

Cyber Grooming and Bullying of Children

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ABSTRACT

Cyberspace has emerged as a gigantic and dynamic platform for exchange of vital information. Ironically, the web world has transgressed itself beyond the traditional purposes of prompt action and communication. It is a home to degraded and despicable content that runs contrary to the norms of the civilized world. It appears to be immensely successful in terms of corrupting and deriding the minds of the young people who gain access to such content either accidentally or might often hold curiosity towards such inexplicit information. Children are also vulnerable to the manipulations of adults and teenagers who are driven by either financial interests or sexual pleasure. Often cyber groomers seek sexual stimulation whose primary purpose is to identify potential victims and resort to blackmail and transmit derogatory and inappropriate sexual materials. A bemused child may suffer in silence or might be bullied online. Cyber bullying emanates willful harassment with an objective of establishing lascivious relationship with the child. Child abuse issues have always been a matter of grave concern to the policymakers who undoubtedly confined legislative interventions to counter acts of offline child abuse. Even the provisions of several pro-child legislations in India and the recent Protection of Children against Sexual Offences Act, 2012 have not been compelling in terms of promoting a safe and secure online environment while offering quintessential creative opportunities to children for self-expression. A dichotomous approach is indispensable for harmonizing these competing interests with the penultimate goal of preserving the

fundamental freedoms guaranteed by the Indian constitution.

Acts of cyber grooming and bullying have been recognized as criminal offenses under the Information Technology Act, 2000 following the amendment in the year 2008. Prior to the amendment, inclusion of these acts as 'criminal acts' within the Indian Penal Code was invariably doubted owing to vagueness in the different categories of offences. Despite these developments, the law enforcement agencies in India continue to struggle with the dire need for higher cybercrime convictions.

Key words- Cyber, Grooming, Bullying, Information Technology Act, Amendment

1. INTRODUCTION

Immense success of internet is owed to its relative openness and minimum security barriers to entry while facilitating those with vicious intentions to operate with relative ease. Technological advancements have unleashed enormous opportunities for child abuse and exploitation of children. While scholarly advantages of internet cannot be undermined, it has enabled the callous adults to develop illicit relationship, upload inappropriate content and to groom potential victims for sexual abuse. Widespread attention is needed to address the perils of online child exploitation in the contemporary world. Online sexual grooming and bullying are recognized statutory offences among several nations although many jurisdictions are yet to

introduce and implement legislations criminalizing online abuse of children.

Ardent use of web technology for academic purposes renders a valid justification why young people are accessing internet at an increasing pace rendering them prone to the vulnerabilities of harmful content.¹ Children are susceptible to pornographic materials. Much of this material comprises sadomasochistic sexual content. One can seldom imagine the extent of adverse effect it has upon the psychology of innocent children. Different children respond differently albeit common symptoms include difficulties in sleeping, bad dreams or nightmares or aggressive or repulsive behavior. A child may seem nonchalant and unaware of the consequences until later years when the effects may become apparent. In any case it must not be met by a strong reaction of the adult rather a more understanding approach becomes quintessential. It is increasingly helpful to contextualize and discuss about the validity of such information with the child or by demonstrating using alternative technology that such materials are altered to establish that the content is unreal. Parents and guardians need to be proactive in implementation of parental control software at home computers. Law enforcement agencies comprising the Prosecution, Police and Judiciary should be trained to handle specific crimes against children with uniformity in guidelines for all. Laws need to formulate efficient strategies to combat access to such despicable content. Enormous filtering software applications are widely available with the feature of blocking websites and content that are unsuitable for children. This is one way of procuring a safe online environment for young ones. But this is limited to home and the access may be gained otherwise from external computer at a cyber café or friend's house. Thus,

¹Harmful content generally comprises of a violent, bestial or a horrendous image or racist or sexual material. Scientific studies have shown that such exposure is likely to increase adrenalin levels in humans thereby accelerating heart and lung functions. The impact on a child is variant depending upon his age and level of development.

