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# **BEYOND THE SCREEN: LEGAL DIMENSIONS OF ONLINE CHILD SEXUAL HARRASMENT UNDER POCSO**

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## **INTRODUCTION**

With the advent of Information and communication technology, the lives of people have become easier. We are so much connected to the internet that now it is almost unimaginable to envision a world devoid of the internet. That being said, there are many drawbacks to this. One of the most important which needs serious consideration is increasing number of cybercrimes. The traditional ways of committing crime have transitioned to the digital realm, introducing new avenues for unlawful activities.

Online child sexual harassment is a rapidly growing cybercrime, raising concerns about their safety in the digital age. In 2017, 17,557 cases of sexual abuse were reported to the National Crime Record Bureau<sup>1</sup>, while in 2018, 21,605 cases were reported under the 'Protection of Children from Sexual Offences Act (POCSO)'<sup>2</sup>. In India, the number of child sexual harassment cases increased by 23%.

A 2019 report revealed that the cyber unit dedicated to Online Child Sexual Abuse and Exploitation recorded 63 cases of online child sexual harassment within a period of three months.<sup>3</sup> According to *ChildLine India's* stats, during the lockdown in 2020, there were around 3,00,000 cases and 92,000 SOS calls. It is just 3 % of the crimes involving online child sexual abuse in India that were actually reported. It is majorly caused due to the inability of the criminal justice system to appropriately address the needs of the children who have been sexually assaulted, the inadequacy of legislation in India in defining and addressing child specific offences now prevalent in the cyberspace- such as online child sexual abuse involving sexual harassment, sexual exploitation, cyber stalking, cyber bullying, cyber grooming etc, and complexity of existing legislations further exacerbate the issue. Despite contact abuse

<sup>1</sup>Kailash Satyarthi Children's Foundation, *Status of POCSO Cases 2017-2019* (Mar. 2021), <https://satyarthi.org.in/wp-content/uploads/2021/03/Status-of-POCSO-Cases-2017-2019.pdf>.

<sup>2</sup> *Ibid*

<sup>3</sup>Priya Aggarwal, *Children: The Victim of Online Sexual Harassment in India*, Lawctopus (Nov. 30, 2015), <https://www.lawctopus.com/academike/children-the-victim-of-online-sexual-harassment-in-india/>.

accounting for the bulk of child sexual abuse, "non-contact abuse"—as it is generally called—can occasionally take place in the absence of physical touch. Common examples of "non-contact sexual abuse" include online sexual harassment of children and it is equally important to concentrate on these types of abuses in order to curb rising instances of online sexual harassment in today's digital era.

### **DEFINING ONLINE CHILD SEXUAL HARASSMENT**

The word "Harassment" can be simply defined as an "act of annoying or worrying somebody by putting pressure on them or saying or doing unpleasant things to them". Sexual harassment has been defined under Istanbul Convention under Article 40 as "any unwanted sexually verbal, non-verbal, or physical behavior intended to violate person's dignity, especially when doing so in a setting that is intimidating, hostile, degrading, humiliating or offensive.

*"According to Childnet International, online sexual harassment is defined as unwanted sexual conduct on any digital platform. It includes a wide range of behaviors that use technology to share digital content such as images, videos, posts, messages, pages, etc."*<sup>4</sup>

In India, Online Child Sexual Abuse has not been specifically defined anywhere in the legislations dealing with Child e.g. in Protection of Children from sexual offences Act, 2012 but the provisions which are present in the POCSO Act, 2012 and in the general criminal law e.g. Bharatiya Nyaya Sahinta, 2024 (Indian Penal Code, 1860) can be interpreted to cover the offence of online child sexual abuse.

### **POCSO ACT AND CHILD SEXUAL HARASSMENT**

Section 11 of the POCSO Act, 2012 defines sexual harassment as- *"A person is said to commit sexual harassment upon a child when such person with sexual intent,-*

- (i) *Utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or gesture or object or part of body shall be seen by the child; or*
- (ii) *Makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or*
- (iii) *Shows any object to a child in any form or media for pornographic purposes; or*

<sup>4</sup> **WeProtect Global Alliance**, *Technical Brief: Emerging Concerns in Online Child Sexual Exploitation and Abuse (OCSEA)* (Oct. 2023), [https://safeonline.global/wp-content/uploads/2023/10/PFI\\_OCSEA\\_TechnicalBrief\\_-Emerging-Concerns.pdf](https://safeonline.global/wp-content/uploads/2023/10/PFI_OCSEA_TechnicalBrief_-Emerging-Concerns.pdf).

