

Child porn downloading vs watching: A legal blind spot?

<https://timesofindia.indiatimes.com/city/chennai/child-porn-downloading-vs-watching-a-legal-blind-spot/articleshow/107210371.cms>

Publishing, transmitting, creating, downloading – all these are terms that can be found attached to laws regarding child pornography in India, as well in judgments. However, conspicuously absent from the legal discourse is any clear mention of the act of ‘watching’. Which seems to have benefitted a 28-year-old man from Chennai recently accused of watching child pornography. He was acquitted by the Madras high court, and the court order goes thus: ‘To constitute an offence under Section 67-B of IT Act, 2000, the accused person must have published, transmitted, created material depicting children in sexually explicit act or conduct. A careful reading of this provision does not make watching child pornography, per se, an offence.’

What gets lost in the semantics is the gravity of children being featured in pornography, which is why child protection activists say the verdict should be challenged.

J Sandhya, an advocate who in 2015 spearheaded Operation Big Daddy in Kerala, a crackdown on an online child pornography ring on Facebook, says the Madras high court verdict is indeed confusing because while watching pornography in one’s private space is not punishable, when a child is involved, the rules are different, according to Section 11 of POCSO Rules (2020).

The rules state that any person who has received any pornographic material involving a child, likely to be distributed, facilitated or transmitted in any manner shall report the contents to the Special Juvenile Police Unit, local police, or the cyber-crime portal (cybercrime.gov.in). An amendment of Section 15 of the rules states that any person who fails to delete, destroy or report the same to the designated authority shall be liable to a fine not less than Rs 5,000.

Sandhya recalls that it was only when convictions were made by tracing the IP addresses of those who watched such videos that a lot of people realised that watching it was also an offence in Kerala. “The demand for such content is created by those who watch it, so it’s equally criminal,” she says.

Even the term pornography should not be used when it is content involving children, says Vidya Reddy, executive director of Chennai-based Tulir-Centre for the Prevention and Healing of Child Sexual Abuse (CPHCSA). “It is not pornography; it is child sexual abuse. And every click made to download, view, browse, seek, transmit or distribute Child Sexual Abuse Material (CSAM) revictimises the child or simulated child, in that material.”

Also, several studies over the past three decades have shown that repeated viewing of CSAM more often than not moves from an online space to offline offending, says Vidya. "It also tends to help rationalise the notion of children being considered sexually gratifying while being exploited."

In the US, prison time is the norm even in cases of mere possession; and in New York, lifelong sex offender registration almost always follows a conviction for possession of child porn.

However, advocate Sudha Ramalingam feels the judge made the correct verdict by acquitting the accused. "Such incidents should be dealt with on a case-by-case basis. Nothing can be achieved by imprisoning the accused here, and he will only come out of prison as a worse criminal. Such people can be easily reformed. There is a tendency to criminalise everyone and everything."

Instances of watching cannot be viewed lightly, as content is created only when there is demand, says Balakrishnan, commissioner of police, Coimbatore. "Viewing also means it can be potentially shown to other people, and the laws must be interpreted properly."

Above all, the child in the video might be still being abused and under POCSO you are legally bound to report it, says Siddarth P, co-founder of RATI Foundation, a non-profit initiative that works on issues around sexual offences against children as well as child online safety. "A CSAM video is a crime scene and when you see a crime scene, you have to report it."

But there are challenges involved, as in most instances the victims just want their images destroyed without filing a police complaint, he says. "We cannot confiscate a device unless there is a police complaint involved."

Also, while the police are supposed to get the content taken down from the websites within 36 hours, they fail to do it in many instances, he says. The National Human Rights Commission has now asked for this to be reduced to six hours, considering the speed of circulation of online CSAM. "Further, the content must be removed every time it resurfaces without another authorisation for the same," says Siddarth.

Social media platforms such as Facebook have a watchdog mechanism where all such

content gets reported to the police. The content will get blocked, and the IP of the uploader will get tracked. But the situation is getting harder for the police with perpetrators operating in the dark web and finding ways to hide their IP addresses, says Balakrishnan.

