

Prof.V.C.Vivekanandan

CYBER LAW AND JURISPRUDENCE

Understanding cyber jurisprudence

- *“We are approaching the new era with 21st century technologies with 20th century governing processes and 19th century governance structures”*
- Harold A. Linstone, Professor Emeritus, Portland University, Oregon

Law & Technology

- To legislate or not to legislate
- From acceleration to a paradigm shift
- Time –Space interjection of traditional jurisprudence
- Citizen vs netizen
- Nation States are getting stronger
- Commerce vs Culture
- Harmonization-Globalization-Amelioration

Changing interface of Law - technology

- The story of the real mother-King Solomon- vs Baby India
- Common Sense –my dear Watson vs Lie detectors
- A pound of flesh- Shakespeare wisdom

Law- technology relationship

- The seven steps in Hindu marriage-Law as the wife and technology as the husband
- Has managed technology when it is static and physical
- Cyberspace is a different paradigm which needs different response

Internet aka cyberspace

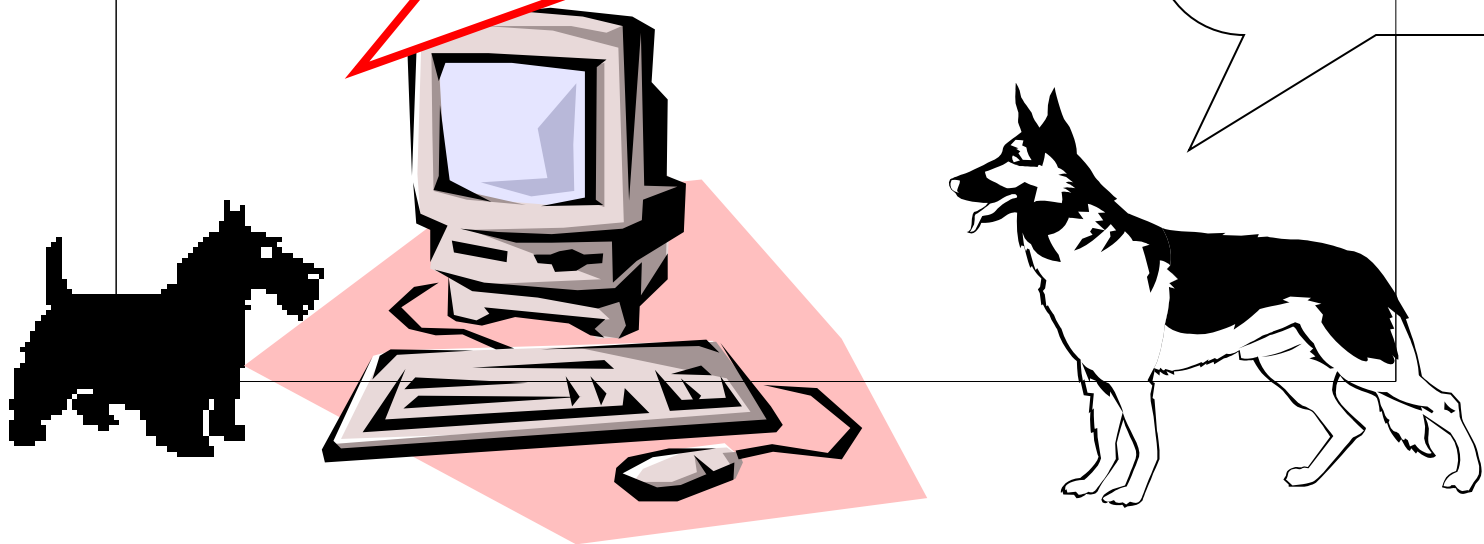
- The Cyber Laws looks into the entire gamut of transactions, its effect-civil & criminal in such processes.
- This means it will touch Jurisdiction issues, contracts, intellectual property, crimes, e-commerce, freedom of speech, human rights and the list is growing.

