Unregulated Content On Digital Media Platforms and its Impact on Society



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Introduction

Technology has penetrated all spheres of human life. The world is at the cusp of yet another important revolution that is spearheaded by artificial intelligence (AI). The dependence on technology is growing due to which it has become important to understand and analyse its impact on the human minds. The free-flowing content on digital media and its continuous consumption are altering the thought processes of human beings in unprecedented ways. It is estimated that 58.4 per cent of the world's population uses social media. The average time a person spends daily on social media is estimated to be 2 hours and 27 minutes.¹

The constant exposure to content is not only having an impact on the people-to-people bonds but content generation has become an industry that has profit maximisation at its core. In a country like India which does not have any stringent laws to regulate content on digital media, unregulated content on various digital media like social media, Over The Top (OTT) platforms, messaging apps etc. are a direct attack on both societal and family values. This paper outlines the long-term impact of unregulated content, the business model of the industry, existing laws to deal with this issue and the measures that can be taken to curb the exploitative practices.

The dangers of unregulated content on social media

A 2023 survey² estimated that 4.80 billion people around the world now use social media of which 150 million users have joined within the last 12 months. While social media has brought the world closer, it has also let anti-social elements hide behind a screen of anonymity and carry on with their nefarious activities. It affects all genders and age-groups equally. The large tech companies are rarely held accountable for the criminal activities that take place on their platforms and often use the arguments of freedom of expression and data privacy to evade any responsibility. The unregulated content that makes its way to



¹ Smart Insights. https://www.smartinsights.com/social-media-marketing/social-media-research/

² Datareportal April 2023 global overview

social media platforms result in harassment, physical and mental abuse and even lead to trafficking. What makes the situation worse is that unlike in pornographic sites where the user has the choice whether to view that content or not, unsolicited content on social media can play a major role in altering perceptions and lead to many unexpected and unforeseen consequences.

Among the social media companies, Facebook with its 2.91 billion active users has always been in the crossfires for its lack of commitment to implement policies that would ensure clean content on its platform. According to internal company documents that were leaked by whistleblower Frances Haugen, it became evident that some users are significantly more likely to see disturbing content on Facebook than others. A 2019 study by Facebook's Civic Integrity team measured the impact of removing certain integrity protections from some users' News Feeds. It found that 11 per cent of users were seeing content marked as "disturbing," 39 per cent were seeing content that could be considered "hateful" and 32 per cent were seeing "borderline" content containing some form of nudity every day on the platform. Haugen had provided these disclosures to the Securities and Exchange Commission and her legal team had provided an abridged version to the Congress.³

Another worrying aspect of the report was that it stated that not all users are exposed to disturbing posts in equal measure. Vulnerable communities like Black, elderly and low-income users, were more at risk of being shown disturbing content. The report itself stated that the integrity protections that were reviewed for the study had only minimal impact" on some of the most "severe harms" to users.

Facebook's Community Standards Enforcement Report, which included reports on violence and graphic content, adult nudity and sexual activity, and hate speech showed that the prevalence of disturbing content in Q2 2021 were about 0.03-0.04 per cent, 0.04 per cent and 0.05 per cent of content viewed, or about three to four, four and five views per every 10,000 on Facebook, respectively. According to Facebook, these figures represented

³ Megan Mccluskey. "Why Some People See More Disturbing Content on Facebook Than Others, According to Leaked Documents." TIME. https://time.com/6111310/facebook-papers-disturbing-content/



what the company had missed and people viewed on the platform.

A document in the same study assessing digital literacy stated that Facebook users with lower digital literacy skills are both overly-exposed to certain harms like graphic violence and borderline nudity, and are less able to decipher the veracity of posts. Another report stated that this happens because such users are "less able to use features designed to help them 'see less' of things they dislike." It also acknowledged that "this creates harm when users are forced to see content that upsets them with no agency to react."

It is significant to note here that a large section of Facebook users does not have the necessary digital literacy skills. A survey of 67,000 Facebook users across 17 countries conducted by the Digital Literacy Working group found that at least one fourth and up to one third of the global Facebook population lacks key digital skills. Most of them are unable to flag harmful content and unsubscribe from pages that show them. The exposure to such content becomes more for this particular group when Facebook's automated systems fail to filter it out.⁴

In the documents that were leaked and later analysed by the Wall Street Journal, it became evident that Facebook's AI is not equipped to identify many of the disturbing content including first-person shooting videos, racist rants etc. When it comes to hate speech, the papers showed that the company removes less than five per cent of it from the platform.

The sheer number of sexual cases that Facebook deals with became evident when unnamed staffers spoke to Guardian and said that in January 2017 alone, the platform had dealt with close to 54,000 cases. These included revenge porn, sexual extortion and blackmail videos, and even a few cases involving minors. The gravity of the situation becomes more pronounced when the fact that Facebook has a dedicated moderation team of nearly

⁴ ibid





4500 staffers in addition to their own image recognition software is taken into consideration.⁵

In a study conducted in 2021 by Bark, it was discovered that if someone typed in a letter in Facebook's search bar and then navigated to the video results, they would be shown content that are largely sexual in nature. Prior to this, a study by BBC had brought some shocking incidents to light. BBC reported 100 sexualized images of children, and found that Facebook eventually removed just 18 of them. BBC also notified that five convicted child predators had active Facebook accounts which was in violation of the company rules. In addition to this, Facebook employees had raised concerns about how drug cartels and trafficking organisations were using the platform to attract, advertise and sell women. Even when these pages were reported, only a few were taken down in the end. A few years ago, Guardian had published a few leaked documents which revealed that Facebook has faced at least one surge in revenge porn and sexual extortion cases. During this period, the company disabled over 14,000 accounts involved in these disputes, 33 of which involved children.

In the other platforms owned by Facebook's parent company, Meta, the situation is no different. WhatsApp, with two billion users is the most popular messaging app. The end-to-end encryption feature that it offers ensures that the messages can only be read by the recipient and cannot even be seen by WhatsApp. While on one hand, this ensures privacy, on the other hand, it also becomes a fertile ground for abuse and exploitation. The findings of two Israeli NGOs were published in a 2019 article by TechCrunch which detailed how WhatsApp chat groups are being used to spread illegal child pornography. The privacy features offered by the platforms aids in many such groups going unnoticed.

