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LACK OF PARENTAL CONTROL IN CYBER SPACE

AUTHORED BY - N. ARUN VAIDYANATH

ABSTRACT

Parenting is always considered as a difficult process and today parenting today's generation is much more unenviable thing to do. Current Generation also known as Generation Z (are part of highly digitalized and connected world) is considered as internet born children and they all are standing on the banks of a sea where a mere carelessness is enough to fall into the sea known as cyberspace. *An entire sea of water can't sink a ship unless it gets inside the ship.* Likewise, a small error is enough to make a person falling into the cyber trap. Post the COVID Pandemic the increase in the usage of digital technologies by the children has increased and because of that there is an increase in the rate of cyber-attack. To tackle this, there is a need of effective parental control mechanism which is now available on some OTT platforms but the same is not followed by the other service providers. The paper attempts to answer if parental control option provided in the OTT platforms are effective.

The central board of film certification also known as censor board is a body which gives censor certificate for films releasing in theatres but the same is not effective when it comes to OTT platform and hence the parental control has been kept in place but children are finding solution to breach the parental control and misusing the platforms. There is also a claim over privacy concerns in parental controlling. The gadgets used by the children are same which a grown-up adult is using and there is no control over it because all the features are available to them and are often being misused. The paper outlines the implementation of an effective parental control mechanism and if it violates the right to privacy of children.

KEYWORDS: Parental control, Child, Parent, OTT platforms, Cyberspace

INTRODUCTION

Children vary in their ability to navigate the digital environment safely, leveraging opportunities while addressing privacy risks. The evidence mapping reveals that factors such as developmental stage, socio-economic status, skills, gender, or vulnerabilities can shape how children interact with online privacy. However, more research is required to fully understand the consequences of these variations among children. This underscores the need for further exploration in media literacy research and educational initiatives. Additionally, there is a call for increased focus on amplifying children's voices and recognizing their diverse experiences, competencies, and capacities in the digital realm. With the advent of digital technologies and the internet, privacy concerns have escalated as these platforms can amass extensive datasets containing detailed personal information about online users. Children are often considered more susceptible to online privacy threats compared to adults, given their limited digital skills and awareness of privacy risks. While topics like online sexual exploitation and interactions with strangers are widely discussed, there is a need for further investigation to uncover potential connections between privacy risks and adverse outcomes for children, especially concerning long-term effects.¹

BACKGROUND

India has surpassed China to become the country with highest population in 2023 and millions of people adding to it. As per the report of International Labour Organization, India has the highest number of youth population. 66% of the total population is below the age of 35 which shows the significant amount of youth population in the country. Over the years India has transformed in various aspects like population, economy, education, infrastructure and one of the main one being is internet. India has one of the largest and fastest growing internet user bases in the world. According to the report published by the Telecom Regulatory Authority of India (TRAI) there is an increase in the users of internet from 718.74 million 743 million in the period December 2019- March 2020 and is now the 2nd largest online market in the market in the world². Prior to increase in the usage of internet and the rapid change in the technology, the connectivity was lesser and the users were also categorized because internet was considered as luxury in those days.

¹ Livingstone, S. Stoilova, M. and Nandagiri, R. (2019) Children's data and privacy online: Growing up in a digital age. An evidence review. London: London School of Economics and Political Science.

² Quartz, Reliance Jio's cheap data turned India's internet dreams into reality, Niharika Sharma(September 7th, 2021)

Post the technological advancement that happened in the internet, there was a huge increase in the usage of internet and digital devices and thus increased the risk like cyber bullying, Online predators etc. The internet was growing and the parents were also learning about the need, usage, pros, and cons of the internet and many were unaware of the usage and the dangers that will occur in the cyber world and thus left the kids unsupervised. The internet revolution started when the Indian business magnet Mukesh Ambani decided to launch his telecom network know as Reliance Jio. During the launch of his dream project, he stated that India is ranked 155th in the world for the mobile broadband internet access out of the 230 countries in the world. Within 6 months from the launch of Jio, India became the top mobile data users in the world using 1 billion GB data compared to 200 million GB earlier. The keypad phones were replaced by smartphones. This whole change can be coined as JIO Revolution. Now the times have changed years passed by likewise the technologies are also changing but one difference is that the users are much more aware of the technological advancement. When the rate of internet users increased most of them belong to the age of youth that is above the age of 18 and the participation of children below the age of 18 called as minor were very less. Post the pandemic the number of minors using internet has increased. The reason for such a huge increase is due to the online learning and along with that they use it for online gaming, entertainment purpose

CYBERSPACE

Cyberspace is conceptual place created using computers, internet, and other digital technologies. It is a non- physical place which includes interconnected computers, websites, online platforms, digital systems etc. The main purpose of cyberspace is to extend the reach of websites and other online activities globally and the collective environment on the internet is known as cyberspace. The term Cyberspace was coined by William Gibson in 1980s and since then there is a huge revolution happening in the cyber world. It has now become a place of endless possibilities which offers connectivity, convenience and puts up a lot of challenges.

