# LEGISLATIONS AND POLICIES TO PROTECT CHILDREN ONLINE IN INDIA

**Priyanka Thakur**
*(LL.M.)*
*Law College Dehradun, Uttaranchal University, Dehradun, Uttarakhand, India.*

***Abstract****: India is the second largest country in the world with respect to population. It covers twenty percent children of the world. So, it becomes important to understand that many children in India are at risk and threats due to growing activities on online platforms from past few years. The legislations in India provide protection to the children from online as well as offline illegal activities. But it seems that online activities are much more effective to pass information through a direct mediation process. There are chances to mediate number of crimes in online world. Different mediums are used for online crimes like computers, mobile phones, laptops, other electronic materials. children are exploited in rural and urban areas but there is no clear report showing the data of online risk of children in India. The development of Information Communication Technology and its boost in last years has affected the lives of children and there is increased rate of online child exploitation, harassment and abuse. UNICEF's report is a very relevant document which gives an outline of the loopholes and recommendations to prevent children from cybercrimes. The constitution of India and many other legislations and policies are enforced for the protection of children from cybercrimes. The Information Technology Act, Indian Penal Code, POCSO Act, Juvenile Justice Act, Immoral trafficking Act covers different dimensions to protect Children from illegal Online activities. National commission for protection of Child Rights has been set up under the said commitments of convention on child rights for the protection of children which is working to remove online risks of children.*

***Keywords:*** **child abuse, child Exploitation, cybercrimes, web portals, UNICEF.**

## 1. Introduction

India ratified the Child Right Convention in 1992 and adopted a National commission of child rights to protect children's rights. This convention is a commitment of India towards the protection of child rights. As per the Fundamental law of India i.e. The Constitution, it has laid down various protection provisions and opportunities for its children to grow in a healthy manner. It includes their basic rights which are helpful to protect children from unethical and immoral activities in India. The constitution of India is a written document providing fundamental rights for its citizens and children especially in Article 15(3) to take all measures for the protection of children in every state and Article 23 to prohibit trafficking in children. These rights are also dealing with respect to the online protection of child rights. The directive principles of state policy for protection of children in Article 39(a) and 39 (f) protect children from exploitation and develop them in a healthy manner. Different legislations in India protect its children from online abuse. The Information Technology Act and Indian Penal Code covers most of the protective provisions related to cyber-crimes. Many policies after 2012 have been implemented to give a child healthy environment to grow and knowledge of ICT. Even National Commission for Protection of child rights is now seriously dealing with the matters of prevention of children from

indulging in online risks. The online risk activities exploit children physically, mentally as well as socially. The questions are being put by the experts of child right committee to know the adoptive measure of states to protect rights of children. If the answer is not according to measures then there is need to improve legislations and to take protective measures and their implementation. India has followed three protocols of United Nations Convention on child rights based on: Involvement of children in armed conflicts, protection of children from sale and trafficking, procedure of communication and report to committee. These protocols are ratified by India in 2005 to strengthen the legislations and policies of child rights in India. Children of different ages are being exploited whether they use internet or not by different means. The chairperson of NCPCR has emphasized on the view that victims of online abuse may result into criminals and juvenile offenders in later years. They may also get involved in different illegal activities as well.

'Child means any person who is below 18 years of age, or as the law of any state defines. It is defined in Article 1 of the convention on child rights.'

Different forms of Online exploitation of children

1) Cyber bullying is harassment of children in digital environment or cyberspace. This include humiliation faced by a child on online platform.
2) Online sexual abuse is another form of sexual abuse which is based on dissemination of sexual content by electronic media.
3) Cyber extremism are acts done by use of force based on different ideology that may be religious or any other ideology.
4) Online fraud means hacking of account, data, and financial loss, it also covers the identity-based theft by emails or other means.
5) A way of habit making and online fascination for illegal practices.
6) Grooming of child with different digital environment affects psychological and physical growth.

There are no surveys in India related to child online abuse till date. Only presumption is that the young people are at great risk than children by the National Crime Statics. Without study only risks are there for children which requires data-based study. It must be done by law enforcement agencies and ICT companies to identify increased rates of online crimes. Only then it can lead to precautionary measures in such cases. These crimes are not related to one country but have global network. The present conventions and legislative measures are not effective in its enforcement due to virtual world where everyone is dependent on online platforms.

A new term now days is widely in use that is child sexual abuse material (CSAM). In India there is no effective reporting system and detective system for such offences. But it has made an emergence for collaboration of government with ICT industry for effective control of online abuse. Different branches in India are working to remove online content containing immoral and illegal activities on online platforms. The National Technical Research Organisation and police cybercrime cell covered under:

- Department of Telecommunication
- Department of electronics and IT.
- The central Bureau of Investigation.
- The Indian cybercrime coordination Centre: criminal Tracking Network, National Intelligence grievances.

An NGO named 'Aarambh' in Mumbai is focusing on online mechanisms to report child abuse, removal and blocking of such web portals.