Another subsidiary of Meta, Instagram which has 1.47 billion active users is an app that is popular with the younger generation. Unfortunately, the same platform is also popular with

https://www.indiatimes.com/technology/news/from-revenge-porn-to-sexual-exploitation-facebook-deals-with-54000-pornography-cases-per-month-322266.html



child predators. Bark had for its study created fake social media profiles of hypothetical teenagers. During the course of their study, they found that adults manipulating teens and children and forcing them into abusive relationships is a practice more common that what was thought to be. Though Instagram bans specific hashtags associated with pornographic content, it has multiple closed groups where adult content is posted by camouflaging it in different ways. According to the policies of Instagram and Facebook, 'nudity' of any kind is not allowed except photos of post-mastectomy scarring and women breastfeeding. However, Facebook allows nudity as a form of protest, to raise awareness about a cause, or for educational or medical reasons. Eventually, these become the loopholes which sexual predators exploit.

YouTube owned by Google's parent company Alphabet with its 2.56 billion users, considered a relatively safer place has its own set of issues to deal with. An investigation by iNews using an open-source spam detection algorithm found that spam commentators have been flooding popular YouTube channels with links containing suspected scams and directing young audiences toward porn sites. Though YouTube claimed to have addressed the problem in 2019 itself, the investigation found that spam comments made up around one in five comments on many of the popular YouTube channels.

TikTok, the Chinese-owned short-form, video-sharing app which is banned in India has more than one billion active users. Compared to other platforms, it has close to 10,000 worldwide moderators who police videos on the platform to ensure that the content on it is clean and light-hearted. But more than what the users is exposed to, the problems within TikTok have brought to light the magnitude of the social issue that the world is dealing with. Former moderators have filed a federal lawsuit seeking class-action status against TikTok and its parent company, ByteDance for not providing them with a safe environment to work in. The moderators alleged that the company had failed to abide by the California labour laws as it failed in protecting its employees from the emotional trauma caused by reviewing hundreds of "highly toxic and extremely disturbing" videos every week, including videos of animal cruelty, torture, and even the execution of children.



Snapchat with 557 million active users that was once a popular medium for expression has become a medium for porn creators to reach their target audience. They have created something called a "premium Snapchat" unofficially in which users are charged a membership fee to gain access. Such an arrangement helps them avoid being reported as the people have willingly become members to access adult content and are unlikely to report it.

Twitter with its 436 million active users before its takeover by Elon Musk was a platform that became a medium for sexual exploitation. A notable lawsuit that brought about the extent of the platform's misuse was filed by the National Center on Sexual Exploitation (NCOSE), The Haba Law Firm, and The Matiasic Firm in the United States on behalf of minors who were trafficked on the social media platform. In this case, two teenagers were tricked into sending pornographic videos through Snapchat by a trafficker who posed as a 16-year-old girl. When they became adults, these videos began surfacing on Twitter in January 2020. Even though the incident was reported to Twitter immediately, the company got back saying that the video did not violate any of its policies. It was only when the Department of Homeland security stepped in nine days later that the video was finally removed. But by then, the video has garnered 167,000 views and 2.223 retweets.6

A report, "Misogyny on Twitter," released by the research and policy organisation Demos, found more than six million instances of the word "slut" or "whore" used in English on Twitter between December 26, 2013, and February 9, 2014. Another Demos study found that women are significantly more likely to be targeted by online trolls, specifically because of their gender, and in most of the cases, men are doing the harassing. For women of colour, or members of the LGBT community, the harassment is amplified. Twitter's policy was that users can share consented adult content within their Tweets, provided they mark this media as sensitive and also did not share it in places that were highly visible on Twitter.

⁶ There's a Serious Porn Problem on Popular Social Media Platforms. https://fightthenewdrug.org/porn-problem-on-social-media/



However, it needs to be noted that the company has taken some significant steps to crack down on sensitive content after Elon Musk took over. In November 2022, the company said that it had banned more accounts for child sexual exploitation content than in any other month of the year. Twitter also said that it had partnered with new organisations to help detect and remove sensitive content. What Twitter has done in the past few months

prove that tech companies do have the power to regulate content and what has been missing till now is the will to impose its rules

and regulations in a stringent manner.

Another app, Telegram, that is known for its safety features is a platform that has become a fertile ground for predators. The dangers of this were exposed when Cho Ju-bin, a 25-year-old South Korean man was sentenced to 40 years in prison for running a massive pay-to-view digital pornography trafficking group called "Nth Room" on the Telegram app, where women were blackmailed into sharing sexual videos. Many of the victims were minors. According to BBC, at least 10,000 people used the chatrooms, with some paying up to USD 1,200 for access to what is now thought to be one of the country's biggest online sex abuse rings. He led the blackmailing of at least 103 women, including 26 minors. He was also found guilty of publishing the identities of some of the victims. Considering the privacy policy of the app, it is impossible to determine how many such groups exist all over the world.

Even gaming platforms meant for children are not free from predators. These platforms enable a two-way interaction where sexual predators can end up contacting children. Child predators use gaming platforms to identify children for sexual grooming and exploitation. This is usually done by creeping into the victim's chat box and luring them with gifts or gaming points. With the help of fake profiles where they pretend to be in the same age group as their victim, they first gain the victim's trust



⁷ 25-Year-Old Leader Of Sex Abuse Ring On Telegram Has Been Sentenced To 40 Years In Prison. https://says.com/my/news/25-year-old-leader-of-a-telegram-sex-chat-room-has-been-sentenced-to-40-years-in-prison

and later intimidate them to share sexual images. A story published by The New York times recounted how a mother found out her child being exposed to violent sexual images on a gaming platform. Using the chat feature of this app, her 13-yearold son, had fallen victim to a sexual predator who was threatening him after forging a connection.

In many instances such chats are moved to more private platforms like Instagram and Telegram to escape being detected by the gaming platforms. In 2016, a United States Justice Department report identified sextortion as "by far the most significantly growing threat to children." Despite repeated warnings, the tech companies have not done enough to address these issues.8 They claim that they do not have enough tools to scan for images that are extorted in real time. The fact that these companies are seldom held responsible for the content on their websites has only compounded to the problem.

