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PROTECTING THE CHILD FROM THE EVIL EFFECTS OF THE DIGITAL AGE

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ABSTRACT

Today information and communication technology have become an integral part of our day-to-day life and everyone including the children have access to computers at home, school, and cyber cafe. There is a knowledge boom in cyberspace and information technology has made available vast academic literature relating to all streams of academics making them accessible to all and can be used for achieving academic pursuits and building careers. At the same time obscene and pornographic literature and videos are also available in cyberspace and are accessible to all irrespective of the age of the users. Generally, computers are used for different purposes such as education, communication, and entertainment. But astonishingly it is an established fact that children use computers for entertainment purposes too for pornographic sites and tender minds have the curiosity and tendency to search for such sites. These sites have a very negative impact on young minds that adversely affect their psychological and physical well-being. Further, the children use social networking, such as the internet, computers, smartphones and other communication technology devices for email, Google, WhatsApp, Twitter, Facebook, etc. But unfortunately, a good number of children are using information technology for ulterior purposes, which can ruin them academically, physically, and psychologically. In view of this, the duty lies on parents, teachers, and guardians to make their children aware of the advantages and disadvantages of information technology.

1.0 Introduction

Children are delicate and precious flowers of life and are regarded as the future of the nation and they are innocent, trustworthy, and nearer to God. For the child's proper development, it is necessary that the right to privacy and privacy is given to the child in the same way so that his intellectual capacity can be developed. Justice Bhagwati observed in "....children are supremely important national assets and the future well-being of the nation depends on how its children grow and develop.\(^{13}\) The beginning of the movement for the rights of the child can be traced back to the mid-19th century with the publication of an article in June 1852 by Slagvolk, entitled "the Rights of the Children", followed by Kate Kliggin, "children's Rights" in 1892. The attention gradually shifted from the working conditions of children, and the legal position of children in England with the introduction of factory laws which concentrated on the amelioration of the working conditions of employees, especially children.\(^2\) The Convention on the Rights of the Child, 1989 marked the culmination of the efforts to bring the international community to recognize the needs of children. The Universal Declaration of Human Rights (UDHR) states: "Motherhood and childhood are entitled to special care and assistance. All children shall enjoy the same social protection, whether born in or out of wedlock.\(^{3}\) The harmonious development of children's personality should grow up in a very congenial family environment, in an atmosphere of happiness forever.

The use of ICT in the childcare environment provides great opportunities for creative development in children. Creativity is essential for successful learning, and it can lead to children having the most fun and enjoyment. Creativity can be spontaneous. It encourages children to explore and discover for themselves and helps them make links across all areas of learning and development. The creative area of learning includes arts and crafts, music, dance, Imaginative play, and role play. It is about giving children opportunities to develop their own ideas and express themselves in many forms. ICT resources can enable this development. All parents wish that their lovely children get the best possible ICT use and online education affectionate care.

2.0 Definition of Child

Before going for discussing the human rights of children, it is pertinent to know who a child is.⁶ The convention on the rights of the child defines the term child to mean every human being below the age of eighteen years unless under the law applicable to the child, the majority to be attained earlier. Childhood as a social construct may permit further sub-division into infancy (zero to seven years), early childhood 7 to 12 years, late

¹ Lakshmi Kant Pandey v. Union of India, AIR 1984, SC 469 at 474.

² Dr. Mamta Rao, Law Relating to Women and Children. 530 (Eastern Book Company 3rd Edition 2012).

³ Article 25(2) Universal Declaration of Human Rights 1948, United Nations. Available at: https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf Last Visited on Sep.10, 2022.

⁴ Angela Canavan Corr, "Children and Technology: A Tool for Child Development". 6. (Barnardos National Children's Resource Centre 2006).

⁵ *Ibid*. at 6

⁶ Dr. Sreenivasulu N.S., Human Rights Many Sides to a coin.44 (Regal Publications 2008)

childhood (12 to 16 years), and adolescents (16/18 to 22 years). During the 19th century for the purposes of criminal justice, IPC treated all children under seven years as *doli incapax* (section 82), and children between seven and 12 years were presumed innocent unless proven to be contrary (section 83). Labour and Industrial Laws define a "child" as a person who has not completed his fourteenth year of age, and the amendment Act 2016 defined the "adolescent" as a person who has completed his fourteenth year of age but has not completed his eighteenth year.

