



# **A REVIEW ON CHILD PORNOGRAPHY IN INDIA DURING COVID-19 PANDEMIC**

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**Abstract--**During the covid-19 pandemic people suffer a lot with psychological strain. Use of excessive internet during lockdown fuelled by physical isolation, has translated into dysfunctional behaviours. Increase of internet uses shows unexpected increase in the traffic of online pornography. Child pornography traffic on internet also increased during this pandemic. The website that are involved in commercial child pornography creates thousands of images and videos and it is very difficult to wipe out the images and videos once it is been upload on the internet, so children who involved anyhow in this are lifelong victims of this crime. Child pornography is visual delineate act of sexual explicit which involves intercourse, bestiality, masturbation, etc. In this paper, a review on the increase of online child pornography in India during a covid-19 pandemic is discussed and majors to stop to increase this crime by government of India are discussed every state needs to adopt stringent measure to curb this crime.

**Keywords:** covid-19, sexual violence, government, sexual maltreatment, child pornography, entertainment

## **1. INTRODUCTION**

The term pornography comes from the Greek word pornographic, which means "expounding on whores." Child pornography is the distribution and transmission of repulsive material about minors via technological means. Child pornography has recently grown in popularity as a result of easy access to the internet and easily accessible recordings on the internet. Child pornography is the most heinous crime that occurs and has resulted in other breaches such as sex tourism, sexual abuse of children, and so on[1]. Child pornography laws in almost all Western social regimes penalize creators and distributors severely, typically involving jail, with lower penalties for non-business appropriation based on the degree and quality of the material distributed[2].

INTERPOL has identified Germany as a key producer of child pornography, with the Netherlands and the United Kingdom as important distribution communities. The United States is perhaps the most lucrative market for child pornography, although more premiums have recently shifted to Southeast Asia. The development of child pornography is fuelled by fundamentally two factors: the beginning and accessibility of home motion pictures, recordings, computerized cameras, PCs, and programming, which made the creation of child pornography moderately modest, and additionally, the advancement of Internet innovation, which has expanded the simplicity of creation and dissemination of this material to astound. Child pornography is becoming more prevalent in today's culture and is now one of the fastest growing online activities[3].

Holders of child pornography, unlike creators, do not actively participate in the physical and sexual abuse of children. Child pornography, which involves child sexual abuse, has a harmful impact on a child's health. The majority of them suffer from a variety of health concerns, including genital discomfort, genital bleeding, and so on. The majority of child sexual abuse victims will experience detrimental effects on their neurodevelopment and physical health, which may result in long-term depression[4].

A growing number of child molesters are now employing computer technology to organize, maintain, and expand the size of their child pornographic assortments. Personally created illegal photographs of minors are very prevalent on the internet, and molesters frequently trade



pictures of their sexual exploits. When these images reach the internet, they are lost and can never be recovered; as a result, the child is re-victimized as the images are viewed over and over. The rapid growth of the internet and innovation has resulted in the rise and accessibility of child pornography in India. Taking these mechanical progressions and other factors into account, the Indian Government has authorized In 2015, India blocked about 857 graphic sites due to concerns about child pornography. This precise option was made in accordance with the Information Technology Act and Article 19(2) of the Indian Constitution, which allows the legislature to impose limits on the basis of conventionality and profound quality[5].

In any event, the complete boycott was ultimately removed and only applied to sites that included child pornography. Recently, the Department of Telecom has banned 827 locations due to illegal material on WebPages. Current challenges in the realm of child protection are inextricably linked to the increased accessibility and use of information and communication technology (ICTs).Globally, the usage of technology and access to internet services has risen. There must be an urgent need to confront the looming threat of technology, which will impose new hazards for child exploitation and abuse, as perpetrators will utilize current communication technologies to assist child sexual assault. As a result, nations must create tailor-made tools to address the unique risks associated with children's usage of ICTs[5]. No nation is immune to child pornography, and it will take a concerted effort on the part of governments, law enforcement, and the general public to protect the safety of the world's children. India has tried such strategy, as well as criminalization of a total restriction on sex entertainment.

