
LEGAL PROTECTION AGAINST ELDER ABUSE IN DIGITAL SPACE

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ABSTRACT

Digital technology is a unique innovation that has revolutionized the ways we interact, conduct transactions, and obtain necessary services. The society is indebted to this innovation and actively uses it to fulfill its needs. The digital space provides unlimited entertainment and services, and keeps the world hooked to it. There are various platforms available in the digital space that provide all kinds of services, but at the same time, it is also accompanied by harmful risks. Unfortunately, the elders are seen as easy targets and become victims of digital abuse. This discourages the elderly population from being a part of the digital world. Digital abuse against the elderly has become a worldwide issue, and it is worrisome the way the issue is worsening. In this article, various acts will be discussed addressing this issue, and an understanding of the possible solutions will be provided to combat the issue of elder abuse in digital spaces. A comparative analysis of the laws of major countries will also be done to identify best practices that can be adopted in India.

Introduction

The digital space has developed a lot over a period of time, and many new digital platforms have been created, which have made work easy and convenient for a major population. There are various kinds of crimes and abuse committed on digital platforms, such as phishing, identity theft, financial fraud, online scams, etc. The perpetrators target senior citizens and abuse them, who in reality are not digitally literate and well-versed in the online safety procedures.

India has various legal frameworks that have been introduced and implemented, such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which addresses elder abuse in physical and familial settings. However, India does not have laws that specifically address elder abuse in digital spaces. There are certain cyber laws that have been introduced, such as the Information Technology Act, 2000, which was further changed in 2008, that address cybercrimes and online abuse, but do not specifically deal with the abuse and vulnerabilities of the elderly population. Recently, the Digital Personal Data Protection Act of 2023 was introduced, but it is still inadequate in addressing elder abuse. These highlight the urgent need to create a uniform and stringent framework that would be efficiently addressing elder abuse in the Digital space.

The elderly population has always been at a risk of being abused and victimized due to the absence of a strong framework and effective implementation. There are inadequate institutions for elderly victims, many lack digital literacy and are not aware of their rights and procedures to report abuse, and all these are major problems which has made many senior citizens suffer in silence. There is an immediate requirement to address these problems and provide a safe and accessible legal system that will help our senior citizens to no longer suffer and continue to be a part of the digital society.

Understanding the Concept and Forms of Elder Abuse in Digital Space

Elder abuse refers to an act committed in a trusted relationship between the parties, and no actions were taken to prevent the harm suffered by the elder. Abuse causes the violation of the human rights, which includes social, physical, and mental harm being done to the elderly. The perpetrators take advantage of the vulnerability of the senior citizens and exploit, manipulate, and deceive them through digital mediums. As the technology progresses, the dependency on digital platforms has also increased. Many day-to-day activities are now being carried out on

digital platforms such as banking, basic communications, social activities, healthcare, etc, and many senior citizens are becoming victims of digital abuse. Due to the lack of a uniform legal framework, many of these crimes go unnoticed and are not reported at all.

Many of our elders are scared and hesitate to report digital abuse crimes due to the established perspectives of abuse and its reporting process. Digital abuse can be committed by anyone, including family members, caregivers, and acquaintances. As there is a constant increase in digital abuse against the elderly, there is a need to formulate an elaborate and simple legal framework with respect to digital abuse.

There are various forms of digital abuse that are committed on digital platforms, especially on senior citizens, due to their intellectual loss, digital illiteracy, social anxiety, loneliness, etc, and some of the abuse is-

a) Financial Fraud and Scams¹- This is one of the most common and prominent crimes that is committed against the elderly population. In this kind of crime, the individuals act as genuine officials of financial institutions and fool them, through this act, they obtain personal and confidential information, which will be used to fulfill their ill intentions. This act is done by sending phishing messages, emails, or SMS that seem to be genuine, and a large sum of money is promised to be given through lottery, fake investment schemes, etc, through which the offenders gain access to the data and the device and exploit the elders.

b) Identity theft and Personal Data misuse²- This is another prominent form of crime that is committed on digital platforms. The cybercriminals create false profiles and identities for themselves and gain access to the information and money of the individuals. This act causes financial harm and greatly impacts the senior citizen's mental health.

c) Cyberbullying, harassment, and social exclusion- Social media is a unique technology that has connected everyone around the world and expanded the outreach in terms of business, information, entertainment, communication, etc. For the past decade, the senior citizens have also been using social media platforms to stay in touch with the advancing world. Unfortunately, the senior citizens are an easy target and become victims on social media. Senior

¹ Saurya Sarkar, "Safe Seniors in Cyberspace: Understanding and addressing Cyber Threats against elderly people in India", 7(3), International Journal of Law Management and Humanities, 2525 to 2535(2021).