insertion of preventive strategies should be made part of the school curriculum. Moreover, child abusers need finances to transmit offending materials which deliver the means to track their activities and online payment patterns. This encourages easier identification of business enterprises that undertake illegal activities and process payments from pedophiles. Banks and credit card companies can play a massive role in stopping the sale and distribution channels of child abuse materials.²

2. SEXUAL GROOMING

Children are groomed online for both offline and online sexual abuse. Grooming process begins with establishment of 'sympathetic' relationship to gradual introduction of sexual references to the child. 'Dependency' is the essence of cyber grooming. Individuals make contact with the potential victims for sexual gratification or groom for establishing lascivious relationships. These sexual predators generally choose such target areas or locations that appear attractive to children. Grooming begins with displays of particular interest where the child is made to feel special for the purposes of gaining trust. Eventually, the predator introduces sexual elements with the objective of desensitizing the child victim to sexual conduct. Offenders also instigate children for criminal purposes such as creation of pornography, child prostitution, sexual assaults and sex tourism. Sexual

²A coalition between Microsoft and the International Centre for Missing and Exploited Children has enabled development of monitoring and oversight systems for easier identification of child abuse victims and reporting online commercial transactions with criminal element. Such joint initiatives are incumbent to boost public awareness and prevent spread of derogatory materials. Microsoft has also established National Child Exploitation Coordination Centre in Canada which has invented a child exploitation tracking system. This system has been adopted by several international law enforcement agencies. Australia employs several communication analysis tools which detects electronic communications, provocative and abusive materials and has the capacity to investigate online groomers. One of the most popular is the Eavesdropping tool that allows collection of data to detect concealed communities and communication patterns in a chat room. The tool was developed in 2004 by Camtepe, Krishnamoorthy and Yener.

predators often subterfuge as children and derive undue advantage from the anonymous nature of the web world. Lack of visible representations block the judgment capabilities of children thereby facilitating the grooming process for offenders. Psychological dimensions suggest that children often lack capabilities to recognize themselves as victims. The perpetrators succeed in creating such dependency through isolation or use of alcohol, drugs, etc. Offenders may also retrieve personal information from children for the purposes of committing identity frauds, deception or sexual gratification itself. They gather publicly available information concerning the child using search engines.³

‘Control’ is the predominating factor especially in instances where a child becomes habitual to incessant sexual exploitation and abuse. Motives behind grooming may transcend sexual aspects and involve exchange of goods, accommodation, etc. Nevertheless, the complication lies in the identification of children and young people as potential victims. Sexual abuse adversely hampers the cognitive abilities of children as they grossly fail to recognize themselves as ‘victims’ of abuse. They tend to hold to safety issues despite successful removal from the abusive situation. They find it daunting to establish relationships based upon trust making it cumbersome for child care experts and professionals to approach and address their immediate needs.⁴ Children are naïve and in constant need of care, protection, affection and attention. They are easy targets to illicit risks. Quite often, the predators emerge successful in establishing relationships with

several victims all at once and are able to reduce the trust building period. Such behavior is mostly witnessed in online chat rooms and sometimes, may involve deception of parents about the groomer’s presence in the family structure. These chat rooms were meant to provide an interactive platform to individuals for exchange of information and the minors were expected to control and manage their private information while simultaneously building relationships and engaging in self-expression. They now act as catalyst for predators who reflect unreliable behaviors and attitudes. Besides, psychological dimensions of deception and sexual interaction are diverse depending upon the dynamics of child abuse.

Grooming process is, thus, based upon imbalance of power with primacy to sexual interaction. Child groomers are likely to be pedophiles looking for prey in the web world. Threat also extends to adolescents who are looking for enjoyment and sexual opportunities online. Internet seldom reveals identities and induces the innocent minors to be manipulated and seduced by transfer of derogatory sexual materials leading to indirect victimization which later culminates into direct victimization.

