

Protection Of Children From Online Sexual Abuse, Extant Legal Framework And Indian Constitution

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Abstract:

"If we are to teach real peace in this world...we shall have to begin with the children." (Mahatma Gandhi).

Online child sexual abuse is a widespread and concerning problem in the contemporary digital era, posing intricate issues for law enforcement, legislators, and society as a whole. This report examines the characteristics, prevalence, effects, and reactions to online child sexual abuse, based on an extensive analysis of literature and empirical research. The incidence of online child sexual abuse is challenging to measure precisely due to underreporting and the secretive nature of online interactions. Nevertheless, research reveals a concerning elevated prevalence, enabled by the anonymity and accessibility of the internet. Offenders utilize many online channels, such as social media, messaging applications, and forums, to manipulate and exploit susceptible minors. The effects of internet child sexual abuse on victims are significant and enduring. In addition to immediate psychological damage, victims frequently endure emotional turmoil, hindered social development, and persistent mental health challenges. The stigma linked to victimization can intensify these consequences, obstructing rehabilitation and confounding treatment approaches. Effective measures to address internet child sexual abuse need a multifaceted strategy. Legal frameworks must be resilient and flexible to swiftly changing digital environments, guaranteeing sufficient sanctions for transgressors and safeguarding for victims. Law enforcement organizations encounter considerable obstacles in investigating and prosecuting crimes owing to jurisdictional complexities and the transnational character of cybercrime. Preventive efforts are essential and encompass educational initiatives directed at children, parents, and educators to enhance knowledge of online hazards and advocate for safe internet use. Cooperation among technology firms, governmental entities, and non-governmental groups is crucial for the development and execution of technical solutions, including content moderation tools and reporting systems.

Social attitudes and standards are crucial in combating internet child sexual abuse. Eliminating the stigma around victimization and cultivating a supportive atmosphere for reporting are essential for disrupting the cycle of abuse and facilitating early intervention. Community participation and advocacy initiatives may enhance understanding, confront myths, and foster accountability across all societal tiers. Future studies should concentrate on enhancing approaches to more accurately assess the incidence of online child sexual abuse, comprehending the dynamics of online perpetrator behaviour, and evaluating the efficacy of treatments and preventative efforts. Longitudinal studies are essential to evaluate the enduring effects on victims and to guide evidence-based policies and practices.

In summary, tackling online child sexual abuse necessitates a thorough and coordinated strategy that amalgamates legal, technical, pedagogical, and social measures. By comprehending the intricate dynamics of issues leading to online child sexual abuse and executing focused interventions, stakeholders may strive to establish safer digital settings for children globally.

Keywords: online child sexual abuse, internet safety, grooming, victimization, prevention.

INTRODUCTION:

India, with the largest child population in the world, places great importance on developing children as their most valuable assets and future human capital. The Indian Constitution includes specific provisions to ensure the comprehensive development of children.¹ These provisions encompass the right to receive free and mandatory primary education for children between the ages of 6 and 14, protection against engaging in hazardous employment until the age of 14, safeguarding against abuse and prevents them from being pushed into occupations/trades which are a total misfit for their age or physical capabilities, equal opportunities for maintaining healthy conditions, and access to early childhood care and education until the age of six.

The Indian Constitution was crafted by the forefathers who included numerous provisions to ensure the protection of children, and subsequent legislatures have passed laws to safeguard their rights. By enacting these laws, India ratified the ‘International Conventions for Child Rights, including the United Nations Convention on the Rights of Child (UNCRC), 1989’.² Signatory states are required by Article 34 of the UNCRC to implement suitable measures to prevent sexual exploitation, illegal sexual activity, prostitution, and pornographic performances. India has ratified all of these conventions and complies with the standards outlined.

INTERNATIONAL CONVENTIONS AND DECLARATIONS:

‘The United Nations Conventions on the Rights of Children (1989)’ and the ‘UN CRC’s Optional Protocols on the Sale of Children, Child Prostitution and Child Pornography (OPSC)’ offer directives for preventing any sexual violence against children and the provision of assistance to those affected. The OPSC also safeguards children from engagement in armed conflicts. The “Optional Protocol on the Sale of Children, Child

¹ The Constitution of India.

² UN GENERAL ASSEMBLY, Convention on the Rights of Child, GA Res 44/25, GAOR, UN DocA/Res/44/25 November 20, 1989. Prostitution and Child Pornography” (OPSC)³ provides children with the opportunity to directly report their complaints to the “Committee on the Rights of the Child”. This committee has the authority to conduct investigations and issue directives to governments, compelling them to take appropriate measures. Additional conventions by the Council of Europe include the Budapest Convention on Cyber Crime (2001), the ‘Lanzarote Convention on Protection of Children against Sexual Exploitation and Abuse’ (2010)⁴, and the ‘SAARC Convention

on Preventing and Combating Trafficking in Women and Children for Prostitution' (2002).⁵

NATIONAL POLICIES AND LEGISLATION ADDRESSING CHILD SEXUAL ABUSE:

The 1998 report by the "Committee on Prostitution, Child Prostitutes and Children of Prostitutes"⁶, as well as a 2007 study on child abuse in India⁷, have led to the establishment of various laws, such as the 'Immoral Traffic Prevention Act'⁸, the 'Juvenile Justice Act'⁹, the 'Commission for Protection of the Rights of the Child Act', and the 'Protection of Children from Sexual Offences Act'¹⁰.

zUN GENERAL ASSEMBLY, Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, GA Res 54/263, GAOR, UN Doc

A/Res/54/263 (May 25, 2000).

⁴ Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201), Lanzarote 25/10/2007.

⁵ SAARC CONVENTION ON PREVENTING AND COMBATING TRAFFICKING IN WOMEN AND CHILDREN FOR PROSTITUTION (May 2007).

⁶ Government of India, "Report of the Committee on Prostitution, Child Prostitutes and Children of Prostitutes and Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children" (Ministry of Human Resource Development, 1998).

⁷ Government of India, Study on Child Abuse: INDIA 2007 (Ministry of Women and Child Development, 2007).

