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# CHILD PORNOGRAPHY AND ITS IMPACT ON VICTIM CHILD'S LIFE

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*'Children are the world's most valuable resource and its best hope for the future'.*

- John F. Kennedy

## ABSTRACT

Cyber Crime is the most prominent phenomenon in contemporary World as data is the new war for world and human community is connected with each other through a web named internet which profoundly known as Social Media WorldWide and become an integral part of human life in 21<sup>st</sup> Century which later on get an important place to fulfill the daily basic needs if we discuss about recent scenario internet plays a pivotal role in Individuals life weather its Cashless Transaction or online booking and orders , Education and Health Internet is the key to Run Human Life efficiently and changed Everyday life completely as resulted with the increasing use and dependency over Internet it give rise to the Crime related to Internet which profoundly known as Cyber Crime. A child is considered as an important asset of a nation as the growth and development of any country depends on how its children nurture and grow. Child rights is one of the most vibrant and prominent issues to discuss in this new millennium. Therefore, every child has the right to grow up in a safe and protected environment, free from any form of abuse or mistreatment. Unfortunately, child sexual abuse and child pornography is an all-too-common occurrence in India and around the world. According to the data, 2968 POCSO cases were recorded in the year 2019-20 and 2428 cases were reported in the year 2020-21 by the different police stations under 15 districts of Delhi.

**Keywords:** Pornography, Children, Cyber Crime, Effects, Hacking etc.

**Introduction:**

Cyber Crime is a very wide and global term. It can't be defined in just one or two lines but we can say that it's a crime that is committed in the Cyber World or we can say in the internet world. It's a new type of crime evolving throughout the globe and affects the human race brutally by expanding its roots in each and every aspect of life of the Netizen's. It's a crime or illegal act in which special knowledge of computer technology is essential for its perpetration, investigation or prosecution. It's a type of crime in which computers and computer networks are put into use and misused by abuse of power. As more human life grows and heads towards the digital world, the chances to be the victim of Cyber Crime increases rapidly every year.

As per statistics global cyber security landscape is increasing rapidly every year and Cyber Attacks globally grow by 125% through 2021 as in Pandemic when the world networks and business moved to remote work Environment via Online mode for instances:- Despite its prevalence, the average data breach cost around \$12,124, at global level, In 2022, Investment fraud was the most costly form of Cyber Crime, with these statistics we can see the gravity of Cyber Crime as most active form of crime which is dangerous to the identity of the perpetrator.

**HISTORY AND ORIGIN:**

At the beginning of 1834, there was no internet in that era and telephone, telegraphs were easy target for cybercrime and Cyber Attack as in 1834, two thieves infiltrated and gained the access the financial market through unlawful means and stole the data, in 19<sup>th</sup> and 20<sup>th</sup> century attacks focused on telephone system and phone hijacking become popular Cyber Crime. In 1940's to 1980's computer become a popular source of communication and also a dominant source of work for human being as resulted emails, Web Browsers and computer viruses arose in popularity and led to computer malware and phishing scams, In 2000 the Internet growth enabled the introduction of online communication services such as CompuServe, American Online and prodigy, which introduced digital and online communication through email, Bulletin board messaging and real time online chatting as resulted today we have around 5 billion mobile device users worldwide, which amounted to 64.6 percent of the global population and 59.9 percent of the world's

population there is 196 million new people access the internet each year which directly indicates that the number of internet users grows at an annual rate of 4% each year.

## STATISTICS

As per **NCRB (National Crime Record Bureau) India** reported 52,974 incidents of Cyber Crime in 2021, An average of 1,500 cybercrime instances are reported every day, but only about 30 are processed into FIRs. According to the figures given in the Lok Sabha, 52,974 incidents of cybercrime were reported across the country in 2021. In only 35% or 18,744 cases a charge sheet was filed, while the number of convicted cases was less than 1% at 491 cases

The charge sheeting rate in Cyber Crime cases in 2021 was recorded at 33.8, the report showed, suggesting that the police probe and actions are only one-third of the cases registered across the country. Most prominent Cyber Crime reported are Fraud, Sexual Exploitation, Extortion, etc. Fraud was the motive in 60.8 per cent (32,230) of the cybercrime cases, followed by sexual exploitation in 8.6 per cent (2,883) cases registered across India. The highest number of cybercrime cases was reported from Telangana (10,303), followed by Uttar Pradesh (8,829), Karnataka (8,136), Maharashtra (5,562) and Assam (4,846) while Delhi lodged 356 such offenses.

