

Child Pornography in India: A Right-Based Socio-Legal Study of Victim Protection, Rehabilitation, and Legal Response

Shalini Gupta*,¹ Dr.Pooja Bali²

¹Research Scholar, Sant Baba Bhag Singh University, Jalandhar, Punjab, and Assistant Professor, MMDU, Mullana

²Professor, University Institute of Law, Sant Baba Bhag Singh University, Jalandhar, Punjab

Abstract

[Abstract not provided in the input. Please refer to the original article for full abstract.]

Keywords: Child Pornography, Victim Protection, Rehabilitation, Legal Response, Child Rights, India

How to cite this article: Gupta S, Bali P. Child Pornography in India: A Right-Based Socio-Legal Study of Victim Protection, Rehabilitation, and Legal Response. *Int J Drug Deliv Technol.* 2026;16(11s): 269-273; DOI: 10.25258/ijddt.16.11s.25

Introduction

The UN Convention on the Rights of the Child (UNCRC) (1989) is the most frequently supported child rights instrument globally. It defines all individuals under the age of 18 as children. (1) The Convention defines violence and children's rights, requiring States Parties to take appropriate measures to protect children from physical or mental violence, injury, neglect, maltreatment, exploitation, and sexual abuse while in the care of parents, legal guardians, or other carers. (2) Child pornography refers to the visual depiction of sexually explicit conduct involving a child. In India, the prevalence of child pornography has been steadily increasing due to the widespread availability of the internet and social media platforms. This has raised concerns about the exploitation and abuse of children for the production and distribution of such material. It is essential for authorities to take strict measures to combat this problem and protect the rights and safety of children in the country.

Importance of victim protection and rehabilitation

Victim protection and rehabilitation are crucial aspects in addressing the issue of child pornography in India. It is important for authorities not only to punish those involved in the production and distribution of such material but also to provide support and assistance to the victims. This includes counseling, therapy, and other resources to help them recover from the trauma they have experienced. By prioritizing the well-being of the victims, we can work towards creating a safer and more secure environment for children in the country. Victim protection and rehabilitation are crucial aspects of the justice system, but they face challenges such as resource constraints and weak inter-agency coordination. The Victim Protection Act in Kenya incorporates restorative justice principles to emphasize the participation of victims, restitution, and institutional support. (3)

Overview of the existing legal framework and challenges

In India, the Protection of Children from Sexual Offences (POCSO) Act was enacted in 2012 to specifically address crimes against children, including child pornography. (4) The Information Technology Act of India, 2000, contains a general provision in section 67, which punishes the publishing of information that is obscene in electronic form, but there

is no specific legislation in India that defines child pornography or mandates ISP reporting. The Information Technology Amendment Act 2008

introduced section 67B to address electronically depicting children in sexually explicit acts and online child abuse, but there are still limitations in protecting children online in India. (5) However, there are challenges in effectively implementing and enforcing this law, such as a lack of resources and trained personnel. Additionally, social stigma and fear of retaliation may prevent victims from coming forward and seeking help. Despite these challenges, it is imperative for the government and civil society to collaborate in ensuring that victims of child pornography receive the support they need to heal and move forward. By strengthening victim protection and rehabilitation efforts, we can make significant strides in combating this heinous crime and protecting the rights of children in India.

One way to address these challenges is to increase funding and training for law enforcement agencies and social service providers. This will help ensure that they have the resources and expertise necessary to effectively investigate and prosecute cases of child pornography. In addition, public awareness campaigns can help reduce the stigma surrounding this issue and encourage victims to come forward. By working

*Author for Correspondence: Shalini Gupta

together, we can create a safer and more supportive environment for victims of child pornography in India.

2. Historical Overview of Child Pornography in India

The evolution of laws and policies addressing child pornography in India has been slow and fragmented. The first legislation specifically addressing child pornography was the Information Technology Act of 2000, which criminalized the publishing or transmitting of sexually explicit material involving children. Also, India ratified the UN Convention on the Rights of the Child in 1992 and is fully committed to upholding its provisions. The Indian government also ratified the Convention's two Optional Protocols in 2005, addressing various issues like children's participation in armed conflicts and child prostitution. India has also ratified other conventions related to child protection, such as the Convention on the Elimination of All Forms of Discrimination against Women and the SAARC Convention on the Prevention and Combating the Trafficking of Women and Children into Prostitution. (6) However, enforcement of these laws has been weak, leading to a proliferation of child pornography on the internet. It is crucial for the Indian government to strengthen its legal framework and enforcement mechanisms to effectively combat this growing threat and safeguard the well-being of children in the country. Child pornography laws have evolved over the last four decades due to the internet and related digital technologies, with new offences introduced specifically criminalizing the production, distribution, and possession of child pornography. Countries have implemented robust legislative measures to protect children from harm, although there are variations in how different countries regulate child sexual exploitation material. Some countries still lack adequate laws to address child pornography, posing challenges to combat it effectively on the internet (7).

