or acquire expert training.

Impact: Cybercrime investigations in under-resourced areas will probably be over delayed or inadequately handled, therefore enabling cyber criminals to escape justice¹⁶⁹.

CONCLUSION

Police forces are now the only authority to be looked at as investigating Cyber crime because the speed at which the nation of India is transforming into a digitally advanced country. The numerous types of cyber threats that can even range from monetary fraud and cyber-stalking, data breach, pose distinct challenges for law enforcement agencies in tracking and prosecution. Crime- solver police have had to keep pace with rapid changes in the technological environment. Despite limited resource availability, skill gaps in technology, and jurisdictional complications, police remain at the forefront of protection of citizens and businesses from online threats. The development of technological capacities could provide advantages to police in combating cyber crime more effectively because of improved inter-agency collaboration and the inculcation of awareness among the public. But continued efforts to upgrade cyber laws, training, and infrastructure will be required to equip the law enforcement agencies as India confronts the looming digital threats. The police always have to adapt and evolve ahead of the cyber criminals they are to apprehend to bring justice in this highly virtual world.

In conclusion, it can be stated that cyber policing and cyber crime investigation call for a higher level of professionalism than ever before, as well as the ability to remain stealthy, make use of automated technologies, and understand the complexities of the online world.

¹⁶⁸ Lee, L. (2019). Cybercrime has evolved: it's time cyber security did too. *Computer Fraud & Security*, 2019(6), 8-11.

¹⁶⁹ Anderson, R., Barton, C., Böhme, R., Clayton, R., Ganán, C., Grasso, T., ... & Vasek, M. (2019, June). Measuring the changing cost of cybercrime. In *The 18th Annual Workshop on the Economics of Information Security (WEIS 2019)*.

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Published By: VidhiAagaz in collaboration with School of Law, Rai University, Ahmedabad, India.



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**First Impression:
2024**

