
COMBATING THE CLUTCHES OF CYBER DELINQUENCY IN INDIA

Chhavi Gupta, NMIMS, Kirit P. Mehta School of Law

ABSTRACT

A nation's future is carried on the shoulders of its children. It is critical for a country's development that its youth follow the correct path. However, just because a youngster engages in behaviour that is inappropriate for a community and deviant behaviour in character doesn't always imply he is no longer eligible to be a member of society. Children have a delicate mind that may be steered in the right direction with the right instruction. The purpose of this article is to explore why juveniles are becoming increasingly involved in committing crimes with the use of technology famously termed *cybercrimes*. Many of the notions of juvenile delinquency and rehabilitation may be altered by the arrival of the new crimes which are being committed over cyberspace. Technology which is supposed to be geared towards their progress is turning to be their adversary. Juveniles behaviours throughout India demonstrate an obsessive form of texting behaviour, however, there is a lack of understanding and awareness regarding the potential of cybercrime. The statistics not only demonstrate the enormous popularity of the internet and the usage of social media platforms, but they also show that Indian juveniles are unaware of the potential threat of cybercrime due to heavy normalisation. The study goes on to discuss how juveniles perceive cybercrimes and how the Indian legal system might prevent children from committing cybercrimes.

Keywords: Juveniles, Cybercrimes, Cyber delinquency, Indian Legal system

Introduction

Cybercrime has become a worldwide issue that has engulfed the entire planet. India is likewise not immune to its snares. It is a one-of-a-kind menace that has no bounds. It can be done from any location on the planet and against any computer system. This problem has grown into a worldwide concern that is getting increasingly difficult to address.

The phrase "cyberspace" was coined by William Gibson, who subsequently characterised it as "an emotive and basically meaningless" catchphrase that might serve as a code for all of his cybernetic ideas. It's now used to describe everything having to do with computers, information technology, the internet, and the internet's complicated culture. It's made up of intangible items like a website, a forum, social media accounts, personal data, reputation, and email addresses. Cyberspace may be described as an online global community with fast connections and no geographical boundaries.¹ Cyberspace, the current frontier, is humanity's shared history; yet, certain people abuse the common inheritance, and thus cyberspace is a new frontier with diverse types of criminality.

Cybercrime, in layman's terms, is 'illegal activities involving a computer network or computer. The multidimensional character of cybercrime, on the other hand, cannot be accurately stated in such simple and limited terms.' Cybercrime, according to Pavan Duggal, is any behaviour carried out in cyberspace or via online media with criminal intent. These might be traditional criminal activities or new criminal activities that have arisen as a result of the advent of new media. Any behaviour that fundamentally offends human awareness may be included in the definition of cybercrime.

Due to a lack of cyber legislation, new generation-juveniles who would ordinarily think twice before committing an offence offline such as pickpocketing, robbery, and so on, do not hesitate to transgress internet ethical limits and be held liable for a cybercrime. The availability of the internet on low-cost, portable devices around the clock, along with anonymity, is akin to the "genie and the magic lamp" for children and teenagers, allowing them to fulfil their seemingly limitless fantasies with a single mouse click. As technology advances at a breakneck pace, it adds additional dimensions to the obligations of parents, teachers, and lawmakers. Projects, homework, research, and filling out online forms are all part of today's educational system.

¹ Anirudh Rastogi, *Cyber Law- Law of Information Technology and Internet*, p. 2 (2nd ed. 2014).

Human beings are fragile, hence the rule of law is essential to safeguard them, according to Hart's work "The concept of law."² When it comes to cyberspace, we can state that computers are susceptible, and that rules are needed to secure and safeguard them from cybercrime.

Research Problem

1. The research is predominately undertaken to investigate the trajectories and paths that lead to 'cyber-criminality'. Why the probable path from technologically gifted and interested juvenile/minors to become cyber juvenile delinquent, lone cybercriminal, and organised cybercrime was explored in this study.
2. The research also intends to explore the punitive measures that are being adopted to combat such juvenile cybercriminals in the Indian juvenile court system.