Generic issues in cyber operations

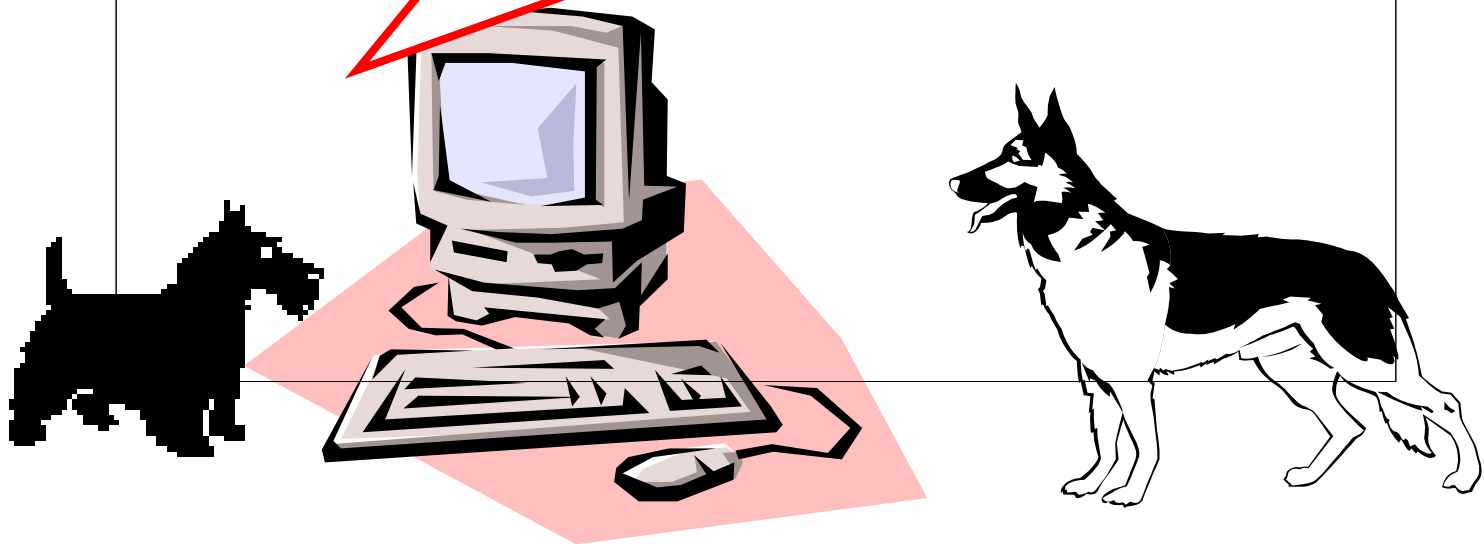
- **1 DOMAIN NAMES**
- **2 WEB DESIGNS**
- **3 WEB CONTRACTS**
- **4. CONSUMER PROTECTION ISSUES**
- **5 E-PAYMENT - Legal Issues**
- **6 TAXATION ISSUES**
- **7 DATA PROTECTION**
- **8. DISPUTE RESOLUTION MECHANISMS**

On the Internet,
no one knows
you're a dog!
(cartoon in NY Times in 1993)

