

LEGAL LOCK JOURNAL
2583-0384

VOLUME 3 || ISSUE 3

2024

This Article is brought to you for “free” and “open access” by the Legal Lock Journal. It has been accepted for inclusion in the Journal after due review.

To submit your Manuscript for Publication at Legal Lock Journal, kindly email your Manuscript at legallockjournal@gmail.com.

**AN ANALYSIS ON IMPLICATIONS OF USING SOCIAL MEDIA BY CHILDREN AND
RELEVANT CYBER LAWS**

Anurag Gourav¹

INTRODUCTION

People's social, cultural, and economic lives are being impacted by social media, which has become a necessary component of daily life for all. Social media networking is a platform that lets people interact and exchange multimedia material via websites and applications, such as text, audio, video, photos, graphs, and animations.² Criminals now have more opportunity to take advantage of security flaws on the Internet because of the quick connectivity. On the Internet, both conventional and cybercrime have been observed. Because of this, criminals in the early era found "safe havens" as they experimented with new types of illegal activity while the public was less aware of the use of electronic communications. It is quite difficult to figure out living in an urban or rural region today without social media, and people all over the planet have developed social media addictions. It naturally occurs to us to wonder how social media got its start and what its background is. "Six Degrees" was the first social media platform, launched in 1997 by Andrew Weinrich. The first Friendster social media sites were created in 2002 by Dave Lee, Jonathan Abrams, and Peter Chin. Nowadays, a lot of people use Facebook, Instagram, Twitter, WhatsApp, and other social media websites and apps. Users can connect, submit their resumes, and send private messages to professionals and business-minded individuals on Linked In. Facebook was founded in February 2004 by Mark Zuckerberg and his roommates. It is regarded as the most widely used social media and networking platform worldwide. A brand-new social media website called YouTube launched in 2005 and allowed users to upload and share videos.³ In July 2011, the picture messaging app Snapchat was released. One of the most well-known social networking platforms in 2009 was developed by two former Yahoo workers, Brian Acton and Jan Koum⁴. WhatsApp is well-known for its minimal communication features and quick messaging service.

¹The author is a research scholar, Narayan School of Law, GNSU, Rohtas, Bihar.

²Tariq Rahim Soomro, Mumtaz Hussain, *Social Media-Related Cybercrimes and Techniques for Their Prevention*, RESEARCHGATE.NET (Dec. 29, 2023, 9:30 PM), https://www.researchgate.net/publication/333944511_Social_Media-Related_Cybercrimes_and_Techniques_for_Their_Prevention

³ Mantri Gopal Ramnarayan, *Channelization of Social Media through Cyber Law and Its Enforcement Challenges in India*, SHODHGANGA.INFLIBNET, (Dec. 29, 2023, 9:30 PM), <https://shodhganga.inflibnet.ac.in/handle/10603/437674#> .

⁴ Ibid.

BENEFITS OF SOCIAL MEDIA FOR CHILDREN:

Social media gained global popularity in the shortest amount of time in human history. One of the characteristics of science, technology, and the internet is that an increasing number of people are drawn to it and have begun utilizing social media in their daily lives. However, people are unaware of the exact moment at which social media became the most important platform for a sizable portion of the universe's population.

i) Connecting to the world: Millions of people can connect at once through social media sites and apps, which helps them share ideas and spread information. Similar to Twitter, a user can connect with millions of friends, followers, and other users, and they can share the same information with everyone in their network at once⁵.

ii) Education: One of the most widely used apps or websites that most people have access to is YouTube. There are a ton of expert videos on YouTube that can help with learning. Many universities in India issued a directive encouraging students to stay at home, study from home, and maintain contact with their teachers during the lockdown caused by the Covid-19 outbreak. Social media applications are therefore very helpful for interacting with one another and quickly obtaining the information that is needed. SWAYAM, e-learning portals, and MHRDs will all undoubtedly be beneficial.⁶

iii) Updated information: While viewers once had to wait for the news channel to begin airing, the emergence of social media has made it possible for us to always access up-to-date information from around the globe.

iv) Instant Communication and Easy Access: Instant messaging apps such as WhatsApp, Twitter, Snapchat, and Facebook allow users to communicate instantly and send messages in a matter of seconds.

v) Enjoyment and recreational activity: While one can listen to music on YouTube for stress relief or meditation, there are some games that have been shown to be effective at reducing tension. Children now use online games like Ludo and Pool as a platform for fun and relaxation.

