



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

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 7 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

IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



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

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, 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



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.



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.

ADULT CONTENT VISIBILITY ON INTERNET: ITS IMPACT ON CHILDREN AND LEGAL FRAMEWORK GOVERNING IT

Authored By - Aditi Chaudhary &
Dr. Vivek Kumar (Assistant Professor)
ICFAI Law School,
ICFAI University, Dehradun
Email id: chaudharyad1212@gmail.com
& Email id: dr.vivek@iudehradun.edu.in

Abstract-

The online world has experienced widespread development since the turn of the century. Smartphones have surpassed all other modes of communication and social networking. This has given minors unprecedented access to the internet, posing the risk of both unintentional and intentional exposure to harmful internet content such as pornography, violence, unmoderated chat sites, and so on, which can have profound effects both in the personal and professional lives of the minors, and has proven to be catastrophic in the past. This article focuses on the type of adult content that children can get exposure to, impact of such content on children and legislative framework in order to resolve this issue regarding the regulation of adult content on Internet.

Key words- children, adult content, pornography, digital platforms

I. Introduction-

Governments all across the world are rapidly encouraging internet infrastructure, variation, and its use in the business, schools, communities, and households. There is a growing concern that, in order to serve the greater good of public, including - children and young people, policymakers must establish how to best support online opportunities while simultaneously decreasing or controlling the related hazards of the same. Although it remains difficult to identify exactly what opportunities and risks the internet could offer, many initiatives are underway on a national and international scale to establish a regulatory framework for the online environment that partially,

but not entirely, parallels the regulation of the offline environment. With all of the connections, it has the potential to be tremendously strong and beneficial. However, it can be harmful, particularly for youngsters. Some internet content may not be appropriate for all age groups. Such content, referred to as flagged content from here on, is hotly discussed and varies from person to person. It can range from anything as innocuous as explicit content, gambling sites, and unmoderated chatrooms to more serious online pages that promote terrorism, racism, and so on. It is difficult for minors to discriminate between good and harmful, and their unfettered access puts them at risk of developing an addiction to them. According to a recent survey of teenagers, more than 42% of kids had been exposed to such content online, 43% do so on a daily basis, with 66% having inadvertent access. Another study discovered that 15% of music videos include interpersonal violence.

II. Children's Vulnerability of getting exposed to adult content-

Adults and children are commonly defined biologically, with 18 years being the turning point, as people reach adulthood on the day they turn 18. Different societies have different requirements for persons of different ages. In the United Kingdom, individuals can marry at the age of 16 and consume alcohol at the age of 18, whereas in the United States, citizens must be 18 to marry and 21 to consume alcohol. Instead of focusing on the age of 18, we should concentrate on the transition from childhood to adulthood, and the particular juncture at which they are most vulnerable to getting exposed to the adult content. Various researches emphasise the 11-12 age group's vulnerability. This is the point at which young people begin to spend less time with their family and require the assistance of adults outside the home. If this isn't available at school, kids may go online to obtain what they require. This is also the age at which students, as a result of switching from a relatively small primary school to a large secondary school, begin to experience emotions of anonymity and begin socialising with others of the opposite sex, as they enter puberty. As a result, they are prone to be drawn to online anonymity. They are growing more independent and advancing into adulthood at this age, and many are ready to participate in adult activities. To mature, they must be given increasing levels of autonomy. As a result, parents and instructors gradually remove constraints to allow this. Pre-adolescents are regarded more prone to abuse than older or younger children, and this vulnerability may be due to low self-esteem. Thus, the 11-12 age group is a critical period at which attempts to enter the adult world must be blocked in order to shield them from what they are not yet prepared to deal with.

III. Risks encountered by children-

At the policy level, the opportunities and risks presented by the internet to children and young people have caught the interest of policymakers, particularly because young people are often at the forefront of new media adoption, benefiting from early adoption of new opportunities provided by the internet, mobile and broadband content, games played online, peer-to-peer technologies, and and so forth. Children are almost universally seen as fragile and are offered special protection by society. Initially, research and policy concern emphasised on content-related dangers, primarily pornography, while aggressive, violent, gruesome, racist, and bigoted content also drew attention. As the internet expanded from a one-to-many mass medium to a networked medium, a broader spectrum of threats, whether from adults or children, became apparent- like harassment grooming, stalking and cyberbullying. The EU Kids Online network, funded by the European Commission's Safer Internet Programme, has categorised the dangers experienced by children and young people first in terms of areas of the lifeworld (aggressive, sexual, values, commercial) and, second, in terms of the child's role. As a result, risks may be classified as follows: content risks, in which the child is usually the target of possibly damaging or inappropriate content; contact risks, in which the child takes part, though unwillingly, and is exposed to potentially adverse interaction with others; and conduct risks, in which the child is a performer or perpetrator of activity that could be considered risky or potentially damaging to others.

