



# THE THREAT OF SEXTORTION AMONG CHILDREN THROUGH SOCIAL MEDIA: A GROWING PROBLEM

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## ABSTRACT

The social media revolution invited several unprecedented pros and cons not only in the lives of adults but also in the lives of children in India. Today, in the digital world, using smartphones means no person is beyond the range of social media, and addiction to it is expected. Children are very fond of it and get addicted quickly. They, due to addiction, get victimised by scammers or perpetrators in several ways. Sextortion is one of them, which means extortion through sexual means. Various studies show that around 70-75% of victims are children, which is gender neutral crime. Today, the number of sextortion cases of children through social media is a great matter of concern for which no specific legal provision penalising it as an independent offence exists. Several laws punish the act but fail to address it as a particular crime. Here the authors would like to examine the rising concern about sextortion cases, especially among children, concerning existing legal provisions and judicial pronouncements and address the gap between the same.

Keywords: Sextortion, Children, Social Media, Cyber Crime.

**Introduction:** - India, at 75 years, brings several revolutionary changes in different fields, and technological development is one of them. The call for Digital India accelerated the race to digitally empower India digitally, making life easier than earlier. Social media are the product of this digital revolution. But this technological revolution unknowingly brought some massive challenges which resulted in tragic misery in the life of Indian nationals in the forms of cyber crimes like cyberbullying, cyberstalking, down blousing, online harassment, hate speech, phishing, morphing, etc. Social media network is that product to which all get addicted quickly, and children become very much fond of them due to their attractive, seductive, and deceptive content.

According to CERT-In<sup>1</sup>, in the absence of precise data on sextortion, in 2006, the number of cybercrimes handled by it was more than 550, while in 2021, they took 1402809 cases and it shows that it is a sharp rise in threats. The offence of sextortion against children is the reality of this Digital India. This offence is gender-neutral and children are the prime victim of it.

Before technological development, victims were extorted mostly due to money. Still, today, through the revolution of smartphones, the world comes into the hand of the perpetrators who elevated the ordinary form of offence to cybercrime. Generally speaking, sextortion is either by hacking the victims' social media handle or making fake social media account with attractive bio and details, continuously updating pictures and status, offering friendship and building trust in the mind of the victim and luring that victim to show sexually explicit pictures and videos and then by collecting all these contents threatening the victim to engage in a sexual relationship, to get favours, money, etc<sup>2</sup>., in short sextortion is extortion through sexual means. India is on the way to becoming a sextortion capital happening 500 cases every day, among which only 0.05% of cases are being registered as FIR<sup>3</sup>. In the Indian societal system, where sex talk is not a common topic sharable to everyone, if it causes any such cases as sextortion almost remains unregistered. So, neither can they get out of it by getting relief, nor can they share it with anyone, so automatically, it causes panic in the mind of the child victim, which results in suicide, trauma, or any psychological diseases. So simply, it is clear that this prevalent crime of sextortion is threatening to child community and to get a ride from the great challenge, the nation needs several tools to evade this problem, and these are recognising sextortion as an independent crime by introducing a new provision in Indian Penal Code, 1860, and Information Communication Technology Act, 2000: implementing the Personal Data Protection law, etc.

**Evolution of Sextortion:** The first instances of sextortion can be traced back to 2006 when a female journalist who had grown accustomed to online conversing became a target of a spear-phishing assault, and her laptop was infected with the video keylogger virus<sup>4</sup>. Therefore, everything she typed was saved on her laptop's hard drive and sent through email to the cybercriminal. All the photographs from her Web Cam were inadvertently transferred after being accidentally turned on. The precisely compiled videos and data were used to blackmail the unsuspecting victim. Following her suicide attempt, the girl received counselling. So, sextortion from 2006-22 transformed through the following four phases<sup>5</sup>. First-generation Sextortion: Mostly, women were the targets of the crimes committed by ex-lovers who threatened to publish their intimate photos as retaliation porn. There were crude recording methods employed. Second-generation Sextortion: Male perpetrators built phoney profiles of alluring women, and they used technology to build a make-believe universe using voice modulation software, male speech via VOIP calls could be changed to a feminine voice. Sexting through

<sup>1</sup> Annual Report 2006 and 2021, published by Indian Computer Emergency Response Team (CERT-In) run by Ministry of Electronics and Information Technology (MeitY), Government of India.

<sup>2</sup> Mondal Himel et al., Characteristics of Cyber Sextortion in India: Content Analysis of Online Newspapers Published in 2019–2021, Vol. 4(3) JPH 171, 173 (2022).