ISSUES RELATING TO USES OF SOCIAL MEDIA APPLICATION:

i) Privacy Breach: The user may share his name, location, date of birth, past employment history, job description, and other personal information while using social media applications

⁵ Ibid

⁶ Mantri Gopal Ramnarayan, *Channelization of Social Media through Cyber Law and Its Enforcement Challenges in India*, SHODHGANGA.INFLIBNET, (Dec. 29, 2023, 9:30 PM), <https://shodhganga.inflibnet.ac.in/handle/10603/437674#>.

and sites, but there is always a risk of privacy breach and personal information being stolen by hackers, bullying, stalking, and other abusers.⁷

ii) Cyber Bullying: They are more vulnerable to strangers setting them up when they use social media or play online games.⁸ Moreover, it could result in stress, anxiety, bullying, or psychological trauma.

iii) Social Isolation in the real world: A person may feel alone in real life as a result of overusing social media despite thousands of online and connecting with friends.

iv) Distraction and Lack of Attention: Overuse of social media has an impact on academic performance as well because it makes it difficult for students to focus and concentrate⁹. People who use social media and other websites frequently develop a delay habit and perform their tasks less effectively, which negatively impacts their interpersonal relationships.

v) Inactive Lifestyle and Sleep Disturbance: Users have the ability to sit for extended periods of time and stare nonstop, even at night, which can disrupt sleep and cause an unbalanced lifestyle as well as physical and mental illnesses. It could also lead to obesity, an inactive lifestyle, and other issues that exacerbate personality imbalance.

vi) Emotional bonding in family is reduced: In the past, the father and mother did not work together, but in modern metropolises, this is more common. The amount of time parents spend on social media, mobile phones, and other devices has decreased family bonding and sharing.

DATA REGARDING USES OF INTERNET DEVICES IN INDIA AND CRIME AGAINST CHILDREN

In January 2023, there were 467.0 million social media users in India. In India, 32.8 percent of the population used social media at the beginning of 2023.¹⁰ In India, there were 1.10 billion cellular mobile connections at the beginning of 2023, according to data from GSMA Intelligence. In September 2023, a survey found that approximately 46% of parents in urban areas in India said that their kids used social media, over-the-top content,¹¹ and online games for three to six hours every day. Nielsen's India Internet Report 2023 states that as of December 2022, there were over 700 million active internet users in India who were 2 years of age or

⁷ Ibid

⁸ *Cyberbullying*, MERRIAM-WEBSTER, (Dec. 29, 2023, 9:30 PM), <https://www.merriam-webster.com/dictionary/cyberbullying>

⁹ Mantri Gopal Ramnarayan, *Channelization of Social Media through Cyber Law and Its Enforcement Challenges in India*, SHODHGANGA.INFLIBNET, (Dec. 29, 2023, 9:30 PM), <https://shodhganga.inflibnet.ac.in/handle/10603/437674#>.

¹⁰ Simon Kemp, *Digital 2023: India*, DATAREPORTAL, (Dec. 29, 2023, 9:30 PM).

<https://datareportal.com/reports/digital-2023-india>.

¹¹ A. Minhas, *Average time spent per day by children on social media, OTT, and online games in India as of September 2023*, STATISTA.COM, (Dec. 29, 2023, 9:30 PM),

<https://www.statista.com/statistics/1415071/india-time-spent-on-online-media-by-children/>.

older¹². Of these, 425 million users were in rural India, nearly 44% more than the 295 million users who were actively using the internet in urban areas¹³. Ages 12 and older who are currently active internet users increased by more than 20% YoY to reach 595 million. According to an analysis by the non-profit organization Child Rights and You (CRY), there were 1,823 cases of cybercrimes against children reported in 2022, up 32% from 1,376 cases in 2021¹⁴. Cyberstalking or bullying (158 cases), broadcasting or publishing obscene sexual materials featuring children (1,171 cases), and other related crimes (416 cases) are the most frequent cybercrimes against children¹⁵, according to CRY analysis.

