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“NAVIGATING THE INADEQUACY OF LEGISLATION: JUVENILE CYBERCRIME AND INTERNET EXPOSURE”

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ABSTRACT

The rapid growth of digital technologies has led to a noticeable surge in cybercrimes committed by juveniles, a trend further fuelled by the increasing prevalence of internet use among this demographic. This paper aims to examine the shortcomings in current legislation regarding these issues by delving into various aspects of juvenile cybercrimes, including the types of offences and their consequences, as well as the impact of internet exposure on juvenile behaviour, it identifies significant gaps in existing legal frameworks. The analysis aims to identify deficiencies in legal definitions, classifications, and enforcement legislation concerning juvenile cybercrimes.

RESEARCH METHODOLOGY

This paper primarily employs **analytical research as its primary methodology to delve into the complexities of juvenile cybercrimes and the influence of internet exposure**. This method allows for a thorough analysis of existing legislation, multiple cases, and other relevant data, we aim to identify the adequacy of current legal frameworks to curb juvenile cyber delinquency. This method of research would help in a comprehensive understanding of the challenges posed by juvenile cybercrimes and provide recommendations for legislative reform.

Analytical research has limitations in investigating juvenile cybercrimes and internet exposure. It relies on existing data, potentially restricting the study's scope and missing emerging trends.

Bias in data interpretation and a lack of contextual understanding due to a focus on quantitative data are concerns. Reliance on available data sources, inability to capture dynamic changes, and ethical considerations regarding privacy are further limitations. These constraints emphasize the importance of complementing analytical methods with other approaches for a comprehensive understanding of the topic.

INTRODUCTION

The proliferation of digital technologies has transformed the landscape of contemporary society, offering unprecedented opportunities for communication, learning, and entertainment. However, alongside these benefits, the digital age has also ushered in a new frontier of crime, with cybercrimes perpetrated by juveniles or cybercrimes against juveniles, emerging as a pressing concern. Today's youth are increasingly engaged in online activities, making them both perpetrators and victims of cybercrimes.

This phenomenon is further amplified by the widespread accessibility and utilization of the Internet among young individuals or juveniles. The exposure of the internet to children at such a tender age affects their psychology further motivating them actively or passively to commit crimes, immoral acts, etc. & the internet is an object that cannot be completely regulated due to its digital nature & sheer vastness of the web. The Information Technology Act of 2002¹, provides for the protection of internet users from cybercrimes, such as “identity theft, monetary loss, exposure to obscene content, online confiscation of assets, etc”. alongside laws for protecting children on the internet, but it has a limited scope which will be further elaborated in the paper.

The pace of technological advancement is staggering, with children frequently seen wielding smartphones nowadays. Unfortunately, this surge in technology is accompanied by a concerning increase in cybercrimes, particularly those perpetrated by juveniles. These offences range from bullying to defamation, harassment, and involvement in cyber pornography. A critical challenge arises from the lack of distinction on online platforms between adults and children, enabling juveniles to access content intended for adults.

Many juveniles engage in cybercrimes purely for entertainment without grasping the serious consequences or the criminality of their actions according to the law. Numerous factors contribute

¹ The Information Technology Act, 2002

to juvenile involvement in cybercrime, including sociological and personal factors such as peer pressure and feelings of failure. Internet addiction poses a significant threat to children, and parents are increasingly concerned about their children's internet addiction. However, mere internet addiction may not be problematic unless it infringes upon the rights of others or causes damage to property as recognized by law, but, it might lead to the juveniles jeopardising their own lives & their future.

Addressing the juvenile justice system's dilemma with underage offenders, who are not fully accountable for their actions, is crucial. While society focuses on shielding children from harm, it often neglects to prevent them from engaging in harmful behaviour, especially online, thus, making the central question of research to be; *“Is the current legislation sufficient to curb & regulate juvenile cyber delinquency?”*. The current legislation in place to deal with Juveniles are “the Juvenile Justice (Care & Protection of Children) Act, 2015² & the Protection of Children from Sexual Offences Act (POCSO), 2012³”, along with S.65B⁴ of the Information Technology Act, 2002.

CYBERCRIMES & JUVENILES

The term “Juvenile” is defined under S.2(35)⁵ of “The Juvenile Justice (Care & Protection of Children) Act, 2015,” hereinafter referred to as “JJ Act” as a “child” who is “under the age of eighteen years”. “Delinquent” is a person who has been found to have committed an offence. Thus, we can infer that “Juvenile Cyber Delinquency” means, an act committed by a juvenile i.e. a child below eighteen years of age, which is a type of cyber offence such as phishing, stalking, indulging in child pornography or grooming, hacking, promoting or inciting terrorism online, spreading hate, cyberbullying, impersonation, etc.