3. ELECTRONIC BULLYING

Cyber bullying or Electronic bullying involves employment of electronic technologies for the purposes of facilitating continuous and intentional harassment to a child by posting and transmitting harmful materials. The technological means utilized are e-mails, cell phones, instant messaging, chat rooms, pornographic or adult websites. Some of the techniques include impersonation, exclusion, denigration or flaming. The effects of cyber bullying can be devastating. A bullied child is prone to lose self-confidence, self-respect and sense of security. He may suffer from recurrent attacks of anxiety, depression and other mental health problems. An innocuous child may develop suicidal thoughts too. Some

³Certain public domain websites such as Internet Relay Chat rooms and online gaming forum sites are immensely helpful in obtaining private information. Facebook profile or any other social networking website can also be used for this purpose. Use of technology of steganography, cryptography and other anonymising protocols complicate the tracking issues for police and enforcement agencies.

⁴A groomed child mistakenly believes that the abuser loves him and he must, therefore, refrain from creating troubles for him. The worst scenario is when the child lacks peer support or the abuser hosts a vast network of victims under his paramount control.

may exhibit rule-breaking or delinquent behavior patterns while others might react aggressively. Cyber bullying is rampant in India and the statistics uncover that more than five out of ten children in India are bullied online.⁵ Filth of cyber bullying needs to be eliminated by blocking communications from cyber bullies and identifying policies of online applications by Internet Service Providers. Hence, a broad response requires building a protective environment and working directly with young children to devise mechanisms that are accessible, enforceable and transparent.

Cyber bullying technologies are interactive and digital. Bullies do their acts based upon assumptions of anonymity and invisibility. In bullying, a minor is instigated against another minor or there are minors on both the sides. Changing of roles may also be associated with cyber bullies who themselves have been victims of bullying in the past.

Bullied children are likely to withdraw from friends, experience change in attitude and behavior and suffer loss of appetite. Emotional distress is subsequent with the use of technology. Child education and preventive measures are the best way to protect children from grave consequences. Perhaps bullying can only be curtailed by limiting children's access to web technology. The reasons why children resort to cyber bullying stems out from hunger for power, frustration, revenge, anger and other personal motives or concerns. Most of them are unaware of the fact that they can easily be tracked irrespective of fake chat names. Stringent penalties might result into loss of online accounts or registration as sex offender. They may also suffer while applying for higher education or jobs. Proper online behavior should be taught to children. Parental awareness and supervision over internet activities is essential. Besides, school teachers should attempt to enlighten

students about bullying and grooming activities and undertake immediate action to enforce the consequences. Adequate boards and forums may be instituted in the schools to discuss issues of cyber bullying and the possible means of intervention. The innocent children become victims of hatred, humiliation, disdain and discrimination which leave emotional scars and stress. These scars have long-term effect and may persist until adulthood. It may also drive them to commit suicide, murders, fights, dropout and failure in school examinations. Schools are exempted from legal liability for incidents occurring outside school premises as a direct infringement to free speech rights. It is pertinent to build a comfortable environment for children thereby ensuring timely reporting of abuse to parents.

4. POLICY INITIATIVES

Several international instruments envisage creation of protective environment for children and prevention of child right violations. Some prominent instruments related to child abuse, its response and prosecution are the Convention on the Rights of the Child, 1989; Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000; Protocol to Prevent, Suppress and Punish Trafficking against Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime or 'Palermo Protocol', 2000; Council of Europe Convention on Cybercrime, 2001; and, Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, 2007. They contemplate protective measures with special significance to specific rights of expression and assistance pertaining to the web world. They have also recognized the critical responsibilities of parents, entrepreneurs and civil society. Rio Declaration by World Congress III in the year 2008 embarked state actions for

⁵ Press Trust of India, *More Than 5 in every 10 children bullied online: Survey*, THE ECONOMIC TIMES (June 27, 2012), http://articles.economictimes.indiatimes.com/2012-06-27/news/32441493_1_survey-indian-children-cyber.