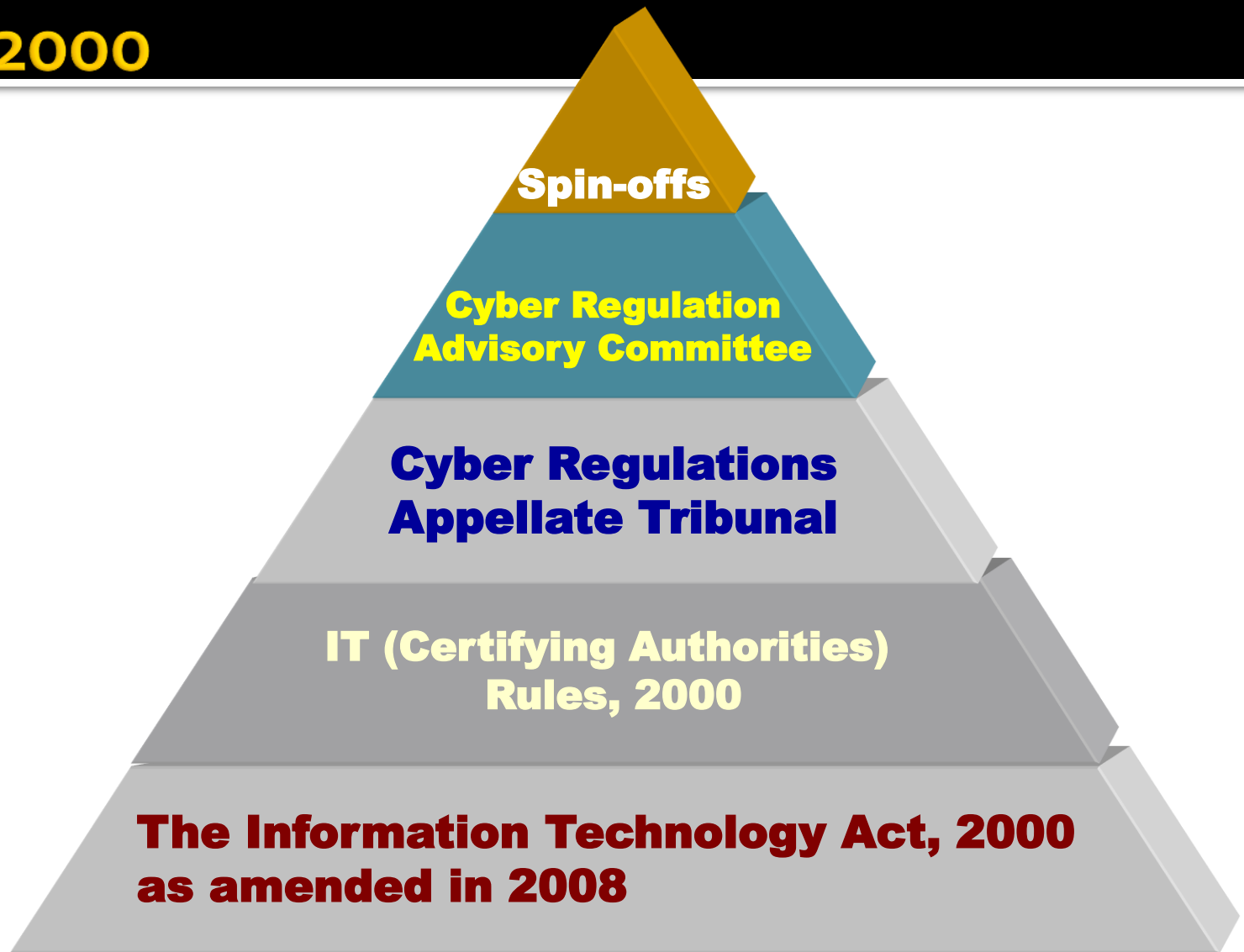
Every dog has its day!



On the Internet,
now every one knows
you're a dog!
(Same cartoon in NY Times in 2003)