3.0 Rights of Child

Nature has provided some inherent rights to every child. These fundamental rights are bestowed on human beings from their very inception.10 Human beings are endowed with rights from the stage of the fetus. A fetus in the mother's womb is the starting point since the then human being is guaranteed certain basic rights.11 The convention is a set of international standards and measures intended to protect and promote the well-being of children in society. UN General Assembly on 20 November 1989 Convention draws attention to four sets of civil, political, social, economic, and cultural rights of every child. The rights of the child under the convention can be classified under the following heads, ¹² Right to survival, ¹³ Right to protection, ¹⁴ Right to development. ¹⁵

4.0 Constitutional Rights of Children

- The rights of children rights and the responsibility of Stats
- The rights of the Children responsibility of parents
- Freedoms guaranteed to children
- Children's right against exploitation
- Special protection for certain classes of children

Rights dominate our understanding of what actions are proper and which institutions are just to Rights structure the forms of our governments, the contents of our laws, and the shape of morality as we perceive it. The Constitution of India Art. 15(3) is an exception to the general rule contained in Clauses (1) and (2) which prohibit discrimination. According to section 15(3), ¹⁶ the state is not prevented from making any "special"

⁷ Dr. B. B. Pande, "Bad Juveniles and the Worst Juvenile Justice Law? The Second Challenge to Juvenile Justice Law in Darga Ramv. State of Rajasthan" 32 JILI 57 (2015)

⁸ *Ibid*. at 32.

⁹ Section 2(a) (i), The Child Labour (Prohibition and Regulation) Amendment Act, 2016 (Act, 35 OF 2016).

¹⁰ Supra note 5 at 45.

¹¹ *Ibid* at 45.

¹² Articles 1 to 54 of the Convention on the Rights of the Child, 1989.

¹³ The right includes the right to life, the highest attainable standards of health, nutrition, and adequate standards of living. It also includes the right to a name and a nationality.

¹⁴ This includes freedom from all forms of exploitation, abuse, inhuman or degrading treatment and neglect, including the right to special protection in situations of emergency and armed conflicts.

¹⁵ The right to development; it contains the right to education, support for early childhood development and care, social security, and the right to leisure, recreation, and cultural activities

¹⁶ "Nothing in this article shall prevent the State from making any special provision for women and children."

provision" for women and children.¹⁷ *Mt. Choki v. the State of Rajasthan*, ¹⁸ Sec. 497 Cr. P.C. 1898, the Prohibited release of a person accused of a capital offense on bail except for a child under 16 years.¹⁹ The provision has been held valid as it metes out special treatment to women and children which is consistent with Art. 15(3). The Rajasthan High Court observed:

"The State may made laws containing special provisions for women and children. But no discrimination can be made against them on account of their sex alone."

Prohibition of employment of children in factories, etc.: "No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment." The Article prohibition of employment of children less than the age of 14 years who cannot be employed in an industry or a mine or any other hazardous work. In M.C. Mehta v. State of Tamil Nadu, the court gave direction that no child be employed in match industries in Sivakasi. It laid down exhaustive guidelines for the education of children and for setting up a Child Labour Rehabilitation Welfare Fund. Other industries in respect of which the directions were given are Diamond polishing, precious stone polishing, Glass industry, Brass-ware industry, Carpet industry, Lock-making industry, and Slate Industry.

Initially, article 45²⁴ gives a directive principle to the state to endeavor to provide, within a period of ten years from the commencement of the Constitution, free and compulsory education for all children until they complete the age of fourteen years.²⁵ From the general study or it is seen that still the poor in our country and the children living in the hotels, restaurants and pavements are deprived of the provision given in the constitution, which needs to be pursued.

Article 51-A(K)²⁶ was introduced as a Fundamental Duty in 2002 along with Art. 21A as a Fundamental right. The Supreme Court held, *Ashoka Kumar thakur v. Union of India*²⁷, Article 21-A read with Article 51-A(k) distributes an obligation amongst the state and parents: The State is concerned with free education parents with compulsory. Notwithstanding parental duty, the state also has a role to play in ensuring that compulsory education is feasible.²⁸ The state also needs to make such rules that compulsory education should also be given to the children who are begging on the footpath.

