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DEFINING JUSTICE FOR CHILDREN: INDIA'S SUPREME COURT LANDMARK ON ONLINE SEXUAL EXPLOITATION

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ABSTRACT

This paper critically examines the landmark judgment by the Supreme Court of India which decisively clarifies the criminal liability associated with accessing, storing, or viewing online sexual exploitation material involving children under the Protection of Children from Sexual Offences (POCSO) Act, 2012 and the Information Technology Act, 2000. The Court's adoption of the theory of constructive possession and its nuanced interpretation of Section 15 of POCSO and Section 67B of the IT Act resolve conflicting High Court interpretations and firmly establish the legislative intent to penalize even private consumption of exploitative material. A significant contribution of this judgment is the directive to replace the term “child pornography” with “Child Sexual Exploitation and Abuse Material” (CSEAM), marking a pivotal shift in legal and societal discourse that rightly emphasizes the gravity of child sexual victimization and rejects misleading terminology that trivializes such abuse. The paper also highlights the Court's recommendations for a holistic approach to prevention and rehabilitation—stressing the urgent need for robust victim support services, specialized offender rehabilitation programs, and comprehensive sex education initiatives. Furthermore, the study discusses the role of schools in early identification and prevention of problematic sexual behaviours and advocates for legislative reforms to facilitate accessible online reporting mechanisms for CSEAM. By contextualizing the judgment within broader child rights protection frameworks, this paper underscores how a multifaceted and sensitive legal response can strengthen child safety in the digital age and ensure that justice for children remains a central priority.

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INTRODUCTION

The Hon'ble Supreme Court of India has clearly established the criminal consequences connected with accessing or storing pornographic content involving children in a decision that satisfies all the objectives set out by the Protection of Children from pornographic Offences (POCSO) Act, 2012.² In addition to clarifying the law, an appellate bench of three judges underlined the legislative intent behind presuming the culpable mental state of people who access and view online child exploitation material, so highlighting and categorically specifying the grave society issues resulting from its unrestrained, uncontrolled, widespread, easy-to-access, pervasive, and out-of-control availability.

Not only that, but the Hon'ble highest court also backed the idea of not using the word "child pornography," which the legal system saw as watering down the seriousness of the crime. As an alternative, the court suggested that institutions, including lower courts, start using the phrase "Child Sexual Exploitative and Abuse Material" (CSEAM) to more accurately describe the horrific and serious nature of the crime. What this step does is convey profound meaning; it is not just an etymological or illustrative shift.

BACKGROUND

The decision of the nation's supreme court clarifies many questions related to particular provisions of the Information Technology Act, 2000,³ and the POCSO Act, which had resulted in different interpretations by different High Courts all around the nation. This case, decided by the Supreme Court, started from a Madras High Court decision rejecting criminal actions against a person for viewing child sexual content, based on the law only criminalised the production and distribution of such material, not its private consumption. Annuling the High Court of Madras's ruling, the Hon'ble Supreme Court adopted the theory of "constructive possession." Under Section 15 of POCSO,⁴ the act of viewing or showing the contested material online—even in the absence of physical downloading or storage—is judged to constitute "possession" provided the individual exerted some influence over the content. The Court underlined that some facts, such the viewer's failure to delete, destroy, or report the item in issue, would allow one to deduce a goal for distributing or transmitting the contested material. The decision cautions against a restrictive interpretation of the special legislation, thereby affirming the legislature's intent to penalize cyber offenses involving children that severely disrupt societal

² The Protection of Children from Sexual Offences (POCSO) Act, 2012.

³ Information Technology Act, 2000.

⁴ The Protection of Children from Sexual Offences (POCSO) Act, 2012, Sec 15.

structures and adversely affect numerous innocent individuals, particularly young children and their families. It pertains to the essence of life rather than merely an action executed by the perpetrator. It is critically important to safeguard the innocent youth addressed by this legislation.

The Court further elucidated Section 67B of the IT Act⁵ as a crucial measure addressing various forms of online exploitation and abuse of children. The Court subsequently reminded the virtual and digital platforms, as well as intermediaries, of their responsibility, consistently emphasized in judicial rulings, to eliminate the contested content and report it to the appropriate authorities in accordance with the Act's provisions.

The court also advised the government to run thorough sex education campaigns combining moral and legal angles on child sexual abuse material. This advice is very important and requires quick and efficient government and departmental response.