Cyber-pornography stands out as a prevalent form of juvenile misconduct online. “Easily accessible on the web, sexually explicit content can be viewed and shared by individuals of all ages. Various media platforms, including DVDs, online streaming, and digital photography, contribute to the proliferation of the pornography industry. A 2005 study revealed that one in three children stumble upon unwanted nude images or sexual content while browsing the

² Juvenile Justice (Care & Protection of Children) Act, 2015

³ Protection of Children from Sexual Offences Act (POCSO), 2012

⁴ The Information Technology Act, 2002, §65B

⁵ The Juvenile Justice (Care & Protection of Children) Act, 2015, §2(35)

internet”⁶.

However, many children can also directly become victims of Cybercrimes, in the absence of adequate cyber legislation, today's youth, who might otherwise exercise caution before engaging in offline offences like pickpocketing or robbery, feel less inhibited about crossing ethical boundaries online and potentially committing cybercrimes. Also, the increasing use of Artificial Intelligence & its free availability to each & every person is like a workaround to bypass legal barriers, which makes it more difficult for the Cybercrime cell to track the offenders. There are multiple sections provided in the “Indian Penal Code of 1860, Information Technology Act of 2002, POCSO Act of 2012 & Juvenile Justice (Care & Protection of Children) Act of 2015”.

LAWS ON CYBERCRIMES RELATING TO JUVENILES & RECOMMENDATIONS

There are multiple legislations & frameworks for the protection of children in cyberspace,

1. INFORMATION TECHNOLOGY (IT) ACT, 2002:

S.67B⁷ of the act specifies the penalties for releasing or sharing content that shows an minor engaging in “sexually explicit” acts, or an act similar to that, in an electronic form. Upon a first conviction, these penalties are imposed on anyone who, among other things, cultivates, entices, or induces minors to engage in sexually explicit acts online, or who publishes, transmits, creates text or digital images, gathers, seeks, browses, downloads, advertises, promotes, exchanges, or encourages children to engage in such acts.

2. JUVENILE JUSTICE (CARE & PROTECTION OF CHILDREN) ACT, 2015:

All the provisions of this provision that deal with “Child in conflict with law” apply to juveniles who have committed cybercrimes, whereas all the provisions dealing with “Child in need of care & protection” apply to juveniles been a victim to any cybercrime.

⁶ J. Wolack, Online victimization of youth 5 years later, Washington National Centre for Missing Exploited Children, 2006.

⁷ id. 1 (pg.5)

3. INDIAN PENAL CODE, 1860:

S.82⁸ of the act provides that no act shall be deemed to be a crime if it is committed by a child under the age of “7 years”, furthermore S.83⁹ states that nothing shall be considered an offence if committed by a child above 7 years & below 12 years of age if he has not developed the maturity to understand & judge the nature of the action.

S.89¹⁰ provides that children below the age of 12 & a person of unsound mind are not capable of giving their consent, rather the consent would be given by a parent or legal guardian if necessary.

S.354D¹¹ protects them against Stalking & provides that the offender when first convicted shall be punished with imprisonment up to 3 years & fine which could be increased up to 5 years if convicted for the same offence for the second time along with a fine.

4. THE PROTECTION OF CHILDREN AGAINST SEXUAL OFFENCES (POCSO) ACT, 2012:

S.12¹² of the act provides for a punishment of three years & fine against a person who sexually harasses a child, furthermore using a child for pornographic purposes is deemed a criminal offence under Section 13¹³ of the POCSO Act, 2012. The penalties for such crimes, as outlined in Section 14¹⁴, vary based on the severity of the offence: Firstly, using a child for pornographic purposes (Section 14): Imprisonment for no less than five years and a fine. For subsequent convictions, imprisonment for seven years and a fine are mandated under Section 14(1)¹⁵. Second, aggravated penetrative sexual assault resulting from the use of a child for “sexually explicit” purposes carries a minimum 20-year jail sentence and a fine. Thirdly, if a minor is used for “pornographic purposes” and the consequence is “sexual assault”, the person committing such an offence faces “a minimum of ten years in prison”. A minimum of 20 years in prison is required if the child is younger than 16 years old. Fourth, using a child for “pornographic purposes” that results in “sexual assault” carries a “minimum sentence of three years in prison”, with a maximum sentence of “seven years”. Lastly, using a child for pornographic

⁸ Indian Penal Code, 1860, §82

⁹ Indian Penal Code, 1860, §83

¹⁰ Indian Penal Code, 1860, §89

¹¹ Indian Penal Code, 1860, §354D

¹² Protection of Children from Sexual Offences Act (POCSO) 2012, §12

¹³ Protection of Children from Sexual Offences Act (POCSO) 2012, §13

¹⁴ Protection of Children from Sexual Offences Act (POCSO) 2012, §14

¹⁵ Protection of Children from Sexual Offences Act (POCSO) 2012, s 14(1)

purposes that results in aggravated sexual assault carries a minimum sentence of five years in prison, with a maximum sentence of seven years.