MAJOR THREATS AGAINST CHILDREN IN USING INTERNET AND SOCIAL MEDIA ARE AS FOLLOWS:

1. Exposure to pornographic and sexually explicit content: Child pornography shows adults engaging in sexually suggestive activities with children. Pictures, videos, and digital or computer-generated graphics are examples of visual depictions.
2. Sextortion: Sextortion is when someone threatens to reveal sexually sensitive information about the victim—like explicit private photos or videos—unless the victim complies with specific demands¹⁶.
3. Cyber Bullying: the use of electronic communication, which is frequently anonymous, to verbally harass someone¹⁷ (via text messages or online posts)
4. Phishing: Phishing is a type of scam and social engineering in which fraudsters trick victims into disclosing personal information or downloading malicious software, like ransomware¹⁸.
5. Identity Theft: use of a person's personally identifying information without consent or knowledge by another party, usually a stranger.¹⁹ Using this type of impersonation to commit fraud is common.
6. Cheating by Personation: if accused cheats others by posing as someone else, intentionally replacing one person for the other, or falsely representing himself or any other person as someone else than he or they truly are²⁰.

¹² India had over 700 mn active internet users by Dec '22: Report, ECONOMIC DEPLOMACY DIVISION, (Dec. 29, 2023, 9:30 PM), <https://indbiz.gov.in/india-had-over-700-mn-active-internet-users-by-dec-22-report/>.

¹³ Ibid.

¹⁴ Sravani Sarkar, *Cybercrimes against children records 32 pc increase in 2022: NCRB data*, THE WEEK, (Dec. 29, 2023, 9:30 PM), <https://www.theweek.in/news/india/2023/12/06/cybercrimes-against-children-records-32-pc-increase-in-2022-ncrb-data.html..>

¹⁵ Ibid .

¹⁶ MERRIAM-WEBSTER, (Dec. 29, 2023, 9:30 PM), <https://www.merriam-webster.com/dictionary/sextortion>.

¹⁷ MERRIAM-WEBSTER, (Dec. 29, 2023, 9:30 PM), <https://www.merriam-webster.com/dictionary/cyberbullying>.

¹⁸ WIKIPEDIA.ORG, (Dec. 29, 2023, 9:30 PM), <https://en.wikipedia.org/wiki/Phishing> .

¹⁹ BRITANNICA, (Dec. 29, 2023, 9:30 PM), <https://www.britannica.com/topic/identity-theft>.

²⁰ Indian Penal Code, 1860, § 416, No. 45, Acts of Parliament, 1860 (India).

7. Cyber Stalking: The act of stalking, harassing, or threatening someone via the Internet, email, or other electronic communications is known as cyberstalking.²¹