² Saurya Sarkar, "Safe Seniors in Cyberspace: Understanding and addressing Cyber Threats against elderly people in India", 7(3), International Journal of Law Management and Humanities, 2525 to 2535(2021).

citizens become victims of trolls, face threats, or get blackmailed through phony news or altered photos. Sometimes they also get excluded from their social groups, and this kind of act can cause stress, worry, sadness, and instill a fear in them to use digital platforms.

d) Digital Grooming and Emotional Exploitation- In order to gain information and access to money, many cybercriminals create a genuine and trustworthy relationship with the victims that is particularly with elders. This primarily happens through dating scams, false charity, and solicitations that demand help. This kind of abuse is harmful and can result in negative impacts on the mental health of the senior citizens.

e) Misinformation and manipulation- There might be perpetrators who will deliberately target the senior citizens and spread wrong information, conspiracy theories, wrong medical pieces of advice, etc. This results in creating fear and panic among the elders and compels them to take harsh steps. For instance, during the COVID Pandemic, there were several rumors being spread about the side effects of various vaccines and medicines, and this had resulted in a scare.

There have been difficulties in detecting and identifying the offenders. In many situations, the victim and the perpetrator have had different sets of knowledge regarding the digital technology, and this has been observed that there is under-reporting of cases of abuse due to the fear of social stigma, societal pressure, and criticisms. There is no proper set of legal frameworks that specifically govern and regulate crimes and abuse of senior citizens. Another difficulty is with respect to jurisdiction, that is, it is difficult to identify the jurisdiction with respect to the crime that has been committed. There is a lack of laws to enforce and resolve cybercrimes and abuse specifically against the senior citizens.

Consequences of Digital abuse

There are several consequences that are faced by the senior citizens as a result of these crimes that happen on digital platforms. These experiences will create a fear of digital platforms in the minds of senior citizens. Many senior citizens are dependent on their near and dear ones for the use of digital technology, which makes them feel vulnerable and sometimes leads to them being taken advantage of. The elders face issues of mental health, such as anxiety, loneliness, stress, etc, when they are subject to digital abuse. Many elders are not aware and illiterate about the usage and possible risks of digital technology, which ultimately leads to the elders experiencing social isolation and being removed from groups online. Hence, these challenges

and consequences have indicated the need for formulating a strong and uniform legislation that would be governing the cybercrimes and abuse, and also providing an easy and smooth process of obtaining justice especially for the senior citizens.

Existing Legal Framework

There are various services that have been introduced in digital platforms, which can now be easily accessed for any task to be completed. This has made life convenient, but it has also made things risk-prone. Due to the risks involved, there is an urgent need to formulate a comprehensive legislation that will address the vast issue of digital abuse and provide a platform for the redressal of complaints.

Some of the existing laws in our country are as follows –

1. Information Technology Act, 2000. – One of the primary legislation that was introduced was the Information Technology Act in the year 2000. This act has provisions which deal with cyber crimes, such as hacking, identity theft, phishing, etc³. Section 66C deals with punishing identity theft. Section 66D deals with penalizing individuals who use digital devices to cheat people, especially the elderly. Section 72 penalizes against individuals for the spread of personal or confidential pieces of information. The act was further amended in 2008, which allowed it to deal with data security and address the offence of cyber terrorism, and also change the degree of punishments for cyber crimes. Although these provisions address cyber crimes, they do not specifically address digital abuse, especially against senior citizens. There are loopholes in the provisions, and the provisions are not effectively implemented.
2. Maintenance and Welfare of Parents and Senior Citizens Act, 2007 – This Act addresses elder abuse in physical form as well as on digital platforms. The Act has allowed the establishment of tribunals in which elder abuse cases can be addressed and resolved. The main objective of this act is to provide sufficient support to the senior citizens and establish facilities that can ensure that there is support and care given to the elderly. This act also deals with penalties in case of neglect, abuse, abandonment,

³ Vishnu Vatsan Madhusudan, “ A Critical Analysis of Information Technology Act, 2000 with reference to Cyber offence and Cyber Security”, 7(2), International Journal of Law Management and Humanities, 2529 to 2544(2024).

etc. There are certain loopholes present in this act, one of them being that it does not take into consideration the vulnerabilities and problems experienced in digital platforms. The act only focuses on the conventional forms of abuse and does not highlight digital abuse. The act also presumes that many senior citizens are digitally literate, which really might not be the case. There are people who might not be having digital knowledge or access to the technology.