IV. Access of children and teens to adult content on the Internet-

Minors can now gain access to any information available to the general public over the Internet, whether on purpose or by accident. One sort of harmful content that minors (those under the age of 18) can encounter on the Internet is the stuff intended solely for adult consumption. Most sexually explicit content is distributed in the form of photos, videos, sound bytes, or chat rooms. For the purposes of this article, adult content is defined as any material intended for people over the age of 18 years, that contains violence, improper language, or sexual themes. There has been little research till date on the volume and type of access minors have to adult-targeted content. For example, according to one study, 335 of their child participants (no ages given) admitted chatting with someone online who afterwards admitted of being 5 years or more older than they initially stated, 40% of children acknowledged to having engaged in a sexual chat room discussion, and 25% said they had been requested for an in-person encounter. However, one question concerns the minor's intention. That is, do minors seek out adult-oriented content on

the Internet on purpose, or is the exposure mostly unintentional, rendering minors who discover adult content on the Web victims of such exposure.

V. Internet as a Medium for Access to Pornography-

Pornographic material is widely accepted to be pervasive on the internet, and one does not need to seek it to be swamped with it. Adults and young kids with internet access may be exposed to or acquire access to pornography through a variety of means, including pop-up adverts, websites, online searches, and email. Some of these paths (for example, websites) are passive. However, much of the pornographic content given is uninvited by the recipient in an attempt to stimulate active involvement. The underlying intention could be to direct the recipient to a pornographic website or chatroom. Personal information gathering as a precursor to identity theft or access into the recipient's computer are more likely aims. Pornography has shown to be a very effective rely for regular internet users. Although there is little research on the effects of pornography viewing on young people, the few studies that have been undertaken in this area show that care should be made to shield youngsters from exposure.

VI. Impact of such content on minors-

The use of this highlighted content is associated with a variety of undesirable side effects, including, but not limited to, enthusiastic, psychological, and physical well-being. This exposure may cause children to act more aggressively, increasing their likelihood of performing acts of violence in real life. Minors' attitudes are changing as a result of their exposure to inappropriate content. They are less empathetic to victims and more tolerant in their assessments of alleged criminals. Another study found that kids' exposure to such content can affect their life experiences, academic achievement, and general happiness. Furthermore, a recent study found that youth who are subjected to harassment, sadness, and other negative influences have greater rates of undesired exposure. A simple internet search might bring the user to many NSFW (Not safe for work) content providers' websites, which are frequently misleading. There have been instances in the past where an online search yielded unfavourable results. For example, due to the pervasiveness of such information, a simple keyword search on "sex" can yield millions of pages, the vast majority of which are pornographic in nature. According to one recent research report, 25% of total internet queries were sexual in nature. According to the work, the average age of exposure to online pornography is eleven.

The pornographic market is about \$97 billion and is continually expanding. Some people engage in criminal activities in order to attract more spectators. For example, there have been reports of links appearing as innocent links that send readers to dubious websites. Minors must be prevented from accessing such adult content due to their fragile nature and the numerous accompanied psychological difficulties. Pornography exposure at a young age, particularly during the vital phase of sexual development, might lead to sexual callousness. Another study claims that pornographic images foster unfavourable attitudes towards women.

VII. Digital Platform Governance-

Digital platforms, often known as "internet intermediaries" or "online service providers," are non-state, business organisations or companies that facilitate internet transactions, information sharing, or interactions between third parties. Digital platforms can be described as "sites and services which host public expression, store it on and serve it up from the cloud, manage accessibility to it through search and suggestion, or install it onto mobile devices". While digital platforms appear to be neutral conduits or proxies for the flow of online content between third parties, platforms are never neutral and have been referred to as the "new governors" or "superpowers" of the digital age. Some commentators argue that technology companies are engaging in illegal forms of digital surveillance, stealing users' behavioural data and selling it to business customers (including political advertisers) for a profit, as well as developing the norms and means for individual users to engage in "performative surveillance" in the form of monitoring, tracking, and observing other users online. There is a substantial lack of clarity around how different categories of content are filtered in reality. For example, it is frequently unclear what material is signalled for removal, what amount of content is ultimately removed, and by what methods. Without access to a platform's internal operations, it is also impossible to tell who removes content (e.g., a platform content moderator or a user). For instance, the operation of contract law, which controls the platform-user relationship, and significant legal protections under US law (where many platforms are largely located), boost the secrecy surrounding the internal operations of content moderation. Section 230 of Communications Decency Act, in particular, shields platforms from liability for content submitted by third parties. As a result, platforms that host or republish content usually are not legally accountable for what its users say or do, unless the content is illegal or violates intellectual property regulations. Indeed, technology corporations have "unprecedented power" over "what [users] can see or share," as well as "wide power in establishing and enforcing their rules in almost any way they

