



## RIGHT TO PRIVACY OF CHILDREN OVER THE INTERNET

*By Akshita. B. N*

*From Saveetha School of Law, Saveetha Institute of Medical and Technical Sciences(SIMATS)*

*By Sujith Sundar. S*

*From Saveetha School of Law, Saveetha Institute of Medical and Technical Sciences(SIMATS)*

*By R. S. Prakash Raja*

*From Saveetha School of Law, Saveetha Institute of Medical and Technical Sciences(SIMATS)*

### ABSTRACT:

Privacy has no definite definitions or boundaries. The definition of privacy differs for every individual. With the fast growth of the Internet, protection of privacy becomes the need of the hour specially for children who are easily influenced by the Internet, its trends and become a victim to breach of privacy. Although Article 21 of the Indian Constitution promises Right to Privacy it does not define privacy. There are no acts in India that specifically protects the children's privacy like the US which has two separate acts that protects children. The absence of such laws or acts in the fast growing works shall expose children to cyber criminals. Convenient sampling method is used to collect the samples. 200 samples-sample size. Independent variables are age, gender, education and occupation. It is found that there is a need for changes in the 2019 Personal data protection Bill which contains provisions of Children's right to online

privacy. The said bill fails to define child rather stands to the definition of minor from the Indian Majority Act, 1875. Finally, this paper analyses, suggests and concludes that India can also consider establishing an act for protecting Children from the Internet by enforcing an act equivalent to the Child Internet Protection Act of the US. By enforcing such an act the children are protected.

### KEYWORDS:

Internet, Children, Privacy, Child Internet Protection Act, Personal data protection Bill 2019.

### INTRODUCTION:

The Internet in India has developed exceedingly. According to the Internet and Mobile Association of India children from the age group of 5-11 account for 14% of the total active users of the Internet in India. With the rapid development of the Internet there is a rapid development of threat. Children go through physical and mental development where they don't have any idea about their data privacy rights and ongoing threats. The increased internet use has exposed the children's internet privacy to cyber threats like bullying and malware attacks. From online entertainment like gaming and web series platforms to online education, children leave their digital footprints everywhere. Children are not mature to understand the term "Internet privacy." They use Internet privacy as a term to distance themselves from their parents without letting them know the websites or the platforms they are using and visiting. With such issues, legal issues also arise. In India there is no particular definition defining a child nor does India have a legislation that protects a child. In India we



only have a definition of a minor and anyone below the age of 18 is considered a minor. It is necessary to protect children below 13 and it is necessary to enact acts such as the Children's Online Privacy Protection Act (COPPA) and the Child Internet Protection Act (CIPA) (US enactments.) The COPPA regulates collection of data from children who are under the age of 13. In China Cyber protection of Children's Personal Information Act is used to protect children from the Internet with emphasis on children under the age of 14. In India due to the lack of proper law on the protection of Internet privacy, the Courts had to intervene in ordering the removal of apps from the Google play store. A music and video creativity app, Tiktok was fined by the United States federation trade commission (FTC) for irregularities in collecting the personal data of Children under 13 years old without parental consent. Once, the Madras High Court had also asked the Central government to put ban on Tik-Tok due to allegations over spreading pornography and nudity content. Again, due to the lack of cyber laws protecting the online rights of children, a blanket safety over the application Tik Tok was saved and wasn't banned. A similar incident happened when Tik tok was again questioned by the National Commission for Women, a quasi-judicial body for promoting acid attack videos. Such incidents have exposed how the lack of appropriate laws have let the children's right to Internet privacy die to such online applications. With a global pandemic it is necessary for children to use the Internet and apart from educational purposes children gain a humongous amount of general knowledge from the Internet. Children learn innovative ways to learn and succeed through the Internet. The Internet has become a necessity and with proper parental

guidance and separate laws to protect them should be the need of the hour in India. The paper **aims** to identify methods to protect children's privacy from the Internet.

