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## CYBER PORNOGRAPHY: AN INTERDISCIPLINARY STUDY OF TECHNOLOGY LED CRIME AGAINST WOMEN AND CHILDREN.

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### Abstract:

Today in a technological age a rise in the distribution of pornography and more so of a child reflects a major concern of misuse of technology and thereby violation of privacy of women with special reference to girl child. The available LAW provides protection against this inhumane act and Prohibits such act however its effectiveness and adequacy is in question.

The important concerns that this Paper attempts to discuss is with reference to new Law namely POCSO. The provisions of the POCSO interpretation in tandem with the IT Act and its efficient in protecting child against the menace of Cyber pornography has been assess. Whether the existing legislations and the recent amendment to the same have inculcated practically viable measures to prevent cyber pornography and whether the penalties levied by the statutes are adequate or not has been ponder upon.

### I. Introduction

*“There is no dignity when the human dimension is eliminated from the person. In short, the problem with pornography is not that it shows too much of the person, but that it shows far too little.”*  
— **Pope John Paul II**

Unfortunately, today in a technological age there is a historic rise in the distribution of pornography and more so of a child, an increase in the number of images being shared online and in the level of violence associated with women and child exploitation and sexual abuse crimes. Tragically, the only place we've seen

a decrease is in the age of victims. In today's milieu, internet plays an important part in our lives. Internet can be a potpourri of information but at the same time its adversities cannot be ignored. The medium of exploitation through internet is increasing day by day. Amongst the various evils spread by technology, pornography is one such menace to which children are an easy prey, as they belong to the vulnerable group of the society. Further, the Constitution of India also recognizes the vulnerable position of children through the doctrine of protective discrimination and guarantees in Article 15 special attention to children through necessary and special laws and policies that safeguard their rights. This technological abuse mainly targets girl child because of factors such as patriarchy encouraging gender-based violence, aggressive masculinities and a culture of silence around sexual crimes. The crime of pornography demeans the position of girl child and women by depicting them as sex objects and showing them as passive recipients of degrading and/or violent acts leading to unrealistic and artificial expectations and various forms of physical, mental and sexual abuse.

The real challenge lies in tackling of such pornographic material on the internet, as such sites are illegal and therefore are mostly hidden this causes problems for the regulatory and implementing bodies to track down the perpetrators and the victims of the crime. Though there persists myriad problem but the underlying problem that needs to be addressed is that of social stigma attached to crime and protection of integrity of girl child.

Sexual Abuse through cyber pornography more in case of child is increasing day by day in India and the current legal structure dealing with the problem in the country is apparently insufficient. Currently, the Protection of Children against Sexual Offences Act, 2012 (POCSO) and the Information Technology Act, 2000 (IT Act) are the only statutes that deal with women and child pornography along with other relevant general provisions of criminal law. Despite the presence of such laws, the menace of cyber pornography still at an increased level and millions of children, especially female children are falling prey to such pornography. The laws enacted need an effective implementation and hence, the amendment to the POCSO to specifically inculcate provisions to that extent was felt. Amongst many other concerns to curb child pornography, the issue of jurisdiction of Courts for trying such crimes is a major concern in the internet age, mainly because of the questions posed as to the extent of the cyberspace. In addition to all this, pornographic sites are illegal and hence difficult to track down and remove obscene content found therein.

**The important concerns that this Paper attempts to discuss is** with reference to new Law namely POCSO. The provisions of the POCSO interpretation in tandem with the IT Act and its efficient in protecting child against the menace of Cyber pornography has been assess. Whether the existing legislations and the recent amendment to the same have inculcated practically viable measures to prevent cyber pornography and Whether the penalties levied by the statutes are adequate or not has been ponder upon .

The crime of pornography demeans the position of children and women by depicting them as sex objects and showing them as passive recipients of degrading and/or violent acts leading to unrealistic and

artificial expectations and various forms of physical, mental and sexual abuse. Cyber pornography is one of forms of exploitation which makes the nation stumble because the fate of the nation i.e. the children are also at risk. It is the nation's duty to protect the interests of the Women and children. Pornography existed in India since time immemorial, however the sudden technological advancement and the easy access to the internet has led pornography to become rampant. Though the phenomenon of pornography and more so a child pornography has received attention at a global level, it nevertheless remains to be a taboo in the Indian society. Moreover, the technological advancement and the advent of social media and its wide usage pave an easy way for sexual exploitation of female children. The research aims to examine the laws relating to child pornography, the difficulties in practical implementation of the procedure laid down, with specific reference to the Prevention of Children against Sexual Offences Act, 2012 (POCSO), the Information Technology Act, 2000 (IT Act) and the recent amendments in the same.