Pornography and Violence

Pornography is defined as "movies, pictures, magazines, etc., that show or describe naked people or sex in a very open and direct way to cause sexual excitement." Though it can be argued that pornography is not the same as unregulated content on social media, the causal link between these two media cannot be overlooked. It is the increasing interest in pornography that has eventually led to the production of suggestive content to bypass the existing laws and expand its reach.

The effects that suggestive content on social media has on the minds of both men and women are yet to be studied comprehensively. But there are several studies that have tried to draw a correlation between pornography and violence. A 2010 study⁹ analysed best-selling pornography videos and found that

⁹ Bridges AJ, Wosnitzer R, Scharrer E, Sun C, Liberman R. Aggression and sexual behavior in best-selling pornography videos: a content analysis update. Violence Against Women. 2010



⁸ Nellie Bowles and Michael H. Keller. Video Games and Online Chats Are 'Hunting Grounds' for Sexual Predators. The New York Times.

https://www.nytimes.com/interactive/2019/12/07/us/video-games-child-sexabuse.html

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almost 90 per cent of scenes contained physical aggression, while nearly 50 per cent contained verbal aggression. At the receiving end of these displays of 'affection' were primarily women who either showed pleasure or neutrality in response to the aggression.

A meta-analysis published in Aggressive Behaviour found that there was a significant correlation between sexually violent pornography and violence against women. It stated that regular consumption of pornography will alter the mind and condition it in such a way that violence will start seeming normal. It would desensitise people to emotions. It becomes more so when everyday interactions like that with a doctor or teacher is sexualised and normalised. The negative effects become much more pronounced when porn is introduced at younger ages through internet. Adolescent boys are more prone to equate sex with power and the adolescent girls are conditioned to accept these skewed power structures. An example of these are the multiple incidents of gangrapes that are reported globally where often the perpetrators are adolescent boys.

Another biggest danger of social media is that it facilitates revenge porn which is defined as disseminating nude or nearly nude photos of a person without their consent, often after a breakup or argument. It is estimated that 1 in 25 women and 1 in 45 men have been victims of revenge porn.¹⁰

The Witherspoon Institute in its study titled The Social Costs of Pornography: A Statement of Findings and Recommendations" stated that no gender or age group remains unaffected by porn. In fact, pornography has been reinforcing and giving legitimacy to dangerous perceptions. Frequent consumption of adult content has also given rise to new expectations in relationships that eventually lead to higher divorce rates, infidelity and feelings of sexual incompetence.

Despite the known negative effects, the demand for pornography has only been rising. Pornography accounts for almost one-fifth of all movie rentals in the United States. Porn sites received more website traffic in the United States. Some of the popular

¹⁰ Prevalence and Impact of Revenge Pornography on a Sample of Portuguese Women. Sex Cult. 2023 Jun 3:1-17



search words on these sites were "teen", "aggressive" and "child." Now with the industry moving to 3D pornography, there is an unlimited access to content suiting every fantasy.

When it comes to gender and social media, there exists a clear dichotomy. Social media is a powerful tool that has empowered many women to find their voices. While some women are privileged enough to exercise their right to free speech, the voices of certain others are rendered silent with many social media platforms playing host to rape videos and revenge porn. In the media discourses, there is trivialisation and condemnation which has normalised their objectification. There are currently 200 million fewer women online than men. 11 The types of cyberviolence that women face include hacking, surveillance, harassment, death threat. recruitment malicious distribution. 12 Certain social media platforms have contributed to the exploitation of women in an unparalleled manner.

In December 2012, an Icelandic woman named Thorlaug Agustsdottir came across a Facebook group called "Men are better than women." She found a disturbing image of a young woman chained to pipes, all bruised and bloody with a completely broken look at the person taking her picture. Agustsdottir wrote to Atlantic¹³ about this and also put out a strong post on her Facebook page. Within hours, members of the said Facebook group photoshopped her image to appear bloody and bruised and posted it on Facebook with misogynist comments. Agustsdottir reported the image and comments to Facebook. But Facebook sent her a reply saying that it did not violate their community standards on hate speech, which includes posts or photos that attack a person based on their race, ethnicity, national origin, religion, sex, gender, orientation, disability, or medical condition. Instead, the

https://waccglobal.org/violence-against-women-in-media-and-digital-content/

https://www.theatlantic.com/technology/archive/2014/10/the-unsafety-net-howsocial-media-turned-against-women/381261/



¹¹ Violence against women in media and digital content.

¹² Broadband Commission for Digital Development, 2015

¹³ Catherine Buni and Soraya Chemaly. "The Unsafety Net: How Social Media Turned Against Women." The Atlantic

screeners labelled the content "Controversial Humour." She had to eventually call the local press to get the image removed.

Facebook has since changed its policy of labelling content as "Controversial Humour." It recognises gender-based hate as an important issue. But this particular incident exposed the unparalleled ways in which the internet was contributing to violence against women. A 2013 report from the World Health Organisation called violence against women "a global health problem of epidemic proportion." Social media has a significant part to play in the rising cases of violence against women. The absolute anonymity that these sites offer to the predators and trolls have made it even more difficult for women to fight back.

Another incident that served as a wakeup call to the penetrative powers of social media in perpetrating violence was the Steubenville High School rape case in 2013 which had sparked outrage across the United States. An unconscious teen girl was repeatedly assaulted and the photos of her ordeal circulated across school email and YouTube. It was shared multiple times on Twitter and YouTube and in a shocking turn of events, it was the victim who was trolled. It showed how social media reinforces rape culture. It renders women silent in fear of backlash and eventually results in justice being denied to thousands of victims. In addition to this, the psychological impact that such a toxic environment can have on the victims is not taken into consideration.¹⁴

Another fact further highlighted the lack of commitment that these tech media giants have towards ensuring user safety. Everyday Sexism Project in one of its studies found that a page filled with photos of bruised women titled, "Domestic Violence: Don't Make Me Tell You Twice" was populated by ads for Facebook's then COO Sheryl Sandberg's new bestselling book, "Lean In: Women, Work, and the Will to Lead". It also made it clear that for big corporates, advertisements and revenue will remain its most important concerns, sometimes at the cost of user safety.