prevention of production and dissemination of child abuse images and materials.⁶ Implementation of these provisions forms the prerogative of the national governments. In United States, it is the tort litigation and the first amendment that covers cyber grooming and bullying as wrongdoings and the grounds may vary from invasion of privacy to a suit for defamation. Criminal prosecution extends to incidents of threats, coercion, obscenity, harassment and sexual exploitation. US Federal law strictly punishes 'incitement' of children for sexual grooming.⁷ New York stands alone among the other states to add cyber bullying as a terminology in its legislation.⁸ California state legislature is the first to pass law directly dealing with cyber bullying giving unprecedented powers to school administrators to discipline students from bullying others online and offline. Massachusetts has the toughest anti-bullying law barring both physical and emotional abuse at schools. It directs the faculty and school administrators to inform and report such acts to the parents. It penalizes electronic bullying confined to school premises along with other acts of bullying. Though many federal states have formulated laws that refers to electronic form of bullying and off-campus bullying yet state practices remain diverse. These legislations, mostly, require State Boards of education and County Boards to assume duties and responsibilities for documentation of incidents and protection of victims from harassment. Some states have incorporated cyber bullying in harassment prevention policies while other states consider

electronic bullying as a misdemeanor, punishment for which varies depending upon the age and the grade of the student involved.⁹ All these state policies emphasize upon safe and respectful learning environment to foster respect, responsibility and civility.

Since development of protective strategies need systematic implementation at the national level, it is essential to stretch the cyber law jurisprudence in India to overcome the imbalance created between successful prosecutions and child interests. The Information Technology Act, 2000 introduced path breaking amendments in the year 2008 for safeguarding children from the perils of lascivious content and threatening emails or messages.¹⁰ It embarked stringent regulation of materials depicting children in sexually explicit acts.¹¹ Invariably, it inherited certain procedural and substantive laxity. To begin with, India as a nation will have to withstand the limitations of territorial sovereignty in blocking content originating from other countries until tangible policy measures. It is a clear reflection of the government's inability to block pornographic websites for reasons of inadequate legal provisions, scarcity of resources and other technological factors including lack of international cooperation in incessant exchange of information of criminals and criminal acts. Second, questions of preservation and protection of electronic evidence and ensuring its due admissibility in courts will need to be addressed. Again, the bar for setting

⁶ Third World Congress against Commercial Sexual Exploitation of Children, The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents, 2008, at 6, http://www.unicef.org/protection/Rio_Declaration_and_Call_for_Action.pdf

⁷ United Kingdom Sexual Offences Act, 2003 contains scanty definition of 'grooming' as it does not address 'enticement' of children.

⁸ A stark feature of New York State legislation is the recognition accorded to bullying incidents that occur outside the school premises that can adversely impact the school environment thereby bringing electronic bullying within its ambit.

⁹ For instance, Nevada State Legislature Senate Bill 163, Chapter 188 defines cyber bullying as "bullying through the use of electronic communication" where electronic communication signifies the communication of any written, verbal or pictorial information through the use of an electronic device, including, without limitation, a telephone, a cellular phone, a computer or any similar means of communication. Most of these statutes penalize both offline and online abuse of school children.

¹⁰ Sections 66A of the Information Technology Act (Amendment) Act, 2008.

¹¹ Sections 67A and 67B of the Information Technology (Amendment) Act, 2008. Section 66A of the Act has consistently been attacked on several occasions for constitutional invalidity on grounds of reinforcing vague concepts and transgressing the individual freedoms precious to all citizens in a democracy.

