



THE SILENT VICTIMS OF CYBER SPACE: ANALYZING CYBER CRIMES AGAINST CHILDREN IN THE INDIAN CONTEXT

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ABSTRACT

We are living in the digital era, technological advancements have impacted human life in various ways. In India rapid digitalization and penetration of smart phones have expanded the digital space and exposed the marginalised children towards the cyber exploitation. In recent past there has been a concerning raise in cyber crime against the vulnerable population, specifically children. Since the time of pandemic, children are spending more time online for education, games, entertainment, shopping and for other regular activities the same has exposed the children to wide range of cyber crime like- cyber bullying, sexual abuse and exploitation, identity theft, online grooming etc. In India as a legislative measure to deal with the cyber crime several has been enacted for protecting the children from crime. The Information Technology Act 2000 and The Protection of Children from Sexual Offences(POCSO) Act 2012, Indian Penal Code 1860 provides the legal framework to deal with the Cyber attacks. This research work is an endeavour towards identifying the key pattern of cyber crimes against children and its recent trends, what the existing legal mechanism available to combat , to discuss the key strategies to mitigate the risk in cyber space and to ensure the rights of Childs in digital space.

Key Words: Digital Exploitation, Law Enforcement, Vulnerability, Digital Literacy, Child Protection, identity theft, Online Safety, Cyber Crime.

INTRODUCTION:

Now a day's smart phones, computers and internets are inseparable part of our daily life. Almost every age group of people have access to these mediums to use cyber space. In the twenty first century the children are spending significant amount of time with these smart gadgets. While using internet for surfing materials, playing video games, online classes, these children encounters various risks. Maximum of them are totally blind to those risks, owing to their tender age and less maturity level¹. This exposes these children unintentionally to become victim of various types of cyber crimes.

In the area of crime , cyber crime is one of the most rapidly growing area. With the help of new and advanced technology cyber crime is conducted against individuals, organizations, businesses and governments. Violation of laws in the digital world and increased criminal activities are in the cyber space is growing day by day.

Cyber crimes is also a cross boarder crime as it has no boundaries. Criminals are using the internet medium like, email, apps, websites, chat, etc to conduct unlawful and illegal activities. This includes leaking of personal data, stealing of personal records and information, circulation of hateful post for creating imbalance in the peace full societal condition, unlawful financial transactions, cyber terrorism, online child sexual abuse, pornography etc.

VARIOUS TYPES OF CYBER CRIMES ENCOUNTERED BY THE CHILDREN'S IN THE CYBER SPACE:

The word "Cyber Space" was first time used by the William Gibson in his science fiction namely " Neuromancer". Cyber space can be defined as a virtual place constituted by information technologies. Thus, cyber space is a combination of visualization and networking².

Several unlawful activities are included within the periphery of cyber crime. In the modern world it is one of the growing threat, which is a crime against persons and property as well.

Children are considered as national assets. Childhood is the foundation days and the development stages of a man. These are very crucial days. Thus, crime against children using cyber space is a serious matter of concern. It has a severe negative impact on the psychological and physical health and well being of the child. In India below mentioned children are prone to become victim of below-mentioned types of cyber crimes³:

¹ Mr.Rahul, "Crime against children in cyber space in India: A snapshot" 18 GAP iNTERDISCIPLINARITIES volume-V issue-IV, October-December 2022.

² M.Kumari" Cyber Crime and Children in Digital era", International Journal of Scientific Research in Science and technology(IJSRT)pp151-160, January-February2021.

³ <https://rlsa.gov.in/pdf/Crime%20Against%20%20Children-RLSA.pdf> (last accessed on May.27,2024).

- **Online Grooming:**

The cyber criminals with the help of web platform like social media or gaming platform try to build a relationship with the children. Usually the main motive behind to becoming friend with the child is to exploit them either sexually or economically.

- **Cyber bullying:**

This is a act of humiliation, harassment, threatening by using the digital or internet platforms. The predators cyber bully the children by spreading embarrassing photos or videos , mean and defamatory messages, posting rumours, etc.