In U.S. and U.K. to enforce online protection of children it has been found that : National Centre for missing and exploited children, child exploitation and online protection, INTERPROL and Federal Bureau of Investigation is dealing with such offences whereas in U.K. Child Exploitation and Online Protection Centre(CEOP), Internet Watch Foundation(IWF) is covering these issues.[1]

Cybercrime is a kind of crime committed with the help of Information Communication Technology. The cybercrimes are based on computers for performing illegal activities which can result into danger or threat to the life of a person or a child. The sources used for the crime may result into huge loss to the reputation of an individual and reason may be dissemination of personal information. These crimes are: crimes on internet and crimes of internet, against individual or society and based on social or economic offences.[2]

Reporting systems working for protection of children in India

Cybercrime cells are working to protect the online privacy of children and young people. It has data security council for implementing operational procedures and investigating processes. Even there are cyber Forensic laboratories for computer networks detections and mobile forensics also. The training for investigations is given under:

- CBI Training Academy to train CBI officials.
- National Police Academy to train IPS officers.

CERT-in is a Centre for Development of advanced computer training agencies, forensic labs to discover the evidences in digital world.

Judicial Processes: under POCSO Act,2012 the state government may establish a required number of special courts for speedy trial of offences under this Act. At present there are 605 special courts established for handling all cases related to juvenile offenders or victims of crime.

Reporting of cybercrimes related to children

- The case of child online abuse, exploitation and harassment must be reported to police. Anyone can file complaint of online abuse of a child, even a child welfare number 1098 is provided by the government whereby a telephonic complaint is permissible.
- There is also an Online reporting portal National cybercrime Reporting Portal which is available for cases of child abuse, child sexual abuse material in cybercrimes.

## 2. Current Legislations in India

**The Information Technology Act 2000** as amended in 2008.[3] It includes all online activities related to criminal contents. The act covers digital devices for the purpose of communication and spreading information. All online activities are cyberspace activities e.g. video, audio, photographs, text, images etc. The main provision of the Act states (section 67) that if any person publishes any obscene matter about any person, child by way of electronic devices as it may corrupt other person, is punishable with imprisonment of two years and fine of five lakhs. If there is subsequent commission of crime then offender may be imprisoned for maximum of five years and fine may be imposed of ten lakh rupees In case of publication and transmission of sexual explicit content by any

person shall be punishable with a term which may extend to five years and fine may extend upto ten lakh rupees. The only exception is particularly for books, writings, painting, representations, pamphlet used in electronic form. As they might be in use for public good by ways of interest in arts, science and literature (section 67A). If there is any publication of material and transmission of sexual exploitation content in electronic forms, such as children involved in sexual activities, creation of images, dispersal of material using obscene and indecent representation, abusing children online and recording using children for sexual acts. Any person who commits such an offence shall be liable to punishment for a term of five years and fine of ten lakh rupees (section 67B) These provisions specifically define abuse of children in cyberspace and engaging them in sexual activities.[4] **State of Tamilnadu v Sushas katti**[5] was the first case was filed in 2004 under section 67 of IT Act 2000. The accused was guilty for posting obscene material and using defamatory words and harassing through false emails using name of victim. The accused was found guilty under section 509, 469 of IPC and 67 of the IT Act. He was convicted u/s.509 for one year and fine of five hundred rupees, under 469 for two years and fine of five hundred rupees. Under IT Act to pay 4000 rupees and sentence of two years. All punishments went concurrently.

There is a term used **cyberbullying** which means mental harassment of children on online platforms. Many provisions for cyberbullying are covered under IPC and IT Act.[6] In IPC there is a provision of defamation which describes the intention to cause harm or knowledge of harm caused to other person by way of slander or label. To make allegations to lower the reputation of a person either the person is deceased or alive, to his family or close relatives by spoken words (slander) written words (libel), or electronic medium (section 499). The punishment for such offence is for a term, as court finds suitable or for two years and fine (section 500). In IT Act under section 66A there is clear description of cyberbullying that if any person by way of communication through audio, video, text, image sent any offensive messages, emails to cause inconvenience, danger obstruction, insult or injury to other person is punishable with a term and may extend to three years and fine. In cases of fraud, use of passwords by any other person, use of signatures is punishable with a term of three years and fine may extend to one lakh rupees (section 66). If any person by cheating, personation and dishonestly induces any child to give consent for any act which he knows is illegal shall be punishable (section 66D).The transmission and publication of images photographs, video recordings by electronic medium of any person without consent shall be considered as an of offence and punishable with imprisonment of three years and fine of two lakhs (section 66E).

The disclosure of confidentiality or privacy of a person without consent such as electronic book, register, informative document is punishable with a term and may extend to two years and fine of one lakh or both (section 72).