¹⁷ M.P. Jain, *Indian Constitutional Law 973* (LexisNexis, 8th Ed. Reprint 2022).

¹⁸ Mt. Choki v. State of Rajasthan AIR 1957 Raj 10.

¹⁹ Supra note 16 at 992

²⁰ Article 24 Constriction of India.

²¹ Dr. Adish C. Aggarwala's, Constitution of India 106 (Amish Publications 4th edition 2014)

²² M.C. Mehta v. State of Tamil Nadu (1996) 6 SCC 756.

²³ B.K. Sharma, Introduction to the Constitution of India, 110 (PHI Pvt. Ltd. 6th Ed. 2011)

²⁴ "the State shall endeavor to provide early childhood care and education for all children until they complete the age of six years."

²⁵ M. P. Jain, *Indian Constitutional Law* 1512 (LexisNexis Butterworths Wadhwa Nagpur, 6th Ed. Reprint 2011).

²⁶ "Who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years."

²⁷ Ashoka Kumar thakur v. Union of India & Others, 10 April 2008 SC.

²⁸ Supra note 28 at 1512.

5.0 Digital Technology on Children

As children grow, the capacity of digitalization to shape their life experiences grows with them, offering seemingly limitless opportunities to learn and to socialize, to be counted and to be heard.²⁹

The information technology used by children such as television, computer, tablet, and smartphones are a familiar fixture in today's home environments. Regardless of a child's age, parents have a significant role in modeling healthy behaviors and habits of use, but with younger children especially, parents have more influence over how technology is introduced and used at home.³⁰

5.1 Positive Impact

Today's learners are substantially different from those that came before the internet revolution. So, the learning environment is more dynamic. Classrooms are being redesigned and reinvented in various ways as technology advances to meet the increasing needs of modern digital learners. The internet has evolved into a vital source of information.³¹

5.1.1 Television

Television has its good side. It is helpful in enhancing the entertainment and educational ability of the children and for the children to a new world whereby they get an opportunity to travel the world and learn about different cultures and get in touch with their ideas. Which helps in their intellectual development. Television has a great benefit among children as they get easily aware and connect about the physical happenings in their modern-faced society. The role of television in child development is widely debated all over the world since the decade of 1950s. Several commissions and individuals have examined the effects of television programs and commercials on segments of the global population, specifically children. ³² A substantial amount of research has been carried out to develop a considerable body of knowledge concerning the role of television in child development. Mc Luhan observes:

"We need to know more about what elements in the television programs influence children's personality and what preventive measures are effective in molding the personality of children in the future since

Unicef, Children in a digital world, available at: https://www.unicef.org/uzbekistan/media/711/file/ SOWC: %20Children%20in%20a%20Digital%20World.pdf last avisited on September 11, 2022.

³⁰ Technology and Young Children in the Digital Age, A Report from the Erikson Institute (2016). Available at: https://www.erikson.edu/wp-content/uploads/2018/07/Erikson-Institute-Technology-and-Young-Children-Survey.pdf Last Visited on September 11, 2022.

³¹ https://www.cyberwise.org/post/positive-and-negative-effects-of-technology-on-children last visited on Sep. 10, 2022.

³² B.P.Mahesh Chandra Guru, Aabid N., Raja Raslana, "Role of Television in Child Development" J Mass Communicat Journalism (2013). Available at: https://www.hilarispublisher.com/open-access/role-of-television-in-child-development-2165-7912.1000153.pdf. Last Visited on September 11, 2022.

television cultivates forms of thought that are fundamentally different from those used in processing print or some other media". 33

5.1.2 Computer and Smartphone

Computer technology offered a great number of possibilities in early childhood settings as well and the potential value of a personal computer in early child development has been debated consistently among both practitioners and researchers for many years.³⁴ The smartphone, Parents value mobile devices to communicate, capture moments and organize their lives, demonstrating their breadth of use and the integral role these devices play. For example, the parent of a child with Down's syndrome was able to connect with a network of friends, while others could send up-to-date photographs of their children to family and friends overseas and feel better equipped to remain safe and deal with an emergency. This highlights the perceived benefits of mobile devices in providing an opportunity to network with others. The increase in the feeling of social support.³⁵ Of the children with a mobile phone, the largest group had one without access to the Internet (50%), while 11% had a mobile phone with such access, and 3% of the parents did not know if this was the case.³⁶ The challenge for parent awareness and watching child activity on children's mobile phones and other devices.