¹⁴ Social Media and Sexual Assault. Social Media Victims Law Centre. https://socialmediavictims.org/sexual-violence/sexual-assault/



An investigation by the Daily Mail found that Facebook allows explicit pornography and gambling websites to reach vulnerable teenagers. Even though the platform is meant only for those aged 13 and above, the platform does not ask for any proof while a user signs up. The offensive content shows up in the news feeds of children as young as 13 after they search or upload posts that show that they are anxious or vulnerable. They are also shown links to websites selling cannabis seeds, diet pills and dangerous weight loss plans. Most of these products are strictly meant for adults.

Another investigation by the Daily Mail found that in a form of 'guerrilla' advertising, users who typed in words relating to depression were led to links to gambling websites. Though the investigation did not find any direct evidence that Facebook was enabling this but with just one moderator per 431,000 users, there is a huge possibility of such issues remaining unaddressed. It is ironical that a company with a net income of USD 23.1 billion has only 4,500 'content moderators' worldwide. According to a report in the Guardian, these moderators get only two-weeks of training for their jobs. A complaint that has often been raised is that the moderators are so inundated by the volume of work that they get just 10 seconds to decide whether to delete a post or not. 15

In a way, it can be argued that it is Facebook's own policies that have been contributing to the exploitation. Its internal policy allows animal abuse images to be shared 'for awareness', with extreme cases marked as 'disturbing.' Non-sexual child abuse images are also allowed to be shared and they are deleted only if they are posted in a sadistic manner, which becomes a highly subjective take on the issue. In addition to this, leaked company documents revealed that Facebook allows users to share videos of self-harm and moderators are specifically asked not to remove such content in the name of helping create awareness of issues

https://www.dailymail.co.uk/news/article-4531934/Facebook-lets-teenagersporn.html



¹⁵ Katherine Rushton. "Facebook lets teenagers see porn: Children as young as 13 are being exposed to explicit images, gambling websites and dangerous diet plans." Daily Mail

such as mental illness. It also follows the logic that leaving it on the site will increase the chances of the victim being rescued and also that it does not want to punish people in distress. When it comes to death threats, they are allowed to be on the site as long as they are regarded as generic or 'not credible'. Though Facebook has stated that it protects minors by hiding upsetting content and gave adults a 'choice' by labelling it as 'disturbing,' this is not often the case as children have access to adult content. Such loopholes have only aided in worsening the existing environment of violence and exploitation.

ViDCon, an annual nationwide convention held in Southern California had invited women vloggers to share their views on the issue of violence and social media. The discussions revealed that beneath many of their YouTube videos, violent threats were posted which pushed many women off social media platforms in disproportionate numbers. When it came to online gaming, it was found that 70 per cent of female gamers chose to play as male characters as they felt it can protect from sexual harassment.

Worsening the situation further for women, rapists have been found to be filming their rapes on their mobile phones and using it to threaten their victims. A video of a woman getting gang raped in Malaysia was allowed to be on Facebook for weeks before it was taken down due to constant pressure put by activists and citizens. In most cases it comes to a point where social media companies act only if there is external pressure put on them.

It has also been found by various surveys that the internet has been aiding in intimate partner violence. A 2012 survey conducted by the National Network to End Domestic Violence found that 89 per cent of local domestic violence programs reported victims who were experiencing technology-enabled abuse. Studies have demonstrated how media content reproduces sexist stereotypes that associate male identity to violence, domination, independence, aggression and power, while women are linked to emotions, vulnerability, dependency and sensitivity. Excess watching of porn is now an emerging social

¹⁶ Elasmar, Hasegawa and Brain, 1999; McGhee and Frueh, 1980; Thompson and Zerbinos, 1995



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and public health concern. Internet pornography addiction is classified under substance dependence.¹⁷ It is estimated that 90 per cent of boys and 60 per cent of girls under the age of 18 have been exposed to pornography, with the average age of first exposure being 12 years. 18 In an India-specific study, it was found that male medical students are more vulnerable to develop pornography addiction than females. 19

As is widely known, children are amongst the biggest victims of the porn industry. Child pornography is among the fastest growing online businesses. The United States produces 55 per cent of child pornography. The objectification of children in porn videos in most cases leads to sexual abuse. Figures released by the Internet Watch Foundation²⁰ show that from 2017 to 2018, there has been an increase of 35 per cent in confirmed reports of child sexual abuse images.

What makes the situation worse is that 43 per cent²¹ of child pornography is produced by a guardian, neighbour, or family friend which indicates that many of the children are unsafe in their supposedly safe spaces. In a sex offender treatment program at Butner Federal Prison, 85 per cent of child pornography possessors admit to possessing images of child sexual abuse victims proving that watching pornography sometimes do not remain a mere fantasy and turns many people into abusers.²²

https://www.focusforhealth.org/how-pornography-impacts-violence-againstwomen-and-child-sex-abuse/



¹⁷ Vinnakota D, Arafat SMY, Kar SK, et al. Pornography and Sexual Violence Against Women in India: A Scoping Review. Journal of Psychosexual Health. 2021;3(3):216-221.

¹⁸ Veera KH, Anudeep M, Junapudi SS. Cyber-pornography addiction among medical students of Telangana. Indian J Public Health. 2021;12(1):303.

¹⁹ Pandey AK, Kunkulol RR. Cyber pornography addiction amongst medical students of western rural Maharashtra. Int J Clin Biomed Res. 2017;18:10-14.

²⁰ IWF global figures show online child sexual abuse imagery up by a third. https://www.iwf.org.uk/news-media/news/iwf-global-figures-show-onlinechild-sexual-abuse-imagery-up-by-a-third/

²¹ Study by National Center for Missing & Exploited Children (NCMEC)

²² How Pornography Impacts Violence Against Women and Child Sex Abuse.

It is interesting to note that the issue of pornography and its ill effects were debated in the U.S. Congress as early as 1960s following which President Lyndon B. Johnson formed the Commission on Obscenity and Pornography. The Committee in its 1970 report concluded that pornography was harmless and it did not affect the general behaviour in negative ways. Since then, it has been argued that violent pornography was not so common at the time the information was gathered for the report. Following this, in 1972, the U.S. Surgeon General commissioned a study, which was followed in 1982 by a comprehensive study from the National Institute of Mental Health. Ten years later the American Psychological Association also conducted research on the same topic.