- (iv) *repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or*
- (v) *threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or*
- (vi) *entices a child for pornographic purposes or gives gratification therefore.”*

When we analyze each sub- clause of section 11 of POCSO Act, 2012, one can find that each of the sub-clause comprises of one or more separate offences. For better understanding we need to refer to each sub-clause separately.

### **OBSCENE GESTURES (SECTION 11(I))**

Indian Laws does not accommodate provisions that are specifically towards the Online Child Sexual Abuse. One of the important legislations, that is, POCSO Act, 2012 talks about Sexual Harassment in Section 11. It talks about, if we take only online crimes into consideration, cyber stalking and cyber sexual harassment. But the rest acts mentioned in the provision can also be done through online means.

Section 11(i) of the POCSO Act, 2012 talks about ‘act of uttering of any word or making of any sound or gestures or exhibiting any object or part of any body with the intention that such word or sound shall be heard or such gesture or object or part of body shall be seen by the child being an offence of sexual harassment’. To understand this particular clause of Section 11 of POCSO Act, 2012, one can draw a comparison between this provision and provisions of BNS. This provision is on consonance with Section 509 of IPC and Section 79 of Bharatiya Nyaya Sanhita (BNS). Section 79 of BNS states that, “*Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object in any form, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine*”.

Now, Section 79 of BNS is women centric in nature and does not focus on the same act committed against a child. But, the interpretation of Section 79 can be helpful to understand the ingredients for Section 11(i) of POCSO Act, 2012. The main difference between both the provisions is that Section 79 talks about outraging the modesty of the act and Section 11(i)



talks about doing those acts with sexual intent. In *S. Khushboo v. Kanniammal*<sup>5</sup>, the Supreme Court held that “in order to establish the offence under Section 509 IPC it is necessary to show that the modesty of a particular woman or a readily identifiable group of women has been insulted by a spoken word, gesture or physical act.” Similarly, in order to prove an offence under Section 11(i) of POCSO Act, 2012 one need to prove that the gestures, word or act mentioned in the provision was directed with a sexual intent. The explanation of Section 11 clearly states that the question of ‘Sexual intent’ must be answered depending on the facts and circumstances of the particular case. In *Bandu Vitthalrao Borwar v. State of Maharashtra*<sup>6</sup>, the court while interpreting the words ‘sexual intent’ held that, “*plain and ordinary meaning of these two words would have to be considered so that the real intention of the offender can be ascertained from the facts and attendant circumstances.*”

Now, the question here arises that whether it is possible that gestures, words or act mentioned in Section 11(i) be performed or acted online? The answer again stands yes. The perpetrators can expose oneself indecently or can make obscene gestures on a live video call. He/she can also send inappropriate texts, voice messages or images and can make sexually suggestive gestures in online spaces. This can be called as non-physical form of abuse, where the harassment occurs without any physical contact, for example, chatting with sexual intent with the child over the internet<sup>7</sup>, also known as Sexting, is prevalent form of sexual offence being committed by online perpetrators. The laws and punishments pertaining to the prosecution and defence of sexting and other offences in India are not very well defined in any of the legislations. So, there is a need for either amendment in the current legislation or a completely new legislation to include these new criminal acts within its purview.

### **CHILD SEXUAL ABUSE (SECTION 11(II))**

Section 11(ii) states that ‘A person is said to commit sexual harassment upon a child when such person with sexual intent makes child exhibit his body or any part so as it is seen by any other person’.