standards of transparency and accountability need to be high owing to less reporting of cybercrime for lack of faith in law enforcement agencies. In India, the Information Technology Act, 2000 was grossly incapable of addressing the new crimes that surfaced with technological advancements. Following the amendment in the year 2008, incidents of cyber bullying were extended from the ambit of criminal statutes to cyber law.¹² It comprises of protective measures for certain sections of society who are prone to vulnerabilities of lascivious content. Sending threatening messages and emails or hacking accounts of children attracts three years' incarceration under section 66A of the Act. Online grooming and exposure to pornographic materials for the purposes of facilitation of online child abuse are penalized under section 67B of the Act with five years prison term in case of first conviction and seven years prison term following second conviction. Despite legislative interventions, the inefficacy of Indian policies in delivering higher cybercrime convictions has been tremendously high. Over half of the Indian children who surf internet face cyber bullying or other harassment.¹³ India stands at third rank with fifty three percent of its children bullied online.¹⁴ Indian government, so far, have not been able to block websites that host harmful content for reasons of inadequate legal provisions and technological factors such as position of servers.¹⁵ Websites should, rather, contain

guidelines for establishing that the content is children friendly. Nothing in the Information Technology Act permits blocking pornographic websites hosted outside India. Constant surveillance of cyber cafes' and mobile security has been some of the recent initiatives. Moreover, social networking sites serve as the breeding grounds for incitement and luring of children and thus, initiatives by these websites can play a massive role in protecting the children from sexual offenders. For instance, Facebook and Myspace actively participate in law enforcement and aid the local police and investigations in emergency and non-emergency cases. In United States, some statutes obligate these websites to remove offenders in certain circumstances and have emerged immensely successful in identifying and blocking registered sex offenders.

5. CONCLUSION

Adults may not be well acquainted with the recent advancements in information and communication technologies unlike their children and the sex offenders who are likely to be technology savvy making education and awareness an imperative in resolution of complicated online abuse issues. Detection and prosecution limitations thrive on account of lack of dexterities in use of technology. Abundant safety and awareness tools exist that disseminate step-to-step instructions to non-computer literate parents and guardians and tip on safeguards to be adopted for online safety. However, children may be reluctant to report abuse issues and therefore, a secure system that encourages children to report explicit content or material to authorities is crucial. Indian cyber policy has no mechanism for social support of children which enhances further victimization. Certain prevention

¹²Cyber bullying is a criminal offence under section 506 and 509 of the Indian Penal Code, 1860. For child pornography, sections 292 and 293 of the code can be invoked.

¹³Pavan Duggal, *The face of Indian cyber law in 2013*, BUSINESS STANDARD (December 30, 2013), http://www.business-standard.com/article/technology/the-face-of-indian-cyber-law-in-2013-113123000441_1.html

¹⁴Special Correspondent, *Protect children from Cyber Crime*, THE HINDU (February 17, 2014), <http://www.thehindu.com/todays-paper/tp-national/tp-karnataka/protect-children-from-cyber-crime/article5697653.ece>

¹⁵Government's inability to take any stance has not yet uplifted ban on pornographic content in Indian cyberspace. Internet Service Providers Association India (ISPAI) maintains that they lack the requisite authority to impose ban. See Express News Service, *Difficult to ban porn sites, government tells Supreme Court*, INDIAN EXPRESS (July

13, 2013), <http://archive.indianexpress.com/news/difficult-to-ban-porn-sites-govt-tells-supreme-court/1141283/>. No ban on pornographic sites exists in the west. They do not seem to be optimistic about imposing a ban owing to liberty considerations.

strategies such as net-etiquette, online conduct and safety precautions are pertinent though are subject to limitations of child's familiarity with technology.

Strategies should include educating children about the dire need to inform parents and guardians in emergency situations and advising the parents to adopt a fervent and understanding approach in dealing with risks of online abuse. As legislative interventions alone are incapable of ensuring safe online environment, certain non-legal interventions such as a collaborative approach between governmental and private entities, both nationally and internationally, can assist efficiently in addressing jurisdictional conflicts as well as time constraints of cybercrimes. Beyond wealth and profit maximization goals of commercial enterprises, endeavor for proper utilization of resources for minimizing risks of illegal activities is of paramount importance.

12. REFERENCES

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