The findings of these three groups categorically stated that mass-media violence contributes to violence in people regardless of age, gender, race, or ethnicity. The mass media has not only normalised violence but has helped in projecting that the aggressor go unpunished. This has acted as an impetus for aggressive behaviour. By the mid-1980s, strong evidence began to emerge that certain men are likely to exhibit aggressive behaviour and attitudes toward women after viewing violent pornography.

During the Reagan administration, the United States Attorney General's Commission on Pornography, commonly known as the Meese Commission stated that there is causal link between violent pornography and sexual violence towards women. This overturned the report of the 1970 Committee. The Commission made nearly 100 recommendations to curb the dissemination of pornographic materials. More recent research also points to a similar causal link between pornography and violence where mostly men internalise aggression against women.

From a policy perspective the Beijing Platform for Action (BPfA) had called on governments as early as 1995 "take effective measures, including appropriate legislation against pornography and the project of violence against women and children in the media." It recommended media industries to establish guidelines to address violent, degrading or

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²³ UN, 1995, p.102

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pornographic materials concerning women. However, despite flagging the issue at an early stage, there has been a drastic increase in sexism and misogyny in the media which has resulted in increasing incidents of violence against women.

Dangers of unregulated content in the Indian context

India, the most populous country in the world is among the leading countries with the highest number of internet users. According to the World Population Review, in January 2022, India had 658 million internet users. A report by IAMAI report titled "Internet in India" has estimated that this number will rise to 900 million users by 2025. For most of the users, internet is a useful tool for interaction, gaming, entertainment, and online transactions. While the increasing reach of the internet opens many doors of opportunities, the numbers also mean that it will be impossible to keep a tab on the content that is being uploaded. This is especially true for social media and OTT where violent and obscene content are streamed with no filters. The effect that it can have on young impressionable minds are often overlooked.

With more than 900 million²⁴ active users of internet by 2025, information will become more accessible than ever. This also means that it is important to be able to distinguish between good and bad content. While this is a highly subjective decision, there are certain trends on current social media that threatens to directly attack the fabric of Indian society.

The biggest threat come in the form of short films or suggestive content that Facebook and other platforms randomly shows on people's timelines. The films that often begin in a pious Indian joint family setup goes on to take shades where it sexualises relationships within the families that were held sacred till that point. Since there is no nudity involved in any of these films, the social media platforms refuse to take them down. The screeners are unable to understand the cultural nuances and such content is allowed to be on the platform garnering millions of likes and shares.

²⁴ Internet in India Report 2022. IBEF. https://www.ibef.org/news/india-likely-to-have-900-million-active-internet-users-by-2025-report#



The long-term impact that continuous consumption of such content can have on both young and old minds alike is an aspect that has been overlooked till date. But certain incidents that have happened in the recent past have been proving that the negative effects of it are slowly trickling down and in the coming times India will have to bear huge social costs if urgent steps are not taken.

The 2020 reporting of the "Bois Locker Room" in which a group of school boys casually used rape culture language showed the impact that adult content can have on young minds and the extent to which objectification of women have been normalised. In the Nirbhaya case which shook the conscience of the whole nation, one of the convicts admitted that the crime was committed after watching violent pornographic content. In another shocking incident a youth from Gujarat was arrested after he raped his mother. In April 2023, a court in Haryana's Gurugram had sentenced a man to rigorous life imprisonment "till his death" for raping his mother and abetting her suicide. 25 A common factor connecting all these incidents is the consumption of lewd content that made people lose their sense of judgment.

A 2021 study²⁶ found that even the act of simply browsing through such suggestive content can also produce adverse effects on the minds given the exploitative scripting which can be in the form of titles, thumbnails, or description. 20-30 per cent of overall Indian users were estimated to have seen nudity on Facebook within a week's time. 27 According to a 2011 IMRB Survey, one out of five mobile users in India wants adult content on his/her 3G enabled phone. The extent of negative influence



²⁵ Gurugram man handed life term for raping mother, forcing her to kill self. India Today. https://www.indiatoday.in/law/story/gurugram-court-awards-manlife-term-for-raping-abetting-mother-suicide-2361786-2023-04-19

²⁶ Vera-Gray F and others, "Sexual Violence as a Sexual Script in Mainstream Online Pornography" (2021) 61 The British Journal of Criminology

²⁷ Facebook's growth woes in India: Too much nudity, not enough women. Deccan Hearld. https://www.deccanherald.com/business/business-news/no-tcson-overseas-payment-through-international-credit-debit-cards-1220228.html

cent.

that such content can have on the minds of Indians became clear when the findings of a survey by Being Indian was made public. The search words "Indian Bhabi" and "Devar" saw a rise of 222 per cent in pornographic sites. Most popular search in women was "lesbian" and searches for homosexual porn jumped 213 per

The algorithm of the social media platforms is such that even if someone happens to view suggestive content by mistake, there will be more such recommendations the next time the person logs in. It then becomes a vicious circle festering suspicions and altering minds to view every relationship through a prism of sexual undertone. The privacy offered by these platforms enable the creation of groups where people with similar thought processes get to connect and find a way to put their fantasies to action. In every which way, the proliferation of content with sexual hints is a subtle but potent attack on Indian societal values and can have dangerous repercussions. It threatens to destroy the institution of family that is the strongest foundation of society.

The OTT boom has resulted in the further penetration of suggestive content. In India there are apps like Ullu, Kooku, DesiFlix, Hot Shots, Primeflix, Gup Chup, Flizmov and several others which have got millions of users addicted to their erotic content. Some of the most popular series of Ullu app are titled (Desperation), Kavita Majboori Bhabhi Charamsukh (Orgasm). Users often use virtual private networks (VPNs) to access these websites and they are charged a nominal fee to access the content. The problem with such home-grown OTT platforms that sell soft pornography is that they sell an idea of India that does not exist. Most of them create a make-believe world of how urban India is and lure impressionable minds to imitate that lifestyle. It has also led to increasing exploitation of women.

In July last year, police in Indore busted a porn racket which had lured girls into shooting for adult films with the fake promise that they will get a chance to be part of a hugely popular subscription-based platform, Alt Balaji. But these videos eventually found its way on a Gwalior-based OTT platform operated by a young software engineer.



Despite the dangers of these platforms becoming clear, the government has yet to even acknowledge the seriousness of this issue.

