

ISSN :2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 6

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 6 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

INTERNATIONAL JOURNAL
FOR LEGAL RESEARCH & ANALYSIS

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board

ANALYSIS



Dr. Namita Jain

Head & Associate Professor



School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



INTERNATIONAL JOURNAL

Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench.

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

Sexual Harassment of Children in India with special reference to Child Pornography

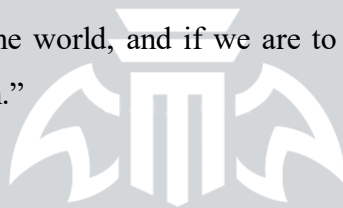
Authored by- 1. Mr.Kuljeet Singh

Assistant Professor,
Law College Dehradun
Uttranchal University

2. Tulika
Student, LLM 2nd Semester,
Law College Dehradun
Uttranchal University

“If we are to teach real peace in the world, and if we are to carry on a real war against war, we shall have to begin with the children.”

----Mahatma Gandhi



Abstract

Human society is built on the shoulders of children. The mental and physical well-being of future humans will impact the nature of human society. The evolution of a country is defined by the importance given to his kid, even as the identity of an adult is formed during his or her primitive year. Children are the nation's most valuable asset; so, child care should be prioritized in national policy. Children must be raised to be nimble citizens who are physically active, cognitively sound and attentive, and socially and ethically healthy. However, despite the number of declarations and legislation at both the national and global levels, the situation of minors is very far from adequate. History bears evidence to the fact that these defenseless and innocent species has been subjected to a wide range of abuses. Thousands of youngsters are acting as soldiers in violent conflicts throughout the world, as according Human Rights Watch (HRW). Boys and girls serving in regime forces and armed opposition organizations are among them. According to estimates, thousands of youngsters under the age of eighteen are currently operating in at least one conflict. 14 nations worldwide, including Afghanistan, Burma, the Central African Republic, Chad, Colombia, the

Democratic Republic of the Congo, Iraq, Somalia, the Philippines, South Sudan, Sudan, Thailand, and Yemen, as well as India, where Maoist "Naxalite" rebels in Chhattisgarh utilise children as soldiers. Children as young as six are inducted into the youngsters's association, and children as young as twelve are used in the armed squads, where they undergo firearms training and participate in armed encounters with government security personnel.

There is no special category for crimes against minors. Crimes against children are generally defined as offences perpetrated against children or crimes in which adolescents are victims. These are considered crimes against children. The Indian Penal Code and the many protective and preventative 'Special Local Laws' specifically specify crimes against children. Combatants, child exploitation, juvenile beggars, underage sex industry, early marriages, child foeticide, child slavery, child maltreatment, and so on are examples of problems wherein children are mistreated and harmed.

Key words: Child rights, Pornography, Children sexual abuse, Child Trafficking, Child Labour, Vulnerable group

Introduction

Without a doubt, children represent the country's future and require special care due to their physical and mental abilities. There seem to be constitutional provisions concerning children. Article 153 of the constitution empowers the state government to create specific measures for children. as specified in Article 39(c)¹ of the constitution of India the children are provided with opportunities and facilities to develop in a very healthy manner. Freedom and dignity of children should be protected.

According to United Nations Volunteer²– "Child labour is becoming a pan-Indian scourge, but its severity varies by region." So, without a determined effort from both the national and state governments, this ignominy will not be eradicated. It would have been more acceptable to approach the issue from a broader viewpoint and as a national issue affecting any part of the country. So the court asked itself how it might handle the issue of child labour, a solution to which is required to develop a better India."

Article 24³ of the constitution of India restricts the employment of minors in industries, etc.

¹ Certain principles of policy to be followed by the state.

² Meera Burra.

³ The Prohibition of employment of children in factories.