3. Bharatiya Nyaya Samhita, 2023 – This is the latest act introduced, which addresses cyber crimes like hacking, harassment, etc., and provides legal recourse for redressal of these issues. Section 358 deals with committing harassment on digital platforms and cyberstalking and provides the process of prosecuting the offenders. However, there are several gaps, and one of the primary gaps is that it does not explicitly address digital abuse against senior citizens. Secondly, to collect and proving digital pieces of evidence of abuse is also a challenge. Thirdly, determining the jurisdiction is also difficult.⁴ Hence, the scope should be widened.
4. Digital Personal Data Protection Act, 2023. – This act focuses on protecting data as well as individuals from cyber crimes. This act ensures that there is a consent obtained from individuals before any of their personal information or data is used by businesses or organisations. The act also allows individuals to be able to protect their data from any kind of misuse and also allows the deletion of their data from any records. The act promotes spreading awareness about the digital technology and is holding organisations accountable for managing data or information in order to protect them. The act also does not allow individuals to file complaints if they have been victims of abuse.⁵ However, this act does not specifically address the abuse and the crimes committed against the elders. The DPDP Act is not a viable act as it is primarily focusing on methods of processing information and does not address and adopt measures that need to be taken to protect the vulnerable population, like the senior citizens. There are definitions that are vague and which can be interpreted in various forms. This can make it difficult to prove the crimes or catch the perpetrators.

⁴ Bharatiya Nyaya Samhita, 2023.

⁵ Dr. Pradip Kumar Kashyap. "Digital Personal Data Protection Act, 2023: A New Light into the Data Protection and Privacy law in India", 2(1), ICREP, Journal of Interdisciplinary Studies, 1 to 12(2023).

Challenges present in the legal framework.

The existing legal framework is filled with several challenges, some of which include problems with providing legal aid, giving easy access to justice, and updating the rules and regulations as per the new developments in the digital field. Some of the challenges which are present in the implementation of the existing acts are as follows -

1. Information Technology Act, 2000 – The IT Act consists of provisions which address cyber offences along with the punishment that needs to be given to the offenders. However, there are legal gaps found in this act, which are firstly that the act does not address the varied nature of cyber crimes and the limitations of the digital platforms. Another legal gap is that the act does not provide any criteria that will help in determining the perpetrator's actual intention, and this poses as a hindrance to implementing the laws. The IT Act allows for the investigation of cyber crimes by the agencies, however, the investigations that are conducted are not efficient, and the authorities are not trained in handling cyber cases specifically. They lack knowledge and understanding of dealing with these cases.⁶ Lastly, the act has not been upgraded with respect to the recent advancements that have taken place in digital technology, and it is not addressing the changing nature of abuse and crimes.
2. Maintenance and Welfare of Parents and Senior Citizens Act, 2007 – The act deals with the concept of abuse and neglect that makes up for harassment and exploitation of the senior citizens. The act is only dealing with protecting the elders from abuse and neglect physically and has not specifically mentioned about abuse being faced on digital platforms.⁷ One of the legal gaps in this act is that many senior citizens are not aware about this act and their rights, which acts as a barrier, and many elders do not report and obtain the protection that this act provides. Another legal gap is that many elders are hesitant to report and seek justice, as they have a perception that their families getting affected adversely due to their reporting of any abuse. Some elders may have physical challenges and may require help with access to the

⁶ Srinivasa Rao Dokku, Deenama Kandula, “A study on Issues and Challenges of Information Technology Act, 2000 in India”, 1(1), *Annals of Justice and Humanity*, 39-49(2021).

