



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal

– The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL **TEAM**

Raju Narayana Swamy (IAS) Indian Administrative Service officer



a professional
Procurement from the World Bank.

Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and diploma in Public

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal



Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur,
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

ONLINE CHILD SEXUAL VICTIMIZATION: RISING ABUSE DURING THE COVID 19 PANDEMIC

Authored By- Dr. Shashank Shekhar (Asst. Prof. RMLNLU)
& Satyam Sinha (Research Scholar, RMLNLU)

ABSTRACT

WeProtect Global Alliance's Tuesday-released Global Threat Assessment report 2021 stated that COVID-19 has significantly increased online child sexual exploitation and abuse. According to the results of the WeProtect Worldwide Alliance's 2021 Global Threat Assessment report, the scope of child sexual exploitation and abuse online is growing so quickly that a step change in the global response is urgently needed to ensure secure online environments for kids. India still has widespread poverty and limited access to information and technology, making it a privilege dependent on the child's socioeconomic situation to report such instances. Families frequently fail to disclose instances of child sexual abuse because they are unaware of their legal options. The idea of sexting, which originated in the UK, has spread to other areas of the world, including India, where the recent pandemic has intensified its effects. The act of sending and receiving sexually explicit text messages, pictures, or videos, primarily over a mobile device, is referred to as sexting. These photographs can be transmitted via a mobile texting app or a conventional text message. Children may occasionally be coerced, tricked, or threatened into creating and disseminating a sexual image or video of themselves. There isn't an adult in the room physically. The Government, IT industry, schools and most importantly parents need to pull up their socks to prevent this type of heinous crimes which are being committed with their children. India might take a more international stance and look at creating bilateral or multilateral alliances to advance online child safety. Strategic alliances with nations like Australia and USA which are renowned for their effective OCSAE response procedures and with whom India already works on a number of cyber and technological initiatives, might be considered.

1. INTRODUCTION

In various regions of the world, there has been an increase in reports of online child sexual abuse and exploitation (OCSAE) since the COVID-19 pandemic's emergence in early 2020. Due to lockdowns and school closings brought on by the pandemic, an increasing number of kids have started spending more time online as of early 2020. UNICEF has noted that the growth in children's screen usage has jeopardized their online safety and raised the likelihood that they will encounter inappropriate behaviour and content. India is combating the threat in a number of ways, but more work has to be done. UNICEF has noted that the growth in children's screen usage has jeopardized their online safety and raised the likelihood that they will encounter inappropriate behaviour and content. Cybercrimes against minors increased by more than 400% in India by 2019 compared to 2020. These offences involved the publication or transmission of materials containing child sexual abuse (CSAM) in almost 90% of the cases. It has been determined that the growing usage of social media sites, the widespread adoption of online schooling, and the use of educational apps all pose risks to children's online safety.

Sexual abuse and sexual exploitation are two of the six categories of online risks for kids that UNICEF has identified. Together, they are referred to as "online child sexual abuse and exploitation" (OCSAE). OCSAE could refer to a variety of behaviors, including creating and disseminating CSAM, luring kids into sexual chats or creating explicit content, grooming and enticing kids to meet the abuser in person, the abuser's exhibitionism, and allowing a kid to participate in prostitution or sexual trafficking online.¹

2. ONLINE CHILD SEXUAL EXPLOITATION: MEANING AND EXPLANATION

One of the most alarming public safety issues that our society is currently dealing with is online child sexual exploitation. Children in Canada and around the world, both past and present, continue to suffer because of it. Among the forms of online child sex exploitation are:

- Child sexual abuse material, commonly known as child pornography, includes textual accounts of actual or fictitious child sexual abuse as well as audio, video, and photographs.

¹ ANIRBAN SARMA, "A Pandemic of abuse: How India is protecting its children online." Read this article at <https://www.orfonline.org/expert-speak/how-india-is-protecting-its-children-online/>

- Sexting and self-generated content - Youth-produced sexual photographs and videos on the Internet that are frequently shared further without permission;
- Sextortion is the practice of using pressure and threats to obtain from young people photographs or films of child sexual exploitation (either by other young people or adult perpetrators);
- Using platforms and programmes to connect with children and young people in order to sexually exploit them is known as grooming and enticing;
- Live streaming of child sex abuse Real-time viewing of child sexual abuse frequently involves the abuser directing it;
- Made-to-order content - Ordering movies or photographs in accordance with the abuser's tastes.