**The Protection of children from Sexual Offences Act 2012** the Act provides protection to children from sexual offences related to child pornography, sexual abuse.[7] If a child is used for pornographic purposes in electronic or printed form or by any medium, such person may not have any other intention but sexual gratification by representation of sexual or obscene matters (section 13).Different punishments are there for different acts committed by a person related to child abuse and is liable to fine also. (section 14).The other special feature of this Act is that it covers a provision not only for an adult but for a child also, which defines as if any material is stored by any person or a child to be used for commercial purpose shall be punishable with imprisonment of three years and

fine(Section 15). The state government have power to set up speedy trial courts for children and for the purpose of this act every session court to be a special court under a district (section 28). It is the duty of the central and state governments to spread information of provisions under the Act to public at large by way of radio, television, print media or other possible ways (section43).[8]

**Indian Penal Code, 1806** Many provisions are there in IPC 1806 as many online offences are not covered under the IT act.[9] Any person involved in inducement or seduction of a girl child who is minor with intention to use that girl to act from one place to another for illicit intercourse with another person shall be punished with imprisonment of ten years and fine (section 363). There is another special provision under the act that if a girl who is minor and is hired or otherwise employed in prostitution or illegal purposes by any person is punishable for a term of imprisonment which may extend for ten years (section 372). Even if any person with intention to use child at any stage of prostitution or illicit intercourse is punishable with ten years of imprisonment and fine (section 373). It covers child trafficking, trafficking of children for exploitation in any form including physical exploitation, sexual and slavery of a child by sale and buy and detaining such child by any person is punishable with imprisonment of seven years and fine (section 370).[10]

**Juvenile Justice Act 2015** provides protection for children who are under eighteen years of age and are victims of crimes. The distinct feature of Act is that it deals with the adult criminals who are under suspicion of crime against children. It protects publication of name of child in any form who is connected in criminal proceedings (section 21). If any cruelty made to children during the procedures by any person such person is liable for punishment according to the discretion of court (section 23). In case if a child is forced to take liquor or narcotics during proceedings of court such person shall be penalized by the court (section 25). It prevents exploitation of children from employment if a child is employed by the person for his own earnings such person is punishable with three years of imprisonment and fine (section 26).[11]

**Immoral Traffic (Prevention) Act, 1956** protects children from sexual exploitation used for commercial purposes i.e. prostitution. The child means who is below eighteen years of age. The act prohibits and provides punishment for keeping brothel and any person is living on earning of prostitution (section 3,4). It deals with the enticement or taking any person for prostitution (section 5). Detaining a child in places where prostitution being carried on to use such child for sexual intercourse is punishable with a term or may extend to ten years or fine (section 6). The state Government may set protective homes for children (section 21).[12]

## 3. National Policies for Children

**The National Policy of ICT in schools, 2012**: The policy regulates the internet access in schools. Its aim is to achieve grooming of children in digital world or ICT education. This can transform the children with the knowledge about the risk activities with the use of internet.

**The National Policy, 2013** covers all aspects of development of a child in healthy manner. NPC provides for the online education of children. ICT plays role in study outcomes so incorporated to protect children in upcoming years.

**National Cyber Security 2013**: The policy underlines preventive measures to be taken in cases against children. It includes the process of investigation and prosecution of cyber-

crimes. It gives strength to investigating agencies of cybercrimes. The main aim is to decrease the cybercrime through cooperation of different institutions of cybersecurity.[13]

**POCSO Scheme known as Cyber Crime Prevention against women and Children** (CCPWC): This scheme is approved by Ministry of Home Affairs to give a reporting system for children and women due to increased risk of cybercrime activities. Children themselves can file a complaint in National portal by clicking on report child and women in cases of online abuse, pornography, sexual abuse of children and women.[14]

## 4. Conclusion

Protection of children with wide access of internet activities where information can spread in seconds is a great challenge with 450 million children and large population. By 2020 there is an increase in broadband connections for online learning. The Government of India and different departments are cooperating with each other to enact new legislations and amend previous provisions with time. The National Commission for Protection of Child Rights is procuring safety measures to protect children from online exploitation and cyberbullying. UNICEF in its report has discussed all the online risks and precautions to be taken by Indian Government for its children.

## 5. Suggestions

There is a need of survey by cybercrime statics report to show data on cybercrime rates among children in India. A separate category for Nation Crime Records Bureau should be established for criminal records in India. Cooperation of Government and ICT companies may result in success to tackle issues of cybersecurity. A Popup setting in most accessed web Portals must be there to fulfill the protective measures in online activities for safety of children. It is a demand to ensure the security laws based on changing patterns of technological advancements. India has not signed the Virtual Global Task force so its mandatory for India to cooperate in International platform and work on protection of children as said by the Rakesh Maheshwari group coordinator of Ministry of electronics and Information Technology. There is demand of Internet safety department and e-commissioners in India. The Commissioners must have knowledge and skills to prevent cyber activities and to track and trap offenders involved in cybercrimes. Some preventing steps must be taken by the children and their parents while visiting unknown web portals, sending photographs to unknown persons and receiving emails from strangers. The parents must watch the online activities of their children and block unwanted sites. It is also important to change passwords at regular intervals.

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