PARENTAL CONTROL AND RIGHT TO PRIVACY

In the era of rapidly changing technology, children are exposed cyber space. Internet offers a wide variety of services like tool for education, commerce, banking, entertainment etc. but it can possess a potential risk for the younger generation. To avoid the risks to the younger generation, there is an effective parental control mechanism. This tool is designed to safe guard the children

from inappropriate contents, online predators, and excessive screen time and from cyber-crimes. This mechanism is designed to help the parents to monitor, manage and to control their children from accessing various platforms in the digital world. Parental control mechanism is most used in technologies like computer, smartphones, tablets, smart TV's. Smartphones and other digital accessories have the option to switch on the parental control mode which can restrict the use of their children and can also monitor the usage of them.

Right to privacy is one of the fundamental rights guaranteed under the constitution of India. This was firmly established in India through a landmark judgement passed by a nine-judge bench of the Supreme Court of India in Justice. K. S. Puttaswamy (Retd.) and Anr. vs. Union of India and Ors.³ The court held that the right to Privacy is inherent in the fundamental rights guaranteed under Article 14, 19 and 21 of the Constitution of India. The question of privacy was settled in this case but still there are question relating to its applicability to the minor and transgenders.

Parental control mechanism is followed in many countries and there is no uniform laws or rules when it come to the restrictions and the age limits and one of the major questions that arise is whether the implementation of effective Parental control mechanism violates the right to privacy of the children. The parent control system is nothing but a restriction that is put in place to protect the children from potential risks that will occur in the cyber space.

The Children's Online Privacy Protection Act (COPPA) was enacted in the year 1998 in the United States of America to protect the privacy of a child below the age of 13 years.⁴ This law was mainly designed to protect the children from a third party for collecting personal information and to collect the personal information from the children there are certain guidelines or rules which mentions that the consent of the parent is necessary the consent must be verifiable but the same law does not talk about the children above the age of 13 because they are allowed to use Facebook, WhatsApp, and other social media platforms once they attain the age of 13. According to Indian Majority Act, 1875 a minor child is a child who has not completed the age of 18. But in cases where minors will be treated as major based on his conduct and in such cases, their age will be calculated based on the maturity and understanding of the child to judge the nature and

³ (2017) 10 SCC 1 JUSTICE K. S. PUTTASWAMY VS. UNION OF INDIA

⁴ <https://www.businessinsider.com/why-you-must-be-13-facebook-instagram-problematic-law-coppa-2022-1>

consequence of his conduct and not only in India the age for attaining majority in most of the countries around the world is 18 years of age.

Now a days the age for attaining majority in the real world and the social or media world is different because once a child attain the age of 13 years, he is allowed to access the social media platforms and there are no restrictions over that. In the year 2022 state of California enacted a new law called California Age-Appropriate Design Code (CAADC) based on the Age-Appropriate Design Code in the United Kingdom⁵. This was enacted to protect the children from the digital platforms, digital product, and the services that they offer. The age of consent in the digital world is increases to 18 years and it is defined in the act that Child or Children consumer or consumers below the age of 18 years and they enacted it because they find it that it was necessary to protect the children from the ever-changing technologies. (Citation)

General Data Protection Regulations (GDPR) is a data privacy regulation passed in the European Union in 2018 to give individual more control over their personal data. This regulation is applicable to everybody and as per this regulation, it is mandatory to get the consent of parents to receive or access the personal data of the children below the age of 16 years. GDPR allows children above the age of 16 years to give consent to access their personal data by a third party. The members of the European Union have the right to reduce the age limit from 16 years to a minimum of 13 years. Belgium, Croatia who are members to the European Union have reduced the age limit of giving parent consent from 16 years to 13 years. Here, there is no uniformity when it comes to the laws or the regulation relating the parental control Mechanism because, different countries follow different laws and what we saw no is an example of it. China practices a very different approach than that of the European Union. China enacted Personal Information Protection Law (PIPL)⁶ which treats the personal information of children below the age of 14 as sensitive and to process the information, consent of parents is required in a specific or in a written manner rather than a general consent which is been followed in other countries.