2.1 Impact of technology on the proliferation of child pornography

Advancements in technology have made it easier for individuals to produce, distribute, and access child pornography. The anonymity provided by the internet and encrypted messaging services has made it difficult for law enforcement agencies to track down and prosecute offenders. In addition, the rise of live streaming and social media platforms has created new avenues for the exploitation of children, making it imperative for the government to adapt and strengthen its laws to keep up with these technological advancements. Failure to do so not only puts children at risk but also perpetuates the cycle of abuse and exploitation. It is crucial for legislators to prioritize updating laws and regulations to address the evolving landscape of online exploitation. Law enforcement authorities in India face challenges in combating the proliferation of child pornography due to factors such as lack of awareness and sensitivity towards the issue, rapid technological advancements facilitating

production and distribution, and low rates of prosecution and conviction. There is a need to enhance the legal and policy framework by strengthening laws, increasing awareness, and improving coordination among stakeholders (8). By implementing stricter penalties and increasing resources for law enforcement agencies, we can work towards creating a safer environment for children online. Additionally, educating the public on the dangers of child exploitation and promoting responsible internet usage can help prevent further harm. It is essential that we all work together to combat this growing issue and protect the most vulnerable members of society.

2.2 Cultural factors contributing to the issue

Cultural factors contributing to the issue of child exploitation must also be addressed in order to effectively combat this problem. By engaging with communities and raising awareness about the importance of protecting children online, we can begin to shift societal norms and attitudes towards online behavior. Additionally, providing support and resources for at-risk individuals and families can help prevent exploitation before it occurs. By adopting a comprehensive approach that addresses both legal and cultural factors, we can make significant strides in protecting children from online harm. This may involve implementing stricter laws and regulations, as well as educating children and parents on how to identify and report potential cases of exploitation. By working together as a society to prioritize the safety and well-being of our children, we can create a safer online environment for all. It is essential that we continue to advocate for stronger protections and support systems for vulnerable populations, ensuring that every child has the opportunity to grow up in a safe and secure digital world.

3. Right-Based Approach to Victim Protection

Legal rights of child pornography victims in India are often overlooked and underrepresented. In order to ensure proper protection and support for these victims, it is crucial to adopt a rights-based approach that prioritizes the well-being and dignity of the individuals affected. This includes providing access to legal aid, counseling services, and rehabilitation programs to help them recover from the trauma they have experienced. By recognizing and upholding the legal rights of child pornography victims in India, we can work towards creating a more just and compassionate society that values the safety and welfare of all children. (9) Child sexual abuse in India is a significant issue that has historically been disregarded by the criminal justice system and the general public. It involves the mental, physical, and emotional abuse of children through sexual acts and gestures. The abuser is often someone in authority over the child, and the abuse can take various forms such as molestation, rape, and exploitation. In India, young boys are sexually abused more frequently than young females. Child sexual abuse impacts the legal rights of children, as it violates

their right to life and personal liberty as protected by the Indian Constitution. Despite efforts by organizations like the Campaign against Child Labor and NGOs defending human rights, child sexual abuse remains a hidden issue with significant barriers to disclosure (10).

3.1 Role of law enforcement and child protection agencies

The role of law enforcement and child protection agencies is crucial in ensuring that child pornography victims receive the support and resources they need to heal and recover. These agencies play a vital role in investigating and prosecuting those responsible for creating and distributing child pornography, as well as identifying and rescuing victims. By collaborating with law enforcement and child protection agencies, we can ensure that children who have been exploited in this way receive the necessary care and support to rebuild their lives. It is imperative that we continue to advocate for stronger laws and policies that protect the rights of child pornography victims and hold perpetrators accountable for their actions. In India, law enforcement authorities address the issue of child exploitation and protect the rights and safety of children through the Protection of Children from Sexual Offences Act 2012, which monitors child sexual abuse (CSA) (11). The act aims to deter offenders and ensure justice for victims of CSA. Additionally, policymakers must align with international standards like the United Nations Convention on the Rights of the Child (UNCRC) and allocate resources for enforcement agencies to effectively investigate crimes against children. The judiciary and law enforcement agencies play a critical role in interpreting laws, ensuring justice, and deterring offenders, with courts setting legal precedents for safeguarding children's rights online. Specialized judicial bodies or fast-track courts can be established to handle cyber and child-related offenses swiftly. However, there are challenges related to enforcement mechanisms and accountability concerns in India's data protection laws (12).