#### OBJECTIVES:

- To enlighten the need for separate enactment for Child Internet privacy.
- To identify if it is safe to provide access to the Internet to children.
- To identify if parental guidance is necessary for children to access the Internet.
- To find if the Internet is used in a productive manner by children.
- To identify methods to protect the children's privacy.
- To find the extent of which kids' accounts protect children.

#### REVIEW OF LITERATURE:

**(Mathiesen)** says that posting of their children online by the parents is hard pressed and views themselves as a threat. He points out that parents these days post photos and videos of their children in public display to show their love. In simple facts he mentions that it is posting of private moments without the permission of their children. **(R.)** mentions that with the advent of social media which has brought new frontiers in individuals, and children are no exception where they appear involuntarily. Pictures which are common only to the particular family's album are now available online to the whole world. **(Chopra)** here puts forth that various resources say that there is increased parental responsibility in this age and should restrain from what they post online in order to protect their children from online predators who may misuse those of the children's pictures and videos. **(Bajpai)**



points out an incident where a woman on Instagram had said that she would never create any social media profile in her child's name and update it. She thought that it was the right of her child to be in social media or not and how it would look like. She said that she doesn't think it was a parent's place to make decisions on behalf of their child. But ironically, the same mother had posted the images of the activity of her child right from pregnancy till then, by this the author points out that child right not only means that it is creation of their own social media account whereas it means not to post anything about them anywhere. **(Klewitz-Hommelsen)** says that these children's privacy is being violated even by cyberbullies who target children below the age of 18 by sending them mean messages, embarrassing photos, videos, rumors which are sent through fake profiles and making their photos made available on social networking sites. **(Mishra and Mishra)** compares the issues of child right to the US legislation and finds out that Under the Federal Statutes of United State of America, title 18, United States Code section 2261-A(1) deals with speaking about criminalisation of Traditional stalking and (2) specifically criminalises 'Cyber stalking' against children and Sec. 2261 B provides penal consequence of offenders of cyber stalking with several slabs of imprisonment as for life or not more than 20 years or 10 years or 5 years along with fine. **(U. s. Department of Commerce)** The Children's Internet Protection Act (CIPA) was enacted by Congress in 2000 to address concerns about children's access to obscene or harmful content over the Internet. CIPA imposes certain requirements on schools or libraries that receive discounts for Internet access or internal connections through the E-rate program – a program that makes certain

communications services and products more affordable for eligible schools and libraries. In early 2001, the FCC issued rules implementing CIPA and provided updates to those rules in 2011. **(Halder and Jaishankar)** say that data protection was more focused since the Aadhar judgement. It established that internet privacy and data is also as important as other privacy. In that concern from the outbreak of the corona pandemic everything was made online and most of the children were made to use a mobile phone for educational purposes which made them more exposed to the internet. **(Garg et al.)** comment that Nobody really reads the privacy policies that they sign up to, and even if they do, the inter-connected intricacies of modern data practices make it impossible for anyone to fully comprehend the privacy consequences of everything that they agree to. If this is what happens when adults sign on to a service for themselves, relying on them to safeguard their children's privacy is rather like asking the blind to lead the blind. **(Siddique)** states that stalkers aim to enter their target's private space and incidentally monitor each and every move of their target by way of mails, messages, phone calls or any other mode and this is where child being at a tender age and being not aware these stalkers fall into the trap of these stalkers. Hence it is suggested to the parents to have a close eye on their children's online activities. **(Yadav et al.)** state that the Personal Data Protection (PDP) Bill 2019 classifies a child as any person below the age of 18. Such persons' data cannot be used without the consent of their parents or their guardian and the verification of their age. **(Naavi)** states that the Indian parliament has made a bill called the Personal Data Protection Bill, 2019 which lacks focus on children's internet privacy. This bill is in the