3. SEX IN CYBERSPACE AND SEXTING AS THE FORM OF CHILD ABUSE

Child abuse has also entered the online realm. Many kids are coerced into obscene poses that are subsequently shared online. Internet child pornography is a rapidly expanding industry, particularly for young teenagers under the age of 17. Some single mothers who are poor make their kids available for pornographic or pornographic presentations online. No consideration is given to the child's feelings when she grows up and discovers a pornographic image of herself. Contrary to adult pornographic photographs, child pornography is not protected by the First Amendment in the United States. Even in a significant case, it has been established that the First Amendment does not apply to photos showing youngsters having sex. Undeniably, the Protection of Children Against Sexual Exploitation Act of 1977 established extremely harsh and severe penalties against child pornography and child sexual exploitation in the United States Code.² Young children and teens using personal cell phones to talk on them is getting more and more common. In the United States, it has been estimated that 52% of young teenagers own cell phones. Sexting has increased significantly as a result of the rise in the number of young people who own cell phones and use them to access the Internet. Sexting is a phrase that developed in the UK and refers to the posting or sending of sexually explicit photographs and messages via mobile devices and/or the Internet. In a recent survey, it was shown that 17% of the student participants

² Obi N.I. Ebbe and Dilip K. Das, *Criminal Abuse of Women and Children: An International Perspective*, Page56-57.

acknowledged to engaging in sexting, and that this conduct became more prevalent as they got older. For instance, 32% of 18-year-olds reported they had sent or posted sexual photographs or messages, while 3% of 12-year-olds acknowledged to sexting. The study also discovered a connection between higher rates of sexting and higher rates of substance abuse, sexual behaviour, and emotional health issues like despair and suicidal ideation. Teenagers sext for a variety of reasons, but frequently, it is not of their own free will. 23 percent of kids who sext do so under peer pressure, whereas 51 percent of female teenagers who sext do it under pressure of boys. Furthermore, 61% of young teenagers who send sexually explicit communications or images do so under duress.³

4. INDIA'S POSITION ON PROTECTING CHILDREN

ONLINE

The Second Optional Protocol to the UN Convention on the Rights of the Child (CRC) of 2002, which tightens the CRC's provisions for both online and offline offences against children, was ratified by India in 2002. India was one of the first countries to ratify the CRC in 1990.

India has developed a strong legal system to safeguard children online. The Information Technology (Amendment) Act, 2008, which broadens the application of the IT Act, 2000 by identifying offences to which children are most vulnerable; the Protection of Children against Sexual Offences (POCSO) Act, 2012; the more recent Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which aims to stop the spread of CSAM on social media platforms, and the Information Technology (Amendment) Act, 2008, which expands the scope of the IT Act, 2000 by identifying offences to which children are most vulnerable. A basis for reporting instances of OCSAE, such as the sale and distribution of pornographic materials, sexual harassment, criminal intimidation of children, defamation of children, online extortion, and child trafficking, is also provided by sections of the Indian Penal Code and the Immoral Traffic Prevention Act. India is ranked second in terms of the "extent of cyber-risks" that children face in the 2020 Child Safety Online Index, which was compiled after a survey of 30 nations during the first year of the pandemic. India received an "average" rating and is ranked ninth for having the "best online safety for children." This seems to show that although children in India are exposed to a large number of different cyber-hazards, the country is just

³ Kelsey Becker and Catherine D. Marcum, "Sexual Victimization Online", *Sexual Victimization Then and Now*, Tara N. Richards and Catherine D. Marcum, Sage Publications, California, Page 141-142.

'average' at mitigating these risks.

5. OCSAE MANAGEMENT DURING THE PANDEMIC

India responded to the rise of OCSAE during the epidemic in four ways. In order to combat threats to children's safety, it has scaled back its promotion of existing reporting systems for online offences against children, tried to stifle CSAM's online presence, particularly on social media, concentrated on educating schools, and kept strengthening the ability of law enforcement agencies (LEAS) and advancing technology.

5.1 RAISING AWARENESS OF OCSAE REPORTING METHODS

The POCSO e-Box, a virtual complaint management system, and the National Cybercrime Reporting Portal (NCRP), India's two main systems for self-reporting OCSAE, have both been in place since before the epidemic. Since the beginning of 2020, the National Commission on the Protection of Child Rights (NCPCR) and the National Commission on Women have increased their efforts to increase public awareness of these reporting platforms as well as the POCSO and IT Acts by methodically implementing outreach, advocacy, and stakeholder engagement programmes across the nation. The information-sharing agreement between India's National Crime Records Bureau (NCRB) and America's National Center for Missing and Exploited Children, in place since 2019, has been another tool used throughout the pandemic (NCMEC). In order to motivate state-level LEAS to take action, the NCRB shares the Tipline reports it gets from the NCMEC with them.