see fit." This means that content selection can be influenced by a variety of variables, such as public-facing standards such as terms of service, community guidelines, prescribed principles that moderators follow behind closed doors, legal duties, market forces, and cultural norms of use. However, digital platforms are not fully "lawless". Platforms are subject to a variety of legislation in jurisdictions around the world, some of which have a possibility of jeopardise section 230 of Communications Decency Act's safe harbour provisions' long-term viability. Europe has been designated the "world's leading tech watchdog," owing to European regulators' "increasingly activist stance towards... digital platform companies." The General Data Protection Regulation (GDPR) of the European Union and Germany's NetzDG legislation, for example, can result in hefty administrative penalties for data protection or security violations (among other severe consequences for noncompliance). There are also several cases of European courts directing service providers to limit the types of content that users see, as well as how and when they see it. These state-based "regulatory pushbacks" are part of a global "techlash" in recent years against the regulating capabilities of digital platforms. The United Kingdom had also suggested a number of steps in its White Paper on Online Harms, including a statutory duty of care requiring platforms to stop and prevent harmful information from appearing on their networks. Canada published the Digital Charter in Action in 2019, which covers ten main principles aimed at ensuring the ethical collection, usage, and sharing of data. These local and international trends recognise that the decision-making processes of purportedly "private" digital platforms can have far-reaching ramifications for politics, culture, and society more widely. They also show that, at least in certain jurisdictions, platform immunity from legal accountability for both privacy infringement and hosting of dangerous content is eroding.

VIII. Laws relating to the visibility of adult content on Internet-

1. The Indian Penal Code (IPC): Section 292 of IPC prohibits the sale, dissemination, or public display of obscene material.

The sale, distribution, and possession of pornographic material is prohibited and punishable under Indian law. Specific sections of the Indian Penal Code (IPC) prohibit the sale, distribution, and possession of obscene material.

- According to Section 292A of the IPC, "whoever sells or distributes, or has in his possession for sale or distribution, any obscene object shall be punished with imprisonment, fine, or both." It is worth noting that the Indian Penal Code contains various provisions dealing with obscenity, including those dealing with child

pornography, cyber-pornography, and other forms of obscene material.

- According to Section 292 of the Indian Penal Code, anyone who produces, publishes, or sells obscene material, or openly exhibits obscene material, shall be punished with imprisonment for a term of up to three months, a fine, or both.
- Section 293 of the IPC stipulates that "whoever prints or causes to be printed any obscene book, pamphlet, paper, drawing, painting, representation or figure, or any other obscene object whatsoever" will face a three-month prison sentence, a fine, or both.
- Section 298A of the Indian Penal Code provides that "whoever deliberately distributes any content which contains grossly offensive or menacing character with a view to outrage the religious beliefs of any class of citizens of India shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine."

2. The Information Technology Act, 2000: Section 67 of the IT Act forbids the publication or transmission of lascivious or prurient electronic material.

Section 67 of the Information Technology Act of 2000 makes it illegal to post or transmit obscene material. Obscene content is defined under the law as anything lascivious, appealing to the prurient, or intended to deprave and corrupt people. For the first conviction, the sentence is usually three years in prison and a fine of up to five lakh rupees. The fine for a further conviction can reach ten lakh rupees and five years in jail.

Section 67A makes it a crime to publish or transmit anything portraying sexually explicit activities or conduct. This offence may result in a fine of up to ten lakh rupees or five years in jail. Furthermore, Section 67 B makes it illegal to distribute or create pornographic content about kids that depicts minors in an indecent or sexually explicit manner.

3. The Protection of Children from Sexual Offences Act (POCSO), 2012: This statute makes the production, dissemination, and possession of child pornography illegal.

The POCSO Act of 2012 is a significant piece of legislation aimed at protecting children and preventing child sexual abuse and exploitation. A kid is defined in Section 2 (d) of the Act as anyone under the age of 18 who commits a sexual offence against a child. In Chapter III, the

POCSO covers the use of juveniles for pornographic purposes and establishes Special Courts for such instances. Section 42 of the POCSO is critical because it specifies that if an offence is illegal under both the POCSO and the IPC, the offender who is found guilty suffers the most severe sentence.

Child or minor pornography is punished by up to five years in prison and a fine under Section 14 (1). Furthermore, keeping pornographic material involving a child for the aim of spreading it is punished by up to three years in prison, a fine, or both under Section 15 of the aforementioned act.

4. The Customs Act, 1962: The Customs Act makes it illegal to import or export pornographic content.

The Act forbids the import and export of products that are illegal under Indian law. It also forbids the import or export of commodities forbidden by international law or convention. Pornography is illegal under the Indian Penal Code, hence its import or export is equally illegal.