LEGAL FRAMEWORK TO COMBAT CYBERCRIME AGAINST CHILDREN

The Information Technology Act of 2000, the Protection of Children from Sexual Offences Act of 2012, the Digital Personal Data Protection Act of 2023, and the Indian Penal Code of 1860 are the primary tools used in India to combat cybercrime against minors. The Information Technology Act 2000, or IT Act: There are numerous provisions in this Act that address different types of cybercrimes. It sets fines for unauthorised access to data and computer damage brought on by malware, phishing, botnets, viruses, and other cyberattacks. This Act's also contains a unique clause protecting minors on internet platforms²². Information Technology Act, (IT, Act) 2000: The act stipulates penalties for publishing or disseminating content online that shows children engaging in sexually explicit behaviour, etc. On a first conviction, the following penalties may be imposed: Whoever (a) publishing, transmitting, or causing to be published or transmitted material in any electronic form that shows children engaging in sexually explicit acts or conduct; (b) creating text or digital images; collecting, seeking, browsing, downloading, advertising, promoting, exchanging, or distributing material in any electronic form that shows children in obscene, indecent, or sexually explicit manner, shall be punished upon first conviction by a fine of up to ten lakh rupees and a term of imprisonment that may last up to five years.²³ It is illegal to publicize or transmit an image of a person's private area without that person's consent, if such images are captured under instances violating secrecy.²⁴ The statute addresses identity theft and cyber crimes directly. Anyone who uses someone else's password or electronic signature dishonestly or fraudulently is subject to punishment under this section²⁵. A person who engages in cheating by pretending to be someone else and obtaining delicate information about children is subject to punishment under this provision²⁶. Protection of Children from Sexual Offences Act, 2012. (POCSO, Act): In order to provide special protection against sexual assault, sexual harassment, and the creation of pornographic material directed towards minors, the POCSO Act was passed in 2012. As per POSCO Act: a person under the age of eighteen is considered a child, and it is imperative that their best interests and welfare be considered at all times in order to guarantee their healthy, physical, emotional, intellectual, and social development²⁷. In child pornography, children are

²¹ LEGAL DICTIONARY, (Dec. 29, 2023, 9:30 PM), https://legaldictionary.net/cyberstalking/#google_vignette.

²² Information Technology Act, 2000, § 67B, No. 21, Acts of Parliament, 2000 (India).

²³ Information Technology Act, 2000, § 67B, No. 21, Acts of Parliament, 2000 (India).

²⁴ Information Technology Act, 2000, § 66E, No. 21, Acts of Parliament, 2000 (India).

²⁵ Information Technology Act, 2000, § 66C, No. 21, Acts of Parliament, 2000 (India).

²⁶ Information Technology Act, 2000, § 66D, No. 21, Acts of Parliament, 2000 (India).

²⁷ Protection of Children from Sexual Offences Act, 2012, § 2(d), No. 32, Acts of Parliament, 2012 (India).

shown engaging in sexually suggestive activities. Pictures, videos, and digital or computer-generated graphics are examples of visual depictions. The statute states that using a child for pornographic purposes carries a minimum sentence of five years in jail and a fine, with a maximum sentence of seven years in jail and a fine if the offense is committed again²⁸. A fine of at least Rs 5,000 is imposed if someone stores or possesses pornographic material involving children in any kind of structure and neglects to delete, ruin, or destroy it, or reports it to the designated authority, as may also be prescribed, with the intention of sharing or transmitting child pornography²⁹. If this happens twice or more, a fine of at least Rs 10,000 is imposed.³⁰ In addition to regulating telecom and cable television, the regulatory bodies that deal with social media and online platforms include the Ministry of Electronics and Information Technology (Meity), the Cyber-Appellate Tribunal, the Telecommunication Regularity Authority of India, these bodies also handle issues related to internet governance in India.³¹ The central government has established the Digital Media (Ethics) Rules, 2021. These regulations aim to establish a system that did not previously exist, providing the Social Media and OTT platform with a thorough complaint redressal and resolution process. Digital Personal Data Protection Act, 2023 has been passed by the Parliament, President assent this act on August 11, 2023. As per the act, before processing any personal information belonging to a child or a disabled person with a legal guardian, the data fiduciary must, in accordance with any prescribed procedure, obtain the verifiable consent of the child's parent or the legal guardian, as applicable³². According to Schedule: If additional obligations regarding children under section 9 are not observed, there could be a fine of up to two hundred crore rupees.³³

ROLE OF JUDICIARY AND RELEVANT CASE LAWS

Judiciary has played a vital role in controlling cyber-crime, which can be analysed from its recent judgments. Apex court had in various precedent states about the right to privacy and protection of data in various cases. In K.S. Puttaswamy's case: the apex court of India's nine-judge bench has changed public perception by ruling that the right to privacy is a fundamental freedom protected by Article 21 of the Indian Constitution. In this case, the S.C. has extended the right to privacy for the first time in conjunction with the rights to life and dignity.³⁴

²⁸ Protection of Children from Sexual Offences Act, 2012, § 14(1), No. 32, Acts of Parliament, 2012 (India).