- **Sextortion and Sexting:**

Using tricks and manipulative talks the cyber criminals, influences the children to share personal explicit images or videos. Once those intimate photos or videos are shared, the perpetrators then use to threaten the child that he will distribute the picture or videos and further blackmails for sharing more pictures and put forward their demand for money.

- **Child Pornography and Child Prostitution:**

These is one of the severe crime under the Indian laws. Explicit images, videos of minors are created and distributed as a part of this crime. Children living in street condition are also one the most vulnerable category of children for this offences.

- **Cyber Staking:**

Cyber staking includes regular monitoring of child's online activities and continuous harassment . In future the same can result in to offline staking and physical harassment.

- **Identity Theft:**

This offence includes hacking of personal data, unauthorised access to personal documents, hacking of social media accounts, phishing etc. The children personal information's are stolen with the intent of committing fraud and other types of crimes.

- **Cyber Radicalization:**

The children are sometimes exposed towards the extremist ideologies in the digital platforms. Soon they are influenced to join the radical groups and in take part various illegal and unauthorised activities⁴.

- **Online Scams and Frauds:**

The scam stars and fraud stars always targets children to get access to the bank account details of the family, personal information and money through phishing, fake advertisement, lottery schemes and fake gaming contest.

- **Display of Inappropriate Content:**

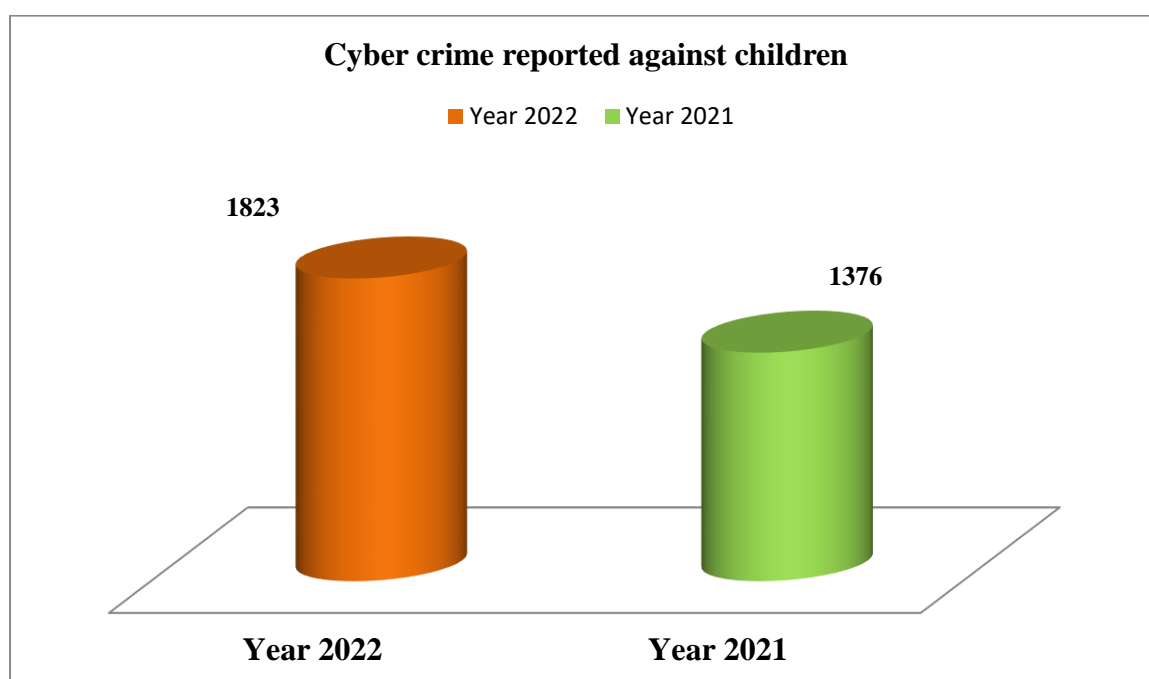
In this cases children are exposed to various violent, pornographic, otherwise inappropriate contents which causes severe harm to emotional and mental health of the children.