⁸ Immoral Traffic Prevention Act, 1956 (Act 104 of 1956).

⁹ Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 02 of 2016).

¹⁰ The Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012).

SEXUAL ABUSE OF A CHILD:

'Child Sexual Abuse'¹¹ has emerged as a substantial worldwide menace, with a prevailing belief that it's a concern primarily in Western countries and is not pressing as a prevalent issue in India due to its conservative community structure. Child sexual abuse, as defined by the World Health Organisation, refers to the "participation of a child in sexual activities that they do not fully understand, are unable to give informed consent to, or that contravene societal laws or social taboos". "Child abuse or maltreatment encompasses physical and emotional mistreatment, sexual abuse, neglect, inadequate care, or exploitation for financial gain, all of which lead to harm to the child's well-being, survival, growth, or self-respect. Examples encompass the act of enticing or compelling a minor to partake in illegal sexual activities, the manipulative utilisation of children in prostitution or other illicit sexual practices, and the exploitative utilisation of children in pornographic performances and materials."

In 2005, the Indian parliament passed the "Commission for the Protection of Child Rights Act"¹², which established the structure of the 'National Commission for Protection of Child Rights' (NCPCR) and the 'State Commission for Protection of Child Rights' (SCPCR). Notwithstanding the establishment of the NCPCR (National Commission for Protection of Child Rights) and SCPCR (State Commission for Protection of Child Rights), instances of physical abuse against children persistently rise. According to a study conducted by the 'Ministry of Women and Child Development', 53.22% of children reported being victims of one or more types of sexual abuse. Among them, 21.90% experienced severe forms of abuse, while 50.76% experienced other forms.¹³.

¹¹D.K. Carson, J.M. Foster, & N. Tripathi, "Child Sexual Abuse in India: Current Issues and Research". *Psychol Stud* 58, 318–325 (2013).

¹² The Commissions for Protection of Child Rights Act, 2005 (Act 4 of 2006).

¹³ Ibid at 7.

INDIAN LEGISLATION TO PREVENT CHILD SEXUAL ABUSE

The 'Protection of Children from Sexual Offences Bill' was enacted in India in 2011 to tackle sexual abuse of children. The 'Standing Committee on Human Resource Development' determined that the current legislation was inadequate in addressing these offences, highlighting factors such as low rates of conviction, insufficient evidence, lengthy police investigations, and ineffective programmes for protecting victims. In the UK¹⁴, there exists distinct legislation specifically addressing sexual offences committed against children, whereas, in the USA¹⁵, these offences are addressed within a dedicated section of its penal code.

SUPREME COURT DECISIONS ON CHILD PROSTITUTION

In India, the 'Vishal Jeet case'¹⁶ prompted the Central and state governments to establish an advisory committee to recommend strategies to ban child prostitution effectively. The measures encompass a total elimination of all modes and means of child prostitution, the implementation of social welfare programmes specifically designed for young victims, and the proposal of amendments to current legislation or the creation of new laws to effectively prevent the exploitation of the child in any sexual manner whatsoever. The 'Gaurav Jain case'¹⁷ also emphasised child prostitution while mandating the establishment of a committee to conduct a comprehensive investigation into the matter. Both cases have the objective of tackling the problem of child prostitution in India. South Africa has implemented specific legislation. Committee¹⁸ received recommendations from the 'Ministries of Home Affairs and Labour and Employment', resulting in the amendment of the bill. The proposed legislation seeks to establish severe penalties for a range of offences that are currently punishable under existing Acts such as the 'Indian Penal Code of 1860', the "Immoral Traffic Prevention Act", and the Information & Technology.

Act of 2000. The committee determined that enacting legislation to safeguard children from sexual offences is imperative to guarantee a secure and untroubled future. The

¹⁴ The Sexual Offences Act, 2003.

¹⁵ www.justice.gov/criminal/criminal-ceos/citizens-guide-us-federal-law-child-pornography, (Visited on 6th July 2024).

¹⁶ AIR 1990 SC 1412.

¹⁷ AIR 1990 SC 292.

¹⁸ Rajya Sabha, 240th Report on Department-related Parliamentary Standing Committee Human Resource Development. (March, 2011).

occurrence of sexual harassment of children is a lamentable truth and serves as an indication of the decline in societal moral values. While it is long overdue for this legislation to be implemented, it does have its limitations, such as only offering a means of resolving cases without actually altering the moral values of society.

ONLINE CHILD SEXUAL ABUSE:

The proliferation of the internet and digital communication technologies has given rise to widespread concern about online child sexual abuse¹⁹. It includes a range of illegal behaviours committed against minors, made possible or supported by digital platforms and networks. "Online child sexual abuse encompasses a range of activities, including the production and distribution of 'child sexual exploitation material' (CSEM), the act of grooming children for sexual purposes, the live broadcasting of abusive acts, and engaging in sexual extortion.

Online child sexual abuse takes several forms, which frequently intersect with one another. These include sexting, online enticement, sexual trafficking, child sexual abuse material, and cybersex trafficking. Victims frequently experience psychological distress, social and developmental consequences, physical injury, and stigmatisation." The frequency and persistence of online child sexual abuse are influenced by several factors, including the ability to remain anonymous and easily access online platforms, disparities in digital literacy, widespread connectedness around the globe, and improvements in technology²⁰. Tackling the issue of online child sexual abuse is intricate and poses substantial difficulties, such as problems related to jurisdiction, technological barriers, lack of reporting, and limited resources. Jurisdictional concerns pertain to crimes committed by criminals and affecting victims in other nations, while technology hurdles might impede the process of detecting and prosecuting such crimes. Underreporting happens when individuals who have experienced abuse or their family members choose not to disclose it because they are afraid, feel ashamed, or are not fully aware of the situation. To summarise, online child sexual abuse presents a danger to the safety and welfare of children in the era of digital technology. To address this

¹⁹ United Nations Office on Drugs and Crime: "Study on the Effects of New Information Technologies on the Abuse and Exploitation of Children". (Vienna, 2015).