According to this article, "no kid under the age of fourteen can be required to work in any industry or mine, or engaged in any other dangerous occupation." Article 45⁴ of the constitution of India makes provision for free and compulsory education for children. It specifies that "within 10 years of the start of this constitution, the state should endeavor to provide for free and obligatory schooling unless they attain the age of "fourteen years." Furthermore, Article 47 declares that it is the obligation of the state to enhance public health through increasing the standards of nutrition and living standards. This Article states that "the state should view the advancement of healthcare system as one of its fundamental tasks, particularly for therapeutic reasons, of intoxicants and pharmaceuticals which are harmful to health." These juvenile warriors often fight on front lines, carry out suicide missions, or serve as spies, messengers, or lookouts. Girls may be compelled to engage in sexual slavery. Many young boys are recruited or enlisted by force, while others enlist out of desperation, believing that armed organizations would provide them with the best chance of survival.

❖ Child Rights

Justice V.R. Krishna has quoted *"The hallmark of culture and advance of civilization consists in the fulfillment of our obligation to the young generation by opening up all opportunities for every child to unfold its personality and rise to its full stature, physical, mental, moral and spiritual. It is the birth right of every child that cries for justice from the world as a whole."*

Children are a vital national asset, and the nation's future well-being is dependent on how those offspring grow and develop. They are trusting, naïve, and full of optimism. Their upbringing should be filled with joy and love. As individuals receive new experiences, their lives should grow progressively. However, for many youngsters, the actuality of infancy is quite different. They are starving and destitute. Aside from that, there is a lack of health care and restricted access to basic education for children. Children have a right to live, develop, be protected, and have a vested interest in keeping their life. Adolescents are persons in their very own right, with full access to human rights. The major reason for protecting children's rights is because children are more susceptible than grownups to the settings in which they live

In India there are several legislations relating to the age of a child such as the children Act of 1960,

⁴ Provision for early childhood care and education to children below the age of six years.

The Juvenile Justice act of 2000⁵. A kid is defined as someone under the age of 16 as section 2(a) of the Immoral Traffic Prevention Act 1956. A minor is defined as someone between the ages of 16 and 18 under this legislation, but a juvenile is defined as someone under the age of 16 in Section 27 of the Code of Criminal Procedure, 1973. The Children Act of 1960 establishes the age of a kid at 16 years for a boy and 18 years for a girl. A kid is defined as someone under the age of 15 under the Factory Act of 1948. While as per section 2(11) of child Labour act, 1986⁶ child means a person who has not completed the age of 14 years. According to convention on the Right of child, a child means a person male or female who is below 18 years of age. Even according to international law, a 'child' means every human being below the age of 18 years. This is a universally accepted definition of a child and comes from the United Nation Convention on the Rights of the Child⁷, an international legal instrument accepted worldwide.

❖ Sexual Abuse Of Children

The rise in crime and the growing menace of sexual abuse of child, the supreme court in *Sakshi v. Union of India and others*⁸, considered it appropriate to once again request the law commission to examine the illness it was submitted by way of this Petition to examine the feasibility of making recommendations for amendment of the IPC⁹ ... deal with it in any other way that will close the loopholes In the current case, the Court Observed that the Law Commission's 156th report does not deal with specific illnesses such as child sexual abuse, and thus the Legislative Assembly is actually needed to assess the viability of making recommendations for amendments to the IPC or deal with the matter in any other way. Given the severity of the children's illnesses as a result of sexual abuse, and given the rise in crime, it is imperative to propose that the Law Commission recommend suitable measures.

*In Childline India foundation & another v. Allan John Moters & others*¹⁰, wherein the children at the Anchorage Shelter were subjugated to certain illicit and cruel treatment by authorities and

⁵ Available at : <http://cara.nic.in/PDF/JJ%20act%202015.pdf> (Visited on 14 May 2022)

⁶ The Prohibition and Regulation act, 1986.

⁷ UNCRC(United Nation Convention On the Rights of the Child) 1989.

⁸ 1997 (6) SCC 394 : 1007 (6) JT 305.

⁹ Indian Penal Code Act 1860.

¹⁰ 2011 (2) crimes 72 (sc).

others in charge of such shelters where vulnerable homeless children were snatched under the pretence of sanctuary and turned into prey.