5.1.3 Internet Access

The internet is fast becoming trusted by both children and adults as reliable and accurate source of information. Through the internet children now have access to an almost endless supply of information and opportunity for interaction. However, there can be real risks and dangers for an unsupervised child. The Statistical Information and Monitoring Programme on Child (SIMPOC) is also aimed at capacity building of national statistical offices and ministries of labor for the production and use of such data on a regular basis in the future. For this purpose, under the SIMPOC program, the staff of the International Programme on the Elimination of Child (IPEC) and SIMPOC are to be trained to design and carry out child labor surveys and analyze the data collected.³⁷ The surveys are expected to become an integral part of the regular national statistical programmes so that statistical information on child labor can be produced and disseminated at regular intervals.³⁸ In today's era, the digital world opens the way for children to develop their mental development, develop mental skills with educational material, help in solving the growing problem of learning and easy

³³ *Ibid* 35.

³⁴ Dr. Alper T. Kumtepe, *The Effects of Computers on Kindergarten Children's Social Skills*. The Turkish Online Journal of Educational Technology, volume 5 Issue 4 Article 7 October 2006 available at https://files.eric.ed.gov/fulltext/ED501360. pdf last visited on September 11, 2022

³⁵ Elsa Mangan, Justine E. Leavy & Jonine Jancey, "Mobile device use when caring for children 0-5 years: A naturalistic playground study" Health Promot J Austral. (2018). Available at: wileyonlinelibrary.com/journal/hpja.

³⁶ Towards a safer use of the Internet for children in the EU – a parents' perspective, Conducted by The Gallup Organization, Hungary upon the request of Directorate General Information Society and Media

³⁷ Bharat Singh, Crime Against Children, 371-372 (Anmol Publications Pvt. Ltd. 2004).

³⁸ *Ibid*. at 372.

parental control in emergency situations. Having access to information and learning a foreign language helps. Nowadays, the facility of big data/unlimited internet access and watching the activities used by children, mobile video, movies, etc.

6.0 Negative Impact

Along with the intellectual development of digital technology children, some of them have some side effects due to which they must face mental stress and fatigue, loneliness and other problems which are as follows:

6.1 Effect on Physical Health

The use of digital technology has been associated with a lack of attention, aggressive behaviors, physical inactivity, obesity, and sleep problems in preschool and school-age children. The overuse of digital technology causes children to use their time inefficiently. Concern should also be paid to the cognitive and emotional effects that these technologies have on the development of children.³⁹

6.2 Harassment

That is a persistent bombardment of negative, hurtful, or threatening messages through text messages, or on a social media platform. Harassment attempts to wear down a victim with repeated threats and insults.⁴⁰

Today pornographic material is freely and readily available on the internet thus bringing the glut of such material to the common vision with great ease and for no value. 41 On the internet, there is general pornography or other sexual material which is not illegal for adults to access, but there is a specific category of pornography called child pornography which is legally forbidden by almost all the legal systems including US, UK and India. 42 In India, Information Technology Act is the most serious penalizing of cyber pornography. 43 Child Pornography Section 67B 44 has been publishing or transmitting material displaying children in the sexually explicit act, in electronic form. Creating text or digital images, collecting, seeking, browsing, downloading, advertising, promoting, exchanging, or distributing child pornographic material depactin children in an obscene manner is banned by IT Act. 45 But at the same time free big data internet access is increasing child pornography is stringently protected by legislation and law.

⁴³ Section 67, The Information Technology Act, 2000 (Act 21 of 2000).

³⁹ Rustem Mustafaoglu, Emrah Zirek, "The Negative Effects of Digital Technology Usage on Children's Development and Health" 241.Turkish Green Crescent Society (Addicta: The Turkish Journal on Addictions 2018) available at: Green Crescent Society http://addicta.com.tr/en/ Last Visited on September 22, 2022.

⁴⁰ What is cyberbullying and why is it so harmful https://www.alarms.org/guide-to-cyberbullying-awareness-and-prevention/September 22, 2022.