5. The Indecent Representation of Women (Prohibition) Act, 1986: This act makes it illegal to depict women indecently in ads, publications, writings, paintings, figures, or in any other way.

The Indecent Representation of Women (Prohibition) Act (IRWA) was passed in 1986, making it illegal to show women in an indecent manner in ads. Furthermore, it forbids the publication of any book, pamphlet, picture, or other medium depicting women in an unflattering light. This act was also amended by the Ministry of Women and Child Development. Indecent portrayals of women, according to their guidelines, should be restricted on chat systems such as Skype, Whatsapp, and Telegram. However, the government rejected these ideas in July 2021, citing the Information Technology Rules 2021, the Cinematograph Act 1952, and various other laws already included these amendments.

6. The Cable Television Networks (Regulation) Act of 1995: The act governs cable network programming and advertising, including sexual content.

The Cable Television Networks (Regulation) Act, 1995 is an Indian Parliament act that governs the functioning of cable television networks in the country. It tries to regulate the operation of

such networks and to prohibit their misuse for the purposes of illegal activity such as pornography or obscene shows. The Act also establishes a regulatory authority, which will be responsible for enforcing the Act and regulating cable television networks.

To operate their networks in India, all cable television operators are required under the Act to seek a licence from the regulatory authority. It also monitors and filters all improper television programming and enforces a code of conduct for cable networks. It forbids the broadcast of any show that is likely to incite or encourage violence, or that contains anything vulgar, defamatory, purposely false, or objectionable in nature.

7. The Young Persons (Harmful Publications) Act, 1956: This statute makes it illegal to distribute or sell harmful publications to children, especially pornographic material.

The Young Persons (Harmful Publications) Act 1956 was inspired by a United Kingdom Act of Parliament that was created to safeguard young people from potentially harmful publications. It attempts to ensure that any publication that may be regarded damaging to young people is not easily accessible to them. It also gives local governments the authority to take action against anyone who is proven to have published, distributed, or sold such material. The Act establishes the conditions that must be followed for a publication to be designated as "harmful," as well as the ability of local governments to take action against people who violate the law. It calls for the formation of an Advisory Council for the Welfare of Children and Young People. This council is charged with advising the Secretary of State for Education on how to protect young people from harmful publications.

IX. Conclusion-

Given that many children are exposed to content, contact, and conduct dangers on the internet, and that many children and parents may lack the means and abilities to prevent or manage such exposure, continued and expanded regulation is essential. While self-regulation, such as that of the mobile communications sector or social network providers, has been favoured, such industry standards require greater transparency and continual monitoring and review in order to be effective. Platforms can take a number of actions to address the problem of image-based sexual abuse on their networks, the most important of which is to adopt a comprehensive, community-oriented, and social justice-based regulatory strategy. This approach should include clear and

robust policies that specifically prohibit image-based sexual abuse content, with clear punitive and educational functions attached; architectural changes, such as better systems to reliably verify both the age and consent of those featured in content hosted on platforms.

REFERENCES-

1. Robin Mansell and Marc Raboy, *The handbook of global media and communication policy* 505 (Blackwell Publishing Ltd, Oxford, 2011).
2. Bhavish Khanna Narayanan, Rajasekhara Babu M, et.al, "Adult content filtering: Restricting minor audience from accessing inappropriate internet content" 28 *Education and Information Technologies* 2719-2720 (2018).
3. Karen Renaud & Joseph Maguire, "Regulating Access to Adult Content (with Privacy Preservation)", CHI '15: Proceedings of the 33rd Annual ACM Conference on Human Factors in Computing Systems, New York, Association for Computing Machinery, 2015, 4021-4022.
4. Sonia Livingstone and Brain O'Neill, "Promoting children's interests on the Internet: Regulation and the emerging evidence base of risk and a harm", World Summit on Media for Children and Youth, Karlstad, Childwatch International Research Network, 2010,16.
5. Helen Zaikina-Montgomery, *The Dilemma of minors' access to adult content on the Internet: A proposed warnings solution* (2011) (unpublished B.A. dissertation, University of Nevada)
6. Dombrowski, Stefan C., Karen L. Gischlar, and Theo Durst, "Safeguarding young people from cyber pornography and cyber sexual predation: A major dilemma of the Internet", 16 *Child Abuse Review: Journal of the British Association for the Study and Prevention of Child Abuse and Neglect* 156-157 (2007).
7. Nicola Henry and Alice Witt, *The Emerald International Handbook of Technology-Facilitated Violence and Abuse* 751-753 (Emerald Publishing Limited, Bingley, 2021).
8. Pornography and its governing laws in India, available at: <https://restthecase.com/knowledge-bank/pornography-in-india> (last visited on November 10, 2023).