²⁰ Elena Martellozzo, Child Abuse and Neglect: Forensic Issues in Evidence, Impact and Management p.63-77 (Elsevier, 2019).

widespread problem and safeguard vulnerable children from online exploitation, we should take steps such as increasing awareness, strengthening digital literacy, promoting international collaboration, and enacting strong legislative frameworks. To effectively counteract this worrying tendency, it is necessary to adopt a comprehensive approach that tackles the issue's technological and sociological dimensions.

IMPACT OF ONLINE CHILD SEXUAL ABUSE

The consequences of online child sexual abuse are extensive and have a significant influence on victims, encompassing their physical, emotional, psychological, and social well-being. The advent of the digital era has increased the number of youngsters who are linked to the internet, which can have severe and harmful outcomes. The psychological consequences of online child sexual abuse encompass trauma and stress disorders, apprehension and unease, humiliation and remorse, difficulties with trust, and distortion of identity and self-worth. Victims may undergo profound emotions such as profound grief, rage, frustration, emotional volatility, and thoughts of suicide as a result of the emotional agony, hopelessness, and despair induced by the abuse. Providing prompt assistance and intervention is crucial for children who are having suicide ideation. Victims of abuse may experience social withdrawal and isolation, avoiding relationships with others, including friends and family members, due to the fear of being judged, stigmatised, or retaliated against if their abuse is discovered. Child maltreatment may have a detrimental effect on a child's capacity to establish positive relationships with their peers, resulting in challenges in engaging in social activities and having confidence in their peers. The educational obstacles might stem from the emotional

and psychological repercussions of the abuse, resulting in difficulty with focus, comprehension, and academic achievement.

Stigmatisation from their society, friends, or even their own family can intensify feelings of shame and isolation. The revelation of online sexual abuse may also impact family relations, causing parents to feel shame, rage, or helplessness, while siblings may grapple with their emotional responses to the abuse. Physical health repercussions encompass bodily harm, sexually transmitted infections (STIs), disruptions in sleep patterns, food problems, and the use of substances as a means of coping.

Victims may also experience the onset of eating disorders or alterations in appetite as a result of stress and mental anguish. Ultimately, internet child sexual abuse inflicts profound psychological, emotional, and societal consequences on its victims. Providing prompt assistance and intervention is essential to facilitate the recovery and rehabilitation of individuals facing these problems. Online child sexual abuse has enduring ramifications, such as enduring psychological problems, disruptions in sexual maturation, and heightened susceptibility to being victimised again. The victims may have disruptions in their ability to form intimate connections, establish trust in relationships, and endure sexual dysfunction as a result of the abuse. Studies suggest that individuals who have been subjected to child sexual abuse, including online abuse, may have an increased likelihood of experiencing abuse in the future as a result of diminished self-esteem and challenges in establishing personal limits. The disclosure and reporting of online sexual assault might present difficulties as a result of fear and humiliation, limited understanding, and the intricate nature of digital evidence and legal procedures. Support systems and initiatives encompass prompt psychiatric assistance, medical and legal aid, therapeutic measures, family and community backing, and educational and vocational assistance. Preventive and remedial methods encompass a range of approaches such as comprehensive sexuality education, computer literacy programmes, awareness campaigns, and regulatory measures. Age-appropriate and inclusive educational programmes should be established, alongside digital literacy programmes that teach children, parents, and educators about online threats, safe internet use, privacy settings, and reporting procedures²¹. Awareness campaigns, media literacy projects, and community outreach endeavours have the potential to enhance knowledge regarding online child sexual abuse, diminish social disapproval, and promote the act of reporting. Enhancing regulatory measures includes bolstering legislative frameworks, ensuring the enforcement of current laws, and fostering collaboration with tech firms to incorporate safety features and moderating tools on online platforms. By implementing multifaceted approaches and all-encompassing support structures, we can effectively tackle the intricate issues surrounding online child sexual abuse. This will enhance our ability to safeguard children from harm and foster their safety, well-being, and resilience in the digital era

²¹ Rupashree Sahoo and Paromita Chattoraj, "Child Pornography through Cyberspace- a comparative analysis of laws and criminal justice responses in India, USA, UK and Japan" Vol.14, Int. J. Electronic Security and Digital Forensic (2022).FACTORS CONTRIBUTING THE ONLINE CHILD SEXUAL ABUSE

The fast growth of digital technology and internet access has made online child sexual abuse an increasing global problem. Several elements, including technical advancements, psychological considerations, sociocultural norms, legal obstacles, and the vulnerability of children influence the issue. Technological facilitation includes features such as anonymity, privacy, accessibility, and wide coverage. It also involves the use of developing technologies like virtual reality²²(VR), live streaming, and anonymous networks such as Tor (the Onion network). Psychological and behavioural elements encompass strategies for personal appearance, sexual satisfaction, reduced inhibitions and emotional numbing, as well as socio-

cultural aspects like the acceptance and availability of pornography.

Socio-cultural aspects encompass cultural norms and beliefs on sexuality and sexual education, which have the potential to influence and distort perceptions of healthy relationships and limits. Unequal economic conditions might intensify susceptibility to online child sexual exploitation, particularly for children belonging to marginalised groups who may have restricted opportunities for education and awareness initiatives.²³ The legal and regulatory concerns encompass jurisdictional complexities, the absence of standardised rules, and the fast rate of technological advancement.

The susceptibility of children is also a noteworthy aspect. A significant number of youngsters do not possess adequate digital literacy abilities to appropriately handle online threats, which results in their vulnerability to grooming behaviours and improper solicitations. Insufficient parental monitoring or a lack of information regarding internet safety precautions might potentially expose children to various threats. Both peer pressure and online peer influence might heighten susceptibility to online sexual abuse.

“Online child sexual abuse” Can have a significant impact, causing victims to suffer from psychological trauma, social and developmental consequences, as well as physical injury. Victims may undergo feelings of sadness, anxiety, and post-traumatic stress disorder (PTSD), while the negative perception attached to being a victim can lead to children being socially distant and isolated from their friends and community. Physical

²²Richard MacKinnon, Virtual Rape, Journal of Computer-Mediated Communication, Volume 2, Issue 4 (1997).