Government of India has enacted Personal Data Protection Bill, 2019 for processing the digital

⁵ Security, An overview of the California Age- Appropriate Design Code Act, security research team (August 28, 2023)

⁶ Lu Zhang, Konrad Kollnig, Theory and practice: the protection of children's personal information in China, *International Data Privacy Law*, 2023;, ipad017, <https://doi.org/10.1093/idpl/ipad017>

personal data of its citizens to protect their privacy. This bill also protects the privacy of the children in the country Chapter 4 of Personal Data Protection Bill, 2019 provides for the processing of personal data and sensitive data of the children. Section 16 of the bill states the data of the children must be processed in such a way that it should protect the rights of the child and should be in the best interest of the child and before processing the data, the fiduciary must verify the age of the child and accordingly obtain the consent of their respective parent or guardian.

The verification of age will be done in a manner after considering the value of personal data processed, the proportion of the data that is likely to be that of the child, whether there will be any possibility of harm that will arise to the child arising out of processing the personal data and other factors specified by the regulation. Other countries like USA, China, European Union has specified the age group of the children in which the consent of the parent is necessary but in India, the age in which the child can give consent is unclear because as per the law of the country a person who attains the age of majority can give consent and according to Indian Majority Act, 1875 a minor is a child who has not completed the age of 18 years.

PARENTAL CONTROL AND OTT PLATFORMS

OTT platform stands for “Over-the-Top” platforms. OTT platforms are online streaming service which provide wide variety of contents to its users such as movies, TV shows, original production directly to the customers for entertainment purpose. Customers are allowed to access the content by login through the login credentials given to them upon the payment of subscription amount. This system bypasses the traditional broadcast or networking model like television broadcast through cable networks. OTT platforms allow users to access contents on the demand of the customers, at any time convenient for them in multiple devices like smartphones, tablets and now a days also in smart TV’s. Some of the examples of the OTT platforms are Netflix, Amazon Prime, Disney Hotstar. These platforms are accessed by the customers belonging to different age groups and many of these platforms have parental control option wherein they will be provided with separate screen for the kids and this section exclusively dedicated for kids provides entertainment contents like cartoons or anime for kids up to the age of 13 years.

The contents streamed in other screens are accessible to everybody and there is no restriction as to the usage of it because the contents streamed in the normal screen is categorized into different

category based on the age. These contents even though it contains the age restrictions, it can be accessed by a child above the age of 13 years if she or he knows how to access it. OTT streaming platforms Netflix follow the appropriate guidelines like providing screen lock for each screen whereas the other platforms are not following the same guidelines. Even though there are restriction to keep the children away from vulgar and haunting contents, the restrictions kept in place is not sufficient because the children often misuse or manipulate it and watch the contents which otherwise should not be watched by them. In India the contents released on OTT platforms are not censored and these contains the uncut version of the film or TV shows or original production. Beside mentioning the age restriction in the content, there is no other guidelines to avoid the view of the content by the children.

CONCLUSION

It is clear from the article that the rapid changes in technologies have brought unprecedented risks and opportunity for children and younger people. Post Covid- 19 it is necessary to build digital literacy and digital resilience because people should be aware of the digital world at the same time, they should know how to deal with it because in the era of digital advancement nobody can survive without the internet and it is necessary to learn it. Children are the future of our country and it is the responsibility of the parents and the stake holders to make them a responsible citizen of the nation and to make them responsible, it is necessary to guide them in a right way. Hence, there is a need of effective parental control option to monitor and to protect the children from the potential risks that will arise from the cyber world.

The main goal of parental control is to strike a balance between granting children the freedom to explore and to protect them from the cyber world. There should be proper balance between restriction and privacy that is given to them. Parents should communicate with their children and make them understand the reason why there is a need of parental control in internet and why they are been restricted to use certain contents published on the internet. The parental control guidelines must be introduced to categorize children based on their age and to give them guidelines as to what they can watch or access well within their age criteria. Therefore, until the child attains majority or the child become capable of understanding the nature and the consequence of the act or the conduct, there should be control over the child by their parents.

OTT platforms are providing contents which are not censored and hence they will not come under the purview of Central Board of Film Certification also known as Censor Board. Earlier, they Hollywood movies which was released in Indian theatres were not censored and it now the Hollywood movies released in India are subject to the certification by the Censor Board. There were a discussion going on to regulate the OTT platform but the same was not implemented but instead a grievance redressal system within the platforms and an oversight mechanism from Ministry of Information and Broadcasting. These self-regulatory platforms should be brought under the Central Board of Film Certification and the contents streamed in the OTT platforms must be certified and categorized into certification Category.⁷



⁷ Times of India, Content on OTT platform will be divided into five age- related categories, Swathi Mathur (26 February, 2021)