A bare perusal of this provision gives an idea that it relates to sexual exploitation and sexual abuse of child. There is no particular definition of sexual exploitation or sexual abuse given in any of Indian Legislation. Justice Radhakrishnan has opined that “Child sexual abuse can be in

<sup>5</sup> S. Khushboo v. Kanniammal, (2010) 5 SCC 600

<sup>6</sup> Bandu Vitthalrao Borwar v. State of Maharashtra 2016 SCC OnLine Bom 16128

<sup>7</sup> National Commission for Protection of Child Rights, User Handbook on Protection of Children from Sexual Offences Act, 2012, available at <https://www.pmc.gov.in/sites/default/files/69301171.pdf>.

any form like sexually molesting or assaulting a child or allowing a child to be sexually molested or assaulted or encouraging, inducing or forcing the child to be used for the sexual gratification of another person, using a child or deliberately exposing a child to sexual activities or pornography or procuring or allowing a child to be procured for commercial exploitation and so on”<sup>8</sup>. And, sexual exploitation can be simply defined as the sexual violation of a person's human dignity, equality, and physical or mental integrity<sup>9</sup>.

But Section 11(ii) does not align completely with these definitions. It forms its consonance with the definition of Child Sexual Abuse provided in the Luxembourg Guidelines, 2016.<sup>10</sup> Firstly, the guidelines draw out the main difference between sexual exploitation and sexual abuse. There is an idea of exchange in case of exploitation where the perpetrator use something for his/her own advantage<sup>11</sup>. But, the guidelines clearly mentions that there is no notion of exchange in case of sexual abuse<sup>12</sup>,

*“The sexual abuse of children requires no element of exchange, and can occur for the mere purpose of the sexual gratification of the person committing the act. Such abuse can be committed without explicit force, with other elements, such as authority, power, or manipulation being determining factors.”*

So, it can be easily concluded that section 11(ii) falls within the ambit of Sexual Abuse as a person making a child exhibit his body in a way to be seen by other people is for the purpose of sexual gratification. But the provision lacks in providing the ambit as to what acts are included that will result in a child exhibiting his body to other people. The judicial decisions are also silent in this case. And along with the advent of era of technology, where the offender/perpetrator can sit anywhere in the world and can anonymously can commit an offence while hiding their real identity, it becomes not only important to provide for an interpretation of the provision but also necessary for the lawmakers to frame laws that can curb the problems associated with online offences. To understand, how sexual abuse can be committed in online mode, there is a need to divide the provisions into possible acts that can comes under it –

- Makes a child exhibit his body
- In a way to be seen by other people

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<sup>8</sup> Shankar Kisanrao Khade v. State of Maharashtra, (2013) 5 SCC 546

<sup>9</sup> Indian Hotel & Restaurants Assn. v. State of Maharashtra, 2006 SCC OnLine Bom 418

<sup>10</sup> Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse

<sup>11</sup> Ibid, pg25

<sup>12</sup> Ibid, pg19

Now, a child can be enticed or forced to exhibit his/her body. It can be done by either luring him to do so or by blackmailing. The term 'exhibit their body' can be said to be broad<sup>13</sup> and not confined to only physical exhibition but to virtual acts too that is being facilitated by technology. In the present scenario, this offence mostly constitutes live streaming of a child doing sexual activities. For example, a person can see the exhibition of a child's body through internet and access to the dark web<sup>14</sup>.

Section 11(ii) has a convergence with other legal frameworks addressing online sexual exploitation. The Information Technology (IT) Act 2000, particularly Sections 67, 67A, and 67B complements the POCSO Act, 2012 by criminalizing the publication, transmission, and browsing of sexually explicit content in respect of children. Section 67B particularly bars the depiction of children in obscene or sexually explicit acts online, thus creating a more complete legal infrastructure to grapple with cases in which children are made to expose themselves on the internet. These provisions are combined to strengthen the legal measures in combating the online sexual exploitation of children.

Special consideration should be given to the legal norms and the UNCRC, of 1989, concerning the responses given to the online child sexual exploitation in India. According to the CRC, the state is to protect children from all forms of sexual exploitation and abuse, this last principle further being confirmed by article 34 of the CRC in its assertion that states should make it an imperative to prevent the exploitation of children through pornography shows and materials. The enactment of the POCSO Act, 2012, complete with all the criteria covering Section 11(ii), is a true reflection on India's stance in accordance with the charter mandate to protect children from sexual harassment and abuse.