verge of need as it is the enactment that has provisions that to an extent protects vulnerable nature of children from cyber crimes. But the author also notes that there exist certain lacunae which creates a lot of loopholes. **(Seth)** suggests that it is necessary for parental guidance when the child uses the internet. He suggests that before a child uses any sort of software application it needs to be tested by the parent once, be it any app or game, it is good to make sure the app is child safe. **(Desale et al.)** suggest that email providers such as google and yahoo provide children email, where the activity done by or email received by them is also received by the parents in order to make sure the child's internet activity. **(Comert and Kaviran)** state that the internet can be great for children. It could be used to interact with children, research on school projects and play interactive and productive games, But with beauty lies the danger, the internet along with the productive nature comes with the addictive nature, there are a lot of chances that a child might get addicted over the internet and become a prey for it. **(Yin and Zheng)** study kids accounts on the internet, various social media forums have brought in the facility of having a kids account such as google and yahoo provide emails specially for kids, youtube provides kids accounts which offers videos relevant for kids. **(Rajapakse; “Switching to Online Teaching within a Teacher Training Programme during the COVID-19 Pandemic”)** states that it is necessary that the parents educate their child about internet safety and advise them not to share the passwords to any of their friends or any other close relative other than their parent or unless permitted by their parents and to make sure the child reports if anything goes wrong. **(Kohli-Khandekar)** study that the Data

Protection Bill of 2019 does not define a child and chapter 4 only covers minors rather than children. It is concluded in the paper that there is a need to separate children from minors as a 5 year old is more vulnerable than a 16 year old teenager. **(Dewani et al.)** recommend that when there are separate categories to collect children's data, while providing Internet services to children there needs to be additional compliance measures taken in order to protect the children's Internet privacy. **(Cortez)** states that in India at least the common law for data protection should be similar like General Data Protection Regulation (GDPR) (followed in EU) as it is the world's most grounded set of data protection laws that controls the data shared by individuals to the associations and the security, privacy, concerns to be taken by them with respect to such data. Even the COPPA and Chinese Act for children's Internet privacy protection is drawn based on the GDPR.

#### RESEARCH METHODOLOGY:

The current study is based on empirical research. It consists of the scientific frame of research. It began with the finding of research problems based on the review of literature. The major contribution of the study is to collect the legal facts of a particular area and to test the hypothesis of a cause and effect relationship between variables. The research design is exploratory and experimental. It explored the problem tested with hypotheses and provided the solution from the analysis. Convenient sampling method is used (Non probability sampling). The sample size is 200. Data is collected through online sources. Questionnaire is used as the primary data collection and the articles, journals, reports, newsletters are considered as the secondary sources. The analysis is carried out for



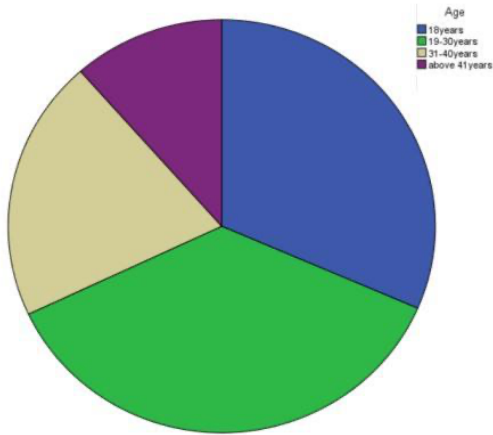


demographic statistics (Age, Gender, Educational qualification and Occupation) and graphs are used.

**ANALYSIS:**

**VARIABLES:**

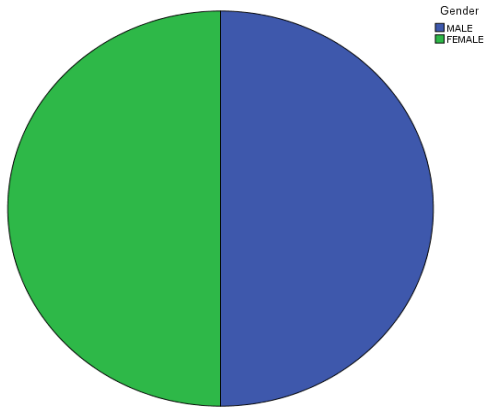
**AGE**



**FIG 1**

**LEGEND:** From fig.1 it's observed that, the majority of the respondents are from the age group 19-30 with 36.5%, 11.5% of above 41, 31.5% of the age group 18 and 20.5% of the age group 31- 40.