⁷ Dr. Hema V Menon, Dr. Swati R. Chiney, “Critical Evaluation of Maintenance and Welfare of Parents and Senior Citizens Act, 2007”, 2(2), *Indian Journal of Law and Legal Research*, 1 to 14(2023).

basic services and guidance on obtaining relief through the legal system, these factors have not been taken into consideration by the Act. The act does not have any provision that addresses digital abuse and penalising of the same, there are no procedures that have been outlined to manage and resolve digital abuse cases.

3. Bharatiya Nyaya Sanhita, 2023 – This Act is a new version of the Indian Penal Code and is primarily addressing various natures of crimes in physical settings, with a few provisions covering the digital crimes. The legal gaps that can be seen in this act are that it is difficult to determine the offender's real intention, and hence it is a challenge for the prosecution to prove the ill intentions of the offender and the benefit that has been gained. Another challenge is that it is difficult to show the link between the offence committed and the injury that has been suffered. Also, it can be difficult to present digital pieces of evidence in complicated cases, and there are high chances that a particular offence may be connected to other similar offences, which can lengthen the whole process of getting justice. It is also difficult to collect and prove digital evidences. Lastly, the punishments mentioned are not sufficient for the more serious nature crimes.
4. Digital Personal Data Protection Act, 2023 – This is a newly formulated act that is dealing with the protection of information and ensuring the privacy of all citizens.. The act governs the usage of data and gives given the right to individuals to have control over their data. It allows the individuals to decide if they want to share, to obtain or remove their data from the records as per their requirements.⁸ Any organisation or business will have to take the consent from the concerned individual before using their personal data. However, in this act too, there are certain gaps, such as the act is not very comprehensive, it only focuses on crimes committed within the country, which becomes a disadvantage as data is fluid across countries, also digital platforms are used across countries, and the crime can be committed across boundaries. Another challenge is that the legal authorities are not adequately trained in disseminating the process and implementing the provisions effectively. The act has exceptions which allow the state to get and configure data for security purposes, and this can hamper with the data of the general public, especially of

⁸ Shubham Saurabh, “The Digital Personal Data Protection Act of 2023: Strengthening Privacy in the Digital Age”, 3(2), International Journal of Law in Changing World, 77-94(2024).

senior citizens who might be ill aware of protecting their data and can become a victim of crimes. The other challenge is that there are no clear guidelines on giving compensation and penalizing the offence, which is making it difficult to identify the right penalty and impose it.

These legal gaps indicate that there is an urgent need to comprehend and make changes to the laws, especially with respect to digital abuse against elders. There is a need to change the laws and fasten the legal processes to provide relief, especially for the senior citizens. Also, a grievance redressal mechanisms should also be established, which are easily accessible and available physically as well as online, so that the public can lodge their complaints.

Comparison with other countries

Elder abuse is a global issue, and since the introduction of digital technology, digital abuse against senior citizens has increased. Various countries have established legislations with respect to digital abuse, but in this article, we will be only focusing on the laws in the United States of America and the European Union.

United States of America - In the United States Elder Justice Act was created in 2009. The act focuses on providing sufficient funds and programs that will help in deterring elder abuse. The act also focuses on providing necessary care and support to the elderly and preventing the perpetrators from causing any harm or injury to the elderly.⁹ The act does not specifically address abuse, however, it does address abuse in certain digital spaces. Another fairly a new act was introduced in 2017, known as the Elder Abuse Prevention and Prosecution Act. The act covers a vast scope of abuse being committed, including the senior citizens. It also focuses on preventing and imposing precautionary strategies against the abuse. The act also encourages the government to actively work towards ensuring the safety of the victims and provide relief in as short a time as possible. The Computer Fraud and Abuse Act focuses on addressing crimes in digital spaces. There have been initiatives implemented by the US government, such as the FBI IC3, which is a complaint centre where a victim can lodge their complaint and start with

⁹ Kirsten J. Colello, "The Elder Justice Act: Background and Issues for Congress", Congressional Research Service, 15th June 2020.

the legal recourse immediately. There is also a National Elder Fraud Hotline created, which addresses complaints of any kind of elder abuse and provides immediate relief.

The government has also created a program called Elder Justice Initiative that is working on spreading awareness about the different kinds of abuse and the precautionary steps that can be taken.

The USA has an elaborate set of laws that address crimes and abuse effectively and ensure that no perpetrator goes unpunished. At all levels in the government, there is an involvement with issues of elder abuse in all forms, which includes abuse in the digital space, and there are programs conducted regularly to keep the general public aware and alert. However, India has yet to establish any such framework in this matter and needs to involve the common man in formulating any such initiatives for better results.