Email your feedback with name and address to southpole.toi@timesgroup.com

Jammu & Kashmir: NHRC to address human rights void via maiden, open public hearing

<https://www.telegraphindia.com/india/jammu-kashmir-nhrc-to-address-human-rights-void-via-open-public-hearing/cid/1996759>

An NHRC notice said it would hold 'a Camp Sitting and Open Public Hearing on grievances of the general public regarding alleged human rights violations in the UT of Jammu and Kashmir from February 7 to February 9 in Srinagar'

The National Human Rights Commission has woken up to address Jammu and Kashmir's human rights void by holding a maiden, open public hearing on rights violations after the 2019 scrapping of the special status and abolition of the region's own rights watchdog.

An NHRC notice said it would hold "a Camp Sitting and Open Public Hearing on grievances of the general public regarding alleged human rights violations in the UT of Jammu and Kashmir from February 7 to February 9 in Srinagar".

The announcement has come less than a year after the Supreme Court asked the central government to consider "bringing a mechanism which will allow people of Jammu and Kashmir to file their complaints to the NHRC from J&K itself".

The NHRC notice asks people to register by January 29 their complaints of "alleged violation of human rights by a public servant or negligence by a public servant in prevention of such violation".

"Such complaints, if deemed fit for the enquiry, shall be taken up at the open public hearing," it reads.

Jammu and Kashmir has been facing a void in the area of rights watchdogs since the Centre wound up the State Human Rights Commission (SHRC), among several other institutions, following the 2019 scrapping of the special status. Several human rights organisations ceased to exist subsequently because of the government's zero tolerance for dissent.

Rights activist Khurram Parvez, described by the UN's human rights body as a "tireless advocate for the families of disappeared", has been under arrest since 2021.

The government-appointed SHRC was investigating thousands of rights violation cases, mostly involving security forces.

In March 2020, the Centre empowered the NHRC to deal with all human rights concerns in the Union Territory but that is believed to have offered little comfort to residents because of the absence of its local offices.

The move did not help the Centre stave off allegations about the absence of a redress mechanism.

In September 2020, the Centre received flak from the UN rights body, with nine rapporteurs asking it to explain why it had closed the SHRC.

The rapporteurs also asked the government to investigate alleged instances of forced disappearance and mass graves in Jammu and Kashmir.

The UN rights body's letter to the Centre said the "sudden closure" of the SHRC had left families of victims with limited options and although the SRC had only "recommendatory powers", its activities led to the acknowledgement of crimes that the government had been "previously denying".

The letter made special mention of the 1991 Kunan Poshpora incident in which dozens of women were allegedly raped by the forces — an accusation the government has never accepted.

The letter also cited the massacre in Sialan Poonch where security forces allegedly shot 19 people at point-blank range in August 1998.

In both cases, the SHRC acknowledged that the crimes had taken place. It is not known whether the Centre has reacted to the UN body's criticism.

The SHRC was also probing the hundreds of forced disappearances and the mass graves of unidentified people.

The government claims the graves are of Pakistani militants killed in gunfights, but the Kashmir-based Association of Parents of Disappeared Persons (APDP) suspects that many of them could be the graves of their missing sons.

NHRC to Hear Cases of Human Rights Grievances in Jammu and Kashmir

https://kashmirlife.net/nhrc-to-hear-cases-of-human-rights-grievances-in-jammu-and-kashmir-339881/#google_vignette

SRINAGAR: The National Human Rights Commission (NHRC) is set to conduct a camp sitting and an open public hearing on grievances related to human rights violations in Jammu and Kashmir. This marks the first time the NHRC will address such issues in the region following the abolition of the State Human Rights Commission.

The camp sitting and open public hearing are scheduled to take place from February 7 to 9, as announced by the NHRC. In accordance with a public notice individuals can submit complaints regarding alleged rights violations to the commission via speed post or email until January 29.

The notice outlines that complaints deemed suitable for inquiry will be taken up during the open public hearing. Parties involved will be duly informed about the date and venue of the hearing in due course.

The background of this development lies in the aftermath of the abrogation of Article 370, leading to the Jammu and Kashmir government's decision to dismantle the State Human Rights Commission. The Union Government, through the J&K Reorganisation Act, subsequently empowered the NHRC to address human rights concerns in the Union Territory.

The Jammu and Kashmir State Human Rights Commission (SHRC) had been responsible for handling issues of human rights abuses in Jammu and Kashmir. The Government of India officially granted this expanded role to the NHRC on March 18, 2020.