S.15¹⁶ can be divided into three parts as per the sub-sections to understand them better:

S.15(1)¹⁷ of the Act states that any individual who possesses or stores pornographic material involving a child but fails to delete, destroy, or report it to the designated authority to do so is liable for punishment. According to S.15(2)¹⁸, anyone possessing such material for distribution, transmission, or display without proper reporting or court use may face imprisonment of up to three years, a fine, or both.

S.15(3)¹⁹ stipulates that, upon a first conviction, the possession or storage of pornographic material featuring children for commercial reasons is punishable by a minimum three-year sentence that can be extended to five years in prison, a fine, or both.

5. THE CONSTITUTION OF INDIA, 1950:

The Constitution of India, 1950 provides for Art. 39(f)²⁰ ensures that kids and adolescents are shielded from exploitation and the material and moral desertion of their parents, and that they are provided with the means and chances to grow up in a healthy, free, and dignified manner.

There is a lack of robust enforcement mechanisms and limited awareness among stakeholders, including law enforcement officials, parents, and educators, regarding the risks and consequences associated with juvenile involvement in cybercrimes. This contributes to challenges in effectively preventing and addressing such offences. Additionally, the absence of specialized support systems for juvenile victims of cybercrimes further exacerbates their vulnerability and impedes their access to appropriate assistance and redressal.

Moreover, the rapid evolution of technology and the ever-changing landscape of the digital world pose ongoing challenges for lawmakers and law enforcement agencies in keeping pace with emerging cyber threats and trends. As a result, there is a pressing need for comprehensive legal reforms and policy initiatives aimed at strengthening the legal framework for addressing juvenile cyber-delinquency and enhancing protections for juvenile victims of cybercrimes.

¹⁶ Protection of Children from Sexual Offences Act (POCSO) 2012, s 15

¹⁷ Protection of Children from Sexual Offences Act (POCSO) 2012, s 15(1)

¹⁸ Protection of Children from Sexual Offences Act (POCSO) 2012, s 15(2)

¹⁹ Protection of Children from Sexual Offences Act (POCSO) 2012, s 15(3)

²⁰ The Constitution of India, 1950, art. 39(f)

These reforms should include the development of specialized legislation specifically addressing cyber offences involving juveniles, enhanced enforcement mechanisms, and targeted awareness campaigns aimed at educating juveniles, parents, educators, and law enforcement officials about the risks and consequences of juvenile cyber delinquency. Additionally, there is a need for the establishment of dedicated support systems and resources to provide assistance and support to juvenile victims of cybercrimes, ensuring their rights and well-being are effectively safeguarded in the digital age.

Additionally, enhancing enforcement mechanisms, including capacity-building initiatives for law enforcement agencies, is essential to ensure effective intervention and prosecution of juvenile cybercrimes. Moreover, targeted awareness campaigns aimed at educating juveniles, parents, educators, and law enforcement officials about the risks and consequences associated with juvenile cyber delinquency are necessary to foster a safer online environment. Furthermore, establishing dedicated support systems and resources to provide assistance and support to juvenile victims of cybercrimes is imperative, ensuring their rights and well-being are effectively safeguarded.

Juvenile Cyber Delinquency & the impact of early internet exposure As India has progressed towards digitization, the Internet of Things, etc., it is all but inevitable that such progress will have some drawbacks, in this case, the drawback is the early exposure of young children to the Internet. The Internet is a very unregulated place, even with all the regulatory laws, the mere nature of the Internet makes it very difficult to control the actions of its users & even to track a few of them as they use VPNs & other methods of changing their IP addresses, contact information, etc. India has witnessed a rise in cases of juvenile delinquency due to their mental health being affected by the internet.

CASE 1: An online game named “Blue Whale”, was in the news as it provided the child playing the game with a few tasks, one of which included making cut marks on the skin which eventually would take the shape of a Blue Whale. One such case was studied²¹, psychological evaluation of the kid playing the game was performed.

²¹ The depressed boy who accepted “Blue Whale Challenge”, INDIAN JOURNAL OF PSYCHIATRY, 2019, Jan-Feb; 61(1): 105-106

The child XY (name kept anonymous) was first reported to have a blue whale scar on his forearm by his class teacher, the child was in 11th grade & had a history of low self-esteem, low mood & persistent loss of concentration for the past four years along with disturbed sleep cycle. He gained knowledge of the Blue Whale game through the internet & accepted the challenge, after which he completed the tasks provided in the game, which made him feel happy, thus, he further continued to play the game. In the evaluation, it was found that the child had severe depressive episodes & had suicidal ideation.