⁴ <https://www.government.nl/topics/crime-and-crime-prevention/radicalism-and-terrorism>(last visited on May.27,2024).

- **Online Gaming and associated risks:**

In the past we have witnessed that through online video games various crimes have been conducted on children. Few games were banned as it has abetted the children to commit cruelty, murder, suicide to gain some points. It has been reported that several online video games exploits children by encouraging them to internal (in-game) purchase and intentionally exposing them to inappropriate contents.

In the recent past a worrying trend of increasing rate of cyber crime against children has been observed as per the statistics of National Crime Records Bureau(NCRB) 2022⁵. The report states that in the year 2021, total 1376 nos. of cyber crime was reported against children. In the year 2022 surprisingly the reported number increased and which is almost a 32% hike from 2021 and total 1823 nos. of crime were reported. It is thus evident that the cyber crime against children in our country have a tendency of rapid growth.



The offences committed against children includes, cyber staking, cyber bullying, cyber pornography, publication of obscene sexual materials related to children and other allied crimes.

As the children during COVID-19 pandemic were forced to attend classes online, also they had not many other options to spend their leisure time without staying online, by means of playing games, etc. This habit in turn have increased the screen time of the children globally⁶.

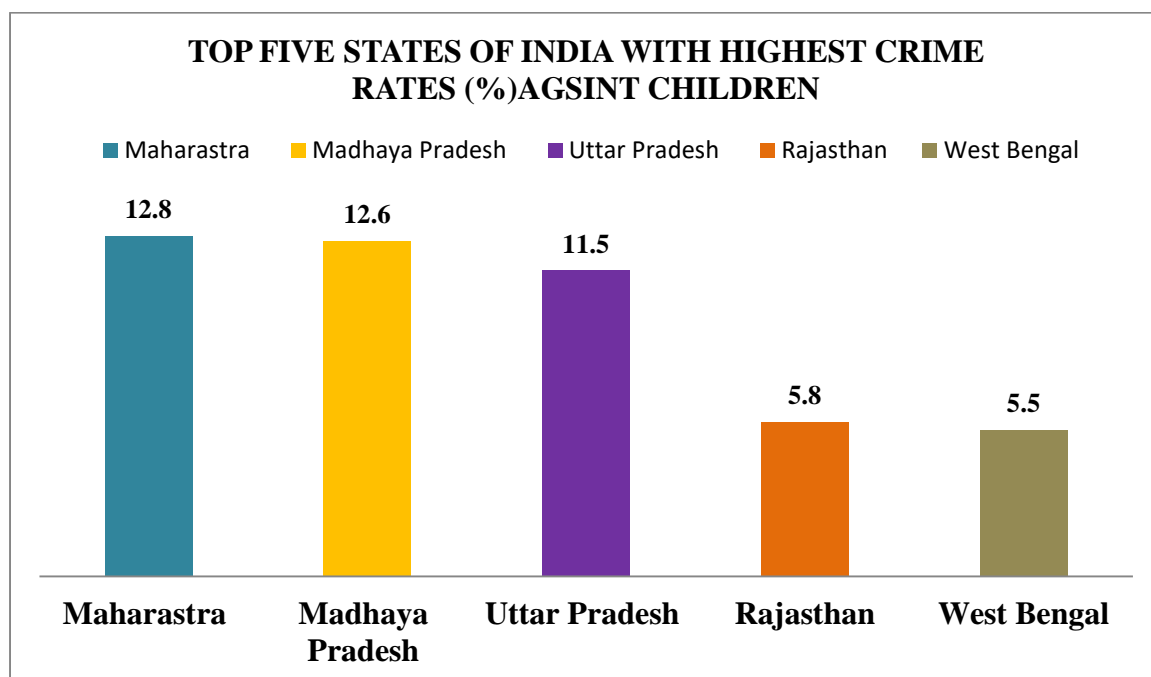
However, it is pertinent to mention here that the NCRB data indicates that in the last few years, crime against children have increased to a significant percentage both in online and offline mode. In India⁷ Maharastra(12.8%), Madhya Pradesh(12.6%), Uttar Pradesh (11.5%), Rajsthan(5.8%) and West Bengal

⁵ <https://www.downtoearth.org.in/news/governance/over-1-800-cases-of-cybercrimes-against-children-registered-in-2022-higher-than-last-year-ncrb-93236>(last visited on May. 31, 2024).