The business driving adult content

Money is the major driving force behind any industry and the adult content industry is no different. The porn industry is worth over USD 100 billion globally. Around 10 per cent of its income comes from the United States alone. There are 25 million porn sites worldwide and they make up 12 per cent of all websites and over 30 per cent of all web traffic. Most of these sites have over five million hits per month, raking in big amounts of money. Xvideos, world's biggest porn site enjoys 4.4 billion page views and 350 million unique visits every month. The online pornography industry has a turnover of 97.06 billion dollars per year, more than Microsoft, Google, Yahoo, Amazon, Netflix and Apple combined.²⁸

The porn industry which was severely hit by the 2008 recession has over the years learnt to innovate and emerged as one of the most profitable businesses. They offer a subscription model which gives users priority access to new content. Most of these sites offer just a few minutes of free access to their premium content after which the users will have to pay to watch the whole video. Another way they earn is by offering their users personalised experiences like meeting their favourite adult star or getting to be part of an adult chatroom. Millions sign up for these premium services.

3-D porn is another major way these sites make money. They also offer a wide variety of payment options starting from daily, weekly, monthly, quarterly and even yearly. These sites also make money through advertisements which are predominantly those of sites offering similar services. These often include other porn sites, adult dating sites, online adult stores, enhancement drug stores, adult gaming sites and so on. There is a complex web that is formed where all these businesses are feeding on each other for survival. Another lesser-known way the industry makes money is through major hotel chains like Marriott, Hilton and Westin that offer adult titles as 'in-room entertainment' in

²⁸ Feminist Peace Network, 2006





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most countries. A significant share of money that the guests pay go to the studios. Despite the multiple ways in which the industry makes money, the free content that is available online has been posing a steady challenge to the working of this industry.²⁹

In India too, the porn industry makes huge profits. A 2019 report by KPMG said, "India will have more than 500 million online video subscribers by FY 2023, and this would make it the second biggest market in the world behind China alone." This makes it one of the fastest growing markets in the world which is also applicated to its porn market. The country was the third-largest consumer of porn globally before the government imposed stringent regulations in 2018. This gave an impetus to the lesser-known OTT platforms to take advantage of the existing rules and sell what can essentially be categorised as soft porn. The penetration of smart phones and the lower priced data packs ensured that these companies had access to a wide market and sufficient returns were promised.

During the pandemic the viewership of pornographic sites witnessed a 95 per cent rise according to data from porn aggregator PornHub. This despite the Indian government having banned hundreds of pornography websites. The statistics goes on to show that the government's move did not have any lasting impact as the pornography websites have found a way to bypass the decision with name changes and launch of new sites to cater to the rising demand of the Indian market. The constant consumption has also given rise to a new category "desi porn," starring Indian performers, which is the most popular category among domestic audiences.

The promoter and CEO of Ullu app, Vibhu Aggarwal, spoke to a leading publication about the app's business model. The app which has five million subscribers across 100 countries was launched in 2018 is known for its overtly sexualised content.



²⁹ Saikat Pyne. This is how porn sites make money. Business Insider India https://www.businessinsider.in/this-is-how-porn-sites-make-money/articleshow/48385361.cms

Aggarwal said subscription of the app will cost Rs 198 for a year and Rs 144 for six months. A three-month subscription is Rs 99 and you can have a five-day package for Rs 36 only. He said that he deliberately kept the rates of his OTT platform low so that millions could watch it. According to him, the platform has a Rs 100 crore plus turnover. He claimed that he provides original content and is not violating any rules.³⁰

An interesting fact to note is that the bulk of erotic films for India's lesser-known OTT platforms are made in the city of Meerut.³¹ A search on the web for Meerut and porn produces a staggering 959,000 results. The films are often made by young directors from Mumbai and are shot in non-descript hotel rooms or rented apartments on budgets as low as Rs 1,25,000 to Rs 2,50,000 per episode. On an average, a 12- or 24-part episode can be produced with a Rs 24 lakh or Rs 50 lakh budget, with the producers making approximately Rs 1.5 to Rs 2 crore per film. It estimated that between 50-75 films in multiple languages are produced from this city. The actors are often from Tier-II and Tier-III cities with aspirations to make it big in the Indian entertainment industry. Once the shoot is over, the man is paid Rs 2000 in cash and the woman is paid Rs 10,000, making it among the few jobs where women can earn more than men.

The financials involved strongly suggest that profits are the primary motive of the industry. Till the time the industry continues to rake in big money, it seems unlikely that there will be any slowing down of production of such content.

Laws governing online content in India

The prominent fact to underline when it comes to laws relating to pornography is that it is not illegal to watch it in India. The danger lies more with the unregulated content on social media platforms and OTT. India is yet to have a specific law that exclusively governs online content. Traditional media go through various layers of checks and its content gets certified for public





³⁰Shantanu Guha Ray. How Meerut is fast becoming to porn what Kota is to private tutorials. Money Control

https://www.moneycontrol.com/news/trends/how-meerut-is-fast-becoming-toporn-what-kota-is-to-private-tutorials-6290771.html

³¹ ibid

viewing. But when it comes to OTT platforms, they operate in a largely unregulated space. It is often argued that such a space is important for the free flow of content and ideas. But such freedom also has a dangerous side to it as it also makes explicit content freely available on these platforms which can have long lasting consequences. This also is the major lacunae as unregulated content remains a grey area and existing laws are not equipped to deal with its challenges. However, there are certain provisions in place that regulate unregulated content on digital platforms, especially those that comes under the ambit of pornography.

The issue was first dealt with in the Indian Penal Code 1860 which made it illegal to sell, distribute, circulate, or exhibit obscene objects that are lustful or corrupt to another person under Sections 292 and 293. The first time an offence is committed under this section, the punishment is up to two years in prison and a fine of up to Rs 2000, and the punishment for subsequent convictions is up to five years in prison and a fine of up to Rs 5000.

Another important legislation that deals with content on digital platforms is the Information Technology Act. Section 67A of the Information Technology Act makes depiction of any sexually explicit acts or conduct by publishing or sending anything a punishable offence. The penalty for this offence is up to five years in prison or a fine of up to ten lakh rupees. In addition to this, Section 67B deals with pornographic content involving minors. It makes the distribution or creation of photos or media depicting minors in an obscene or sexually explicit manner a punishable offence

In 2012, the Protection of Children from Sexual Offences (POSCO) Act was enacted which ensured the protection of children from offences of sexual assault, sexual harassment and pornography. It made sale and distribution of child pornography illegal.