3.2 International best practices for victim support

International best practices for victim support include providing trauma-informed therapy, access to medical care, and legal assistance to child pornography victims. By following international best practices for victim support, we can help survivors heal from their trauma and empower them to move forward with their lives (13). It is essential that we prioritize the well-being and safety of these vulnerable individuals and work towards creating a world where child exploitation is eradicated. In India, there is a need to ensure that enforcement mechanisms are robust and accountability measures are in place to effectively address data protection violations. By incorporating these elements into the legal framework, India can strengthen its data protection laws and better protect individuals' privacy rights. Include providing specialized training for law enforcement and judicial officials on handling cases

involving child victims, establishing multidisciplinary teams to coordinate investigations and support services, and ensuring that victims have access to legal aid and counseling services. It is also important to prioritize the protection of children's rights in all aspects of the justice system and to work collaboratively with NGOs and other stakeholders to provide comprehensive support for victims of cybercrimes and other offenses. (14)

4. Rehabilitation Programs for Child Pornography Victims

Existing rehabilitation programs in India focus on providing counseling, vocational training, and educational opportunities for child pornography victims. These programs aim to address the psychological and emotional needs of survivors while also equipping them with the skills and resources necessary to rebuild their lives. By expanding and improving rehabilitation programs for child pornography victims, we can ensure that they receive the support and assistance they need to overcome their trauma and thrive in the future. It is crucial that we continue to advocate for the rights and well-being of these individuals and work towards creating a society that is free from exploitation and abuse.

4.1 Challenges in providing effective rehabilitation services

Challenges in providing effective rehabilitation services for child pornography victims include insufficient funding, limited access to specialized care, and the stigma attached to being a victim of such a crime. Additionally, the long-term impact of this type of abuse on a child's mental health and well-being can present unique challenges in the rehabilitation process. Despite these obstacles, it is imperative that we prioritize the development and implementation of comprehensive and accessible rehabilitation programs to ensure that child pornography victims have the best chance at healing and moving forward with their lives.

4.2 Recommendations for improving rehabilitation efforts

There are several recommendations for strengthening the legal and policy framework for child pornography in India, including developing specialized training programs for law enforcement agencies, conducting public awareness campaigns, providing support services to victims, developing international partnerships, and strengthening cooperation between stakeholders. However, there is a need for better coordination among stakeholders and allocation of more resources to effectively address child pornography in India (15). Recommendations for future research and policy development include conducting further studies on the root causes of child exploitation in India, as well as evaluating the effectiveness of current laws and policies in preventing and addressing this issue. Additionally, policymakers should prioritize the implementation of

preventive measures, such as comprehensive sex education in schools and community awareness campaigns. Strengthening coordination and collaboration among government agencies, law enforcement, NGOs, and international partners is crucial for a holistic approach to combating child exploitation in India. By investing in research, policy development, and collaboration, India can make significant strides towards protecting its children and ending the cycle of exploitation. While preventive measures such as sex education and awareness campaigns are important, they may not address the root causes of child exploitation such as poverty, lack of enforcement of laws, and cultural norms that perpetuate exploitation. Additionally, collaboration among government agencies and NGOs may be hindered by bureaucratic red tape and conflicting agendas.

5. Conclusion

Overall, addressing child pornography in India requires a multifaceted approach that includes legal reforms, awareness campaigns, victim support services, and international cooperation. By implementing these recommendations and fostering better coordination among stakeholders, India can make significant strides in combating this heinous crime and protecting vulnerable children. It is crucial for the government, law enforcement agencies, NGOs, and international partners to work together towards a common goal of eradicating child pornography and ensuring the safety and well-being of children in India.

This collaborative effort must prioritize the enforcement of existing laws related to child pornography, as well as the creation of new legislation to address emerging challenges in the digital age. Additionally, increasing public awareness about the dangers of child pornography and the importance of reporting suspicious activities can help prevent its spread and protect children from exploitation. Victim support services must be strengthened to provide comprehensive care and assistance to survivors, including counseling, legal aid, and rehabilitation programs. International cooperation is also essential in combating the global nature of child pornography networks and holding perpetrators accountable across borders. By working together and taking decisive action, India can create a safer environment for its children and send a strong message that child exploitation will not be tolerated.

Importance of a holistic approach to addressing child pornography in India. Therefore, a holistic approach to addressing child pornography in India must encompass not only preventive measures and awareness campaigns, but also tackle the underlying issues of poverty, enforcement of laws, and cultural norms. This approach should involve close collaboration between government agencies, NGOs, and other stakeholders to overcome bureaucratic hurdles and align agendas towards the common goal of protecting children and ending exploitation. By addressing the root causes and working together towards a common purpose, India can

make significant progress in eradicating child pornography and ensuring the safety and well-being of its children.

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