## **2. DEFINITION OF CHILD PORNOGRAPHY**

The legal age at which an individual can consent to sexual activity varies by country, posing a significant challenge to the dependable and coordinated protection of minors from sexual exploitation on a global scale. While a person under the age of 18 may publicly accept to sexual intercourse, he or she is not legally prepared to agree to any form of sexual abuse, including sexual exploitation. Child pornography has recently grown in popularity as a result of easy access to the internet and easily accessible recordings on the internet.

Child pornography may include actual or recreated sex, minors, bizarre sexual activities, inhumanity, masturbation, sadomasochistic mistreatment, or the graphic exhibition of private parts. Child pornography is evidence of sexual mutilation[6].

Child pornography stereotypes and degrades children. Child pornography may be used by abusers to manipulate a child by ensuring that what is happening to the child in the photograph is something that many youngsters participate in. Child pornography can weaken the potential perpetrator's constraints, allowing the offender to limit and reshape coercive behaviour[7].

It is possible that the perpetrator may use it to justify his heinous behaviour. Child pornography was used by the offender. Child pornography is used by guilty parties for a variety of purposes[8]. The following are five of the most well-known:

- Keep a running record of your satisfaction and excitement.
- Reduce the restraints placed on the youngster.
- Verify and confirm the conviction frameworks of the child sex offender.
- Harassment of innocent victims and co-conspirators.
- Exchange or sell for profit.



### 3. CHILD PORNOGRAPHY IN INDIA: GENERAL PROVISIONS

Sexual mistreatment of children in India has increased dramatically over the years, with a recent report from the Ministry of Women and Child Development revealing that over half of children have been abused. Sexual abuse of minors is not a new phenomenon, but it has been in the public view for a long time. Despite this, efforts to stop this marvel have been ineffective, leading to an increase in child sexual abuse. Despite repeated pleas from various partners to pass a new law to protect children, such proposals were mostly ignored. After drafting a bill in 2006, the Indian government finally passed the Protection of Children from Sexual Exploitation Act. This unique enactment ensures the protection of minors from sexual crimes and, finally, considers tougher punishment for such paedophiles[9].

In India, many laws exist to protect and promote the nation's children. Article 21 of the Constitution guarantees the right to life and liberty, whereas Article 24 prohibits minors under the age of 14 from working in a factory. Article 39(f) requires the State to coordinate its approach to ensuring the wellbeing and quality of children, as well as to provide those openings and offices to grow steadily, and Article 45 states that the State will attempt to provide youth care and training to children under the age of six years[10].

There are other unusual laws regarding child abuse, such as the Immoral Traffic (Prevention) Act of 1986, the Child Marriage Restraint Act, the Child Labour (Prohibition and Regulation) Act of 1986, and the Juvenile Justice (Care and Protection of Children) Act of 2000. The Penal Code of 1860 and the Criminal Procedure Code of 1973 regulate both the substantive and procedural aspects of criminal law. Because there are no special mechanisms in place to supervise child abuse, identical rules apply to the nation's adults and children. Sections 375 (Rape), 377 (unnatural crimes), and 354 (shocking the humility of females) of the Penal Code govern sexual offenses. There are other violations against underage girls, such as Section 372 (selling young girls for prostitution) and Section 373 (buying young girls for prostitution)[11]. In addition, the Supreme Court of India referred concerns of child sexual abuse to the Law Commission of India. The Law Commission stated that while instances of penile entry were safeguarded by Section 375, unnatural offenses such as fleshly intercourse against the desire for nature with any man, woman, or creature were taken into account by Section 377 and Section 354 would protect the entry of a finger or dead item into the vagina or rear-end against the wish of a lady or female child. The Law Commission argued that the gravity of these various offenses was extraordinary, and thus the offenses referenced in Sections 354 and 377 should not be brought under the proviso of assault or be subjected to such harsh punishment, and thus there was no compelling reason to bring any new law into the picture[12].