NHRC to hear rights violation grievance pleas in Jammu and Kashmir

<https://www.deccanherald.com/india/jammu-and-kashmir/nhrc-to-hear-rights-violation-grievance-pleas-in-jammu-and-kashmir-2868036>

The Commission has decided to hold an open public hearing on grievances about human rights violations in the Union Territory (UT) from February 7 to 9.

Srinagar: For the first time, the National Human Rights Commission (NHRC) is set to hear grievances about rights violations in Jammu and Kashmir from February 7 to 9 in Srinagar.

The initiative marks a significant departure from the usual discourse surrounding Kashmir, where grievances often linger unheard amid political tensions and security concerns. The Commission has decided to hold an open public hearing on grievances about human rights violations in the Union Territory (UT) from February 7 to 9. It will be the first such hearing by the NHRC in Jammu & Kashmir after it was empowered to deal with rights issues of the UT following abolition of the State Human Rights Commission (SHRC). The SHRC was among six important government commissions wound up by the Jammu and Kashmir administration on October 31, 2019. On March 18, 2020, the Center had empowered the NHRC to deal with all human rights concerns in the UT.

A public notice by the NHRC reads that the complaints regarding alleged rights violations can be submitted to the Commission by speed post or email by January 29. "Such complaints, as deemed fit for enquiry, shall be taken up at the open public hearing. The parties shall be informed in due course about the date and venue of open public hearing," it reads. The jurisdiction of the central body NHRC was extended to the UT from October 31, 2019. The NHRC had partial jurisdiction in J&K before the re-organization of the state on August 5, 2019. In March last year, the Supreme Court had asked the government to ensure people in J&K have easy access to the NHRC.

NHRC कश्मीर में पहली सार्वजनिक सुनवाई शुरू करेगा

<https://jantaserishta.com/jammu-kashmir/nhrc-to-begin-first-public-hearing-in-kashmir-1168845>

राष्ट्रीय मानवाधिकार आयोग (एनएचआरसी) 7 से 9 फरवरी तक जम्मू-कश्मीर में अधिकारों के उल्लंघन की शिकायतों की सुनवाई करेगा।

राज्य मानवाधिकार आयोग को समाप्त करने के बाद जम्मू-कश्मीर के मानवाधिकार मुद्दों से निपटने का अधिकार मिलने के बाद यह जम्मू-कश्मीर में एनएचआरसी द्वारा इस तरह की पहली सुनवाई होगी। इससे पहले, जम्मू और कश्मीर राज्य मानवाधिकार आयोग (एसएचआरसी) जम्मू-कश्मीर में मानवाधिकारों के हनन के मुद्दों पर विचार करेगा।

एनएचआरसी ने बाल उत्पीड़न के आरोपों के बाद अनाथालय की चार राज्यों में शाखाओं को लेकर रिपोर्ट तलब की

<https://bhasha.ptinews.com/detail/1242254>

नयी दिल्ली: 25 जनवरी (भाषा) राष्ट्रीय मानवाधिकार आयोग (एनएचआरसी) ने एक अनाथालय की इंदौर शाखा के खिलाफ बाल उत्पीड़न के आरोप में प्राथमिकी दर्ज होने के बाद उसकी जोधपुर, सूरत, कोलकाता और बेंगलुरु शाखाओं को लेकर भी संबंधित राज्यों से रिपोर्ट तलब की है।

एनएचआरसी ने बृहस्पतिवार को यहां जारी बयान में कहा कि आयोग ने मीडिया में आई एक खबर पर स्वतः संज्ञान लिया है कि मध्य प्रदेश के इंदौर में एक अनाथालय में चार से चौदह साल के बच्चों पर अत्याचार किया जा रहा था और बाल कल्याण समिति की शिकायत पर पुलिस ने इस मामले में प्राथमिकी दर्ज की है।

गड्ढे में गिरकर स्कूटीसवार युवक की मौत में एनचआरसी ने मांगा जवाब

<https://www.inextlive.com/uttar-pradesh/kanpur/nhrc-seeks-answers-in-the-death-of-a-youth-riding-a-scooter-after-falling-into-a-pit-1706457884>