Over the last few decades, India's sex business has grown significantly. It involves the sexual exploitation of individuals, primarily women and girls, through prostitution, pornography, sex tourism, and other commercial sexual services. Corporate sexual exploitation of minors is not a new occurrence or word in developing nations. With the massive industrialization and urbanization that followed World War II, it exploded on a grand scale. Victims from the developed countries in the name of helping the under developed and undeveloped countries in the matter of economic development and international understanding, visit these countries not only for the cause mentioned above or tourist activity, but also for the purpose of the exploitation of women and children¹¹. In the- passage of time, the nexus between child prostitution and tourism industry is no more a hazy domain.

Pedophilia refers to the expression and behavior of sexual desire by certain adults for prepubescent youngsters (thirteen and younger) of both sexes. In recent years, the number of visitors coming to Asia seeking sex with youngsters has increased dramatically. The tourist industry admits that during the tourist season, children under the age of fourteen are trafficked to various tourist destinations from Andhra Pradesh, Kerala, and Tamil Nadu for the benefit of international tourists.



The word ‘pornography’ has originated from the Greek word “ pornographos’ meaning ‘writing about prostitutes’ and the ‘child pornography’ means lewd contents which uses children in a sexual circumstance.¹² The International Criminal Police Organization (INTERPOL) defines child pornography as ‘means of depicting or promoting sexual abuse of a child, including both print format and audio format – censored or sexual acts which includes private parts of children. Child pornography is also defined as ‘representation by whatever means, of child engaged in real or simulated explicit sexual activities or any representation of the gentile of the child, the dominant characteristics of which is depiction for a sexual need.¹³

¹¹ S.K Ghos : *The world of Prostitutes* 465 (Merchant Book Company, Australia 1996).

¹² Article 9(2), The council of Europe Convention on cyber Crime,2001.

¹³ Article 2(1), optional Protocol to the Convention on Right of the Child on the sale of children, Children Prostitution and child Pornography of the United Nations:

Despite the fact that pornographic material remained a prohibited practice all through the twentieth and twenty-first centuries. Images were often made locally, were of low quality, were costly, and were difficult to get.¹⁴ “The term "child pornography" is not new. It encourages prostitution among young children by fooling their impressionable brains. A youngster must endure both emotional and physical anguish, which remains a dark recollection again for entire lives. Before executing such an atrocity, a kid raised in this manner may have numerous psychiatric illnesses in the wrongdoers. One such person should be branded and shunned by society. In the incidents covered in the article, the Indian Judicial System is paving the way and inflicting harsh sanctions. The definition and substance of obscenity are also highlighted in the study. It also sheds insight on the long-term consequences for a child's future.¹⁵

Children are frequently befriended by persons who are really dubious or who use social media and the internet to seek their own nefarious objectives. On the internet, there are drug rings, prostitution rings, porn sites, hackers, and so on. Young children are frequently exposed to criminals who, by their cheesy discourse, get such children to act on their whims and desires. The world of the internet and social media appeals to the youngster much, and due to his/her immature intellect, he/she does not consider the evil side of that world. There are various kinds of child sexual abuse one of which is child pornography that directly related to the contemporary digital age.¹⁶ Child pornography is content “that visually depicts sexual conduct below a specified age.” This is not only paedophiles who commit such awful and despicable actions. The pornographic industry has grown extremely profitable in recent years. It travels the world in a well-organized fashion. It is a multibillion-dollar enterprise, and children are the most wretched pawns of the bleak world. There are a number of videos on the internet that depict young girls in outfit doing sexual actions, or there are online video games or video games with levels in which young children are mistreated.¹⁷ Sometimes an enraged or rejected paramour immediately turns to the online world and in order to take to take revenge from the other one. At many a times, there are even advertisement for safe sex or use of condoms showing adolescent teenagers.¹⁸

¹⁴ Available at: <http://jurip.org/wp-content/uploads/2017/05shraddha-Subedi.pdf>(Visited on April 22,2022).

¹⁵ Vinod Kapoor, “Child Pornography a Nuisance”,3 *IJSR* 1784 (2014).

¹⁶ Available at: <https://www.eurasiareview.com03052017-child-pornography-in-digital-age-and-the-law-in-india-analysis> (visited on April 22,2022).