European Union – The Digital Services Act protects the citizens from harmful cyber crimes and ensures that no one is facing any kind of trouble using the digital platforms. The act restricts individuals from spreading hate speeches and wrong information, especially those that target the elderly, which acts as a hindrance to wrongdoing.¹⁰ The act has clearly mentioned about providing terms and conditions for every content before being displayed on the digital platforms, which helps the individuals to understand about the content and view the content safely. The NIS2 directive was also introduced to establish uniform laws regarding cyber crimes, which are required to be followed by all members of the EU. There is a council called the Council of Europe that ensures that the rights of individuals are being protected. Similarly, India has also established laws and has introduced penalties for cyber crimes, however, the EU is actively formulating effective laws and taking initiatives to regulate the use of digital platforms. They have also established policies and institutions to address this issue and provide help, especially to the elderly population. India has kept a very general approach and has not created any institutions that will specifically focus on digital abuse and govern the digital platforms.

¹⁰ Aina Turillazi, Mariarosaria Taddeo, Luciano Floridi, Federico Casolari, “ The Digital Services act: An analysis of its Ethical, legal and Social implications”, 15(1), Law Innovation and Technology, 1 to 24(2023).

Conclusion

This article has analysed the Acts introduced in India as well as some countries like the US, EU, etc., with regards to digital abuse and cyber crimes targeting the senior citizens. Through this article, one can realise the urgent attention that needs to be given to matters related to digital abuse against elders, especially in our country. The possible solutions that can be adopted are that India should formulate laws that specifically dealing with elder abuse in the digital space. The government should create institutions and help centres to take up the abuse that happens against elders and effectively resolve them. They must adopt a friendly approach and address the psychological aspects involved in such crimes against the elderly. There must be an emergency helpline created that will exclusively cater to the elderly population and provide relief and support. The government should also take the initiative of conducting programs of awareness on a regular basis, and such programs should be accessible to the senior citizens of our country easily. Digital literacy needs also to be undertaken on an urgent basis as most elders are helpless due to their ignorance of the digital world. The law enforcement authority should be trained to address abuse cases and also be trained to inculcate sensitivity while dealing with the elders in such cases. These measures will help in making the existing legal system more elder-specific and address abuse more effectively while also providing the necessary support and relief needed by the elders.

BIBLIOGRAPHY

- a) Saurya Sarkar, “Safe Seniors in Cyberspace: Understanding and addressing Cyber Threats against elderly people in India”, 7(3), *International Journal of Law Management and Humanities*, 2525 to 2535(2021).
- b) Vishnu Vatsan Madhusudan, “ A Critical Analysis of Information Technology Act, 2000 with reference to Cyber offence and Cyber Security”, 7(2), *International Journal of Law Management and Humanities*, 2529 to 2544(2024).
- c) *Bharatiya Nyaya Sanhita*, 2023.
- d) Dr. Pradip Kumar Kashyap. “Digital Personal Data Protection Act, 2023: A New Light into the Data Protection and Privacy law in India”, 2(1), *ICREP, Journal of Interdisciplinary Studies*, 1 to 12(2023).
- e) Srinivasa Rao Dokku, Deenama Kandula, “ A study on Issues and Challenges of Information Technology Act,2000 in India”, 1(1), *Annals of Justice and Humanity*, 39-49(2021).
- f) Dr. Hema V Menon, Dr. Swati R. Chiney, “Critical Evaluation of Maintenance and Welfare of Parents and Senior Citizens Act, 2007”, 2(2), *Indian Journal of Law and Legal Research*, 1 to 14(2023).
- g) Shubham Saurabh, “The Digital Personal Data Protection Act of 2023: Strengthening Privacy in the Digital Age”, 3(2), *International Journal of Law in Changing World*, 77-94(2024).
- h) Kirsten J. Colello, “The Elder Justice Act: Background and Issues for Congress”, *Congressional Research Service*, 15th June 2020.
- i) Aina Turillazi, Mariarosaria Taddeo, Luciano Floridi, Federico Casolari, “ The Digital Services Act: An analysis of its Ethical, legal and Social implications”, 15(1), *Law Innovation and Technology*, 1 to 24(2023).