कानपुर (ब्यूरो)। गड्ढे में गिरकर स्कूटी सवार युवक की मौत के मामले को नेशनल ह्यूमन राइट्स कमीशन(एनएचआरसी) ने गंभीरता से लिया है। मामले में डीएम कानपुर को नोटिस जारी करते हुए 12 फरवरी तक जवाब मांगा है। जिसके बाद अपर नगर मजिस्ट्रेट सूरज यादव ने नगर आयुक्त को पत्र लिखकर पूरे मामले की रिपोर्ट मांगी है। घटना 16 दिसंबर को किदवई नगर में हुई थी। युवक शादी समारोह से लौटते समय शनिदेव मंदिर के पास रोड पर गड्ढे में गिर गया था। जिसमें युवक की मौत हो गई थी। गाजियाबाद के रहने वाले आरटीआई एक्टिविस्ट राजहस बंसल ने मामले में एनएचआरसी के चेयरपर्सन से कंप्लेन कर कार्रवाई करने की मांग की है।

मूल रूप से इटावा निवासी केतन वर्मा (37) इटावा रेलवे स्टेशन पर कैंटीन चलाता था। परिजनों के अनुसार वह 16 दिसंबर को किदवई नगर निवासी रिश्तेदार के घर शादी समारोह में गया था। देर रात करीब 12 बजे वह हरे राम हरे कृष्णा गेस्ट हाउस से रिश्तेदार की स्कूटी लेकर उनके घर जा रहा था। शनिदेव मंदिर के पास चौराहे के आगे उसकी स्कूटी बीच रोड पर खुदे गड्ढे में फंस गई। स्कूटी की रफ्तार अधिक होने के चलते उसकी पकड़ छूट गई और वह उछलकर सिर के बल सड़क पर गिर गए। सिर पर चोट लगने के चलते उसकी मौके पर ही मौत हो गई।

किदवई नगर शनिदेव मंदिर वाली रोड मेन रोड पीडब्ल्यूडी की है। जिसे नगर निगम के कर्मचारियों ने सीवर सफाई के लिए खोदा था। जिसके बाद गड्ढा छोड़ दिया गया। इस गड्ढे में गिरकर ही युवक केतन वर्मा की जान चली गई थी। पीडब्ल्यूडी के एक्सईएन राकेश यादव ने बताया कि नगर निगम में बिना कोई सूचना के खोदाई की थी।

सुप्रीम कोर्ट ने हिरासत में मौत के मुआवजे पर मेघालय HC के आदेश पर रोक

<https://jantaserishta.com/meghalaya/supreme-court-stays-meghalaya-hc-order-on-compensation-for-custodial-deaths-1167178>

शिलांग: सुप्रीम कोर्ट ने मेघालय हाई कोर्ट के उस फैसले पर रोक लगा दी है, जिसमें राज्य सरकार को हिरासत में मौत के मामले में 10-15 लाख रुपये तक मुआवजा देने का आदेश दिया गया था. सुप्रीम कोर्ट द्वारा जारी स्थगन आदेश में निर्दिष्ट किया गया है कि मेघालय उच्च न्यायालय के फैसले पर रोक रहेगी। हालाँकि, फैसले ने यह शर्त रखी कि राष्ट्रीय मानवाधिकार आयोग (एनएचआरसी) द्वारा निर्धारित मुआवजे का भुगतान मेघालय सरकार द्वारा किया जाना चाहिए।

मेघालय सरकार की अपील पर आदेश सुप्रीम कोर्ट के जस्टिस बीआर गवई, संजय करोल और संदीप मेहता की पीठ ने पारित किया, जिसमें चार सप्ताह के भीतर जवाब दाखिल करने का निर्देश दिया गया। अगस्त 2023 में, एक स्वतः संज्ञान मामले में, मेघालय उच्च न्यायालय ने जांच अधिकारियों द्वारा उपयोग किए जाने वाले अत्यधिक, थर्ड डिग्री तरीकों के कारण विचाराधीन कैदियों की मौतों के बारे में चिंता व्यक्त की थी। इसने निष्कर्ष निकाला था कि हिरासत में मौतें तभी रुकेंगी जब मुआवजा उस स्तर तक पहुंच जाएगा जहां राज्य को महत्वपूर्ण वित्तीय परिणामों का सामना करना पड़ेगा।