²⁹ Protection of Children from Sexual Offences Act, 2012, § 15, No. 32, Acts of Parliament, 2012 (India).

³⁰ Ibid.

³¹ Mantri Gopal Ramnarayan, *Channelization of Social Media through Cyber Law and Its Enforcement Challenges in India*, SHODHGANGA.INFLIBNET, (Dec. 29, 2023, 9:30 PM), <https://shodhganga.inflibnet.ac.in/handle/10603/437674#>.

³² Digital Personal Data Protection Act, 2023, § 9(1), No. 25, Acts of Parliament, 2023 (India).

³³ Digital Personal Data Protection Act, 2023, § Schedule, No. 25, Acts of Parliament, 2023 (India).

³⁴ Justice K.S. Puttaswamy (Retd.) & Anr. vs. Union of India & Ors. (2017) 10 SCC 1, AIR 2017 SC 4161.

In one of instance, the Kerala High Court determined that the right to use mobile devices and the internet is a fundamental right guaranteed by the Indian Constitution after considering the importance of this right³⁵. Therefore, the Indian Constitution's Articles 19 and 21 extend people's right to access the internet once more³⁶. In the modern era, when internet connectivity plays a major role in people's lives, internet accessibility for education and other purposes has become increasingly important.

R.M. Malkani case: In this case, the court determined the validity of a "tape recording" on a mobile device by looking at the communication between two people. Once the conversation is recorded on any device, the court declared that the tape recording falls under section 3 of the Evidence Act of 1872.³⁷

In another case, the perpetrator used the victim's name to create a false Facebook profile account.³⁸ Additionally, the perpetrator was using the fictitious Facebook account to send the victim crude and offensive messages. The perpetrator has also utilized the victim's profile photo, which he obtained from the victim girl's original Facebook account. Subsequently, the police arrested the offender. The Information Technology Act's Sections 66C, 67, and 67A, as well as other provisions of the Indian Penal Code, 1860, have found the offender guilty, according to the court.³⁹

Animesh Boxi case: A man who broke into a girl's phone and stole some of her explicit photos and private parts. He also threatened to upload and distribute the explicit photos of the girl on the internet and engaged in illicit sexual activity.⁴⁰ After considering the case, the West Bengal District Court found the defendant guilty in accordance with Sections 66C and 66E of the IT Act of 2000 as well as Sections 354A, 354C, 354D, and 509 of the Indian Penal Code, 1860. This, according to the court, is "virtual rape" of the victim.⁴¹

In another instances in Delhi: A stranger, posing as a businessman, contacted GIRL X (name hidden) on the social media platform "WhatsApp," asking for private information such as her residential address, school name, and tuition schedule. Girl X was a schoolgirl from Delhi⁴².

³⁵ Mantri Gopal Ramnarayan, *Channelization of Social Media through Cyber Law and Its Enforcement Challenges in India*, SHODHGANGA.INFLIBNET, (Dec. 29, 2023, 9:30 PM), <https://shodhganga.inflibnet.ac.in/handle/10603/437674#>.

³⁶ Faheema Shirin vs. State of Kerala AIR 2020 Ker 35.

³⁷ R.M. Malkani vs State of Maharashtra, (1973) 1 SCC 471.

³⁸ Prakhar Sharma vs. The State of Madhya Pradesh MP High Court, MCRC No. 377-2018.

³⁹ Ibid

⁴⁰ State of West Bengal v. Animesh Boxi , GR No. 1587 of 2017.

