Protecting Children from CSAM

What is the issue?

Experts say that India needs an appropriate strategy to fight the production, the spread and the sharing of online Child Sexual Abusive Material (CSAM).

What are different operations of India?

- Recently, the Central Bureau of Investigation (CBI) conducted searches across States and Union Territories as part of "Operation Megh Chakra" against the online circulation and sharing of Child Sexual Abusive Material (CSAM).
- It was based on inputs received from Interpol's Singapore special unit.
- In 2021, a similar exercise code-named "Operation Carbon" was launched by the CBI, with many being booked under the IT Act, 2000.

What are the rules in India?

- In India, though viewing adult pornography in private is not an offence; seeking, browsing, downloading or exchanging child pornography is an offence punishable under the IT Act.
- However, Internet Service Providers (ISPs) are exempted from liability for any third-party data if they do not initiate the transmission.
- India's enforcement agencies are largely dependent on foreign agencies for the requisite information. This is because,
    1. The public reporting of circulation of online CSAM is very low, and
    2. There is no system of automatic electronic monitoring.

What are India's efforts so far?

- In India, the Supreme Court of India, in **Shreya Singhal case** (2015), read down Section 79(3)(b) of the IT Act.
- This section meant that the ISP, only upon receiving actual knowledge of the court order or on being notified by the appropriate government, shall remove or disable access to illegal contents.
- Thus, ISPs are exempted from the liability of any third-party information.
- In the **Kamlesh Vaswani case** (2013), the petitioner sought a complete ban on pornography.
- After the Court's intervention, the advisory committee (constituted under Section 88 of the IT Act) issued orders in 2015 to ISPs to disable 9 URLs that hosted contents in violation of the morality and decency clause of Article 19(2).
- The petition is still pending in the Supreme Court.
- In 2016, '**Aarambh India**', a Mumbai-based NGO, partnered with a UK-based NGO Internet Watch Foundation (IWF) launched India's first online reporting portal in 2016

to report images and videos of child abuse.
- These reports are assessed by the expert team of IWF analysts and offending URLs are added to its blocking list.

    - *The Internet Watch Foundation (IWF), a UK-based non-profit organisation established by the United Kingdom's Internet industry.*
    - *It was established to ensure a safe online environment for users with a particular focus on CSAM, includes disrupting the availability of CSAM and deleting such content hosted in the U.K.*
    - *The IWF engages the analysts to actively search for criminal content and not just rely on reports from external sources.*

What are some measures by the Indian government?

- In 2018, the **Ministry of Home Affairs** launched a national cybercrime reporting portal for filing online complaints pertaining to child pornography and rape-gang rape.
- This facility was developed in compliance with Supreme Court directions with regard to a public interest litigation filed by Prajwala, a Hyderabad-based NGO that rescues and rehabilitates sex trafficking survivors.
- As not many cases of child porn and rape were reported, the portal was later extended to all types of cybercrime.
- Further, the **National Crime Records Bureau** signed a memorandum of understanding with the NCMEC in 2019 to receive CyberTipline reports to facilitate action against those who upload or share CSAM in India.
- The NCRB has received more than two million CyberTipline reports which have been forwarded to the States for legal action.

    - *The National Center for Missing & Exploited Children (NCMEC), an US-based NGO, operates a programme called CyberTipline for public and electronic service providers (ESPs) to report instances of suspected child sexual exploitation.*
    - *ISPs are mandated to report the identity and the location of individuals suspected of violating the law.*
    - *Also, NCMEC may notify ISPs to block transmission of online CSAM.*

What did the Jairam Ramesh Committee recommend?

- The ad hoc Committee of the Rajya Sabha, headed by Jairam Ramesh, in its 2020 report, made wide-ranging recommendations on 'the alarming issue of pornography on social media and its effect on children and society as whole'.
- On the legislative front, the committee recommended
    1. The widening of the definition of 'child pornography',
    2. Proactive monitoring, mandatory reporting and taking down or blocking CSAM by ISPs.
- On the technical front, the committee recommended
    1. Permitting the breaking of end-to-end encryption,

2. Building partnership with industry to develop tools using artificial intelligence for dark-web investigations,
3. Tracing identity of users engaged in crypto currency transactions to purchase child pornography online and
4. Liaisoning with financial service companies to prevent online payments for purchasing child pornography.

What needs to be done by India?

- According to the 9th edition (2018) report of the International Centre for Missing and Exploited Children on "CSAM: Model Legislation & Global Review", more than 30 countries now require mandatory reporting of CSAM by ISPs.
- India also figures in this list, though, the law does not provide for such mandatory reporting.
- The Optional Protocol to the UN Convention on the Rights of the Child that addresses child sexual exploitation encourages state parties to establish liability of legal persons.
- India must join INHOPE and establishe its hotline to utilise Interpol's secure IT infrastructure or collaborate with ISPs and financial companies by establishing an independent facility such as the IWF or NCMEC.
- **Jairam Ramesh committee's** recommendations must be followed up in earnest and the Prajwala case brought to a logical end.
- India needs to explore all options and adopt an appropriate strategy to fight the production and the spread of online CSAM.

Reference

The Hindu | An online fight where children need to be saved

Quick Facts

INHOPE

- INHOPE is a global network of 50 hotlines (46 member countries).
- It provides the public with a way to anonymously report CSAM.
- It provides secure IT infrastructure, ICCAM (I- "See" (c)-Child-Abuse-Material) hosted by Interpol, and facilitates the exchange of CSAM reports between hotlines and law enforcement agencies.
- ICCAM is a tool to facilitate image/video hashing/fingerprinting and reduce the number of duplicate investigations.

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