²³ Anita Gurumurthy, Amrita Vasudevan, Nandini Chami, “Born digital, Born free? A socio-legal study on young women’s experiences of online violence in South India” IT for Change (2019).

injury can result from the escalation of online harassment to physical confrontations, leading to injuries or health concerns.

The challenges in preventing and intervening in this issue are the underreporting of incidents and obstacles to sharing information, limited resources, and the need for effective coordination among governments, law enforcement agencies, technology corporations, non-governmental organisations, schools, and parents. Identifying indicators of online abuse and establishing secure methods for reporting are crucial for overcoming these obstacles.

Sufficient financial support, comprehensive training, and advanced technology tools are required to strengthen the effectiveness of detection and prosecution endeavours. An integrated strategy that incorporates legal changes, technology advancements, educational programmes, and community involvement is essential to tackle the issue of online child sexual abuse. To provide a safer digital environment for children, it is crucial to increase awareness about online threats, enhance digital literacy among both children and parents, reinforce legislative frameworks, and improve international collaboration. To safeguard children from online sexual abuse, it is necessary to take proactive actions that give the utmost importance to their safety, well-being, and fundamental rights in the era of digital technology²⁴.

²⁴ We Protect Global Alliance: “Alarming escalation in child sexual abuse online revealed by Global Threat Assessment” (2023), Bringing together experts to protect children from sexual exploitation and

abuse online.

IDENTIFACTORS CONTRIBUTING THE ONLINE CHILD SEXUAL ABUSE

“In the current digital era, when children have greater access to the internet and digital gadgets, there is an increasing worry about online child sexual abuse. It is important to identify indications and manifestations of online mistreatment to promptly intervene and save children from damage. The manifestation of these indications might vary based on the child's age, their online activity, and the type of abuse they are subjected to. Behavioural manifestations of online child sexual exploitation encompass clandestine conduct, prolonged periods of online activity, social separation from family and acquaintances, abrupt behavioural alterations, fascination with adult-oriented material, concealment of online connections, and receipt of presents or monetary compensation without a transparent origin or justification.”

Emotional and psychological manifestations encompass feelings of worry and dread, symptoms of sadness or withdrawal, occurrences of nightmares and disruptions in sleep patterns, diminished self-worth, avoidance of educational or social engagements, and contemplation of suicide or self-inflicted injury. Physical health problems encompass inexplicable physical ailments such as abdominal pain, migraines, and psychosomatic symptoms triggered by stress or anxiety resulting from online harassment²⁵. Alterations in dietary patterns, such as abrupt fluctuations in body weight, modifications in appetite, or the development of eating disorders associated with emotional turmoil, are frequently observed. Episodes of sleep disruptions occur along with engaging in online activities or encountering instances of mistreatment.

Online activity indications encompass accessing improper content, engaging in excessive messaging or social media usage, divulging personal information, and establishing several online personas. Online child sexual abuse may have a profound and enduring psychological impact, negatively impacting a kid's emotional well-being, mental health, and general development. Victims may display trauma reactions akin to those seen in cases of physical abuse or assault, such as symptoms associated with post-traumatic stress disorder (PTSD), anxiety and depression, dread and difficulties with

²⁵ Mike Brady, UK Paramedics Confidence in Identifying child sexual abuse: A mixed-methods Investigation, Journal of Child Sexual Abuse Vol. 27 (2018).

trust, feelings of guilt and shame, social isolation, alterations in cognitive and behavioural patterns, and a diminished sense of self-worth²⁶.

Ultimately, it is crucial for carers, educators, and individuals responsible for the welfare of youngsters to possess a comprehensive comprehension of the indications and manifestations of online child sexual abuse. Carers can safeguard children from danger and preserve their well-being by identifying these indicators and offering suitable assistance. Online child sexual abuse can result in notable alterations in behaviour, such as increased aggressiveness, a return to earlier developmental stages, withdrawal from social interactions, engagement in sexualized activity, worse academic performance, and an elevated likelihood of substance dependence. These alterations might be ascribed to mental discomfort or trauma, as well as the necessity for social and interpersonal ties. The social and interpersonal consequences of online child sexual abuse include trust concerns, social disengagement, isolation, strained relationships, and interruptions in social development.

“Factors that heighten a child's susceptibility to online sexual abuse encompasses age and developmental

stage, emotional susceptibilities, dysfunctional home dynamics, technological accessibility, and lack of understanding. Children or teenagers who are in the process of discovering their identity and seeking independence on the internet may be more susceptible to grooming techniques and exploitation.”

Individuals who have emotional vulnerabilities, such as feelings of loneliness, poor self-esteem, or familial difficulties, may actively seek validation or connection through online platforms, which might make them more susceptible to grooming. Perpetrators may abuse children's weaknesses and influence them online due to dysfunctional home dynamics, parental negligence, or lack of supervision. Insufficient parental controls or supervision of technology might lead to increased vulnerability to online threats and exploitation. Insufficient knowledge among children and carers can also result in their being ill-equipped to identify and address indications of internet abuse. To effectively prevent and combat online child sexual abuse, it is necessary to adopt a complete strategy that encompasses education, awareness, proactive monitoring, and supportive interventions²⁷.

²⁶ Sarah Ullman, “Relationship to the perpetrator, disclosure, social reactions, and PTSD symptoms in child sexual abuse survivors” 16 Journal of Child Sexual Abuse (2007).

²⁷ Spotting the signs of child abuse, India, available at <https://www.nspcc.org.uk/what-is-child-abuse/spotting-signs-child-abuse> (4th July 2024).

It is imperative to introduce educational initiatives aimed at instructing children on matters of internet safety, enabling them to identify grooming behaviours, and empowering them to report instances of abuse. Parents need to offer direction in monitoring their children's online activity, establishing boundaries that are suitable for their age, and encouraging open conversation around internet usage. It is imperative to give professional training to educators, healthcare practitioners, and social workers to enable them to effectively recognise indicators of online abuse, appropriately handle disclosures, and deliver care that is sensitive to trauma²⁸. Efforts should be made to promote more robust legislation and regulations to effectively combat the issue of online child sexual abuse. It is vital to guarantee support services for those who have experienced online abuse, encompassing psychiatric counselling, medical assistance, legal representation, and community-based support groups. Tech businesses should develop and apply technological solutions to include safety features, moderation tools, and reporting systems to combat online exploitation and safeguard minors on the internet.