### ***EXHIBITION OF ANY OBJECT FOR PORNOGRAPHIC PURPOSE (SECTION 11(III))***

*(iii) Shows any object to a child in any form or media for pornographic purposes; or*

This particular sub-clause of section 11 deals with intentional showing 'any object' to the child in any form or media with sexual intent for 'pornographic purposes'. This act of showing a child with sexual intent for pornographic purposes has been termed as sexual harassment. But this sub-clause contains certain lacunae that must be addressed to ensure the ultimate goal of

<sup>13</sup> X v. State (NCT of Delhi), (2022) 6 HCC (Del) 316

<sup>14</sup> Gannon, C., Blokland, A.A.J., Huikuri, S. et al. *Child sexual abuse material on the darknet*. *Forens Psychiatr Psychol Kriminol* 17, 353–365 (2023).

protecting the child is effectively fulfilled.

Firstly, this provision does not define the word ‘object’ when it is referring to ‘any object’ which is being used for pornographic purposes. It is unclear what constitutes an ‘object’ within the provision. In criminal laws of India as well the term ‘object’ has been referred multiple times but it has not been specifically defined what exactly constitutes an ‘object’ under it.

In this context, OPSC has defined the expression “any representation, by whatever means” refers to the wide range of pornographic content that is accessible through various media which represent child intended to stimulate or satisfy users sexual desires. This comprises, but not restricted to “visual material such as photographs, movies, drawings, and cartoons; audio representations; live performances; written material in print or online; and physical objects such as sculptures, toys, or ornaments. It also includes so- called virtual child pornography (artificially created realistic images)”. This definition provided under OPSC can be referred to interpret the word ‘any object’ used in Section 11 (iii).

Secondly, the above sub- clause does not define the term ‘pornographic purposes’. The word ‘Obscene content’ has been used in a number of legislations in place of pornography. Child Pornography has been defined in the POCSO Act, 2012 after the 2019 amendment under Section 2 (da). The court has also not defined what constitute pornographic purposes but there are rulings of the court which state that exposing a child to porn is an offence under section 11(iii) of the POCSO Act, 2012<sup>15</sup>.

Since the term is not defined, it can lead to multiple interpretations. The offender could escape liability claiming that their purpose was not for pornographic purpose.

Section 13 deals with ‘uses of a child for pornographic purposes’. This section primarily includes the use of the child ‘in the production, propagation and/ or distribution of pornographic material in any manner prescribed, including the depiction, real or virtual, of the child for pornographic purposes’. Consequently, it could be argued that exposure to pornography for any reason—such as the creation, dissemination, and/or distribution of porn would constitute an offense under section 13 and not when a child is directly exposed to porn regardless of their consent or willingness.

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<sup>15</sup> Sabu Joseph vs xxx, 2023 SCC Online Ker 407

Therefore, it is strongly recommended that the legislature amend the provision embodies “pornographic purposes” to explicitly encompass the deliberate exposure of a child to pornography.

### ***STALKING (SECTION 11(IV))***

*(iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means;*

The above sub-clause deals with the offence of stalking. When reading Section 11(iv) of the POCSO Act, 2012 ‘a person is said to commit sexual harassment upon a child when such person, repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means with sexual intent. The cardinal element of the overt acts which would make the same as an offence is that the overt acts should be the outcome of sexual intent’<sup>16</sup>.

The offence of stalking is also defined under the Indian Penal Code, 1860 under section 354-D (Section 78 of the Bharatiya Nyaya Sanhita, 2023) however, it specifically addresses the stalking of a women, it lays down that in order that this offence is committed, ‘there must be following of a woman and contacting her or attempting to contact a woman to foster personal interaction repeatedly despite a clear indication of disinterest by such a woman or there should be monitoring of the use by a woman of the internet, email or any other form of electronic communication’<sup>17</sup>. It has been mentioned in the provision about use of internet, email or any other form of electronic communication which makes it open to include online offences within its ambit.