In any case, it appears that all of the above stated acts are heinous, and such guilty persons should face harsher punishment. In the absence of tougher regulations for unlucky casualty security, the Supreme Court outlined separate criteria for the assault injured individual. The court stated that due to the activation of extreme fear or the shocked state of the individual in issue, the wounded individual would most likely be unable to provide full details of the incident, which may result in an unnatural birth cycle of equity. The inquiries presented to the unfortunate casualty in court in this manner may cause shame of the person in question, as a result of which an injured individual may not be agreeable, and thus the Court asked the Presiding Officer, rather than the restricting direction, to offer the relevant conversation starters to the person in question. The Court also asked that the exploited persons be given breaks and enough time to answer to the questions[13].

The Court further recommended having such preliminary hearings in camera to make the unlucky casualty more comfortable and to ensure that the wounded individual can reply to the queries easily, ensuring that the injured individual is not reluctant and is coming clean. Another indicator of our laws' deficiency is the National Crime Records Bureau's report on child sexual mutilation. According to the data, a total of 5484 child assault cases were accounted for in 2010, an increase from 5368 in 2009, and 679 occurrences of procuration of minor young women were accounted for in 2000, compared to 237 in 2009. In 2010, there were 78 incidents of acquiring young girls and 130 instances of selling young ladies for prostitution, up to 32 and 57 in 2009. The Government of India's inquiry into child abuse in 2007 yielded some startling revelations. It was revealed that 53.22 percent of children had experienced at least one kind of sexual abuse, with half of such maltreatment coming from persons known to the child or in a position of trust and duty. Despite the grave circumstances that children face in India today, the Protection of Children from Sexual Offenses Bill was prepared in 2006 and eventually passed by the Indian Parliament in 2012[14].

#### 4. CHILD PORNOGRAPHY DURING LOCK DOWN IN INDIA

According to United Nations speakers, the COVID-19 epidemic and lockdown periods have worsened children's vulnerability, with school closures affecting 1.6 billion children globally. While a result, the number of abusive online content had grown significantly throughout the world, as child pornography websites failed in the early stages of the epidemic owing to increased traffic. Children have become more susceptible as a result of the stigma and prejudice associated with COVID-19, creating another vector of discrimination and abuse[15].

The number of calls from children in distress surged by 50 percent in the second week of India's lockdown in April 2020, according to CHILDLINE 1098, an emergency service that responds to requests for aid from women and children in the face of abuse and assault. Even India's highest court recognized the scope of the problem and took suo moto notice (on its own initiative, without a party's request) of the perilous condition that children, particularly those in state care, were in. With the growth of internet communication technologies among children and young people, who account for 60% of online users in India, a new threat to children's safety has developed[16].

According to a recent investigation by the United States' National Centre for Missing and Exploited Children (NCMEC) and the National Crime Records Bureau (NCRB), at least 25,000 pictures of child sexual assault were shared on Indian social media platforms between September 2019 and January 2020. According to a recent assessment by the NGO India Child Protection Fund, consumption of child pornography content in India has increased by 95% during the lockdown (ICPF)[17].

According to the India Child Protection Fund, a non-governmental organization, there was also a significant spike in child pornography searches in March, immediately following the announcement of the shutdown. According to a research titled 'Child Sexual Abuse Material in India,' the overall demand for child pornography on the public web was an average of 5 million per month in 100 cities during December 2019, which has already skyrocketed. According to an official statement, the research indicates a 200 percent rise in demand for "violent entertainment" involving minors. Between March 24 and March 26, the consumption of child pornography surged by 95%. According to data given by internet data monitoring companies,



there has been a rise in searches for phrases such as "child porn," "sexy child," and "teen sex films," according to the article, which cited data from the pornographic website Pornhub [18]. These troubling figures have sparked considerable worry, especially because the majority of schooling has migrated to online platforms and "continuous parental monitoring is not a viable choice in households with two working parents." Furthermore, in many situations, schools expressly request that parents leave their children alone during class time in order to prevent helicopter parenting, rendering youngsters more exposed to online sexual abuse.

Protecting children from sexual assault is critical to ensuring their fundamental right to dignity under Article 21 of the Indian Constitution, which is obviously jeopardized when they are exposed to predators. Increased online time might result in grooming as well as online and offline exploitation. Under these conditions, children can be persuaded into becoming tools in the promotion of unlawful and harmful acts. Children, for example, may be enticed to produce and distribute pornographic photos of themselves, which others may then use to harass and abuse them[19].