There is a growing concern surrounding the phenomenon of "cyber suicide," particularly among young people who are at a heightened risk. This term refers to the use of the Internet for suicidal purposes and ideation, often luring vulnerable youths through various websites and platforms. The recent emergence of challenges like the Blue Whale Challenge exemplifies this trend. While some adolescents may initially engage out of curiosity or thrill-seeking behaviour, those with underlying depression or other mental health issues are particularly susceptible. Children raised in abusive or dysfunctional environments may also be drawn to these addictive games.

It's crucial to prioritize both physical and gadget hygiene, with mental healthcare providers advising adolescents and their guardians on crisis management strategies. This includes removing access to devices, exploring alternative activities, and fostering a supportive environment. Seeking help from crisis lines, friends, or family members is encouraged. Early clinical intervention for mental health issues is essential. Clinicians must stay informed about these evolving suicide methods and involve family members in treatment plans to effectively prevent suicides among vulnerable youth.

CASE 2: Social media users were captivated by images of conversations from the "bois locker room" Instagram discussion group in May 2020. Content related to objectifying women, making crude and offensive remarks about their body parts, sharing altered images (including those of minors), and using explicit sexual language were all present in the discussions. The majority of the teenage lads in the chat group attended upscale schools in South Delhi. Two ladies, whose altered photos became viral within the group, shared the screenshots of the purported conversations on social media. The women who disclosed the chats were threatened by the chat group members with the release of their naked photos. This was the first instance of cybercrime in India to stem from an Instagram chat, as the Delhi Police's cyber cell department filed a formal complaint (FIR) on the subject. According to preliminary investigations, schoolboys made up the

majority of the group's offensive communicators, with some college students among them.

The boys purportedly involved in the locker room chats admitted to regularly accessing the internet and viewing sexually explicit material without their parent's knowledge. This underscores the significance of the lack of parental supervision, a key aspect of the routine activity theory of crime. Exposing juveniles to the internet without proper parental guidance heightens the risk of their involvement in deviant behaviour or becoming victims of it. Further investigations revealed that the **admin** of the groups was a **12th-grade student** (18 years old), however, the rape chats were started by **a girl** whose age was not revealed, using a fake Id of a boy by suggesting sexual assault on herself, "**to check his reaction & the strength of his character.**". To everyone's shock, the girl was given a clean chit in the matter by justifying her actions as "immature".

There is a rise in such cases, where a child murdered his mother in Lucknow as she scolded her for playing an online game, & there are many such examples throughout India. The legislation concerning cybercrimes in India requires updating to align with advancements in digital technologies, as demonstrated by the 2008 amendment to the IT Act failing to anticipate smartphone misuse. Concerns arise from the lenient treatment of juvenile cyber offenders, highlighting the necessity for comprehensive legislation that balances the interests of victims and offenders and is uniformly enforced regardless of age.

CONCLUSION

Henceforth, the evolution of digital technologies necessitates a robust adaptation of legislation concerning cybercrimes to effectively address emerging challenges. For instance, the 2008 revision of the Indian IT Act failed to anticipate the potential misuse of smartphones by cyber offenders, highlighting the need for continual updates to keep pace with technological advancements. A significant concern within society revolves around the lenient treatment of juvenile cyber offenders, raising questions about the efficacy of deterrence strategies. While overly harsh penalties risk further entrenching juveniles in criminal behaviour, insufficient consequences may fail to deter repeat offences, exacerbating the problem. Moreover, the prevalence of online misconduct perpetrated by juveniles against their peers underscores the

importance of comprehensive legislation that safeguards both victims and offenders, recognizing the long-term impact of such crimes on individuals' psychological well-being.

Addressing these issues requires a multifaceted approach that prioritizes the protection of individuals in the digital realm while promoting accountability and rehabilitation for offenders. Efforts to strengthen cybercrime legislation should focus on striking a delicate balance between punitive measures and support mechanisms for juveniles, acknowledging their unique vulnerabilities and developmental needs. Additionally, robust enforcement of cybercrime laws is essential to ensure equal justice for all perpetrators, irrespective of age, and to instil confidence in the legal system's ability to address digital threats effectively. By fostering a regulatory framework that is responsive to evolving technological landscapes and prioritizes the well-being of individuals, the society can improve upon the difficulties of the cyber age while maintaining principles of justice and fairness.

In addition to legislative reforms and educational initiatives, fostering a supportive and empathetic online community is paramount in addressing the root causes of juvenile cybercrimes. Building strong social networks and providing avenues for open dialogue can create spaces where juveniles feel understood and valued, reducing the likelihood of engaging in harmful online behaviours. Encouraging positive peer-to-peer relationships and promoting empathy and respect in digital interactions can help mitigate the prevalence of cyberbullying and other forms of online misconduct. Furthermore, investing in mental health resources and support systems tailored to the digital age can provide juveniles with the tools and assistance they need to cope with the pressures and challenges of online life could help in reformation.

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