⁴¹ Mantri Gopal Ramnarayan, *Channelization of Social Media through Cyber Law and Its Enforcement Challenges in India*, SHODHGANGA.INFLIBNET, (Dec. 29, 2023, 9:30 PM), <https://shodhganga.inflibnet.ac.in/handle/10603/437674#>

⁴² Chayyanika Nigam, *Delhi schoolkids increasingly coming under attack from cyber bullies*, INDIA TODAY (Dec. 29, 2023, 10:20 PM),

<https://www.indiatoday.in/mail-today/story/delhi-schoolkids-increasingly-coming-under-attacks-by-cyber-bullies-976595-2017-05-12>

Later on, she made an aggressive request for a date with him. She also reported the same incident to the Delhi police. This incident involves cyber stalking and cyber bullying.

Kamlesh Vawani case: This is one of the major cases involving cyberpornography and the intermediary's liability. It involves the offenses of cyberbullying and cyberstalking on social media platforms.⁴³ A lawyer has petitioned the Supreme Court of India to challenge several sections of the IT Act, including Section i.e. Section 66, 67, 69, 71, 72, 75, 79, 80, and section 85⁴⁴. Due to the petitioner's contention that cyber and online pornography is widely consumed and circulated, he has called for the outlawing of cyber pornography in all its forms and for the crime to be declared non-cognizable and non-bailable. In this instance, the responsibility of the intermediary to identify and proactively block offensive and pornographic content was discussed. In addition, the petitioner has reported websites that contain explicit and sexual content; as a result, these websites have been blocked.⁴⁵

SUGGESTIONS AND CONCLUSION

These are some suggestions which the parent and children could take to avoid cyber crime

- Choose your friends carefully. Refuse the request if you don't know the person. It might be a fictitious account.
- Use caution while sharing information. Refrain from disclosing any sensitive personal information, such as your phone number, home address, or financials.
- Be cautious while clicking on links. Accounts on social media are frequently hacked. Watch out for any language or information that doesn't seem appropriate for a post from a friend⁴⁶.
- A variety of anti-phishing tools are launched in response to the rise in phishing techniques. One-time passwords (OTPs), CAPTCHAs, digital certificates, and genetic and attribute-based anti-phishing algorithms are some of the user-friendly anti-phishing techniques available.
- It is advisable that, parents should look through their kids' personal data and see what kinds of information are accessible to the public on these websites.
- In schools and educational institutions awareness camps about cybercrime and safety precautions should be held, and Guardian and wards should attend this.

⁴³ Kamlesh Vawani vs. Union of India (2014) 6 SCC 705.

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ Harshita Jain, Safety Measures To Prevent Social Media Crimes, DIGI INFO MEDIA (Dec. 29, 2023, 10:30 PM), <https://digiinfomedia.online/safety-measures-to-prevent-social-media-crimes/#:~:text=Safety%20Measures%20To%20Prevent%20Social%20Media%20Crimes%20,careful%20about%20what%20you%20share.%20...%20More%20items>

Children are constantly becoming the soft targets of digital crimes such as cyberbullying, grooming, impersonation, sextortion, revenge porn, trolling, etc. due to the growth of information and digital communication technology. Once more, when kids make obscene images or attempt to gain unauthorized access to other people's digital devices or data, they run the risk of unintentionally causing unwanted legal problems. Even though the POSCO Act of 2012 and the Information Technology Act of 2000 addressed a number of online crimes against children and the POCSO Act also established mechanisms for reporting crimes against children, including online crimes, the majority of parents may not want to report the issue of online crimes against children.⁴⁷ Educating parents, educators, and students about the problem and the safety precautions is urgently needed. The most dependable adults who can look after children are thought to be their parents and teachers. In addition, a number of online reporting platforms for cases of online child victimization have been made available by the National Commission for Women (NCW) and the National Commission for Protection of the Rights of Children (NCPCR).⁴⁸The National Commission for Protection of Child Rights' (NCPCR) POCSO e-box is now where minors who have been victims of cybercrimes can file complaints.

⁴⁷ Gagandeep Kaur, *Cybercrimes against Children in Digital Age: Prevention & Precautions in India*, RESEARCH GATE, (Dec. 29, 2023, 10:30 PM),

https://www.researchgate.net/publication/355789930_Cybercrimes_against_Children_in_Digital_Age_Prevention_Precautions_in_India

⁴⁸ Ibid