### **Literature Review highlights following issues**

1. The effects on women and female children. And the root cause of such abuse<sup>1</sup>. The research states few factors which are patriarchies in the society which encourage gender-based violence, aggressive masculinities and a culture of silence around sexual crimes.
2. Taking holistic view regarding the issue of child pornography research provides a brief insight about the legislations governing child pornography and also have laid down certain judicial precedents with regard to child pornography<sup>2</sup>.
3. with an in-depth research regarding the problems relating to conviction in cases of child pornography.<sup>3</sup> It is stated that the trans-national nature of the internet that becomes difficult in nabbing the perpetrator. Various national and international responses to child pornography are also being researched and further discussion about the sufficiency of the existing laws to tackle this heinous crime is seen to be studied.
4. The Implementation of the POCSO Act Goals, Gaps and Challenges is looked into through various topics pertaining to child sex abuse<sup>4</sup>. Through the empirical as well as doctrinal method of research, the need and importance of POCSO legislation is highlighted upon . Through empirical research, the recent child sex abuse crimes such as pornography, bullying, etc and the probable effective solutions and suggestions considering the child's development are made.
- 5, The International Perspectives and the global Child Pornography vice is also at an alarming stage . The study by various authors has laid emphasis on the backdrop of amendments carried out in the IT Act

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<sup>1</sup> **Addressing Child sexual abuse in India through Sexuality Education and Teacher Training** by Jyothsna Latha Belliappa and Sreeparna Ghosh

<sup>2</sup> **Child Pornography in Digital Age and The Law in India – Analysis**

<sup>3</sup> **India's Response to Combating Child Pornograph**

<sup>4</sup> A group of authors in their research work titled as- **Implementation of the POCSO Act Goals, Gaps and Challenges** have grouped their study into various topics pertaining to child sex abuse.

so as to make it compatible with the changing technological era.<sup>5</sup> The authors have relied upon the report on crime against children to understand the gravity of this crime. Moreover, they have suggested for certain safeguards to be taken, one of the notable being that the Enforcement Mechanism must get well-equipped, well informed and trained since they are the ones who are directly responsible for the prevention, detection, investigation and enforcement of prosecutions of or cases of Cybercrimes including that of Electronic/cyber obscenity or pornography.

Ministry of Women and Child Development in one of its press releases has primarily addressed the issue relating to digital exploitation of children. It entails information about a scheme namely 'Cyber Crime Prevention against Women and Children (CCPWC)' under which an online Cyber Crime reporting portal, ([www.cybercrime.gov.in](http://www.cybercrime.gov.in)) has been launched by the Ministry of home affairs to enable public to report complaints pertaining to Child Pornography/ Child Sexual Abuse Material, rape/gang rape imageries or sexually explicit content. Further, it highlights the provisions of POCSO legislation which address the issue of child pornography.

### **Research Methodology & Data Collection:**

The research aims to employ both, primary and secondary methods of data collection. Secondary data in the form of published books, newspapers, magazines, journals, etc. concerning the chosen area of research are intended to be used. Additionally, the Judgments passed by the various Courts in India, the Bills of various committees in this regard, would also be analysed. Moreover, the Primary data collection methods, both, quantitative and qualitative are intended been used in this particular research. Field visits, surveys and interviews with various people working in this field along with various NGOs and Schools are aimed to be conducted so as to understand the crux of the difficulty in dealing with the problem. Therefore, a tandem application of primary and secondary methods would add the required depth to the field of research.

### **Discussions**

The research intends to analyse the problem at hand and discuss it in the light of the developed child right jurisprudence and technology as, in the modern times, both are intertwined. The Constitution of India recognizes the vulnerable position of children and their right to protection. Following the doctrine of protective discrimination, it guarantees in Article 15 special attention to children through necessary and special laws and policies that safeguard their rights. Further, the nature of the current legal structure being prohibitory, the research aims to discuss whether a social mechanism, regulatory in nature, can be devised, for curbing such sexual abuses at a grass-root level, wherein such content can be regulated while uploaded on any platform. Furthermore, India is a signatory to many international conventions that focus on the protection of children e.g.: Convention on Elimination of All Forms of Discrimination against

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<sup>5</sup> A research paper titled "**Obscenity in Cyberspace: response of Indian Cyber Law**" has shed light upon this crime through the international lenses. The authors have laid emphasis on the backdrop of amendments carried out in the IT Act so as to make it compatible with the changing technological era.

Women (CEDAW), Child Rights Convention (CRC), etc. Therefore, this research also aims to discuss India's role in the international domains as a signatory to these conventions.

## Conclusion

Child Sexual Abuse is more severe than any form of exploitation a girl child can encounter. This is because it can leave a severe and lasting impact on a girl child for the rest of their life. Further, Child pornography is considered to be different from adult pornography due to intricacies involved. In child pornography, children are harmed not only in production process but also after publication of such pornography on internet, or via any other media. It attaches a taint on the future of children depicting them in bad light and characterizing them on social networking sites belonging to children who are below 18 years of age. Publication of their nude photos, either with their consent or fraudulently, affects the prospects of their development and it also affects their mental health. Therefore, in a country like India where a considerable portion of the population consists of women and children, laws made in this regard must be essentially stringent and must at the same time cater to the varied social and cultural scenario pertinent. Moreover, the available statutory measures along with regulatory enforcement mechanism to churn out cyber pornography must be articulated keeping in light the rapid development of the internet and its ill-effects on the society and the innocent minds of the children.

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