⁶ <https://www.bbc.com/news/world-europe-guernsey-65041704>(last visited on May.31, 2024).

⁷ <https://www.theweek.in/news/india/2023/12/06/cybercrimes-against-children-records-32-pc-increase-in-2022-ncrb-data.html>(last visited on May.31, 2024).

(5.5%) are the top five states in the country where almost half of the crime against children have been committed.



As per the survey report of a study conducted by the Microsoft⁸, in India 53% of children have experienced cyber bullying. These have severe impact on the children like, under confidence, social isolation, development of negative attitudes etc.

LEGISLATIVE PROVISIONS TO DEAL WITH THE CYBER CRIME AGAINST MINORS OR CHILDREN'S:

The Primary legislations which are available in India to deal with the cyber crime are :

- Information Technology Act 2000.
- Indian Penal Code 1860.
- The Protection of Children from Sexual Offences Act, 2012.

The relevant provisions of *Information Technology Act 2000* for combating cyber crime are discussed as under:

Section 66E of the IT Act⁹ has provisions for punishment for "violation of privacy" . Under this section there is a provision of imprisonment up to three years and fine which may extend up to 2lakh. Any form of violation of privacy (obtaining pictures or videos) will be punishable under this section.

Section 67B of the IT Act¹⁰ provides the provision for protection to child from online sexual abuse. Under this sections, provisions especially penalizes who allures, persuades or involves the child/children in any

⁸ <https://www.firstpost.com/tech/news-analysis/india-ranks-third-on-global-cyber-bullying-list-3602419.html>(last visited on May.30,2024).

⁹ The Information Technology Act,2000, §66E.

online sexual act or online relationship. To have a deterrent effect, this section has been introduced as a non-bailable and provides the punishment which may extend to five years and fine which may extend up to Rs. 1lakh¹¹.

Further, *Section 66-C & 66-D* of the IT Act¹² deals with the identity theft cyber crime and provisions for punishment to a person who commit impersonification, respectively.

Provisions of the *Protection of Children from Sexual Offences Act, 2012 (POCSO ACT 2012)* are as under:-

The intent of enactment of POCSO Act 2012 was to provide stringent legal protection against use of Children for pornographic purpose, production of pornographic materials aimed towards children's, sexual assault, sexual harassment. This act Contains provisions for punishment for, penetrative sexual assault on child, aggravated penetrative sexual assault, sexual assault, punishment for child pornography, etc.

Child Pornography can be stated as - explicit activities with a child, its visual depiction, which includes photos, movies, computer generated graphics, photos videos shared for personal use, live streaming of child sexual abuse, etc.

Relevant sections from Indian Penal Code 1860:

Section -354 A and 354D of the Indian Penal code has the provisions for the punishment regarding Cyber Bullying and Cyber Stalking, respectively.

Further, in case of sending offensive messages through communication services, section- 500, 504, 506, 507, 508 will be applicable as per the gravity of the offence¹³.

Judicial Observations:

The Indian Judiciary on several occasions has interpreted the existing laws for protection of child rights against cyber crime.

In the case of *Jayesh S. Thakkar v. State of Maharashtra*¹⁴ a letter from the petitioner was considered as a writ petition. The subject matter of the letter was on easy access of pornographic websites to the minors. The division bench passed an order to constitute a committee for the suggestion and recommendations for prevention and control of that issue and also to protect the minors from getting exposed to obscene materials and pornographic contents¹⁵.