Research Objectives

1. To explore why more and more juveniles are being indulged in cybercriminal activities knowingly and unknowingly.
2. The author intends to achieve the aim of this research by highlighting cyber delinquency and its prevention and control being undertaken by Indian legislation and the juvenile court system.
3. The author also tries to illuminate the concept of normalised behaviour of juveniles in committing cyber wrongs which can practically have legal complications.

Cyber Delinquency

A juvenile is someone who is immature and is treated as if they were a child. In legal terms, everyone under the age of 18 is considered a juvenile. After the 2012 Delhi gang rape case, a new bill was introduced that dropped the age limit from 18 to 16 years. Juvenile offending is when a youngster engages in illegal behaviour when he or she is under the age of majority. In juvenile incarceration, they are rehabilitated via education and counselling (juvenile home). Cybercrime is one of the most pressing challenges of our time, and it refers to illegal acts carried out through the internet, on computers, or through mobile phones. Nowadays, the internet, computers, and mobile phones play a large and crucial part in the lives of everyone, especially youngsters. Juveniles are one of the most hazardous concerns in cybercrime since they are the ones who will be sustained in the future. *As a result, there is a gap in the law that deals with juveniles involved in cybercrime.* Although society is fast changing, the norms and

² Dr. Bharat Patel, Juvenile Cyber Crime, 13 research guru : online j. multidiscip. subj., 570,570-570 (2019).

regulations of the law have changed slightly, but not significantly, in accordance with the fancy new society.³

Year after year, the number of cybercrime victims grows. Cyber delinquency, on the other hand, has been steadily expanding. If we look at the statistics from the National Crime Record Bureau, we can see that cyber delinquency is on the rise. The reasons for this are numerous, yet the problem remains unsolved. The amount of time minors spend online is growing every day, putting them at greater risk. In India, juveniles have recently become involved in new types of cybercrime.⁴

One of the most prevalent internet offences perpetrated by juveniles is 'digital piracy,' which is "the sharing and/or downloading of software, digital music, and movies without the consent of the copyright owners". Most students/juveniles do not regard such downloading to be stealing and do not feel it is ethically bad. They probably believe that when you download a copy of a music, you do not deprive the owner of the use of that song, as you do when you take a real thing. Viewing and distributing pornographic content, as well as performing sexual offences, is another prevalent teenage cybercrime.

On April 13, 2009, The Times Of India published an article in which it was revealed that **minors are now more prone than ever to engage in juvenile cybercrimes such as hacking and internet bullying**. The juvenile board rejected to let the accused minor leave after he was accused two years ago of making a website containing derogatory statements about his peers. The youngster was a Class 11 student at the time, and he was the first adolescent to be charged with cybercrime.⁵

Wang Zhengyang, a 13-year-old Chinese "hacking prodigy," broke into a school web server in 2014 to gain answers to his homework. In a second instance, a British teenager who acted as a "hacker for hire" from his bedroom was exempted a custodial sentence after orchestrating cyber strikes against global organisations. This adolescent was just 13 years old when he joined an online hacker group. It is undeniable that recent hacking incidents have resulted in the arrest of juveniles. It is widely recognised in the behavioural sciences that recklessness and likelihood

³ R Kalaivani, Muthu Kumar, *Juvenile delinquency in cyber crime*, 2 Int. J. Acad. Res. 624, 624-626 (2017).

⁴ Astha Srivastava, Shivangi Sinha, *Cyber Delinquency: Issues And Challenges Under Indian Legal System*, IJEAT 1427,1427-1428 (2019).

⁵ Times Of India, *juvenile faces trial in cybercrime*, <https://timesofindia.indiatimes.com/city/delhi/juvenile-faces-trial-in-cyber-crime-case/articleshow/262799.cms>, (last visited Dec, 12, 2021).

behaviour rises throughout the exploratory adolescent years. For quite some time now, there have been allegations of an increase in teenage engagement in illegal activities online commonly termed as cybercrimes.