The provision effectively addresses the evolving digital threats that children face, ensuring that cyberstalking falls within its ambit. Section 11(iv) of the POCSO Act is devoid of explicit criteria to ascertain when an act is deemed "repeated" or "constant," hence failing to satisfy the fundamental criterion of the provision. This misunderstanding can be resolved by explicitly delineating the frequency and duration of stalking or contact by an offender.

Similar to Section 354D of the IPC (Section 78 of the BNS, 2023), a modification to Section 11(iv) of the POCSO Act should incorporate the term “monitors a child's use of the internet,

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<sup>16</sup> Sidharth Dravid v. State of Kerala, 2024 SCC OnLine Ker 5494

<sup>17</sup> Bandu Vitthalrao Borwar v. State of Maharashtra, 2016 SCC OnLine Bom 16128



email, or any other form of electronic communication, constitutes the offense of stalking.” This amendment would expand its scope and improve its efficacy in combating the cyberstalking of minors.

### ***SEXTORTION (SECTION 11(V))***

This specific provision addresses the issue of sextortion, which has become increasingly prevalent in recent times. The essential elements of this sub-section align with the criteria for sextortion. Sexual extortion, or “sextortion,” involves the coercion of an individual through self-produced images to obtain sexual favors, monetary compensation, or other advantages, under the threat of disseminating the material without the consent of the individual depicted (posting pictures on social media). The prolonged influence and manipulation characteristic of groomers frequently culminate in a swift escalation of threats, intimidation, and coercion following the individual's submission of the initial sexual photographs of themselves.

Sexual extortion is a characteristic of internet solicitation targeting both minors and adults, with a noticeable rise in this form of coercion, encompassing increasingly harsh, aggressive, sadistic, and degrading demands from perpetrators.<sup>18</sup> When perpetrated against children, sexual extortion is a procedure in which youngsters or adolescents are compelled to persist in generating sexual content material and/or coerced to engage in further abusing actions under the fear of exposure to others of the material depicting them. In certain cases, the abuse escalates to such an extent that victims resort to self-harm or suicide as their sole means of escape.

Section 11 (v) of the POCSO Act states that, “*A person is said to commit sexual harassment upon a child when such person with sexual intent threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act.*”

This specific sub-section not only addresses sextortion but also covers the growing concern of deep-fake or morphed images and videos of the child, which is clear from the phrase “*a real or fabricated depiction through electronic, film or digital or any other mode*”, making it comprehensive legal safeguard against such evolving digital threats.

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<sup>18</sup> Virtual Global Taskforce, “Child Sexual Exploitation Environmental Scan”.

This sub-section has in itself element of criminal intimidation also, a concept that is also addressed under section 503 of the IPC now, section 351(1) of the BNS, which explicitly defines and outlines the offence of criminal intimidation but here in the POCSO the intimidation is used against the child for sexual abuse. In some instances, it may involve hostility or utilizing electronic methods to alert others about impending damage by disseminating unsolicited images, among other actions.<sup>19</sup> However, it addresses merely one facet of criminal intimidation. It may be associated with sextortion or aimed at sextortion.<sup>20</sup> This refers to the coercion of a child to solicit sexual favors under the threat of publication or disclosure of the child's explicit images.

Criminal intimidation is delineated in Section 503 of the IPC now section 351(1) of the BNS and encompasses threats to an individual, their reputation, and their property. Nonetheless, Section 11(v) of the POCSO Act does not encompass threats of harm to individuals or property, despite its implications for a child's reputation. Consequently, an additional clause should address threats to a child's property or reputation, or that Section 11(v) should be expanded to encompass these concerns.

Also, this sub-section need to be modified to explicitly define the offence it addresses. While sextortion is not a legally defined term, the provision should specify a particular offense to ensure clarity and proper legal understanding. The preferred terminology is “sexual extortion of children,” highlighting that this constitutes a form of extortion that is inherently sexual and perpetrated against a minor. The often employed term “sextortion” continues to be a subject of contention within the realm of child protection, as it does not clearly demonstrate that this constitutes sexual exploitation of a child and risks trivializing a conduct that can yield very terrible repercussions.