¹⁰ The Information Technology Act, 2000, §67E.

¹¹ Mr. Rahul, "Crime against children in cyber space in India: A snapshot" 18 GAP INTERDISCIPLINARITIES volume-V issue-IV, October-December 2022.

¹² The Information Technology Act, 2000, §66C & 66D.

¹³ The Indian Penal Code, 1860.

¹⁴ Bombay H.C, Writ Petition No. 1611 of 2001, 28th September.

¹⁵ R. Chhabra, "Rights of Children in Cyber World: Indian Perspective", Sambodhi, Vol-43, No-4(B) October-December (2020).

In another case, of *Swiss Couple*¹⁶ was accused of gathering some children from the slums area and forcefully clicked their necked pictures. The Mumbai police arrested them and they were booked under section 67 of the Information Technology Act 2000 and under section 292 and 509 of India penal Code 1860. The Court imposed seven year imprisonment on the Swiss couple.

On several occasions in child pornography cases (e.g *Abbas v. State of Kerala*¹⁷) bail petition were rejected by the honourable courts , as matter of strong legal action.

JOURNEY TOWARDS CREATING MORE SAFER DIGITAL PLATFORMS FOR CHILDREN IN INDIA:

In India for protection of children from cyber crime there are several legislative provisions available as discussed above. However, there is a need of multi-faced approach by involving all the stake holders , i.e parents, educators, policymakers, technology companies, to create a better eco system and more safer cyber platform for our children. The below mentioned steps can be initiated for creating a safer online platform for the children:

- **Stricter Regulation and Enforcement :**
Crimes related to online sexual abuse of children should have more strict punishments and all should be a non-bailable offence.
Offences like data theft or invasion of privacy under section 66E of the IT act is bailable, which will be better , if offences are covered as a Non bailable offence.
- **Digital Literacy Programme:**
There is need of implementation of comprehensive digital literacy programmes , in school level so that awareness can be spread regarding , safe online behaviour , check lists for ensuring privacy and recognizing potential cyber threats.
- **Parental Involvement and awareness:**
Parents are considered as the first teacher of the child. Parents understanding of various kinds of cyber crime and cyber risks can be increased with the help of regular parental awareness and involvements.
- **Safe and Secure Online Platforms:**
Government should issue directions to the tech companies and should ensure them to develop a child friendly cyber eco system. These should include, robust privacy settings, child friendly features and policies and age-appropriate user interface.
- **Collaboration with International agencies:**
To tackle with the cross-border cyber crime, collaboration with the internationals organizations to be strengthen. This will help to track and combat the cross boarder cyber crime.
- **Public awareness Campaign:**

¹⁶ <https://timesofindia.indiatimes.com/city/mumbai/swiss-couple-gets-7-year-term-in-child-porn-case/articleshow/41800896.cms>(last visited on May 27.2024).

¹⁷ *Abbas v. State of Kerala*, bail application no: 7176/2012 before Kerala High court.

One of the problem regarding cyber crime is that, it is an under reported crime. There is less awareness regarding the process of reporting the crime.

The Cyber Crime Help line number -1930 should be displayed in every public places.

Online Cyber Crime Reporting Website, i.e the Cyber Crime portal:
<https://www.cybercrime.gov.in/>

Using the social media platforms, awareness campaigns should be organised on regular intervals.

- Allocation of Funds for Research and Developments:

Sufficient funds should be allocated for research in the evolving field of the cyber crime and cyber laws.

Introduction of digital Technology has made a significant societal transformation, specifically in India. It is true that technological progress offer us several benefits , but on the other hand , it has also exposed children towards a wide range of cyber risks. Rapid growth of technology has shown us that new methods of exploitation are also evolving side by side.It is a complex and continuous battle against the cyber criminals to protect our children's rights. There is requirement of all out efforts from all the stakeholders, including government bodies, educational institutions, law enforcement agencies, parents, teachers and tech industries. Thus, with collaboration and efforts of all the stake holders, we can protect the youngest group of citizens of our country from Cyber Crime.

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