## INTERNATIONAL AND FOREIGN CONVENTIONS:

### United Nations Human Rights Instrument

- **Universal Declaration of Human Rights**

The Declaration was proclaimed by the U.N. General Assembly in 1948. The right to privacy is enshrined in **Article 12**. Although the Declaration is **not legally binding**, many of its principles have been incorporated in international treaties, regional human rights instruments, and national constitutions.

- **International Covenant on Civil and Political Rights (1966)**

More than 160 countries are state parties to this multilateral treaty. **Article 17** recognizes the right to privacy.

### ***Council of Europe Treaties***

The **Council of Europe** is one of several regional organizations established in the aftermath of World War II. It is **separate and distinct from the European Union** and has a much larger membership than the EU. The Council's core mission is the protection of human rights, but it also works to promote democracy, the rule of law, and uniform standards. Much of the Council's work is accomplished through the drafting of treaties. Below is a selection of major Council of Europe treaties related to data protection and privacy.

#### **Convention for the Protection of Human Rights and Fundamental Freedoms (1950)**

Also known as the European Convention on Human Rights. **Article 8** of the Convention recognizes the right to privacy. The **European Court of Human Rights** (see below) is responsible for monitoring compliance with the Convention

**Convention for Protection of Individuals with Regard to Automatic Processing of Personal Data (1981)** The Convention, which entered into force in 1985, is the first legally binding international instrument on data protection and is open to signature by countries that are not members of the Council of Europe.

**Additional Protocol to the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, Regarding Supervisory Authorities and Trans-border Data Flows (2001)** The additional protocol provides for the establishment of national data protection authorities to monitor compliance with laws adopted pursuant to the original Convention and regulates the transmission of data across national boundaries.

**Protocol Amending the Convention for Protection of Individuals with Regard to Automatic Processing of Personal Data (2018)** This protocol is intended to modernize and improve the original 1981 convention by taking into account the challenges posed by the new forms of information and communications technology that have emerged during the ensuing decades.

### **Cyber Crime and its kind:**

The word **Cyber Crime** is constantly developing as our day to day dependence on technology is

increasing, the evolution in the computer industry gives birth to a techno dependent world which gives a boom to the reliance of human beings on technology and internet world.

As Cyber Crime is basically Any Illegal Activity through internet use or using computer as a tool, it's any criminal activity that involves a computer networked device as a tool which directly damage and disabled by *cyber criminals with different type of profit driven activity includes Hacking, Virus dissemination, frauds, identity theft, Phishing, cyber stalking, child pornography and child sexual abuse, cyber harassment, cyber bullying, revenge porn etc.* are most prominent kind of Cyber Crime prevailing these days .

### **Types of Cyber Crimes and Cyber Criminals**

**HACKERS AND UNAUTHORIZED ACCESS TO HACKING:-** The term hacker may refer to anyone who has technical skills , however it typically refers to an individual who uses his or her skills to achieve unauthorized access without the permission of either of the rightful or person in charge of the computer system or network. Hacking means an illegal intrusion into a computer system and or network. The most prominent reasons behind hacking is personal monetary gains, such as stealing the credit card information, transferring money from various bank accounts etc.

**There are three most prominent kind of hackers in Cyber Crime for instance-**

**White Hat Hackers:-** These hackers are network performers who perform network penetration tests , basically the network protectors who perform pentesting only to check the security of the company from external use.

**Gray Hat Hackers:-** these hackers carry out violations and disclose vulnerability to the affected person , organization after having compromised their network and may exploit it .

**Black Hat Hackers:-** These hackers are unethical criminals who violate network security for personal gain with malicious intention, they release malware to destroy files, hold computers hostage or steal passwords, credit card numbers and other personal numbers.

**Web Hijacking:-** Web hijacking is a form of unwanted software that modifies a web browser setting without the user's permission and redirects the user aimed to help the cybercriminal

generate fraudulent revenue A browser hijacker may contain spyware, enabling the attacker to obtain the user's banking information, credit card number or other sensitive data.

**Organized Hackers:-** These criminals embody an organization of cyber criminals, hacktivists, terrorists and state sponsored hackers basically call them skilled criminals targeted on control power and wealth. They are prepared and well - funded.