<sup>3</sup> Yashasvi Yadav, *India becoming 'sextortion' capital of the world?*, The Times of India (March 9, 2022), <https://timesofindia.indiatimes.com/blogs/voices/india-becoming-sextortion-capital-of-the-world/>

<sup>4</sup> Yashasvi Yadav, *India becoming 'sextortion' capital of the world?*, The Times of India (March 9, 2022), <https://timesofindia.indiatimes.com/blogs/voices/india-becoming-sextortion-capital-of-the-world/>

<sup>5</sup>Ibid.

WhatsApp, followed by naked video calls, was used to honeytrap victims. At this time, programmes for screen recording, morphing and video editing also appeared. Third-Generation Sextortion: At this stage, male extortionists began hiring and training attractive ladies to lure victims. These were ground-breaking innovations that elevated sextortion to the level of an organised crime syndicate. Cryptocurrency wallets, which offered a greater degree of culpability and anonymity, replaced money mule bank accounts. Fourth Generation Sextortion: is an advanced, cutting-edge phase of the crime where no victim is lured in, or ladies are used as honey traps. Without engaging in any form of online sexual conversation or misconduct, anyone can become a sufferer of sextortion through "Deepfake" and "Deep-nude" technology. Today, abuses based on online coercion or blackmail are commonly referred to as "sextortion." However, it was previously defined much more broadly when it was first presented ten years ago by the International Association of Women Judges (IAWJ) as "corruption involving sexual exploitation."<sup>6</sup> The word was first used by the IAWJ in a variety of situations, including "government officials issuing permits in exchange for favours, to employers and teachers and employers selling excellent grades and career possibilities for sexual intercourse with students and employees." The IAWJ later chose the term "sextortion" to emphasise both the corrupt nature of the acts as well as their sexual component<sup>7</sup>.

**Online Sextortion and Children:** In this digital era, social media in every smartphone are common but the problem is that 90% population is digitally illiterate in India<sup>8</sup>. When it comes to children, they try to make alien friends without verifying the authenticity of profiles or accounts and get deceptively trapped by cyber criminals. After that, if the perpetrator is male and the victim is male, then they are compelled to provide money or any other favours but if the victim is female, then they are either forced to engage in a sexual act or for money, though in most cases the perpetrator found to be male. As children are more prone to social media addiction, their victimization rate is also high. Through social media manipulation, almost about 91% of victims who are children are targeted; among the victims of online sextortion, it found that 71% are children, 14% include both children and adults and 12% of victims involved are only adults<sup>9</sup>. Though the internet has no limit yet, specifically in urban areas, cases of sextortion are found mostly rather than in rural areas. A recent report shows that in Thane (Maharashtra), among 60 registered cases, 25 were about sextortion matters and the number doubled in between the COVID-19 pandemic<sup>10</sup>. Sextortion is one of the fast-growing crimes against minors and Facebook is one of the most preferred social media platforms where fake accounts can be made without any hurdles to trap digitally illiterate children<sup>11</sup>. India is a populous country where 54% of cases of

<sup>6</sup> Thomson Reuters Foundation, International Association of Women Judges, and Marval O'Farrell Mairal, *Combating Sextortion: A Comparative Study of Laws to Prosecute Corruption Involving Sexual Exploitation* 9, 2015, at <http://www.trust.org/contentAsset/rawdata/588013e6-2f99-4d54-8dd8-9a65ae2e0802/file> (last visited Oct. 8, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>7</sup> Ibid.

<sup>8</sup> Bhattacharya Dr Sumanta et al., *Impact of cyber law in modern era with advancement in technology and protection from rising threats of cybercrimes in our socio-economic sector*, 9(09) IJAR 274, 277 (2021).

<sup>9</sup> Jiashankar Prof. K, Course: P-04. *Cyber Criminology and Cyber Forensics* (subject – Criminology, Module 16. Online Sextortion), One India Digital Platform, [https://odp.inflibnet.ac.in/index.php/module\\_details?course=p-04.20cyber%20criminology%20and%20cyber%20forensics](https://odp.inflibnet.ac.in/index.php/module_details?course=p-04.20cyber%20criminology%20and%20cyber%20forensics)

<sup>10</sup> Mondal et al, *supra note 4*, at 172.

<sup>11</sup> Rathod Sarthak et al., *Cyber Psychological Case Studies of Sextortion for Identifying the Accused in the Offences Committed on Social Media*, Vol. 8(1) IJSRCIET 42, at p 47 (2022).

sexortion of minors are found from social networking sites, 41% from messaging and photos apps, 9% from dating apps and it is also found that 60% of perpetrators are previously known to the victim and 40% offenders are met in social networking sites<sup>12</sup>. A survey report of 14 countries prepared by Microsoft in 2017 reveals that about 77% of Indians exposed their concerns relating to sextortion<sup>13</sup>. So, undoubtedly these data reveal a threat in the mind how much social networking sites and other dating apps are secure. The digitally educated persons made their fake profiles to lure those adolescent victims into romantic or sexual relationships and in most cases, they were found to be a success. This process goes on until they leave it out or get convicted. But in this journey of sextortion, the victim must suffer several physical and psychological consequences.