¹⁷ *Ibid.*

¹⁸ *Ibid.*

Peer pressure is another factor that contributes to child pornography. Youngsters and their friends engage in sexting, or the practice of transmission and reception sexual photos by mobile phone. They post explicit and disgusting photographs, texts, and recordings in their friends group, which is ultimately extremely accessible to publishers and advocates of child pornography due to cyberspace. Young children frequently post indecent pictures of their peers on the internet in order to harass them. As a result, incidents of such abuse occasionally commit suicide.¹⁹

Trafficking in the teen age girls for purpose of sex industry, including pornography, is occurring throughout the world and appears to be growing socio-legal problem. The extent of problem is difficult to document but numerous investigation suggest trafficking in minors for sexual abuse like pornography is very. The poverty ridden girls and teenage children are becoming victims of pornography in the interest. Pornographic material, which is audio-visual footage featuring children in sexual situations, is another kind of commercial sex of trafficked children that is in high demand. Foreigners like India and other south Asian countries because there are less rules against sexual abuse of children and south Asian children may be transported more inexpensively.²⁰

The two basic ways in which children may be injured by child pornography are exposure to pornography and being filmed, photographed, or otherwise made the subjects themselves. Teenagers are especially vulnerable, and every image or videotape of child pornography is proof of that kid's abuse. Long after the original content was generated, the spread of that portrayal perpetuates the victimization.

The existing legal regime²¹ in India has not yet been fully developed to combat the emerging problem of child pornography. Therefore a new set of policy of “vulnerability management’ by reformulation of our National Policy for Children, 1974 and our child related laws are needed. Because, so far as child pornography with special reference to child trafficking is concerned these provision seem to be dealt with very strongly by enacting specific laws and implementing them vigorously.

Reason Behind Development of the Child Pornography In Modern Era.

Computer has facilitated the growth of our society but on the other hand it has worked as a catalyst

¹⁹ *Ibid.*

²⁰ Organized by the Young Men’s Christian Association(YMCA),End Child Prostitution in Asian Tourism (ECPAT) and UNICEF. “Child Prostitution – The ultimate Abuse.”A Report on the National Consultation on the child Prostitution,18th -20th November,1995, New Delhi.

²¹Only a few provision are Information Technology Act,2000; Juvenile Justice(Care and protection of children)act,2000; Immoral Traffic(Prevention)act,1956; Young Persons(Harmful Publications)act,1956 relating to control of pedophilic sites, which seems to be inadequate so far as child pornography with special reference to child trafficking is concerned.

in promoting child pornography. Needless to mention that the term ‘computer’ here should be understood in terms of its definition in the Information Technology Act 2000.²² Success of the pornography business has reached the sky. For this, computer and internet is used as a tool in committing the cyber crime and thereby evolving the new challenges from the legal point of view. Thus, from more all the cyber crimes that the internet has enabled, It is the ‘obscenity’ and more particularly the ‘child pornography’, as it appeals to the one which has serious moral implications and it is the form of information that has increased in economic value in our network environment.²³

Internet is the sole medium through which child pornography is being committed and distributed and following are some of the ways through which it is committed.

- (1) Webcam: Pornography sites provide live sex of children via webcam in the internet.
- (2) E-mail: It is used to share nude images among users but generally ignored since it is considered as a risky business.
- (3)E-Groups: Such groups exist in receiving and sharing the pornography among the members of the group.
- (4) News Group: Such groups provide news to the forum to discuss their interest in child pornography and facilitate in posting the same. It is considered to be the major way by which child pornography is being distributed.
- (5) Bulletin Board System(BBS): It acts as a guide to those who are seeking for child pornography by providing the pornography sites.
- (6) Chat Rooms: It is used to exchange child pornography and to locate potential victims.
- (7) Peer to Peer: It means sharing nude images and child pornography among the peers.

Children are defenseless in matters of sexual abuse and it found that the abettor is in a position to dominate the child for sexual favors. A child can rarely defines about or imagine sexual assault but he absolutely goes through it because of his innocence and no such pornographic material are produced without harming the child be it mentally or physically. It just reflects the physiological and mental level of the offenders and the person availing the benefit of the situation. ‘A dirty pictures of a beautiful flower’s presented for which persons spent a lot of money.