⁴¹ Talat Fatima, Cybercrimes, 121 (Eastern Book Company 1st Ed. 2011).

⁴² *Ibid* at 122.

⁴⁴ Section 67B, The Information Technology Act, 2000 (Act 21 of 2000).

⁴⁵ Karnika seth, Computers, Internet and New Technology Laws, [A comprehensive reference work with special focus on developments in India] 398 (LexisNexis 2nd Edition 2016).

8.3 Effect on Mental Health

Child and adolescent mental health services tend to treat individuals with the most severe disorders and the most acute needs. An investment in services for children and young people within the mental health system should be supported by attention to mental health and mental illness in schools and other services for children and young people. Exposure to media violence has become a health threat for many children. When concerned parents think of their children playing video games, their thoughts automatically stray to the threat of violent video games. Games today are more realistic than ever, and as such, as is the violence incurred to people, animals, and creatures within the game. 47

The comparative study awareness and impact of IT children are growing up in a world where social media, mobile technology and online communities are fundamental to the way that they communicate, learn, and develop. Sometimes children and young people have been affected by school closures worldwide. Covid-19 Corona Virus Pandemic has made students now take classes and socialize more online. Today very useful learning online education for children during lockdown Covid-19 Corona Virus Pandemic has been introduced. The positive impact of information communication technology educational value by smartphone mobile App, computer and internet access service has made them use it for constructive purposes such as their character building and carving, etc.

7.0 Need for Security Preservation for Child

An Information Security Preservation program designed specifically for children will achieve this goal. It will encourage children to adopt safe computing skills and will promote good security practices. It will aim to make children aware not only of the risks they face but also of the countermeasures they can utilize to protect themselves. Self-regulation for the protection of information privacy of adults and the Federal Trade Commission proposed a much more legalistic approach to the protection of data privacy of children under the age of 16.

In October 1998, the children's Online Privacy Protection Act of 1998 was signed into law. The Act, passed by Congress just four months after the Commission's 1998 Report, has been operative since April 21, 2000, and requires that operators of websites directed not to knowingly collect personal information from children under 13 on the Internet:⁴⁹

⁴⁶ Children & Young People's Mental Health in the Digital Age, available at: https://www.oecd.org/els/health-systems/Children-and-Young-People-Mental-Health-in-the-Digital-Age.pdf. Last Visited on September 22, 2022.

⁴⁷ Hatch, Kristina E., "Determining the Effects of Technology on Children" p 22. (2011). Senior Honors Projects. Paper 260. available at: http://digitalcommons.uri.edu/srhonorsprog/260http://digitalcommons.uri.edu/srhonorsprog. Last Visited on April 23, 2020.

⁴⁸ Security Awareness for Children, Royal Holloway Series 2010 available at: https://cdn.ttgtmedia. Com/search Security UK/downloads/RHUL_Brady_2010.pdf. last Visit on April 23, 2020.

⁴⁹ Nandan Kamath, Law Relating to Computers Internet & E-commerce.309 (Universal Law Publishing 5th ed. 2016).

7.1 False Identities.

It is difficult for anyone to verify the real identity of people met online; even more so for children and teenagers who are normally more willing to trust the other person. Unfortunately, it is very easy to create an online identity that is very different from the real one. ⁵⁰ Children are recognized very well in the online false identity, so that people living with the criminal activities who lure such children, then bring them into their senses, make them do arbitrary work. Whether to give such temptation to them so that children get attracted towards that thing, then they ae made to do arbitrary work, then the child and their parents get in trouble.

7.2 Online Risks for Children

The EU Kids Online network classifies online risk for children into three cat egories – content, contact, and conduct. Children are also vulnerable to the security risks that all Internet users encounter.⁵¹ The Internet is particularly appealing to cyber stalkers and other online predators, simply because many are drawn to its relatively inexpensive cost, ease of use, and as previously mentioned, anonymity in seeking out victims and avoiding detection (Reno 1999). Cyberstalking behaviors are often misunderstood and confused with other online predatory behaviors, including those of sexual offenders who seek out children purely for sexual gratification.⁵²

7.3 Cyber Bullying

Cyberbullying is one of the common cyber threats faced by children and young people. Though cyberbullying can impact anyone yet due to limited understanding of cyber threats, children become easy victims of cyberbullying.⁵³ Cyberbullying means using technology, including internet access and cell phones, to harass, hurt, embarrass, humiliate, or intimidate another person. Students who bully, whether in person or through technology, often target those perceived as vulnerable, socially isolated, or who may not understand social norms.⁵⁴ The parents needed to keep a watch on the activity of their children for cyberbullying.