Legal aspects related to juveniles committing cybercrimes

Individuals who have access to and utilise the Internet for personal communications are exposed to contexts where pro-social effects are less effective in their young lives. Given the scarcity of skilled guardians, flirtation with new identities is a possibility. As a result, anonymity online relieves people of their feeling of responsibility, which may inspire or empower them to act in ways they wouldn't in real life. The **apparent inadequacy of the juvenile justice system to adequately hold juveniles accountable** for their conduct lead to increased criminality. Juveniles believe the juvenile justice system does not represent their ideas and values, the institution loses credibility. As a result, it has extremely **little power to properly govern or discipline their behaviour**. In order to provide a thorough theoretical explanation of cybercrime, which tends to be patrolled and implemented in radically different ways than conventional offline misbehaviour and crime, ambiguity in connection to the policing of digital drift is a critical factor that requires elucidation.

The Information Technology Act Amendment of 2008 made steps to mitigate cybercrime, but from the standpoint of children's safety, which doesn't have much to offer other than Sec 67 B. Though it was a start toward reducing cybercrime against children, the point of juveniles wreaking havoc on the internet was overlooked. Despite kid instances being brought to light previous to the modifications and online mischief being performed by children prior to 2008, **no further offences connected to children have so far been articulated under the IT Act**. The Indian government has indicated that it is considering imposing lower penalties on adolescents and first-time offenders involved in cybercrime.

The Indian penal code does not utilise the word "cybercrime" at any time, even after its revision by the information technology (amendment) Act 2008, The Indian cyber legislation, However, section (2) (b) defines cyber security as "safeguarding information, equipment, device, computer, computer resource, communication device, and information held therein against illegal access, use, disclosure, disruption, modification, or destruction." There have been reports of cybercrime all across the world. The current occurrence offers a unique difficulty in that virtually all of the minors entangled are under the age of 18, placing it under the purview

of the Juvenile Justice (Care and Protection of Children) Act 2015. An examination of the portions of several Acts that may be applicable to the aforementioned offence would aid in comprehending the applicability of the Juvenile Justice Act. The current IT Act prevailing in India is vague and is full of huge gaps which are yet to be filled in to keep up with the changing times with special regards in juvenile perspective.

Suggestions

“To fight and win all your battles is not the acme of excellence. Supreme excellence lies in subduing your enemy without fighting” – Sun Tzu.

“Ignorantia Legis Neminem Excusat”- A basic rule of *“law ignorance excuses no one”*, therefore not understanding the rules and restrictions on the internet does not exempt a wrongdoer from legal obligation just because they are uninformed of the information⁶. Most youngsters do not see cybercrime in about the same perspective

as physical crime, and they must be taught that criminal activities online have real-world repercussions and cost perpetrators of violence a lot of money and mental pain.

Schools and institutions should mandatorily make cyber ethics as a necessary component of their curriculum. There are fair and comprehensive chances for a secure online future with moral cyber ethics if a child's childish nature is formed in the appropriate way at the right time. Focusing on the role of local educational institutions in formulating regulations and guidelines to enhance cyber moral awareness in order to successfully enforce international human rights norms would surely be beneficial. Not only should the government develop competent curator organisations, but it should also enact rules and regulations in schools for the purpose of it. It is funny as to how till class 10th there was a compulsory subject known as value education for the moral conduct of the minors in the offline society but there is no subject as cyber value education in the now new rapid growing online society.

The present legal framework must be altered in order to prevent and govern cybercrime. Children who become cyber criminals should not be handled in the same way as minors who commit other types of crimes. It is vital that our lawmakers understand the particular characteristics of cybercrime. Some of these crimes are committed out of curiosity and

⁶ Dr. Aarti Tolia, *cyber bullying – the repercussion of lack cyber governance in India*, Int. j. eng. res.gen. sci. 178, 178-179 (2015).

ignorance of the consequences, while others are pre-planned and involve extensive forethought. As a result, cyber criminals should be classed separately.⁷

Conclusion

“After analysis of investigations involving the NCA’s National Cyber Crime Unit over the last year found the average age of suspects to be 17.”- The National Crime Agency.