Ultimately, it is vital to identify indicators and manifestations of online child sexual exploitation to promptly intervene and save children from damage in the current era of digital technology. To ensure the well-being of children, carers, educators, and community members may be watchful and proactive in protecting against internet abuse by recognising and understanding the behavioural, emotional, psychological, and social signs of such abuse²⁹.

²⁸ How can Education Ensure Child Protection Online, India, available at <https://ecpat.org/story/education-prevention-child-protection-online> (7th July 2024).

²⁹ Claire Henry, “Designing effective digital advertisements to prevent online consumption of child sexual exploitation material” 29 Journal of Child Sexual Abuse (2020).

PROTECTING CHILDREN FROM ONLINE PREDATORS

Safeguarding children against online predators is the paramount duty of parents, educators, carers, and the whole society in the current era of digital technology. Online predators employ many strategies to deceive,

groom, and exploit children for sexual motives, underscoring the importance of implementing proactive measures to protect children's online safety. The guide thoroughly examines successful tactics and practical advice for safeguarding children against internet predators. Online predators are those who utilise the internet to engage in grooming, manipulating, and exploiting youngsters for sexual intentions³⁰.

Perpetrators may assume false identities as classmates, acquaintances, or people of authority to establish trust with youngsters and manipulate them into engaging in illicit behaviours or interactions. Online predators commonly employ strategies such as grooming, manipulation, deceit, and sextortion³¹.

To safeguard children from online predators, carers must begin the process of educating them about online safety at an early stage. This entails imparting knowledge about privacy, acceptable conduct on the internet, and the ability to identify possible dangers. Promoting transparent communication is essential, and it is important to foster an environment where children feel empowered to approach you if they come across any dubious or unsettling content on the internet. It is crucial to impart critical thinking skills and establish explicit guidelines and limitations for internet usage. Vigilant oversight and surveillance are vital, necessitating continuous monitoring of children's activities and a keen awareness of their online communication partners³².

Parents ought to utilise parental controls and privacy settings on devices and applications to limit access to unsuitable content. It is important for children to be aware of the identities of their friends and to have open conversations with them about their connections. They should exercise caution when it comes to online friends whom they have never met in person. Regularly conducting privacy audits on social media accounts and applications is crucial to managing the individuals who may reach out to them and access their shared content. Adhering to safe online practices entails refraining from

³⁰ Gregor Urbas, "Protecting children from online predators: The use of covert investigation techniques by law enforcement" 26 *Journal of Contemporary Criminal Justice* (2010).

³¹ Janis Wolak, David Finkelhor, and Kimberly J. Mitchell Michele L. Ybarra, "Online "Predators" and Their Victims Myths, Realities, and Implications for Prevention and Treatment" 63 *University of New Hampshire Internet Solutions for Kids, Inc.* (2008).

³² L.K. Yang, *Adolescents, Rapid Social Change, and the Law*, p.no.75-92, Springer, Bloomington, USA, 2016.

divulging personal information on the internet, educating oneself on the hazards associated with uploading images, videos, or personal details on social media platforms, and instructing youngsters on how to promptly report any suspicious or inappropriate online behaviour to their parents, teachers, or other trusted people³³.

Ensuring the safety of online gaming is crucial for safeguarding children's trust and vulnerabilities. Developing digital resilience entails empowering individuals, fostering knowledge of consent, promoting awareness of one's digital footprint, and encouraging offline activities to cultivate a healthy lifestyle and diminish reliance on digital gadgets³⁴. Parental control software and filtering solutions are utilised to restrict access to unsuitable information, supervise online behaviour, and establish time constraints for internet usage³⁵. Device management is necessary to ensure that software and applications are regularly updated with the latest security updates and to enforce the use of strong passwords or biometric authentication. It is advisable to activate safe search options on browsers and search engines to screen and exclude explicit information from search results. It is advisable to utilise monitoring applications to

identify any indications of improper conduct or communication.

Identifying indicators of online predators involves observing alterations in behaviour, bodily manifestations, shifts in sleep routines, as well as secretive and evasive behaviour. Collaboration with schools and communities is crucial since school programmes play a vital role in promoting and facilitating education initiatives that raise awareness among students, teachers, and parents about online safety and the dangers posed by online predators. Collaborating with community organisations, law enforcement agencies, and online safety advocates may enhance awareness and facilitate the exchange of resources to safeguard children from online predators. When carers suspect the presence of internet predators, it is crucial for them to promptly take action, gather evidence, seek assistance from experts, and speak with legal authorities to navigate their legal choices³⁶.

³³ Jimmy Sanderson, Melinda R. Weathers, "Snapchat and child sexual abuse in sport: Protecting child athletes in the social media age" 23 Sports Management Review (2020).

³⁴ "Can virtual gang rape occur in the Metaverse? UK police launch investigation", The Economics Times, Jan 03, 2024, <https://economictimes.indiatimes.com>.

³⁵ Duygu Gür, Yalın Kılıç Türel, "Parenting in the Digital Age: Attitudes, Controls and Limitations Regarding Children's Use of ICT" 183 Computers & Education (2022).

³⁶ Andy Phippen, *Children's Online Behaviour and Safety: Policy and Rights Challenges* (Springer, 1st ed., 2020).

To effectively secure children from online predators, a comprehensive strategy is necessary, encompassing education, communication, supervision, technology precautions, and community engagement. To mitigate the risks of online exploitation and foster a secure digital environment for children's growth and education, carers can empower them with information, set clear limits, and closely supervise their online activities.