**Impact of Sextortion upon Children's Mental and Physical Health:** - Once the victim gets trapped, the scammer demands money under threat of dissemination of those sexually explicit pictures or videos. If the victim is male, then generally, money is demanded because most of the perpetrations are found but if the victim is female, then sexual favours or money are demanded, and this demand is endless<sup>14</sup>. On the other hand, as the victim has voluntarily provided sexual content to the perpetrator, neither he/she can share it because of fear, stigma and shamefulness, nor can absorb the sufferance, which leads the victim to psychological disorders, even suicidal attempts. In several cases victims have given money to fulfil the need of the perpetrator<sup>15</sup>; because victims feel hopeless for not finding any easy solutions, they forcefully continue to satisfy the sexual needs of the scammer in the forms of spanking, anal fingering, fisting, fingering, drinking their ejaculation, strip dancing, etc.<sup>16</sup> Ordinary sexual activities seem pleasurable but when it is done under threat, it becomes miserable for the victims, which ruins the sufferer physically and emotionally.

**Legal Framework:** - The lacuna of this crime is that if someone got victimised under this trap of sextortion, then there is no legislation are there to deal with it, neither the Indian Penal Code, 1860 (IPC) nor Information Technology Act, 2000 (IT Act), Protection of Children from Sexual Offences, 2012 (POCSO Act) or any other legislation. Except for Section 354E of Ranbir Penal Code, 1932, in Jammu & Kashmir, which had recognised sextortion as an independent crime but now it has now no existence<sup>17</sup>. To allege any scammer in this offence, different provisions of the IPC and IT Act are being applied, which are as follows:

Under Indian Penal Code, 1860:

1. Sections 383 and 384 provide punishment of up to three years or a fine for delivering any material by the victim to the offender under threat.

<sup>12</sup> Jiashankar Prof. K, Course: P-04. *Cyber Criminology and Cyber Forensics* (subject – Criminology, Module 16. Online Sextortion), One India Digital Platform, [https://odp.inflibnet.ac.in/index.php/module\\_details?course=p-04.4%20cyber%20criminology%20and%20cyber%20forensics](https://odp.inflibnet.ac.in/index.php/module_details?course=p-04.4%20cyber%20criminology%20and%20cyber%20forensics)

<sup>13</sup> Agrawal Saloni, Online sextortion, Vol. 6(1) IJHSC 14, at p 16 (2020).

<sup>14</sup> Wittes, B., Poplin, C., Jurecic, Q., Spera, C. (2016). Sextortion: Cyber Security, Teenagers and Remote Sexual Assault. Retrieved from <https://www.brookings.edu/wp-content/uploads/2016/05/sextortion1-1.pdf>.

<sup>15</sup> Yashasvi Yadav, *India becoming 'sextortion' capital of the world?*, The Times of India (March 9, 2022), <https://timesofindia.indiatimes.com/blogs/voices/india-becoming-sextortion-capital-of-the-world/>

<sup>16</sup> Agrawal Saloni, Online sextortion, Vol. 6(1) IJHSC 14, at p 17 (2020).

<sup>17</sup> The Ranbir Penal Code, 1932, has been abolished by the Jammu & Kashmir Reorganisation Act, 2019, through abrogating Article 370 of The Constitution of India, 1950.

2. Section 354 provides a punishment of up to 2 years for assaulting or using criminal force to outrage the modesty of a woman.
3. Section 354C provides a punishment of up to 3 years for infringing on any person's privacy or for disseminating his or her private photos or videos.

Under Information Technology Act, of 2000:

1. Section 66C says that anyone who uses another person's electronic signature, password, or other unique identifying feature dishonestly or fraudulently faces up to three years in prison and a fine of Rs. 1 lakh in addition to other penalties.
2. Section 66D says that any individual who personates (takes on another person's identity to deceive or fool someone) using a communication system or computer resource is subject to fines up to Rs. 1 lakh as well as imprisonment of either sort for a term that may reach three years.
3. Section 66E provides a punishment of up to 3 years imprisonment, or a fine of 2 lacks Rs or both for intentionally capturing, transmitting, or disseminating their private photos or videos though electrically.
4. Section 67A provides punishment of up to 5 years or a fine up to 10 lakhs for publishing or disseminating materials containing sexually explicit acts though electrically.
5. Section 67B provides a punishment of up to 5 years imprisonment if the sexually explicit act is published or disseminated by children though electrically.