According to studies, among kids aged 10 to 17 who frequently use the internet, 20% get sexual

²² Section 2(i) of the IT Act 2000, defines the term ‘computer’ as, “any electronic, magnetic, optional or other high-speed data processing device or system which performs logical, arithmetic and memory functions by manipulation of electronic, magnetic or optical impulses and includes all inputs, outputs, processing storage computer software or communication facilities which are connected or related to the computer in a computer system or computer network.”

²³ Dr. Fatima Talat, cyber Crimes 115(Eastern Book Company, Lucknow, 2011).

advances or contact or approach through the internet, 1 in 33 receives a sexual solicitation, and 25% are exposed to images of nude individuals or persons having sex.²⁴

❖ Sexting- A Reason Behind Child pornography

“Sexting” is a combination of the word “sex” and “texting” and is used to describe “the digital recording lewd and sexual explicit content for sharing with the online friends²⁵ and sharing it over the internet by means of different social media platforms and sites.

Sexting becomes popularized in the mid 2000s, brought about “by the advent of convenient, affordable, accessible and mobile access to the Internet” and the “privacy and anonymity” afforded by such communication. The literature puts forward various conceptualizations of young people’s use of sexting, often deconstructing the meaning attached to the practice in terms of young people’s sexual development and socialization. There is widespread agreement that it is hard to differentiate between coerced and non coerced sexts and researchers acknowledge the potentially harmful effecting of sexting on children and young people.²⁶

Studies into Australian legal frameworks used to define and manage sexting emphasize processes of trial and error involved in the regulation of this complex issue, both revealing the divide between digital natives and digital immigrants and demonstrating significant challenges posed by digital technologies to child protection.

An evaluation of the Framework for safer Mobile use also stressed the importance of multi-stakeholder involvement to successfully address e-safety issues. The European commission found that implementation of the framework was effective; however, further recommendation for the framework included the classification of commercial materials to ensure age- appropriate content for minors and parental controls to block online content on their children’s devices.

The definition of young people’s self-taken images as child pornography has been particularly fraught and difficult to characterize in term of legal blame. Clarification of the definition of child pornography has been explored in research into sexting .Some have suggested that the term “sexting” itself inadequately describes the “spectrum of behaviors that range from what is intended as the private exchange of images between sexually intimate youthful partners” and have expanded

²⁴ National center for Missing and exploited children, crimes against children Research Center and Office of Juvenile Justice and Delinquency Prevention 2000.

²⁵ Available : at http://shodhganga.inflibnet.ac.in/bitstream/10603/63591/11/11_chapter%204.pdf (Visited on May 2nd, 2022) .

²⁶ Available at: <http://eprints.mdx.ac.uk/10692>(Visited on May 13,2018).

the definition to include specific social networking sites such as Facebook and YouTube. In that way, it is noted that some digital technologies are “fuelling the exploitation of children. Although, in many cases, young people talk about sexting as normal (if at times unwated) activities among peers, it is widely categorized as illegal behavior. A recent report by the UK- based National Society for the Prevention of cruelty to Children (NSPCC) argued that children and young people “may be viewing images of similar-aged peers, which could be classed as ages appropriate, albeit illegal, sexual behavior.” That illegality has been questioned based on the fact that consensual sexting is common behavior among children and young people who are sexually active and/or have private access to mobile phones consulted with Australian young people to investigate their experience of sexting and found a moral and gendered element to risk management advice, and discrepancies between adult (and media) perceptions of sexting and those held by young people themselves.

Defenses to Child Pornography Charges.

Perhaps the most compelling defence to child pornography allegations is that the defendant had no idea what he or she was downloading or accessing was child pornography, and the defendant's possession or receipt of the material was unintentional. Because the possession of adult pornography is allowed, people may unintentionally obtain child pornography materials, or they may be downloading a movie or TV show from a file sharing service and inadvertently acquire something unlawful. The best defence in these circumstances is that the components of the crime were not satisfied because the requisite state of mind for criminal behaviour was not there.