In 2019, in the case of Justice for Rights Foundation v. Union of India, it was contented that OTT platforms operate without any kind 0f regulation. The Supreme Court demanded an explanation from the government for this. Responding to the court, the Ministry of Electronics and Information Technology stated that



they do not have the authority to regulate content on the internet and there is also no provision for "regulating or licensing for an organization or establishment for putting up content on the internet." The Ministry of Information or Broadcasting in its response stated that the online platforms are not required to obtain any license from the Ministry of Information or Broadcasting for displaying their contents and the same is not regulated by the said Ministry." It further added that "there are enough provisions in the Information Technology Act, 2000 for dealing with content that transmit material in an obscene form or for dealing with content transmitting sexually explicit acts. The Supreme Court made a note of these observations and held that there are enough safeguards in the existing act to address the grievances that any person may have with the content shown on such platforms.

The court changed its stance later when it took a suo moto case against child pornography and directed the government to develop and formulate the necessary guidelines and rules to eliminate child pornography, rape and gangrape images, videos, and websites from content hosting platforms and other such applications. Following this, on 25 February 2021, the government notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021. These rules were made in supersession of the Information Technology (Intermediaries Guidelines) Rules, 2011.

The new rules primarily dealt with digital media platforms and social media intermediaries. The focus was on regulating unregulated or harmful content. platforms. The guidelines stipulated a three-tier regulatory structure. It stated that the publishers of online content should self-classify the content into five age groups: U (Universal), U/A 7+, U/A 13+, U/A 16+, and A. (Adult). Platforms were required to implement parental controls for content rated U/A 13+ or higher, as well as put in place reliable age verification mechanisms for "A" content. These ratings were to be prominently displayed so that the users can make an informed choice. It needs to be noted here that currently, there is no authority in place to pre-screen content on the OTT platforms. There are petitions being filed in various courts of the country calling for imposition of restrictions on the content displayed on these platforms.



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The rules made it compulsory for social media intermediaries to establish redressal mechanism to address user complaints regarding content. It mandated that the mechanism should be easily accessible, responsive, and address grievances in a timely manner. Additionally, it required important social media intermediaries to appoint a chief compliance officer responsible for ensuring compliance with the IT Rules. This officer should be an Indian resident and serve as a point of contact for communication with authorities. The third stage prescribed for this was an establishment of an oversight mechanism by the Ministry of Information and Broadcasting. It will issue a charter for self-regulating bodies, as well as Codes of Practice. It will also form an Inter-Departmental Committee to hear grievances.

Furthermore, the rule had strict provisions for immediate removal of objectionable content including defamatory, obscene, or sexually explicit material as soon as they receive a court order or government notification. It also introduced the concept of traceability, requiring significant social media intermediaries to disclose the identification of the originator of specific information. It encouraged significant social media intermediaries to provide users with the option to verify their accounts.³² However, platforms like Twitter and WhatsApp raised objections and refused to implement the rules.

Following this, the Government also issued a gazette notification No. S.O. 4040 (E), which brought "online films and audio-visual programmes, and online news and current affairs content under the ambit of Ministry of Information and Broadcasting (I&B)", on 9 November 2020. With this, the government indirectly brought digital content under its ambit.

Despite the efforts made by the government to regulate content on OTT platforms, the fact remains that the existing laws are inadequate and have several loopholes. The Supreme Court itself has observed several times that a system of screening should be in place for these platforms. While hearing a petition filed by Amazon India head Aparna Purohit with regard to a particular

³² Hiren Desai. "Regulation of pornography on OTT platforms". https://www.lawyered.in/legal-disrupt/articles/regulation-pornography-ott-platforms/



web series that was being attacked, the Supreme Court bench comprising Justice Ashok Bhushan and Justice R. Subhash Reddy observed, "Few OTT platforms are showing some kind of pornographic content. A balance has to be struck as some OTT platforms are also showing pornographic materials on their platforms."33

A criticism for this three-tier mechanism has been that it lacks independence. The Inter-Departmental Committee is made up of bureaucrats and there is no representation from the judiciary or civil society. Fears have been raised that such a structure which enables bureaucrats to make arbitrary decisions will eventually lead to censorship under political pressure. This will go against the fundamental right of freedom of expression and will interfere with artistic freedom 34

The current guidelines instead of addressing the issue of unregulated content has only added to the confusion. It draws its powers from the executive instead of the legislature. It does not clearly define where will the regulations apply and the kind of content will come under its ambit.

Measures taken by the Indian government

The Indian government made a note of the alarming rise of pornography on social media sites and an ad-hoc committee of the Rajya Sabha was formed to study the prevalence of adult pornography and child abuse videos on social media platforms like Facebook, Twitter and TikTok. The committee, headed by Congress party leader and Rajya Sabha member Jairam Ramesh had its goal set to study the 'alarming issue' of pornography on social media and its effect on children and society. The panel met representatives of Facebook, TikTok, Twitter, ShareChat and Google and sought answers on the measures these companies have taken to curb child pornography.

Twitter in its response stated that it allows only consensually shot pornography and does not allow revenge pornography or

³⁴ https://www.khuranaandkhurana.com/2022/09/28/regulations-on-ottplatforms-a-perplexity/



³³ https://www.hindustantimes.com/india-news/some-ott-platforms-showingpornographic-content-observes-supreme-court-101614846695726.html

child abuse material. Google clarified that login details are required to discover adult content on YouTube and it also provides the option to content creators to age-restrict content. ShareChat, the homegrown media platform suggested that India should put in place a similar framework like that of the Children's Online Privacy Protection Act (COPPA) in the United States 35

The Committee submitted its report on 25 January 2020. Some of its key recommendations as summarised by PRS India include³⁶.

Definitions: The Protection of Children from Sexual Offences Act, 2012 defines child pornography as any visual depiction (such as photographs or videos) of sexually explicit conduct involving a child, or appearing to depict a child. The Committee recommended that the definition of child pornography should be expanded to include written material and audio recordings that advocate for or depict sexual activity with a minor. It also recommended that the term 'sexually explicit' should be defined in the Act.