Section 11 of the POCSO Act, 2012, provides sexual harassment as a punishable offence that makes a child display his or her body so that it may be seen by that person or another person or exhibits any material to a juvenile in a pornographic manner in any method or medium.

Since existing laws do not adequately address internet sextortion, it is advised that politicians create a distinct law component of online sexting. Online sextortion entails making threats to publish the victim's sexually explicit photos. It diminishes and obliterates the victim's dignity. Victims are coerced into providing sexual favours for the offender. Victims are sexually and mentally abused to the point where they occasionally commit suicide. Also, keep in mind that anyone in the globe can commit the crime of internet sextortion from anywhere. The offender may be of a different nationality and from another country.

Except for Jammu & Kashmir, in the absence of specific legal provisions number of sextortion cases were tried by the court in India. In Ramesh Chandra Arora's<sup>18</sup> case, the trial court convicted the victim U/S 503/506 OF IPC, 1860, and the high court confirmed that conviction. In this case, the victim used to threaten the father of a daughter to disclose the private photos of that girl, and based on this threat, the perpetrator used demanded hush money but was not paid. The victim was punished for criminal intimidation and for causing of threat in the mind of the victim's father.

<sup>18</sup> Ramesh Chandra Arora v. State, AIR 1960 SC 154.

In 2018, the J&K High Court issued an order<sup>19</sup> directing the state administration to criminalise sextortion and to implement this order. The state has amended the then Ranbir Penal Code by inserting Section 354E. In another case, infamously known as the OP Jindal<sup>20</sup> case, the victim was threatened to pay sexual favour unless the offenders shall publish the secret photos of the victim. The victim got terrorised under this threat and felt hopeless and ultimately, she was raped by the perpetrators against her will. The registered sextortion cases are in hand, but the unregistered cases are more than is supposed.

**Conclusion:** Therefore, from the above analysis, it can be said that the rise of sextortion is a threat to digital India, specifically to children. A report shows that only in Pune and Maharashtra State, a total number of 1445 sextortion cases were reported<sup>21</sup>. These data are a significant concern for the country's children who are intimately connected with social networking sites in everyday life. The major factors found were the curiosity to make romantic as well as sexual relationships, which is common in this period of life. Once they got trapped by the perpetrators, they started to suffer monetary and emotional consequences, which led them to different types of psychological disorders and even suicidal attempts because of the shamefulness and stigma of society where sex talk is not an easy topic to discuss in public. According to a report,<sup>22</sup> 1 out of 4 victims met with mental health or medical professional, and 1 out of 3 victims never told anything about the incident to anyone because of stigma, fear, or shame. etc., and 1 out of 8 victims left home feeling insecure or unable to face the situation. Though most of the cases remain unreported due to this stated reason who faces the legal fight are also facing problem because of the unrecognition of sextortion as an independent crime. In this regard, Jammu & Kashmir was the country's first state to recognize this crime distinctively and provide punishment, but now it is not in existence. Administration and judiciary play a pivotal role in addressing this problem in the absence of specific provisions of sextortion with the help of IPC, IT Act, and POCSO Act. Sextortion is a growing crime, and to combat this scam, there must be an express legal provision to address the problem, like the then Ranbir Penal Code, 1932, of J&K.

**Suggestions:** - After analysing the scenarios and major concerns of sextortion, the following suggestions can provide:

1. To prevent victimisation, a strategy must raise public awareness.
2. Need for victim-centric policy making.
3. Enhancing grievance redressal websites' sensitivity and responsiveness.
4. Implementing Digital Personal Data Protection Act, 2023.
5. Creating sextortion as an independent crime.
6. Addressing the problem under IPC, IT Act, and POCSO Act.
7. Innovative devices like smart watch may be introduce for children for emergency calls to family members.

<sup>19</sup> Court of its own motion v. State of J&K and Anr (2018) HC of J&K at Srinagar, CMP No. 32/2012.

<sup>20</sup> Vikash Garg and Ors. v. State of Haryana, CRA-D-653-DB-2017 (O&M).

<sup>21</sup> Singh Vaibhav, Sextortion and new threats to data privacy, Times of India, published in December 13, 2022, <https://timesofindia.indiatimes.com/readersblog/the-status-quo/sextortion-and-new-threats-to-data-privacy-47954/>

<sup>22</sup> Jiashankar Prof. K, Course: P-04. *Cyber Criminology and Cyber Forensics* (subject – Criminology, Module 16. Online Sextortion), One India Digital Platform, [https://odp.inflibnet.ac.in/index.php/module\\_details?course=p-04.%20cyber%20criminology%20and%20cyber%20forensics](https://odp.inflibnet.ac.in/index.php/module_details?course=p-04.%20cyber%20criminology%20and%20cyber%20forensics)