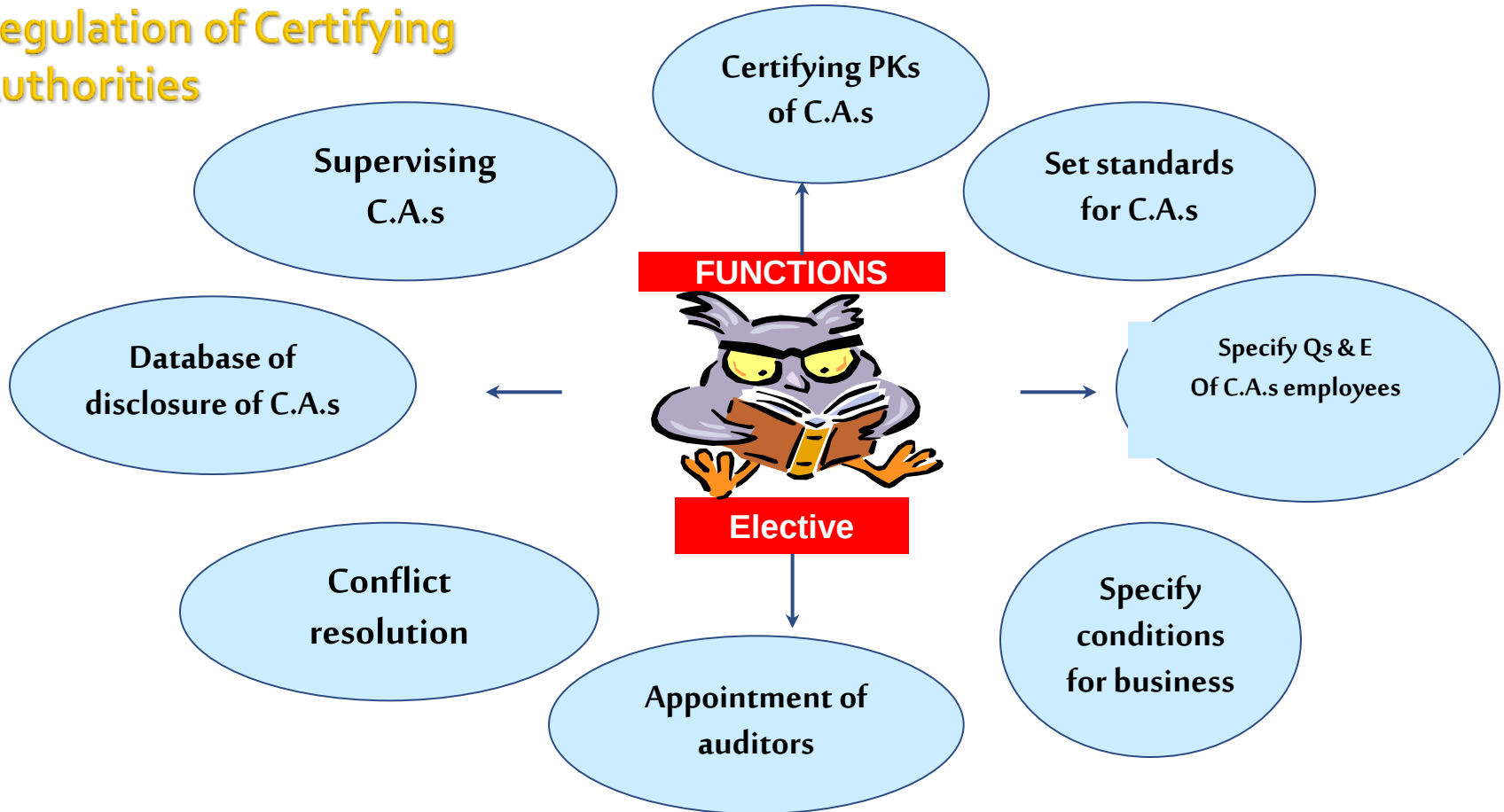


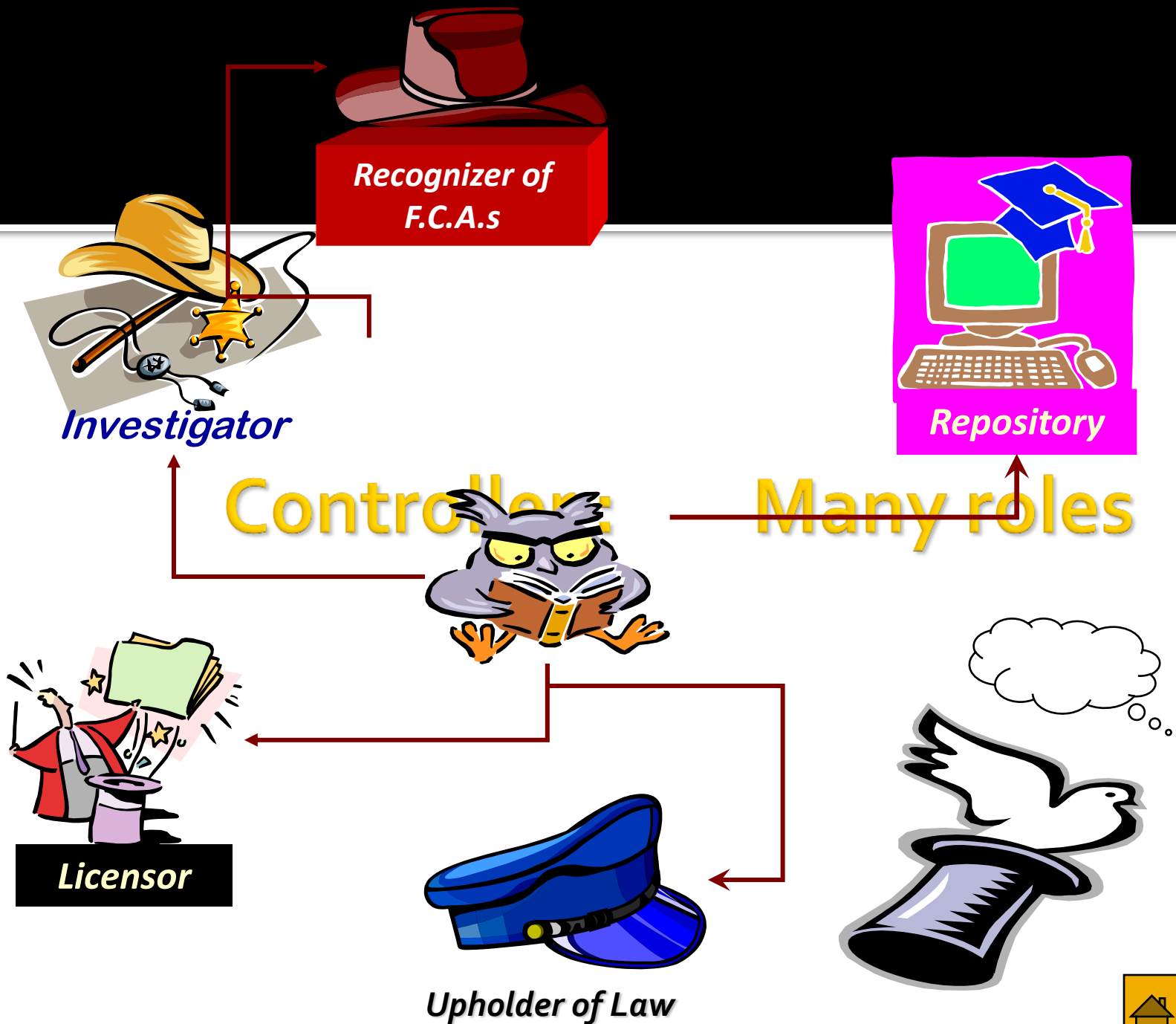
Understanding the IT ACT 2000

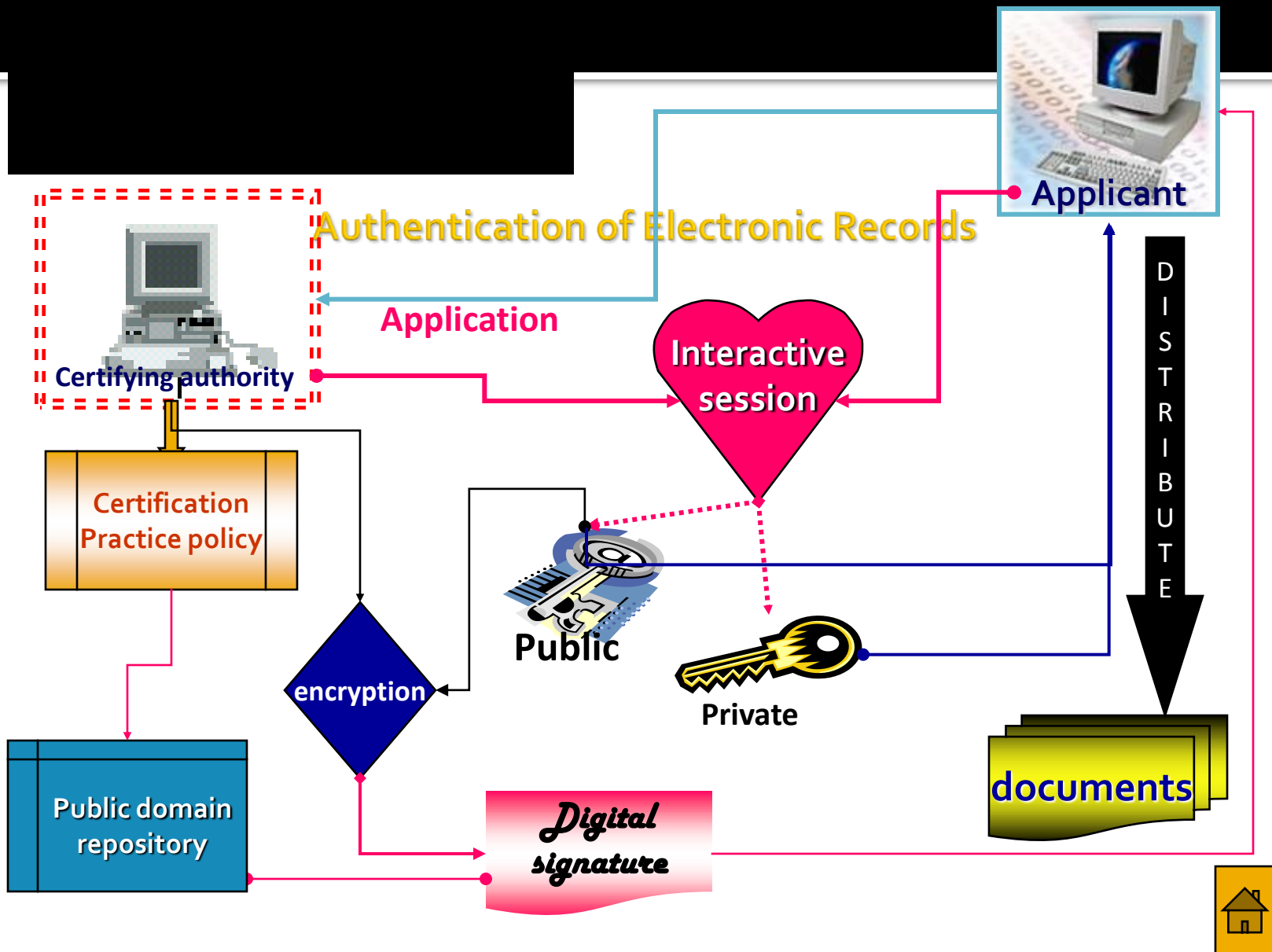


Controller of Certifying Authorities

Regulation of Certifying Authorities







Cyber Regulations Appellate Tribunal

- More than one tribunal possible
- One member tribunal only (Presiding officer)
- Should be qualified to be HC judge or member of Indian Legal service (Gr 1 for 3 years)
- Five years or 65 age

Powers of
Civil court

Appeal to
High court

Penalty
Arrears
Land Rev

Appeal within
45 days

Disposal within
6 months

Against an order
By controller or
Adjudicating
officer

Not bound by
CPC 1908

No
Jurisdiction
For civil
court



Natural justice
Act, Rules &
Regulations



Offences

Tempering with source codes	Intentionally conceals, destroys or alters source code required to be maintained by law	3 yrs 2 lakh