LAWS AND REGULATIONS ADDRESSING IN INDIA

Online child sexual abuse is a prominent concern in the era of digital technology, and India has acknowledged the necessity of strong legislative frameworks to address and prevent this type of abuse. The POCSO Act, of 2012³⁷, is a significant law that outlines many types of sexual abuse against minors, including abuse that occurs online. The Protection of Children from Sexual Offences (Amendment) Act, 2019 inserted section 2(da), that is Child Pornography. This policy requires professionals, including physicians, teachers, and law enforcement authorities, to report incidents of child sexual abuse. It also sets harsh punishments for those who commit such offences. The IT Act of 2000, which was amended in 2008, deals with a range of cybercrimes, including those about child sexual abuse. The key provisions of the law include Section 67B, which makes it a crime to publish, transmit, or facilitate the publication of any material that shows children engaged in sexually explicit acts in electronic form.

Section 67C prohibits the use of children in online pornography or any depiction of them in obscene material. Section 66E safeguards the privacy of individuals by criminalising the capturing, publishing, or transmitting of images of private areas of any person without their consent, which can also apply to minors.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 Amendment Rules, 2023³⁸. Impose duty on the intermediary not to publish or transmit pornographic and paedophilic material and if the intermediary collects the information from a user registration on the computer resources, it retains his or her information for 180 days. Even if the user cancelled or withdrew

the registration, the intermediary shall respect all the rights provided by the constitution to the citizens of

³⁷ The Protection of Children from Sexual Offences (Amendment) Act, 2019 (25 of 2019).

³⁸ The Information Technology Act, 2000 (21 of 2000).

India under articles 14, 19 and 21³⁹. The primary objective of the Juvenile Justice (Care and Protection of Children) Act, 2015⁴⁰, is to prioritise the well-being, safeguarding, and reintegration of children, particularly those who have experienced sexual abuse, whether in physical or virtual environments. The main components consist of Child Welfare Committees, Rehabilitation and Social Integration, and Special Provisions for Children in Need of Care and Protection. Regulatory frameworks and rules play a crucial role in tackling the issue of online child sexual abuse in India. These steps encompass the creation of Child Welfare Committees, the implementation of rehabilitation initiatives and social integration programmes, and the guarantee of essential support, such as legal assistance, therapy, and other services, for children who have been victimised online. India may enhance the protection of its children from online child sexual abuse and guarantee their safety and well-being in the digital era by enacting and enforcing these laws and regulations. The Ministry of Electronics and Information Technology (MeitY) and the National Commission for Protection of Child Rights (NCPCR) have released rules to oversee online material and platforms to guarantee the safety and security of children. The criteria encompass a Notice and Takedown Mechanism, Safety Features, and Prevention Mechanisms. The rules issued by MeitY are crucial in overseeing online platforms and content to address the dangers of online child sexual abuse and establish a more secure online environment for children. The NCPCR⁴¹, a statutory entity operating under the Ministry of Women and Child Development, releases recommendations and advisories to tackle child rights concerns, such as internet abuse. The main components of the NCPCR recommendations include raising awareness and preventing issues, monitoring and reporting incidents, and addressing cross-border concerns. These guidelines enhance statutory frameworks by emphasising preventative steps, raising awareness, and monitoring to protect minors from online sexual abuse. Nevertheless, India has obstacles in executing the plan, including inadequate reporting, technology progress, skill development, and cross-border concerns.

To bolster the fight against online child sexual abuse in India, many strategies might be contemplated, such as heightened awareness and education, strengthening of capabilities, utilisation of technical solutions, fostering international collaboration, and

³⁹ Ibid at 1.

⁴⁰ The Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016)

⁴¹ The Commissions for Protection of Child Rights Act, 2005 (4 of 2006), s. 2(c).

conducting research and data gathering. Overall, the legislative and regulatory frameworks in India, including the POCSO Act, IT Act, and guidelines from MeitY and NCPCR, are important steps towards protecting children against online child sexual abuse in the digital era. Nevertheless, effectively dealing with the complex issues of underreporting, technology progress, skill development, and global collaboration necessitates ongoing commitment from all parties involved. India can further advance in building a safer online environment for children by bolstering regulatory frameworks, increasing awareness and education, developing technology advances, and boosting international collaboration⁴².

REPORTING OF ONLINE CHILD SEXUAL CASES IN INDIA

The increasing prevalence of internet connection and digital gadgets has made children especially susceptible to sexual exploitation, leading to an urgent worldwide issue of online child sexual abuse in India. In India, there is a comprehensive legal framework and reporting procedures to address child sexual abuse. One such legislation is the Protection of Children from Sexual Acts (POCSO) Act, 2012. This act not only specifies different types of child sexual abuse but also imposes severe punishments for such acts. Furthermore, the Information Technology (IT) Act, 2000 and its revisions also address matters related to cybercrime, namely the online distribution of child sexual abuse material (CSAM).

The reporting methods for reports of online child sexual abuse in India involve several players, including law enforcement agencies, government efforts, and non-governmental organisations (NGOs). These organisations play a vital role in assisting victims and campaigning for their rights, frequently working along with law enforcement authorities to offer counselling, legal assistance, and rehabilitation services to victims of online child sexual abuse.

Nevertheless, several obstacles impede the efficient reporting and prosecution of online child sexual abuse instances in India. Challenges such as underreporting, technical obstacles, jurisdictional complications, and insufficient training and resources exist. To tackle these difficulties, a range of measures are being put into action, including

⁴² Shivalaxmi Arumugham and Beulah Shekahr, "Profiling Offenders and Victims of Child Sexual Abuse Materials (CSAM) in India" 50 *Indian Journal of Criminology* 43-61 (2022).

initiatives to raise awareness, efforts to enhance capabilities, the use of technical advancements, and changes to the legal system.

Supporting and rehabilitating victims are crucial measures in the fight against online child sexual abuse. Government agencies and non-governmental organisations (NGOs) organise awareness programmes aimed at educating children, parents, and teachers about internet safety and the dangers associated with online sexual abuse. Training programmes for law enforcement agencies and judicial authorities are crucial for improving their comprehension of cybercrime legislation and investigation methods for online child sexual exploitation. Effective collaboration among technology firms, law enforcement agencies, and non-governmental organisations (NGOs) is essential for the development and implementation of technical measures to detect, report, and eliminate child sexual abuse material (CSAM) from online platforms. Global collaboration is essential for the investigation and prosecution of criminals who engage in activities that transcend national boundaries.