CHILD SEXUAL EXPLOITATION AND ABUSE MATERIAL: CSEAM

The phrase "Child Sexual Exploitation and Abuse Material" (CSEAM) sounds like a deliberate, purposeful, and very important development of the language meant to face the harsh reality that exists behind such content that harms many extremely. Unlike the term "child pornography," which does not adequately portray the seriousness of the acts, CSEAM clearly names materials of such nature as evidence of criminal activity where children are subjected to permanent and significant damage.

The term "child pornography" is misleading and dangerous. The term has along with it a weighty meaning of consensual participation, even where none exists, and risks minuting the intensity of the offences that are brutally committed. CSEAM, as a contradistinction, directly takes into consideration that such impugned materials are a result of innocent, immature, not capable of consenting - children being coerced, exploited, or abused for creation of such content.

The focus in this regard shifts from mere imagery and unrealistic to the actual acts of violence and exploitation they portray. The vulnerable children who appear in materials like these are not participants in any sense of the word—they are the real victims. They are susceptible to their vulnerabilities. Their involvement in the impugned materials is actually a result from manipulation, coercion, or outright violence they are forced into. By naming this content as the rightful name it deserves, the court ensured and reflected that the focus actually stays on the harm which is inflicted

⁵ Information Technology Act, 2000, Sec 67B.

upon the child, rather than diluting it with a phrase or terminology that minimizes or diminished their big, grave and deep suffering.

The shift to using CSEAM cannot be referred to as a linguistic adjustment that the court did but as a call to action and proper forces given to the legislative intent. It compels lawmakers, law enforcement agencies, courts of law administering justice, and the huge public in the society at large to treat such sensitive issues with the gravity and seriousness and not merely a crime that can be condoned easily. The court, by doing so promotes the creation of an environment where the rights and dignity of children are a big priority, and the offenders are held guilty and are punished for the crime.

Precisely, by the adopting the term “Child Sexual Exploitation and Abuse Material,” the court took a much-needed step towards reshaping societal perspectives and behaviours, including that of courts of law. The focus thus comes on the reality or the truth of what these materials represent - harrowing documentation of children’s suffering—and reminds us of our collective responsibility to combat such atrocities on children.

The proposal to revise the Protection of Children from Sexual Offences Act, 2012 (POCSO) by replacing the term “child pornography” with “child sexual exploitation and abuse material” (CSEAM) is a significant and commendable measure aimed at reinforcing the legislative intent regarding the seriousness and reality of these offenses.

The current term in practice, fails to lay actual focus on the victim’s suffering and trauma, thereby reducing the involved abuse in the crime. CSEAM supports the vital children rights and dignity violation, thereby assuring that the language of law shows proper empathy and seriousness. This change also assists in creating a sensitized atmosphere for law enforcement agencies, judiciary, clarifying that such materials “inappropriate content” as well as the offence needs on point and stringent action.

HOLISTIC AND BALANCED APPROACH: VICTIMS SUPPORT AND REHABILITATION FOR OFFENDERS

The struggle against child sexual exploitation and abuse material (CSEAM) cannot be limited alone to punitive measures. Taking note of the intense trauma of victims and the psychological effects on violators is equally important for creating a healthy atmosphere in the society. A two-pronged approach—comprehensive support services for the child victims and specifically designed rehabilitation programs for offenders—ensures healing of the former and prevention of crimes by the latter.

Victims of child exploitation and abuse carry with them brutal emotional and psychological scars that calls for sustained attention. Implementation of effective support services must prioritize their physical and mental well-being, thereby giving the tools for recovery and empowerment.

The crime victims grapple with trauma, shame, and anxiety, which can have lasting impacts on their self-esteem and mental health. Counselling, provided by trained professionals specializing in child trauma, is crucial to note these issues. Regular sessions should be employed and trauma-focused therapies such as Cognitive Behavioural Therapy (CBT) or Eye Movement Desensitization and Reprocessing (EMDR) must be given in order to help victims process their experiences and reclaim their sense of safety.

Art therapy, play therapy, and narrative therapy are also non-verbal modalities of expression for children as they express and process their emotions. Group therapy is the type that enables victims to link themselves with other cross-challenged peers and helps create a sense of community through mutual healing. Exploited and vulnerable children usually experience interruptions in schooling, increasing alienation and denying them favourable opportunities thereafter. For effective integration back into learning, specially tailored programs should meet the diverse special needs. Scholarships, mentorships, and career guidance would feature highly in the tools to help them recreate their lives and establish worthy aspirations. Rehabilitation Programs for Offenders Rehabilitating offenders who consume or distribute CSEAM is complex, but vital to reduce demand and prevent re-offending. Treating individuals without a cognitive and behaviour change would hold them in the cycle of harm without treatment. Psychological reformation, accountability, and empathy building should be key focus areas of comprehensive rehabilitation.