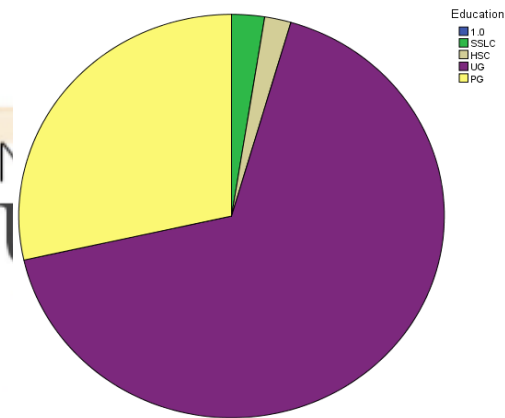
**GENDER**



**FIG 2**

**LEGEND:** From fig. 2 it's observed that 50% of the respondents are men and 50% are women.

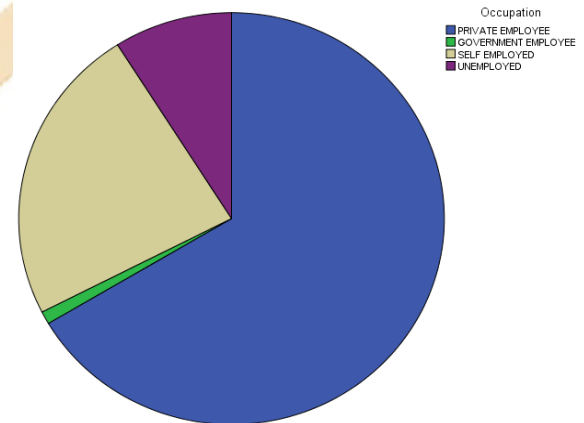
**EDUCATION**



**FIG 3**

**LEGEND:** From fig. 3 it's observed that, majority of the respondents have completed their UG or pursuing their UG with 67%. 28.5% respondents have completed their PG, 5% completed HSC and 3% have completed SSLC.

**OCCUPATION**

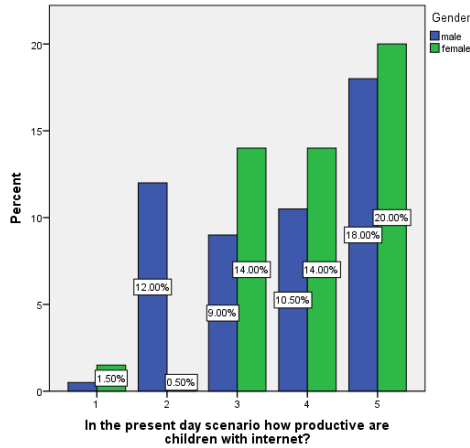


**FIG 4**



**LEGEND:** From fig. 4 it's observed that 66.5% (majority of the respondents) are private employees, 23.5% are self employed, 9% are unemployed and a mere 1% of the respondent is a government employee.

**QUESTIONS:**

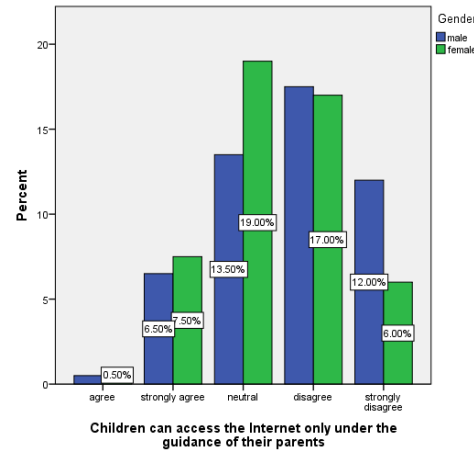


**FIG 5**

**LEGEND:** Fig. 5 shows the distribution of gender and agreeability towards productivity of children with the Internet.

**RESULT:** The result of Fig. 5 shows that 18% of men and 20% of women strongly agree that with the developments in technology and growth of the Internet, in the present day scenario it is necessary for children to use the Internet and therefore make children productive. 1.50% of women and 1% of men strongly disagree that children are productive with the Internet. 12% men and .50% women disagree with the same and 10.50% men and 14% women agree with the same. 14% women and 9% men take a neutral stand. With the majority of respondents (18-20%) strongly agreeing it can be inferred that children are productive with the Internet.