Although these measures are commendable, there is still a problem with the general lack of knowledge of India's OCSAE reporting tools, which results in a pitifully low proportion of crimes that are self-reported. 1102 cybercrimes against children were reported to the NCRP in 2020, while the POCSO e-Box received 151 complaints between 2020 and 2021. In contrast, the NCMEC reported OCSAE to the NCRB 2,725,518 times in 2020 alone.

5.2 ATTEMPTING TO COMBAT CSAM ON SOCIAL MEDIA PLATFORMS

The lone new piece of legislation passed during the pandemic that aims to address the problem of CSAM on social media is the contentious Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. The IT Rules require social media intermediaries to develop methods to detect CSAM and restrict user access to it, as well as to forbid their users from publishing or sending it. More controversially, when faced with a court order for the investigation or prosecution of an offence involving CSAM or sexually explicit material, the rules require intermediaries to assist in tracing the originating source of information. The IT Rules are a source of contention. Social media networks' end-to-end encryption would need to be broken in order for them to be able to track down material, endangering the security of all online conversations conducted through the platforms. Furthermore, no specific technique for enforcing traceability is suggested by the guidelines. Additionally, the rules' very validity is called into question because the IT Act, from which they are derived, does not provide the government the authority to impose technological changes on platforms. Therefore, even though the IT Rules aim to address OCSAE in theory, it is difficult to see how they could be put into practice unless these problems are fixed.⁴

5.3 SENSITIZING SCHOOLS

India's pandemic response has placed a major emphasis on raising awareness in schools about OCSAE and other internet hazards to youngsters. Both the NCPCR and the Ministry of Education have produced and disseminated manuals for school safety that also act as compendia of the rules, legislation, and reporting procedures in place with regard to children's online safety. The National Council for Educational Research and Training and the Central Board for Secondary Education, two apex organisations, have also published student-friendly guides on online kid safety issues and trained instructors in cyber-safety. These center-driven efforts aim to hold schools more accountable for teaching staff members and administrators about internet child safety while also directly educating students. However, it is crucial that state governments make sure that equivalent technologies are used in all of the state's schools. Greater compliance might result from the creation of state-level monitoring systems for online safety in educational institutions.

⁴ Supra Note 1.

5.4 ENHANCING TECHNOLOGY AND HUMAN CAPACITY

Finally, the training of LEAs and judicial officers under the ‘Cyber Crime Prevention against Women and Children’ scheme managed by the Ministry of Home Affairs has continued with heightened intensity during the epidemic. Since the start of the epidemic, Big Tech companies have been taking technological steps to combat OCSAE in addition to these attempts to increase human capability. For instance, Google and Facebook have both started programmes in India to teach kids about online safety and have made steps to remove CSAM from their platforms.

6. CONCLUSION

India would do well to consider how it could improve its OCSAE response capabilities as it begins the third year of the pandemic. A significant barrier still exists since not enough people are aware of the laws, services, and reporting processes for OCSAE. To attract the required public attention, a phased nationwide 360-degree awareness campaign supported by the Indian mass media could be an important first step. The audiences who are most at risk might be greatly increased by incorporating OCSAE modules into computer science and sex education curriculum at schools, as well as making sure that centrally generated knowledge goods are made available in numerous regional languages. The battle against OCSAE will require the support of the private sector. Before the IT Rules, 2021 can be effectively applied by social media intermediaries, they need to be carefully and sensitively reevaluated. The contentious provisions regarding traceability and decryption are still present in the recently suggested draught revisions to these laws, despite the fact that some of the suggestions made within them may have advantageous effects. In order to enhance child safety online, India could take a more global perspective and look into bilateral or multilateral alliances. Strategic alliances with nations like Australia, which are renowned for their effective OCSAE response procedures and with whom India already works on a number of cyber and technological initiatives, might be considered. Working together to share knowledge, strengthen LEA capabilities, and thwart the activities of CSAM offenders might be very beneficial for both parties and contribute to creating a more secure and safe online environment for kids.⁵

⁵ Supra Note 1