## **5. INDIA'S RESPONSE TO COMBATING CHILD PORNOGRAPHY**

Section 293 of the Indian Penal Code, 1860 expressly prohibits the sale, distribution, display, or circulation of any obscene material to anybody under the age of twenty. Such activities are considered cognizable offenses by the law. The Information and Technology Act, 2000 (hereafter "IT Act") is the foundation of Indian cyber legislation. While the Information and Technology (Amendment) Bill was being revised in 2008 to broaden its scope, both the Standing Committee and the Expert Committee suggested the inclusion of a particular section dealing with the punishment of child pornography. The advice took the shape of the addition of Section 67B to the IT Act, which criminalized child pornography. It allows for a five-year jail sentence and a ten-lakh-rupee punishment for "first-time offenders," and a seven-year prison term and a ten-lakh-rupee fine for "subsequent offenders." Furthermore, under the IT Act, the storage and consumption of adult porn is not criminalized, while the storage and consumption of child porn is[20].

The Protection of Children from Sexual Offences Act of 2012 (hereafter "POCSO Act") includes provisions for child pornography punishment. The use of minors for pornographic purposes in any form of media, including the representation of a child's sexual organs, the involvement of a child in actual or simulated sexual acts, and the indecent or improper portrayal of a child, is prohibited under Section 14 of the POCSO Act. The storage of child pornographic material for commercial reasons is criminalized under the POCSO Act, while storage for non-commercial purposes is not. While Section 67B of the IT Act criminalizes the pornographic portrayal of a child, Section 14 of the POCSO Act criminalizes the topic of child pornography by criminalizing the use of a child for the purpose of pornography. A child's consent is immaterial under both statutes since a youngster is regarded incapable of giving permission[21].

## **6. CONCLUSION**

Child pornography is a legal as well as a moral concern since it has the potential to negatively affect a child's sense of humanity. The frequent distribution of pornographic information over the internet exacerbates the anguish of young victims by keeping the wounds open. The International Centre for Missing and Exploited Children (ICMEC) examined child

pornography laws in 184 Interpol-member countries and discovered that more than half of them had no legislation directly addressing the problem of child pornography, and those that did had laws that were ineffective in dealing with it. Only 45 nations have complete legislation in place to prevent child pornography.

Despite the existence of several international treaties, we as a global society have struggled to provide clear standards for their application. Since the 2000s, problematic internet and online child pornography usage has been reported to be a growing burden in public mental health, although psychopathological models and diagnostic criteria have lacked consensus, and the body of data on the efficacy of treatment methods is still limited.

The COVID-19 epidemic has pushed millions of people indoors, necessitating the usage of screens to work, maintain social connections, and carry out daily activities like as shopping; this has exposed them to an increased risk of developing or worsening problematic internet and pornographic use. A comprehensive worldwide framework for the detection, evaluation, and prosecution of internet child pornography is urgently needed, and it must be implemented as an international law concept. The framework's approach should be more inclusive and less dogmatic, and it should enhance redresses procedures through global collaboration and involvement.