The internet is becoming more extensively utilised, and the number of young people who have access to it is fast increasing across the world. Unless and until comprehensive and effective safeguards are implemented, the number of young people willing to engage in online crime will continue to climb at an alarming rate. Given these factors, how can a probation officer who may not be computer knowledgeable oversee a juvenile hacker capable of creating his own software programmes? One simple method is to deny the offender computer access. But, in a culture where computer skills are prized, how does this affect children's and teens' education and development? Is this a plausible situation for a delinquent with easy access to computers at home, schools, and libraries, among other places? Will standard rehabilitation tactics work for computer criminals? Is there a difference between them and a "typical" juvenile criminal, and if so, what are the differences? Will the proliferation of new technology lead to a rise in cybercrime? These challenges must be addressed by correctional systems and juvenile legislations governing the juveniles.

According to this research, several factors may contribute to minor's judgments of the lack of legitimacy of many of the laws that apply to common online behaviours among young people. This point of view is informed, in part, by personal experience with discrepancies in the competency and consistency of actions performed by both public and private system actors. It also arises from a level of defiance or rejection of the values involved in upholding the law and other sorts of cybercrime bans. Minors may believe that their internet activities are secret, that no one will ever know, that their posts boasting about their criminal activities are truly private, or that nothing that transpires in cyber domain is real. Exploration and experimentation have always been important parts of a child's learning process. Unfortunately, their studies and experiments might lead youngsters to unlawful virtual realms, where they can become juvenile delinquents without ever really articulating it.

⁷ Astha Srivastava, Shivangi Sinha, *supra* note 4, at 1427.

Bibliography

Statutes

1. Information Technology Act, 2000.
2. Juvenile Justice (Care and Protection of Children) Act 2015.

Books

1. Anita Lavorgna, *Cybercrimes: Critical issues in a global context* 3 (2020).
2. Anirudh Rastogi, *Cyber Law- Law of Information Technology and Internet*, p. 2 (2nd ed. 2014).

Case Laws

1. Mukesh v. State (NCT of Delhi), [(2017) 6 SCC 1].

Research papers

1. Mukta Batra, *Cyber-Bullying in India: The Search for a Solution Why the Current Law is Ill-Equipped in the Face of Cyber-bullying*, SSRN (Feb 17, 2014).
2. Jigar Shah, *A study awareness about cyber laws or Indian youth*, IJSRD (Nov-Dec 2016).
3. L Jaba Sheela, *A survey on datamining in cyberbullying*, IJRICC (July 2014).
4. Narula S, Jindal N, *Social Media, Indian Youth and Cyber Terrorism Awareness: A Comparative Analysis.*, J Mass Communicat Journalism (2015).

Newspapers articles

1. Dwaiayan Ghosh, *kids getting dragged into cyber crimes at an alarming rate: cops*, Times Of India, Dec. 20, 2018., <https://timesofindia.indiatimes.com/city/kolkata/kids-getting-dragged-into-cyber-crime-at-an-alarming-rate-cops/articleshow/67172811.cms> .

Websites

1. *High school cybercriminals wreaking havoc*, Freedom free from magazine, (last visited on Dec 12, 2021), <http://f3magazine.unicri.it/?p=88> .
2. Jin Ree Lee & Thomas J. Holt, *Assessing the factors associated with the detection of juvenile hacking behaviors*, Frontiers In Psychology (May 5, 2020), <https://www.frontiersin.org/articles/10.3389/fpsyg.2020.00840/full> .

3. Molisha Chowdhury, *Legal provisions in India against sharing of obscene content online in light of bois locker room incident*, Mondaq (July 02, 2020), <https://www.mondaq.com/india/publishing/959952/legal-provisions-in-india-against-sharing-of-obscene-content-online-in-light-of-the-bois-locker-room-incident> .
4. Budhitya Ghosh, *Bois Locker Room: Cyberime and Juveniles*, Lexinsider (May 19, 2020), <https://lexinsider.com/bois-locker-room-cybercrime-and-juveniles/> .
5. *Average of cyber crime suspects falls to 17*, tmforum (last visited on Dec. 13, 2021), <https://inform.tmforum.org/news/2015/12/average-age-of-cyber-crime-suspects-falls-to-17/> .