Mutual legal assistance treaties (MLATs)⁴³ and bilateral agreements enable nations to collaborate by exchanging information and transferring suspects for extradition purposes. Striking a balance between the imperative to investigate instances of online child sexual abuse and the right to privacy and data protection is a substantial problem. Law enforcement agencies are required to comply with legislative frameworks that protect persons' privacy during investigations. Technology businesses have a crucial role in fighting online child sexual abuse by establishing strong regulations and advanced technologies to identify and eliminate CSAM (child sexual abuse material) from their platforms. Automated content moderation technologies, algorithms based on artificial intelligence, and industry standards like the National Centre for Missing and Exploited Children (NCMEC) ⁴⁴ guidelines aid in the detection and reporting of child sexual abuse material (CSAM) to law enforcement authorities. Overall, although there have been notable advancements in tackling online child sexual abuse in India through legal actions, reporting systems, and preventative tactics, there are still ongoing difficulties. Developing a greater understanding, fortifying legal structures, enhancing technical capacities, and offering assistance to

victims are essential measures in

⁴³ <https://www.mha.gov.in/en/divisionofmha/coordination-international-cooperation-cic-division>. (Visited 4th July, 2024).

⁴⁴ “Cabinet Approves MoU Between India and USA to Access Tip Line Reports on Missing and Exploited Children”, *Press Information Bureau*, Feb. 28, 2019.

establishing a more secure digital space for youngsters. To properly address this widespread problem, it is crucial to maintain ongoing cooperation among government agencies, non-governmental organisations (NGOs), technological businesses, and the broader society.

ROLES AND RESPONSIBILITIES OF PARENTS, EDUCATORS, AND SOCIETY IN PREVENTING ONLINE CHILD SEXUAL ABUSE

Safeguarding children against online child sexual exploitation is a paramount concern for parents, schools, and society in the present era of digital technology. This requires a focused and coordinated endeavour that includes promoting knowledge, providing education, maintaining watchfulness, and taking proactive actions⁴⁵.

Parents have a crucial responsibility in safeguarding their children from internet dangers, such as sexual exploitation. Parents fulfil the role of main carers and champions for their children's safety in both physical and virtual settings. Parents have a vital role in avoiding online child sexual abuse by comprehending the hazards associated with the internet, fostering transparent communication with their children on their online activities, and creating explicit rules and limits for internet usage. Active supervision is closely watching children's online activity, identifying indicators of possible grooming or exploitation, and instructing them on online safety precautions. Support and intervention encompass establishing a nurturing atmosphere, notifying parents and authorities about suspicious or abusive conduct, and seeking expert assistance for children who have encountered online sexual abuse or trauma. Educators have a vital role in advocating for internet safety and reducing instances of online child sexual abuse in school environments⁴⁶. Regularly, they engage with youngsters and can shape their comprehension of digital citizenship and secure online behaviours. Their duties encompass the integration of internet safety into the curriculum, advocacy for ethical use of technology, and tackling the issue of cyberbullying. Educators must also offer continuous training and professional development opportunities to educators about the identification of indicators of online grooming, handling disclosures of abuse,

⁴⁵ Qi Wu and Yanfeng Xu, “Parenting Stress and Risk of Child Maltreatment During the Covid-19 Pandemic: A Family Stress Theory Informed Perspective” *2 Developmental Child Welfare* 180–196 (2020).

⁴⁶ M.J. Berson and J.M. Ferron, “Emerging Risks of Violence in the Digital Age: Lessons for Educators from an Online Study of Adolescent Girls in the United States” *1 Journal of School Violence* 51–71 (2002).

and implementing efficient safeguarding measures. Parental involvement is partnering with parents to strengthen online safety practices both at home and at school⁴⁷. This includes organising workshops, seminars, or parent-teacher meetings to educate parents on the potential hazards of the internet and effective ways for safeguarding their children online. Ultimately, parents, schools, and society all have

crucial responsibilities in protecting children from internet predators and reducing the dangers associated with online child sexual abuse. Through promoting consciousness, instruction, attentiveness, and proactive actions, we may strive towards establishing a more secure digital milieu for every child.

Combating online child sexual abuse necessitates a collaborative endeavour including parents, schools, and society as a whole. This includes the implementation of policies and standards aimed at fostering secure internet usage and safeguarding students from online threats. It also involves the monitoring and reporting of students' online actions, as well as the enhancement of legal frameworks to combat online child sexual abuse. Society plays a key part in establishing a secure and nurturing environment for children, whether it is in the digital realm or the physical world. This includes activities such as championing the rights of children, initiating campaigns to raise public awareness, enhancing legal structures, and fostering international collaboration. Technology businesses are responsible for adopting strong safety measures, moderation standards, and reporting systems to prevent the spread of child sexual abuse material (CSAM) and actions related to grooming on their platforms. Nevertheless, several obstacles and impediments impede the successful prevention of online child sexual abuse. The detection and prevention of online grooming and abuse are hindered by technological improvements since numerous incidents remain unreported owing to the fear, shame, or lack of information among children and carers regarding reporting methods. It is important to strike a balance between privacy concerns and the necessity of online safety, especially when it comes to monitoring children's online activity and installing filtering systems.

⁴⁷ Julia Rudolph and Russell Hawkins, "Child Sexual Abuse Prevention Opportunities: Parenting, Programs, and the Reduction of Risk" 23 *Child Maltreatment* 96-106 (2018).

Prosecuting internet offenders across borders and dealing with discrepancies in international laws on online child sexual abuse provide significant jurisdictional issues⁴⁸.