**DISCUSSION:** (Comert and Kayiran) (2013) state that the internet can be great for children. It could be used to interact with children, research on school projects and play interactive and productive games. Even though it comes with great dangers, when used properly the Internet can be a productive way to reach children.



**FIG 6**

**LEGEND:** Fig. 6 shows the distribution of gender and agreeability on whether children can access the internet only with the guidance of parents.

**RESULT:** The result of Fig. 6 shows that 19% women and 13.50% men (majority of the respondents) take a neutral stand. 12% men and 6% women strongly disagree that children can access the Internet only under the guidance of their parents, 17% of women and 18% of men disagree with the same. 7.50% women and 6.50% strongly agree and .50% of men and women agree that the Internet can be accessed by children under parental guidance.



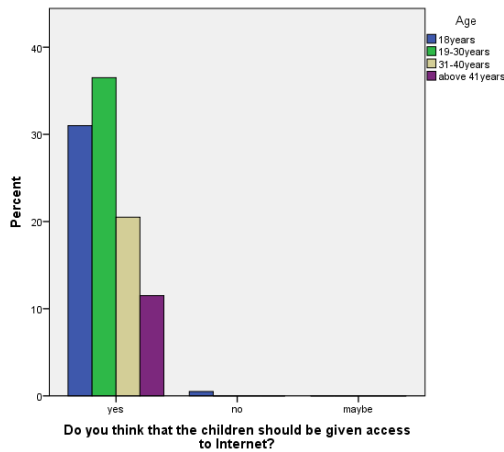
**DISCUSSION:** (Rajapakse) (2020) states that it is necessary that the parents educate their child about internet safety and advise them not to share the passwords to any of their friends or any other close relative other than their parent or unless permitted by their parents and to make sure the child reports if anything goes wrong. From the research it can be inferred that children’s access to the Internet should be under parental guidance.

**LIMITATION:**

The study identifies the lack of definition of a child and proper enactment to protect child internet privacy. Lack of Parental approval and guidance is another limitation to this study. The study uses a convenient sampling method and only 200 responses.

**SUGGESTIONS:**

There are various provisions in countries like the US and China which specifically deal with the right to privacy of children over the internet such as United States Code section 2261-A(1) which speaks about criminalisation of cyber stalking of children. Children's Internet Protection Act (CIPA) was enacted by Congress in 2000 to address concerns about children's access to obscene or harmful content over the Internet. Whereas in India there is no specific act which particularly deals with the right and privacy of children over the internet. Yet there are some provisions in many acts which are scattered. But a single specific act defining child and children Internet privacy would be more efficient than various provisions in various acts.



**FIG 7**

**LEGEND:** Fig. 7 shows the distribution of age and whether children should be given access to the Internet.

**RESULT:** The result of Fig. 7 shows that the majority of the respondents from various age group categories agree that children should be given access to the Internet.

**DISCUSSION:** With reference to (Comert and Kayiran) (2013) it can be inferred that children can be productive when given access to the Internet but considering the dangers it is advisable to take precautionary measures before providing full access to the Internet to children.

**CONCLUSION:**

Children below the age of 14 are vulnerable and are not mature enough to understand the need to protect their privacy. With the absence of strict enactments every cyber criminal has a way to escape. Even though the data protection bill is proposed for the protection of the right to Internet privacy of an individual and in spite of the bill covering children, it has its own loopholes and lacks proper definition of a child and sensitive data protection. The government needs to frame a separate fully-fledged Act like COPPA, CIPA (USA) and CPCPI (China).