Cognitive-behavioural therapy is effective at addressing the cognitive distortions and rationalizations that encourage offending behaviour. Offenders can learn to adopt a healthier perspective by identifying and challenging his cognitive distortions. For instance, for offenders, the belief that they are prompting themselves to minimize the harm done by their actions, consider the victim as a human being, and dismantle any justification for their action are challenged.

Empathy building is one of therapeutic rehabilitation components. In therapy sessions, offenders should be engaged into understanding the very deep and long-lasting effects of harm that their actions inflict on victims. This may entail role playing, victim impact statements, and guided conversations whereby fruits of their actions can be internalized by offenders.

“Impulsivity management and relapse prevention techniques” are required in rehabilitation programs, which provide practical resource tools to offenders for controlling hair-trigger impulses.

The mind can be learned through training in stress management application for not so obvious triggers of conditions in healthy coping behaviours.

Supervised reintegration back into society should occur immediately after rehabilitation and should not be avoided for any reason because it prevents recidivism. It may include regular check-ins with and access to resources of pooled support groups, and the strict adherence to limitations by the legal restrictions on Internet use.

This is the road that needs to be built towards prevention and recovery. Services for the victims and the rehabilitation programs for the offenders will need to work together to treat causes and effects of child sexual exploitation. The establishment of rehabilitation provides a mechanism for such offenders to control further cycles of abuse and thus protects potential victims. Service provision will allow victims to heal and build their lives in preparation for empowerment.

By investing in these programs, society takes a compassionate yet resolute stance: prioritizing justice, healing, and prevention over punitive measures alone. This holistic approach fosters a future where children are safeguarded, and offenders are given the opportunity to reform, thereby reducing the prevalence of these abhorrent crimes.

THE ROLE OF SCHOOLS

Schools are instrumental in shaping the values, behaviours, and social understanding of children and adolescents. They have a responsibility that is different from the rest because it includes identifying earliest signs of problematic sexual behaviour (PSB) in individuals and intervening before it gets worse. More than that, schools can make a significant contribution through comprehensive, developmentally appropriate educational programs, teaching kids values such as respect, consent, and healthy relationships from an early age to prevent PSB from developing early on.

Early Identification is very important. Teachers and the whole school staff have to be trained so that they can properly identify indicators that may indicate PSB, behaviours like inappropriate interactions, behaviours, or language between students. In the early identification of these behaviours, the intervention may happen early and appropriate for those requiring counselling or other support services. Besides, differences in behavioural changes, moods, or social interaction emerging may signal a child's exposure to inappropriate materials or harmful experiences - hence the teachers are critical in this matter.

They should tie themselves to counsellors and child psychologists for schools who can intervene and assess behavioural problems in students. Psychological support from the earliest possible time determines the impact it will have on reducing risks of harmful behaviour at a later time.

There is a need for an age-appropriate early integration of curricula that stress mutual respect, boundary making, and emotional intelligence in relationships, which would be a major tool for schooling-age children to learn how to conduct their interaction with others. Such a curriculum would lay the foundation for healthy future relationships where students learn the essence of respect in accessing social interactions regardless of their viability since this will prepare them for the short and equivalent relationships they would get into-that is not only romantic but also friendships, from family, peer interactions, and so on at that point in their lives.

Teaching children about consent is one of the core areas that need to be instituted in the prevention of PSB. Programs should describe and show that consent is a clear mutual and continuing "yes" that it is a person's agreement to enact an act. This type of pedagogy should be integrated into other regular lessons on social behaviour and personal autonomy such that children understand their rights as well as the rights of others. Such an idea on teaching children to recognize bodily autonomy and boundaries would go a long way in curtailing the chances of future exploitation.

Schools should define and present examples of inappropriate sexual behaviours and the reasoning that makes those behaviours harmful and unacceptable. They might use role-playing and discussions and interactive activities for this. There are at least two things that students should learn through these. First, they should inform them of consequences that may be associated with such behaviour for the lifetime avoidance of PSB from being normal in thinking.

On the contrary, enhancing emotional self-regulation and social skills is more beneficial to children in helping them cope with various emotions when they feel attracted to someone or are simply curious or frustrated. Schools can assist by offering emotional literacy classes aimed at teaching children the best emotional management techniques, conflict resolution through peaceful means, and how to source help when they feel overwhelmed.

PREVENTION: CREATING A SAFE ENVIRONMENT

An educational program would include instituting an environment of trust and safety within schools, inviting students to discuss their private concerns without dread of being judged or punished judgment. Needs assessment tools should be ready to afford counsel services. Mechanism for reporting concerns on sexual behaviour or abuses should be in place.