To improve preventive efforts, it is recommended to broaden digital literacy programmes and provide training to parents, educators, and children on how to identify and address online hazards, grooming behaviours, and cyberbullying. Facilitating cooperation among government agencies, non-governmental organisations (NGOs), technology businesses, educators, parents, and law enforcement is crucial. It is imperative to provide easily available and efficient support services, such as psychiatric counselling, legal aid, and rehabilitation programmes, for children who have been victims of internet sexual abuse. Allocating resources to study and data collecting can enhance our comprehension of the frequency, characteristics, and consequences of online child sexual abuse. By using data-driven insights, we can effectively shape policy formulation, treatments, and preventative measures. It is essential to encourage responsible technology usage among children, parents, and educators by implementing ethical norms, setting a positive example of digital behaviour, and cultivating an online culture that values empathy and respect. To effectively combat online child sexual abuse, it is imperative that parents, schools, and society as a whole join forces. Stakeholders may reduce risks and safeguard children from the harmful effects of online exploitation by completing their duties and obligations⁴⁹.

⁴⁸ Sabine K. Witting, "Transnational by Default: Online Child Sexual Abuse Respects No Borders" 29 *the International Journal of Children's Rights* 731-764 (2021).

⁴⁹ Cameron S. D. Brown, "Investigating and Prosecuting Cyber Crime: Forensic Dependencies and Barriers to Justice" 9 *International Journal of Cyber Criminology* 55-119 (2015).

TAKING ACTION TO COMBAT ONLINE CHILD SEXUAL ABUSE IN INDIA:

Tackling online child sexual abuse in India is an intricate problem that needs a comprehensive strategy. It encompasses legislative changes, technical progress, public consciousness, and strong support networks for victims. The hurdles encompassed in this context consist of underreporting and stigma, technical obstacles, legal and jurisdictional complications, capacity and training limitations, and victim assistance and rehabilitation. To address this problem, India must bolster its legal structures, improve collaboration on a global scale, allocate resources towards training initiatives and support for law enforcement agencies, and raise awareness and educate the public through school-based initiatives, community involvement, media and social media campaigns, and comprehensive victim assistance services. These endeavours can result in a decrease in occurrences of online child sexual exploitation, greater reporting and legal action, improved online safety for children, and assistance for victims⁵⁰.

The possible consequences of these activities are substantial. India can make substantial strides in safeguarding children from the detrimental consequences of online sexual exploitation by improving legislative frameworks, implementing technology solutions, raising awareness and providing education, and fortifying support networks for victims. Enhancing reporting systems and enhancing the capabilities of law enforcement authorities can result in more effective investigation and conviction of offenders, leading to more accountability and justice for victims. Equipping children with information and skills about online safety can enable them to identify and address possible hazards, therefore establishing a more secure digital landscape for children in India. Finally, offering extensive support networks and victim-centric methods can aid in the recovery of victims from trauma and assist them in rebuilding their lives with dignity and assistance. Conclusively, addressing the issue of online child sexual abuse in India necessitates collaborative endeavours from governmental entities, law enforcement agencies, non-governmental organisations, technology corporations, educators, parents, and communities. India can make substantial strides in safeguarding children from the detrimental consequences of online sexual exploitation by bolstering

⁵⁰ Sayani Chandra, "Child Abuse and Online Security Issues" 2 India Journal of Law and Legal Research (2021).

regulatory frameworks, improving technology solutions, fostering awareness and education, and reinforcing support networks for victims.

Ongoing cooperation, distribution of resources, and dedication from all parties involved are crucial in effectively tackling the difficulties presented by online child sexual abuse and establishing a safer online environment for children. Ensuring the safety and security of children is of utmost importance to facilitate their growth and flourishing in the digital realm⁵¹.

and Christopher Hooper, "Online Child Exploitation: Challenges and Future Research Directions" 30 Computer Law & Security Review 687-698 (2014).

CONCLUSION

Article 39⁵² of the Constitution provided that the State shall direct its policy to ensure that the child's tender age was not abused and that the State would ensure that the children were given opportunities to develop in conditions of freedom and dignity. India is a signatory to the UN Convention on the Rights of Child, 1989⁵³ which placed an obligation on the country to give primary consideration to the child's best interest in all actions undertaken by it including the actions undertaken by the Courts of Law, Administrative Authorities or the Legislative Bodies.

The Protection of Children from Sexual Offences (Amendment) Act, 2019⁵⁴ just inserted child pornography there should be added Terminologies of Online Child Sexual as per the Luxemburg Guidelines⁵⁵:

- Cyberbullying.
- Online Grooming.
- Child Sexual Abuse/Exploitation Material.
- Live streaming of child sexual abuse.
- Commercial Sexual Exploitation of Child.
- Virtual Rape.
- Sexting.
- Child Sexual Abuse to Order.
- Webcam Child Sexual Tourism/Online Child Sexual Tourism.

Indian Parliament should bring legislation like the Digital Service Act, of 2022⁵⁶ European Union Parliament introduced this Act, as per this Act, Social Media Companies would be responsible if Child Sexual Abuse Material is posted on the platform. The Parliamentary Ad-hoc Committee Under the Chairmanship of Jai Ram Ramesh recommends that all educational institutions, such as schools, colleges, etc., should be mandatory to have 'Social Media Regulations' addressing all social and legal requirements to ensure increased awareness and compliance. Institutions must also

⁵² Ibid at 1.

⁵³ General Assembly, Convention on the Rights of the Child, UN GAOR, UN Doc A/Res/44/25 (Nov. 20, 1989).

⁵⁴ Ibid at 39.

⁵⁵ Andrea Varrella, "Terminology Considerations on Trafficking of Children for Sexual Purposes Based on the Luxembourg Guidelines" 5 Journal of Human Rights and Peace Studies 36-46 (2019).

⁵⁶ Luciano Floridi and Mariarosaria Taddeo, "The Digital Services Act: An Analysis of its Ethical, legal, and Social Implications" 15 Law, Innovation and Technology 83-106 (2023). formulate penalties and actions corresponding to violations of the guidelines. Intermediaries shall be responsible for all measures to proactively identify and remove Child Sexual Abuse Material (CSAM) as well as report it to Indian authorities under the National Cybercrime Portal. Gateway ISPs must bear a significant liability to detect and block CSAM websites. Parliament should pass a comprehensive law that will deal with Online Child Sexual Abuse.

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