**CYBER STALKING:-** As we are aware of stalking is a Criminal offense in India which can be physical, electronic, via phone calls, text messages or email etc. it's basically a technology based attack on an targeted specified person which take shape of an aggressive and specified harassment is known as Cyber Stalking. It can be posting offensive, suggestive or rude comments online, Sending Threatening lewd or offensive emails or messages to the victim, releasing confidential information about a person/victim online.

**Pornography:-** Pornography of been defined as the sexual explicit depiction of persons or sexual acts in order to cause sexual excitement, it includes pornographic magazine and websites, basically means the publishing, distributing or designing pornography by using cyber space. It also includes obscenity as well which is against the public sentiments and morality

**Child Pornography:-** As we are aware of the children's and their childhood is the most easy target for the pedophiles to lure a child in the darkness of pornography and the internet is used as a medium of sexual abuse and exploit the children. Child pornography is a form of child sexual exploitation which has three basic aspects, the production, distribution and downloading etc.

**Child pornography** basically include activities like *Live Streaming of Child sexual Abuse, Children self-generated explicit content, Cyber Stalking, Cyber Bullying, Revenge Porn etc.*

## **LAWS PERTAINING TO CYBER CRIME LAW IN INDIA**

### **PROTECTION OF CHILD FROM SEXUAL OFFENSES: -**

As per Section 2 (d) of the POCSO Act Child is defined to be a person who has not attained the age of 18 years and the **CHILD PORNOGRAPHY** is defined as a term under section 2(D), According to **section 2 (D (A))** of the **POCSO Act**, child pornography is any kind of visual display

of overt sexual activity that engages a child. Such content may be an image, a video or any computer-generated picture which cannot easily be differentiated from a real child. It includes all those images which show a child to be involved in such activities whether it is created, adapted or modified.

### **INFORMATION TECHNOLOGY ACT 2000:-**

The information technology act which came into effect in 2000 regulates the Cyber Crime laws in India. **Section 67** of India's Information Technology (Amendment) Act, 2008, penalizes "whoever publishes or transmits or causes to be published or transmitted in the electronic form" any material "which is lascivious or appeals to the prurient interest," or "contains (a) sexually explicit act or conduct."

As per **Section 67 B OF INFORMATION TECHNOLOGY ACT 2000** which penalizes the publishing, transmitting, viewing or downloading child pornography illegally the fact that the internet has made child pornography more accessible. The Information Technology Act punishes the publication or transmission of material in any electronic form which depicts children engaged in sexually explicit acts, or obscene and indecent sexual representation in public.

### **THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION ACT (1986) IRPWA**

This act prohibits the indecent representation of Women which prohibits the Advertisement containing indecent representation of Women. In this act no person shall publish or cause to be published or arrange or to take part in the publication or sending by post of books or pamphlets containing indecent representation of women. No person shall produce or cause to be produced, sold, let to hire, distribute, circulate or send by post any book pamphlet paper slide film writing drawing, representation of figure which contains indecent representation of women in any form. This Act penalizes the person with imprisonment of either description every person who is found guilty under the act for the term of imprisonment for two years or fine which may extend to two thousand rupees.

### **SPECIAL PROVISION RELATED WITH CHILD PORNOGRAPHY UNDER POCSO**

**ACT 2012**

“Use of Child for Pornographic Purposes and Punishment therefore” of the POCSO, 2012 it provides special provisions related to child pornography. Under Section 13 it criminalized and made any person liable for the offense of using a child for pornographic purposes. Under the said act a person who uses a child for pornographic purposes.

This section covers all the modes of distribution or representation of child pornographic material without considering intention. In this way this section is an exception to the general rule of mens-reus which is an essential ingredient of offense.

**JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT OF 2000**

The Juvenile Justice act pertains to the provisions of child conflict with law in India. An Act to consolidate and amend the law relating to children in need of care and protection guaranteed the proper care and protection, development treatment, social reintegration by adopting a child friendly approach.

- The police have played a crucial role to play in combating child sexual abuse because they should be the first point of contact for anyone wishing to report and file a case. The sensitivities required for this role are recognized by the Juvenile Justice (Care and Protection of Children) Act of 2000, which obliges every police station to have a specially trained “child welfare officer” and every district and city to have “special juvenile police units.” Their job is to “co-ordinate and upgrade the police treatment of juveniles and children. We have around six juvenile homes in Delhi.