### **ONLINE GROOMING (SECTION 11(VI))**

*(vi) entices a child for pornographic purposes or gives gratification therefor.*

The above sub- clause of section 11 states that a person commits sexual harassment upon a child when he/ she with sexual intent “entices a child for pornographic purposes or in return

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<sup>19</sup> M. Ybarra, D. Espelage, K. Mitchell, *The Co-occurrence of Internet Harassment and Unwanted Sexual Solicitation Victimization and Perpetration: Associations with Psychosocial Indicators*, 41 Journal of Adolescent Health, 32, 35 (2007)

<sup>20</sup> UNODC report, *Effects of New Information Technologies on the Abuse and Exploitation of Children*, New York, 2015.

offers some form of gratification to the child”. In the context of child sexual harassment, ‘grooming’ is the term which is now being widely used both in national legislation and international conventions to describe the act of enticement of a child for sexual purposes. Enticement refers to “something which is used to attract or tempt someone”<sup>21</sup> which, in fact, a typical method employed by a person grooming a victim.

While this provision deals with enticement for pornographic purposes, it does not explicitly addresses with ‘online’ grooming which is increasingly prevalent in today’s times with rapid evolution of ICTs. This creates a gap in the legal framework in the context of technological advancements and increasing cases of online child sexual harassment.

Conventions like Lanzarote Convention, EU Directives and some non-binding instruments like The CRC Committee and Resolution 2011/33 by the Economic and Social Council on Prevention, Protection and International Cooperation against the Use of New Information Technologies to Abuse and / or Exploit Children have explicitly criminalizes online grooming. There are only two binding international instruments which creates an obligation to the parties to criminalizes online child grooming for sexual purposes, the Lanzarote Convention and EU Directive 2011/93. Under Article 23 of the Lanzarote Convention to constitute an offence of online grooming (solicitation) following essentials needs to be fulfilled, (i) “the solicitation of children for sexual purpose; (ii) the intentional proposal to meet the child for the purpose of committing sexual offence; and (iii) material acts leading to such a meeting”. This provision does not necessitate a physical contact per se for the offence to be committed, it is sufficient that some actions were taken to ensure the meeting could take place. In the EU Directives also requirement for ‘material acts’ is there but if there is an act of solicitation of a child for giving sexual image of him or her, then it is by itself a punishable offence (Article 6.2).

In these instruments physical meeting or material acts leading to such meeting is necessary for constituting an offence of online grooming but nowadays, due to technological advancements, cases of online grooming have increased significantly and the ‘meeting’ is never in person but rather occurs virtually. This encourages the creation of child pornographic content and is frequently connected to other types of exploitation like blackmail and “sexual extortion”. It seems necessary to broaden the concept of “grooming to include online meeting in order to

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<sup>21</sup> *Oxford British and World English Dictionary* (Oxford Univ. Press).

reflect this reality”.

To address this ever-changing scenario, Lanzarote Convention under Article 23 in an opinion adopted in 2015 itself held that, “the solicitation of children through information and communication technologies does not necessarily result in a meeting in person. It may remain online and nonetheless cause serious harm to the child.”<sup>22</sup> As a result, the following elements seem essential in dealing and defining enticement of child for pornographic purposes: (i) *“contacting a child; (ii) if (online, through ICTs) ; (iii) with the intent of luring or inciting the child; (iv) to engage in any sexual activity by any means, whether online or offline”*.

Section 11 (vi) of the POCSO Act, 2012 does not explicitly cover online grooming which is a growing form of online child sexual harassment. Where the POCSO Act, 2012 falls short, Section 67 B (c) of the IT Act, 2000 steps in to address the gap. It states that “Whoever, - cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource”. Although, the term ‘grooming’ is not mentioned in the provision but the ingredients of grooming are prescribed under Section 67 B (c).