Defendants accused with child pornography may also claim that, while the content was on their computers, they did not download it. When a computer has numerous users, such as at work, unlawful information may be downloaded by one person and then falsely ascribed to another. Defendants may also fight the allegations made against them procedurally. Police, like any other criminal investigation, must have probable cause to search a person's computer or house for illicit items. Items collected during a search that was done without reasonable cause and without a warrant may be inadmissible during a criminal trial. As a result, any criminal defence to accusations was carried out.

Judicial Attitude towards “Incest” children sexuality.

“Incest” is a sexual connection or intercourse between people who are within specific degrees of consanguinity, or who are so closely related to one another that such a relationship or intercourse is prohibited by law, such as a brother and sister and father, a daughter and mother, and so on. Most

civilizations restrict sexual relations between close kin. Children are vulnerable to incestuous conduct, which is considered child abuse and a kind of juvenile delinquency.

The Bombay High court in *Abdul Wahid Ali sheikh v. State of Maharashtra*²⁷ Where a father was indicted with sexually assaulting his 8-year-old daughter, the court sentenced him to ten years in jail rather than the life sentence imposed by the trial court.

Children are understandably interested in sex. Although many of them quickly discover that it is something to be discussed only in dark corners, a source of dirty jokes, and such an intriguing topic for everyone that they can draw admiring or distressing attention to themselves from other young kids by being able to show that they have some special "inside" knowledge. However, the fact that a youngster is curious about sex and highly motivated to find out more.

The Apex court in *M.H. Kakkad V. Naval Dubey*,²⁸ Convicted the accused for committing rape upon a girl and had also committed a very similar sexual assault on his niece and other girls of that locality. The court therefore inflicted a very harsh punishment of life imprisonment.



²⁷ 1993 Cr.L.J. 1977(Bom.).

²⁸ 1992 AIR 1480 SCW 1480.

Conclusion

Children today know far more than their chronological age would suggest. They may use their phones and the internet and social networking sites whether they live in a city or in the country. They come into contact with persons who are looking for young children to pull into the porn and exploitation industries. Their growing hormones and young minds propel them to high levels, where they become entangled in the hands of sexual predators, child pornographers, drug dealers, and other types of criminal organizations.

Peer pressure is another factor that contributes to child pornography. Young children and their pals engage in sex-texting, the practise of transmission and reception sexual photos through mobile phone. They post explicit and disgusting photographs, texts, and recordings in their friends group, which is ultimately extremely accessible to publishers and advocates of indecent images due to cyberspace.

Young children frequently post indecent pictures of their peers on the internet in order to harass them. As a result, survivors of such abuse occasionally commit suicide. Child pornography production and consumption are inextricably linked to the actions of pedophiles, pederasts, and those associated with sexual rings, sexual trafficking, and child prostitution.

Digital cameras and video recorders have made manufacturing easier and cheaper, and there is less chance of detection because a third party is not necessary to develop the photos, which do not age or lose quality via duplication.

Suggestions

- Cyber child pornography provides a few particular demanding or challenging situations for law enforcement agencies and organizations.
- Ensure that the children are aware of their rights, are encouraged to express them, and are provided with the necessary skills and information to defend oneself from abuse and exploitation.
- Employment in jobs that are damaging to their morals or health, are dangerous to their lives, or are likely to impede their moral growth should be illegal.
- States should also establish age restrictions below which paid forced labor should be outlawed and penalized by law.
- Children's shall be protected from all kinds of neglect, cruelty and exploitation.
- Any human under the age of 18 years, unless majority is achieved earlier under the legislation applicable to the kid. The term "child" does not always refer to a minor; it may also refer to adult children as well as adult non-dependent children.
- Adult caretakers, such as parents, social workers, teachers, youth workers and others are vested with that authority depending on the circumstances.
- Special measures of protection and assistance shall be provided for all children and teenagers without any discrimination for mere reasons of parentage and other economic.
- The responsibility of the family, which is natural and fundamental unit of society for the foster care and education and overall development of the dependent children.