7.4 Cyber Grooming

Grooming is when someone builds an online relationship with a young person and tricks them or pressures them into doing something sexual. The cyber groomers can use gaming websites, social media, email, chat rooms, instant messages, etc. by creating a fake account and pretending to be a child or having the same

⁵² Michael L. Pittaro, "Cyber stalking: An Analysis of Online Harassment and Intimidation" International Journal of Cyber Criminology 189 Vol 1 Issue 2 July 2007.

⁵⁰ Security Awareness for Kids: Tips for safe Internet use (2017). Available at: https:// resources. infosecinstitute.com/security-awareness-kids-tips-safe-internet-use/ Last Visited on April 21, 2020

⁵¹ Supra note 41

⁵³ A Handbook for Adolescents. Students on cyber safety, published by Ministry of Home Affairs Government of India.

⁵⁴ Cyberbullying: What Parents Can Do to Protect Their Children, National Bullying Center. CenturyLink.com/Help Available at: https://www.pacer.org/publications/bullypdf/BP-23.pdf. Last Visited on September 20, 2022

interests as of the child.⁵⁵ If you feel that you are a victim of cyber grooming, please inform your parents or elders immediately. It is important to inform them so that they can support and guide you. Narrate the entire issue clearly to your parents or elders.⁵⁶ The parents will restrict protection to children's online activity and block the groomer and collect the massages and picture videos which can be used as evidence to take legal action against cyber grooming.

7.5 Online Gaming

Children playing video games has evoked concern in many different spheres; policy- makers, parents and the media are consistently touting worry about children interacting with games, and their "addictive" propensity. UNICEF Innocent's expert on digital technology and child rights, Kardefelt-Winther said. "As more and more children around the world play online games, society needs to learn more about how we can help our children balance the many positive aspects of online gaming with some of the riskier or potentially harmful aspects."

Because online gaming is one of the largest entertainment industries in the world, expanded internet capabilities, mobile technologies and affordable connected devices have opened the door to millions of gamers including large numbers of children.⁵⁷

7.6 Children online Privacy Protection Act

COPPA is legislation aimed at safeguarding the privacy of children below the age of 13 while the children sue the internet. The Act provides information that is allowed to be collected from a child including his/her name, residential address, telephone number and social security number.⁵⁸ The Act mandates that a website owner ought to procure the express consent of the parents before they collect, use, or circulate any sensitive personal information about children.⁵⁹ COPPA is also required to be in India, which should be agreed to by the child's parents for the use of the website and the internet by the child up to the age of 14 years. The use of the internet by a child under the age of 18 years should be reported to the child's parent or guardian so that to some extent the ill effects and crime on the child can be prevented.

8.0 Conclusion

The need of the hour is to make children aware of the evil effects of information technology. They avoid searching for pornographic sites, sexual abuse and hate speech, etc. Online gaming through moral and

⁵⁵ Supra note 46. at. 9

⁵⁶ *Ibid*. at. 11

⁵⁷ Available at: https://www.unicef-irc.org/article/1926-the-online-gaming-industry-and-child-rights.html. Last Visited on September 18, 2022.

⁵⁸ Karnika Seth, Computers, Internet, and New Technology Laws, [A comprehensive reference work with special focus on developments in India] 324 (LexisNexis 2nd Edition 2016).

⁵⁹ Ibid at 324.

persuasive means since these sites and their exposure to the young minds tend to ruin them. The parents and guardians should expose the young minds to the positive and educational value of information technology and persuade them to use it for constructive purposes such as character building and carving their future. To achieve the purpose the parents should not only guide them but keep a constant vigil on them while they are using the technology. Since the very future of a nation lies on the shoulders of the children, therefore, it is the paramount duty of the government to impose a complete ban on such internet sites which can impure the tender minds and astray them to their ruin and ultimately the degeneration of a nation. All the nations of the world should remind them of the clarion call of William Wordsworth when he says that "the child is the father of the man."