Parents and guardians are the very few who would make a good recipe for a school-based program to be a success. Schools would further engage families in prevention efforts: conducting workshops or being resourceful to those parents who feel ill-equipped to further enforce lessons about consent and healthy relationships at home. Inculcating parents' knowledge on signs of PSB, coupled with strategies for open communication would indeed succeed. This would somehow strengthen the overall safety net for children.

They are strategically placed in the provision of required conditions necessary to very early identification and prevention of problem sexual behaviour. The school can, through well-planned comprehensive, inclusive, and age-appropriate educational programs, equip children with the knowledge, skills, and understanding to respect and manage relationships responsibly. In addition, by establishing an environment of safety and trust, students will be able to contact the support they require to address behavioural concerns before they escalate.

CHANGES IN REPORTING SYSTEM

In the ongoing efforts against the growing threat of Child Sexual Exploitation and Abuse Material (CSEAM), some of the most important areas that require attention are the ease and accessibility with which the general public may report such occurrences. To this end, we strongly urge the Parliament to amend Section 15, subsection (1) of the Protection of Children from Sexual Offences Act (POCSO) to create much easier and faster reporting engines for members of the public. This amendment would also include provisions for the public to report storage or possession of CSEAM through an online portal and create a user-friendly, safe, and accessible platform for reporting serious crimes perpetrated against the designated authorities.

Such an increase in accessibility and convenience calls for Online Reporting Portal Case. One of the major barriers that would impede the reporting of CSEAM is the physical and logistical challenges that persons must overcome in order to reach the relevant authorities. However, with an online portal, those personal physical travel barriers will be significantly reduced. It is going to create an opportunity for people far and wide to participate in reporting such very sensitive sexual crimes. The online portal further lends itself to anonymity mode of reporting for individuals who would otherwise avoid the whole ordeal of going to report due to fear of retaliation or stigma. This contributor could cause far-reaching reporting outcomes and involvement of the public in addressing the serious concern.

Reporting CSEAM in its current form may involve a cumbersome and long process, so it may translate to discouraging reporters. An online portal is expected to provide a very simple and easy

way to enter information collected without special programming. The portal can host popular features to guide users through the reporting process so that reporting is very concise. This will help in reduction of big and small errors and make it much easier for the assessment and prompt action by the concerned authorities.

Establishing an accessible reporting system would allow the general public to actively participate in the eradication of CSEAM. Indeed, the general public turns out to be a crucial player in identifying and reporting criminal activities; particularly, with proper 'tools and platforms to do so'. An online portal would also serve as a means for educational outreach to the public regarding what material falls within CSEAM and the legal ramifications for possession or distribution.

Considering the extremely sensitive nature of the crime, it must also ensure that anonymity is paramount for online reporting and confidentiality concerning the person who is reporting evidence. Anonymous reporting; encrypted data submission to protect reporters' identity would encourage many people to open up without fear of vengeance or attrition. Also, it provides that the privacy of victims and other actors is respected throughout the reporting and investigation periods.

The success of an online reporting portal depends on its security. Given the nature of the material to be reported, authorities must make sure that the portal is immune to cyber threats and data breaches. Robust encryption and reliable authentication protocols must be implemented to protect both the reporters' and victims' information. Furthermore, making sure that the portal is efficient and constantly scalable to accommodate very many reports makes it effective into the future.

By creating a consolidated database for all CSEAM reports, an online reporting portal can enable monitoring and tracking of the complaints. This should help law enforcement and regulatory agencies effectively mine this information for quick identification of patterns, trends, and potentially harmful offenders.

This would indeed establish a platform that brings together various stakeholders-much of it would involve moving from the police to child protection services, and in areas often involving non-governmental organizations-into a more synergized and timely response to CSEAM incidents. International cooperation: Since both the Internet and the distribution of CSEAM are global, India also needs to consider the cross-international implications on reporting. A national online portal could connect with international organizations as well as law enforcement bodies such as INTERPOL.

A statutory introduction of online reporting for CSEAM under the proposed amendment to Section 15 (1) of POCSO can be seen as a progressive and crucial milestone in the fight against the sexual exploitation of children. In terms of accessing, processing, and reporting information in a secured and more simplified way, such legislation may further assure higher public participation and lead to quicker and more efficient police action and a better child protection system. It is in this cyberspace that current laws and reporting systems need to spread their wings and fly; this amendment will raise the bar in protecting children against such abuse.