## 7. REFERENCES

- [1] S. Prat, I. Bertsch, N. Praud, A. C. Huynh, and R. Courtois, "Child pornography: Characteristics of its depiction and use," *Med. Leg. J.*, vol. 88, no. 3, 2020, doi: 10.1177/0025817219898151.
- [2] M. McLelland, "Young people, online fandom and the perils of child pornography legislation in Australia," *Int. J. Cult. Stud.*, vol. 22, no. 1, 2019, doi: 10.1177/1367877917704927.
- [3] P. Schuhmann, J. Neutze, and M. Osterheider, "Recidivism rates of child sexual abuse and child pornography offences in Germany," *Monatsschrift fur Kriminologie und Strafrechtsreform*, vol. 99, no. 1, 2016, doi: 10.1515/mkr-2016-0106.
- [4] N. Principi, P. Magnoni, L. Grimoldi, D. Carnevali, L. Cavazzana, and A. Pellai, "Consumption of sexually explicit internet material and its effects on minors' health: latest evidence from the literature.," *MINERVA Pediatr.*, 2019, doi: 10.23736/S0026-4946.19.05367-2.
- [5] J. Belur and B. B. Singh, "Child sexual abuse and the law in India: A commentary," *Crime Sci.*, vol. 4, no. 1, 2015, doi: 10.1186/s40163-015-0037-2.
- [6] I. Franke and M. Graf, "Child pornography: Overview and current developments," *Forensische Psychiatrie, Psychologie, Kriminologie*, vol. 10, no. 2. 2016, doi: 10.1007/s11757-016-0361-8.
- [7] H. Temporini, "Child Pornography and the Internet," *Psychiatric Clinics of North America*, vol. 35, no. 4. 2012, doi: 10.1016/j.psc.2012.08.004.
- [8] K. M. Babchishin, R. K. Hanson, and H. VanZuilen, "Online Child Pornography Offenders are Different: A Meta-analysis of the Characteristics of Online and Offline Sex Offenders Against Children," *Arch. Sex. Behav.*, vol. 44, no. 1, 2015, doi: 10.1007/s10508-014-0270-x.
- [9] L. A. Mathew, "Online Child Safety from Sexual Abuse in India," *J. Information, Law Technol.*, vol. 2009, no. 1, 2009.
- [10] V. R. Thilak, "Protection of Children from Offences of Sexual Assault, Sexual Harassment and Pornography: A Law Enforcement View and Review," *IRA-International J. Manag. Soc. Sci. (ISSN 2455-2267)*, vol. 7, no. 2, 2017, doi: 10.21013/jmss.v7.n2.p25.
- [11] R. Hemrajani, "Research Note on Online Child Pornography Law in India," *SSRN Electron. J.*, 2019, doi: 10.2139/ssrn.3417604.
- [12] B. M. Yadav, "India's Response To Combating Child Pornography," 2017.
- [13] M. Singh, J. Husain, and N. Vishwas, "A Comprehensive Study of Cyber Law and Cyber Crimes," *Int. J. IT, Eng. Appl. Sci. Res. I.*, vol. 3, no. 2, 2014.
- [14] S. Deb and A. Gireesan, "Contexts of Risk and Exploitation," in *The SAGE Handbook of Early Childhood Research*, 2015.



- [15] E. Ghossoub and R. Khoury, "Characteristics of Older Adult First-Time Sex Offenders: Insights From the Missouri Registry," *Am. J. Geriatr. Psychiatry*, vol. 29, no. 3, 2021, doi: 10.1016/j.jagp.2020.06.020.
- [16] A. Peterman *et al.*, "Pandemics and Violence Against Women and Children," 2020.
- [17] R. Chowdhury, "Using Interactive Planning to Create a Child Protection Framework in an NGO Setting," *Syst. Pract. Action Res.*, vol. 28, no. 6, 2015, doi: 10.1007/s11213-015-9343-6.
- [18] J. Riou and C. L. Althaus, "Pattern of early human-to-human transmission of Wuhan 2019 novel coronavirus (2019-nCoV), December 2019 to January 2020," *Eurosurveillance*, vol. 25, no. 4. 2020, doi: 10.2807/1560-7917.ES.2020.25.4.2000058.
- [19] Arshi Pal Kaur, "The Right to Privacy Is Protected as an Intrinsic Part of the Right to Life and Personal Liberty Under Article 21 of the Constitution of India: an Evaluation," *IMPACT Int. J. Res. Humanit. Arts Lit. (IMPACT IJRHAL)*, vol. 6, no. 8, 2018.
- [20] A. Deb and P. R. Chowdhury, "A Critical Analysis of the Information Technology Act, 2000 vis-à-vis Mitigation of Child Pornography," *Christ Univ. Law J.*, vol. 7, no. 2, 2018, doi: 10.12728/culj.13.1.
- [21] S. Aatif, "Child Pornography and Sexual Abuse in Child Care Institutions," *Institutionalised Child. Explor. Beyond*, vol. 6, no. 1, 2019, doi: 10.1177/2349301120190105.