Another problem which arises in this sub-section regarding the punishments given in Section 67B(c) of IT Act and Section 12 of POCSO Act is that the offence mentioned in Section 11(vi) of POCSO Act is similar to that of Section 67B of IT Act but, the punishments mentioned in both the provisions are different. The punishment provided in IT Act is more than that of POCSO Act which can result in clash while judging the acts. The provision should be amended to explicitly recognize online grooming as a criminal offence, in line with various international conventions and treaties. This should include both instances where a child is solicited online without any intention of an in-person meeting and cases where such solicitation ultimately results in a physical encounter. The disparity in punishment between the IT Act and the POCSO Act for similar offences may lead to conflicts in adjudication, creating procedural difficulties and uncertainty in determining which legal provision should be applied. To ensure consistency and avoid confusion, the penalties under both the legislations should be harmonized.

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<sup>22</sup> Committee of the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (T-ES), “Opinion on Article 23 of the Lanzarote Convention and Its Explanatory Note”, 23 June 2015

## CONCLUSION & SUGGESTIONS

Effectively combating cybercrimes poses a significant difficulty, particularly due to the internet's worldwide nature and the varying legal frameworks between nations. The discrepancies in definitions and classifications of cyber offenses, such as online child sexual abuse, cyber grooming, cyberstalking etc. generate jurisdictional difficulties, hindering the harmonization of legal procedures internationally. Moreover, the inconsistency in current legislation and the swift advancement of technology create deficiencies in the legal framework, impeding the prosecution of new cyber risks. Cross-border issues, insufficient legal frameworks in certain jurisdictions, and the lack of comprehensive international cooperation agreements exacerbate the complexity.

The rationale for amending and improving legislative frameworks is based on concerning statistics related to online child sexual harassment, alongside effective strategies adopted in nations with strong protections. This bolsters the case for prompt legislative reforms in India. Currently, the most important legislation in picture is the POCSO Act that deals with protection of children from sexual offences.

The Protection of Children from Sexual Offences Act, 2012 was enacted to protect children from any form of sexual abuse, sexual harassment, or sexual exploitation. The Act mainly covers the physical acts of abuse; however, the wording of the Act is wide enough to include online offences as well. However, with technology advancing rapidly and with the increasing prevalence of cyber-crimes against children, strictly literal interpretation of POCSO would not be able to capture the complex reality of digital crimes. Such an interpretation will not be effective enough in ensuring that the objectives of the Act are met

The rise in children's utilization of ICT subjects them to numerous threats, including online sexual exploitation, abuse, bullying, harassment, and extortion. The detrimental effects of these cybercrimes can be irreversible, requiring suitable legislative and technical interventions at both regional and national levels. In addition to legal deficiencies, there are inefficiencies in implementation as well that require attention.

Considering the aforementioned factors, it is imperative to recognize the possible need for revising existing legislation in India, particularly in light of the COVID-19 pandemic, which has resulted in a substantial rise in internet usage among school-aged children. The antiquated



character of India's existing legislation highlights the necessity for amendments to adequately tackle the changing dynamics of internet abuse.

Amending several statutes can be intricate and onerous. In contrast, formulating a specifically designed statute that tackles the unique intricacies of online abuse offers the potential for a more efficient and effective legal remedy. This specific legislation would supersede all existing laws pertaining to online sexual abuse, creating a targeted and comprehensive legal framework to protect children in the digital era.

Protecting children from online sexual abuse necessitates a cooperative endeavor among parents, legislators, and society at large in the contemporary digital age. It requires a holistic approach that incorporates education, open discourse, and technology protections.

Parents are essential by engaging in their children's life, informing them about online dangers, promoting responsible digital behavior, and creating an atmosphere conducive to open dialogue regarding online experiences. The implementation of parental controls and monitoring technologies can provide an extra degree of protection while accommodating the growing desire for privacy as children mature. It is essential for parents, educators, and guardians to remain updated about current online safety trends and concerns.

The deficiencies in legislation regarding evolving online child sexual abuse offences such as, online sexual harassment, child grooming, live-streaming of online child sexual abuse, sextortion and cyberstalking etc., jeopardize our most vulnerable populations, exposing them to the sinister aspects of the internet. This serves as a loud and clear cry, emphasizing the necessity for our legislation to adapt rapidly and effectively to protect our children from threats in the digital domain, akin to our efforts in the physical sphere. The imperative for a thorough, rigorous, and unequivocal legislative framework is paramount; the safety of our children relies on it.