**PORNOGRAPHY AS AN OFFENSE – BINGE-WATCHING OF PORN LEGAL OR ILLEGAL IN INDIA?**

Under *Section 292 of Indian Penal Code 1860* which deals with the Sale, distribution and exhibition of obscene materials basically it can be considered to be obscene if it is lewd or lustful or if it tends to degrade and corrupt another person. If a person is proven guilty for the first time,



he or she can be jailed and *penalized for upto 2 years and fined upto Rs.2000 which is extendable to 5 years.*

According to **INDIAN PENAL CODE AND INFORMATION TECHNOLOGY ACT**, viewing sexually explicit acts in private, anyone who publishes and transmits or causes to be published or transmitted in the electronic form”.

- Seeking a judicial declaration from the Honourable Supreme Court on several occasions that the Internet has led to Child Sexual Abuse or Sex Crimes would be equal to giving a go ahead to Online surveillance.

- In year **2015 The Honourable Supreme Court remarked that Under Right to Life And Personal Liberty Watching porn film in your private space is completely legal in India** However it was clearly mentioned by the court that watching or storing pornographic content and obscene content which depicts child pornography or rape or violence against women is an offense even if it is being watched by a person or individual in private space.

- On several occasions on the ground of decency and morality the Government of India can restrict the fundamental rights on the grounds of decency and morality in public.

## **CAUSE AND EFFECTS OF PORNOGRAPHY ON CHILDREN**

Childhood is the most precious phase and memory for a human being which brings happiness in an individual life for lifetime. Child Victims and their pious childhood is beautifully smashed by the offenders which stamped and mark a lifelong wound on a person or individual's life as resulting the child victims have been traumatized by this nightmare for their whole life. It impacted a child psychologically, mentally, physically and emotionally which tend to greater involvement of child in due to early exposure of illicit content in deviant sexual practice, particularly rape, slightly one third of the child molesters and rapists in this study.

These images work as a **traumatic trigger** and can surface without warning, leaving the potential for numerous problems in future life. There are several effects which include:-Guilt and shame, Helplessness and Powerlessness, fear etc.

**RESPONSIBILITY:** The offender coerces the child to feel responsible for concealing the abuse.

**BETRAYAL:** Children feel betrayed because they are dependent upon adults for nurturing and protection and the offender is someone who they should be able to love and trust.

**ISOLATION:** The victims of child pornography feel different from other children. They must usually be secretive. This further isolates them from non-offending parents and brothers and sisters.

**ANGER:** Children most often direct their feelings of anger in several ways<sup>21</sup>.

- They may direct it outward at perceived little things.
- They may more often direct it inward affirming their feelings of low self-worth or value; and
- Almost never direct their anger towards the abuser whilst still in close relationship with them.
- Children may feel anger towards others whom they believe have failed to protect them.

**SADNESS:** Children may feel grief due to a sense of loss, especially if the perpetrator was loved and trusted by the child.

**FLASHBACKS:** These can be like nightmares which happen while the child is awake. They are a re-experience of the sexual assault as it occurred at that time. As an adult, a survivor may experience the same type of omnipotent fear that they experienced as a Child.

### **Trauma And Victim Response:-**

Trauma and response of victims towards trauma investigation - It's time to understand and therapise the victim by providing an environment without judging them due to an incident is the need of hour . Being sensitive to the impact of trauma on victims and to the needs of people suffering from trauma will help the human race to decrease the pain in victims of child sexual

abuse its Extremely important when dealing with victims of sexual abuse that we deal with a kindness and sympathise them with care and love.

### **Conclusion and Way Forward:-**

#### ***Initiatives:-***

We have to take initiatives pertaining to Implementing *the Protection of Children from Sexual offenses Act* and give priority to *the Training of the Police, Court Personnel, Government Social Workers, Child Sexual Workers, Child Welfare Committee Members and Doctors who work with children*. We have to work on Residential Care Facilities, State National commission and National Commission for Protection of Child Rights, provide training to police to deal with the child abuse cases sensitively. So that a child can't be traumatized by aggressively questioning the child or family members. To protect and safeguard the better interest of children. We have to minimise the impact of a very serious crime and accurately acknowledge the term child pornography as a serious crime as child sexual abuse and need to sensitize at root level from primary level at school so that the childhood of a child can be protected, preserved and safeguarded initially.

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