The International Labour Organisation defines 'grooming' as the process of building a relationship with a child (online or offline) to facilitate sexual contact with the minor. The Committee recommended that a similar definition of grooming should be adopted in the Protection of Children from Sexual Offences Act, Further, it should be considered a form of sexual harassment.

Exceptions for possessing child pornography: The Committee recommended that minors should not be prosecuted for taking, storing, or exchanging indecent pictures of themselves if the image taken under certain conditions.

³⁶ PRS India. https://prsindia.org/policy/report-summaries/alarming-issue- pornography-social-media-and-its-effect-children-and-society-whole



³⁵ Government has a plan to fix 'porn problem' on Twitter, Facebook and Google https://www.gadgetsnow.com/slideshows/government-wants-twitterfacebook-google-to-fix-the-porn-problem-8-things-to-know/twitters-latestpolicy-on-porn-content/photolist/73236603.cms

Further, the Committee recommended two exceptions for adults in possession of child pornography: (i) for the purpose of reporting it to authorities, and (ii) for use in investigations.

Offences: The Committee recommended that using a misleading domain name to deceive a minor into viewing obscene material should be considered an offence. Further, penalties should be included in the Information Technology Act, 2000 for those who give children access to pornography and those who access, produce or transmit child sexual abuse material (CSAM).

Responsibilities of intermediaries: The Committee recommended that responsibilities of intermediaries (such as internet service providers and search engines) should be clearly outlined in the Information Technology Act (Intermediaries Guidelines) Rules, 2011. These responsibilities include: (i) proactively reporting, identifying and removing CSAM, and (ii) reporting identities of persons accessing child porn or CSAM. The Committee also recommended that a non-negotiable timeframe for reporting and taking down of CSAM should be instituted. Violations of the timeframe should be punishable.

Social Media: The Committee recommended certain measures that social media sites and apps may take to protect minors and, to regulate and remove CSAM-related content. These include: (i) age restrictions at the stage of account creation, (ii) banning of users posting child exploitation, and (iii) providing information on illegal content to users in multiple languages.

Awareness and training: The Committee recommended that awareness campaigns should be initiated such as; (i) a campaign for parents on early signs of child abuse, and (iii) a nationwide campaign on cyber bullying. The Committee also recommended training for (i) responders in child abuse investigations, and (ii) media persons reporting on child exploitation.

Authorities: The Committee recommended that an upgraded National Commission on Protection of Child Rights should be designated to deal with issues related to child pornography. Further, State Commissions on Protection of Child Rights should be constituted in each state. States may also appoint e-safety commissioners to ensure, (i) implementation of social media guidelines, (ii) flagging of content, and (iii) age verification.



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International cooperation: The Committee recommended that India should sign agreements with other countries for sharing information in dark web investigations. Further, India should employ liaisons in priority countries who can fast-track requests for the take down of online content under the Mutual Legal Assistance Treaty.

Research: The Committee recommended that the National Crime Records Bureau must mandatorily record and report all cases of child pornography.

Suggestions and the way forward

Unregulated content on digital platforms is a global problem. For India that is facing a subtle but continuous attack on its societal values, there is an urgent need to re-evaluate its position and formulate policies to address this issue. The attempts that the government has made so far to regulate digital content have largely been ineffective and has had only an optical effect. The government needs to put in place more stringent measures to ensure that citizens do not become victims to unregulated and unsolicited content.

A very powerful suggestion to address this issue was given by then Central Information Commissioner Uday Mahurkar while addressing a gathering to talk about his fight to make the cyberspace clean.³⁷ He suggested that submission of the Aadhar card number should be made mandatory for accessing pornographic sites. The feature of anonymity that the internet offers has become the biggest enabler in the commission of crimes.

Another factor that the government must ensure is the accountability of social media companies. These companies often give the argument that they cannot police free speech and using the existing loopholes in policies evade any responsibility for criminal activities on their platforms. Right to internet may be a fundamental right in India that exists along with the right to

³⁷ India Policy Foundation Webinar on 'Save Culture, Save Nation' https://www.ipf.org.in/Encyc/2023/2/8/IPF-Webinar-on-Save-Culture-Save-Nation.html



freedom of expression. But this does not mean that there are no limitations imposed. In a country like The Netherlands where pornography is considered legal, the distribution of obscene material is a punishable offence. Another country, Brazil has laws in place to regulate adult content, including the Marco Civil da Internet, which includes provisions for the removal of explicit material upon request. India must also have similar distinctions for pornography and suggestive content.

With internet being such a vast medium, there must be a set of guidelines for both the users and providers which clearly mention the expressions that can constitute an offence. The tech companies must have the legal liability to ensure that minors do not get access to sensitive content. The government should also establish an independent regulatory body to monitor the activities of social media companies operating in India. In case of violations, this body should be given the power to impose fine on punitive sanctions on these companies. The country can look to Australia which already has the Classification Board, which classifies and regulates adult content across various media, including social media platforms.

In addition to this, the government must make it mandatory for social media companies to train its moderators or screeners to be sensitive to the cultural differences. Clear guidelines should be established keeping in view the cultural nuances and the companies should be transparent about why they have decided to delete or not delete a post. More women should be appointed as moderators to ensure that a gender just view is taken on sensitive matters.

Most importantly, in the long-term, the government should encourage Indian start-ups to develop alternatives. China has already shown the way with Weibo and Baidu. A silent war has already been waged in India on the social media platforms by giant corporates and those with vested interests. India will have to counter it with indigenous products so that data sovereignty and privacy can be ensured.

Moreover, the government and civil society must come together and join hands to spread awareness about the social costs of pornography. There must be regular campaigns conducted in schools and colleges to help the students distinguish between



good and bad content. Families should ensure that the children have reduced screen time and are able to form people-people bonds.

It is important to imbibe Indian societal and family values in children from a very young age to make certain that external influences do not colonise these minds. The false aspirational qualities that many of the videos have, are a major threat to the progress of a generation that is solely growing up on digital content. There is a dire need to look at the issue of unregulated content with more seriousness and understand its lasting harm on society. More comprehensive studies should be undertaken and there needs to be an open discussion on how the civil society can play a role in ensuring safe space in the cyber world. While a world without internet has become unimaginable, using it responsibility is a message that needs to be driven across with much vigour.

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