## REFERENCES:

1. Bajpai, Asha. *Child Rights in India: Law, Policy, and Practice*. Oxford University Press, 2018.
2. Chopra, Geeta. "Children in Especially Difficult Circumstances: Right to Protection and Participation." *Child Rights in India*, 2015, pp. 77–100, [https://doi.org/10.1007/978-81-322-2446-4\\_4](https://doi.org/10.1007/978-81-322-2446-4_4).
3. Comert, Itir Tari, and Sinan Mahir Kayiran. "Internet Usage Among Children And Adolescents." *Tuberculin Skin Test in Children*, vol. 10, no. 4, 2013, pp. 166–70, <https://doi.org/10.5222/j.child.2010.166>.
4. Cortez, Elif Kiesow. *Data Protection Around the World: Privacy Laws in Action*. Springer Nature, 2020.
5. Desale, Swapna, et al. "Personalized Web Search with Privacy Protection." *International Journal Of Engineering And Computer Science*, 2016, <https://doi.org/10.18535/ijecs/v5i10.01>.
6. Dewani, Nisha Dhanraj, et al. *Handbook of Research on Cyber Law, Data Protection, and Privacy*. IGI Global, 2022.
7. Garg, Dr Ajay Kumar, et al. "Data Protection Laws in India: A Comparative Study." *Indian Journal of Applied Research*, vol. 3, no. 1, 2011, pp. 75–76, <https://doi.org/10.15373/2249555x/jan2013/30>.
8. Halder, Debarati, and K. Jaishankar. "Cyber Governance and Data Protection in India." *Routledge Companion to Global Cyber-Security Strategy*, 2021, pp. 337–48, <https://doi.org/10.4324/9780429399718-28>.
9. Klewitz-Hommelsen, Sayeed. "Indicators for Privacy Violation of Internet Sites." *Lecture Notes in Computer Science*, pp. 456–59, [https://doi.org/10.1007/3-540-46138-8\\_73](https://doi.org/10.1007/3-540-46138-8_73).
10. Kohli-Khandekar, Vanita. *The Indian Media Business: Pandemic and After*. SAGE Publishing India, 2021.
11. Mathiesen, Kay. "The Internet, Children, and Privacy: The Case Against Parental Monitoring." *SSRN Electronic Journal*, <https://doi.org/10.2139/ssrn.2150310>.
12. Mishra, Alok, and Deepti Mishra. "Cyber Stalking." *Cyber Warfare and Cyber Terrorism*, 2007, pp. 216–26, <https://doi.org/10.4018/978-1-59140-991-5.ch027>.
13. Naavi. *Personal Data Protection Act of India (PDP Act 2020): Be Aware, Be Ready and Be Compliant*. Notion Press, 2020.
14. Rajapakse, Champa. "HIGHER EDUCATION AND ONLINE TEACHING DURING THE PANDEMIC : EXPERIENCES OF A UNIVERSITY TEACHER." *The War with Pandemic World "LOCK DOWN LIFE"*, 2020, pp. 91–105, <https://doi.org/10.26524/royal.41.10>.
15. R., Feno Heriniaina. "A Privacy Threat for Internet Users in Internet-Censoring Countries." *Proceedings of the 2nd International Conference on Information Systems Security and Privacy*, 2016, <https://doi.org/10.5220/0005739203720379>.
16. Seth, Rajeev. "Child Abuse and Neglect in India." *Indian Journal of Pediatrics*, vol. 82, no. 8, Aug. 2015, pp. 707–14.
17. Siddique, Shahid. *LEGAL ASPECTS OF DATA PROTECTION*. Lulu Press, Inc, 2020.
18. U. s. Department of Commerce. *Children's Internet Protection Act*. CreateSpace, 2014.





---

19. Yadav, Dr Anusuya, et al. “Data Protection in India in Reference to Personal Data Protection Bill 2019 and IT Act 2000.” *IARJSET*, vol. 8, no. 8, 2021, <https://doi.org/10.17148/iarjset.2021.8845>.

Yin, Xiaona, and Xingxing Zheng. “A Semisupervised Majority Weighted Vote Antiphishing Attacks IDS for the Education Industry.” *Computational Intelligence and Neuroscience*, vol. 2022, Mar. 2022, p. 7402085.