Hacking with computer system	Destroys or deletes or alters any info or diminishes its value or affects it injuriously by any means	3 yrs 2 lakh
Publishing obscene information	Publishes or transmits lascivious e-info that may tend to deprave and corrupt persons	5-10 yrs 1-2 lakh
Failing to facilitate Decryption directives	Fails to assist the controller in intercepting e-info and decrypt in the sovereign interest of India	7 yrs

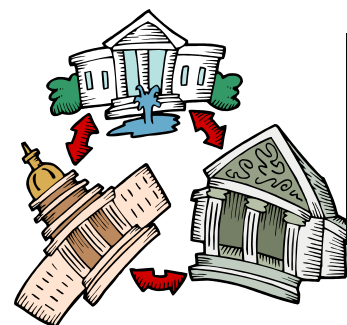


Penalties



Damage to
computer,
system, network

Quantified appropriate damage



Failure to
furnish info,
return, etc

1. Access without permission
1. Fail to furnish document, return to Controller
2. Fail to file any return, info or books or documents within the time frame
3. Fail to maintain books of account or records, etc



Residuary:
Contravention
of act, rules,
regulations

7. Complicity in crime
8. Unauthorized Account swapping to avoid charges
- 25,000 compensation



Amendment of Acts

Four Acts amended:

1. Indian Penal code (45 of 1860)
2. Indian Evidence Act (1 of 1872)
3. Bankers Book Evidence Act (18 of 1891)
4. Reserve Bank of India Act (2 of 1934)

... to produce a document or **electronic record** in court of justice...

Definition of “evidence” changed to include **electronic record**
Insertion of expressions “certifying authority”,
“electronic form”
Admissibility of electronic record

Banker’s books include printouts of data stored in floppy, disc, tape or any electro magnetic storage device.

... include fund transfer through Electronic means...

Police Powers

- ♦ A police officer not below DSP
- ♦ Any authorised officer from central/state govt

..may enter any public place and search and arrest without warrant any person who is reasonably suspected of having committed, or of committing or of being about to commit any offence under the Act.



A LAST WORD

- THANK YOU FOR YOUR TIME
- ANY COMMENTS OR QUESTIONS ?
- Ack- slides from nalsarpro presentation – and net resources