

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY
RAJYA SABHA
UNSTARRED QUESTION NO.736
TO BE ANSWERED ON: 08.12.2023

ACTION AGAINST PLATFORMS SHOWING PORNOGRAPHIC CONTENT

736. SHRI SUSHIL KUMAR MODI:

Will the Minister of Electronics and Information Technology be pleased to state:-

- (a) whether it is a fact that pornographic and violent content including Child Sex Abuse Material (CSAM) is freely available in India on Telegram;
- (b) whether Government has issued notices to social media platform X, YouTube and Telegram to remove or ban such material;
- (c) the number of groups and channels removed by such platforms sharing pornographic and child abuse material; and
- (d) the action taken by Government against such platforms under the IT Act?

ANSWER

MINISTER OF STATE FOR ELECTRONICS AND INFORMATION TECHNOLOGY
(SHRI RAJEEV CHANDRASEKHAR)

(a) to (d): The policies of the Government are aimed at ensuring that internet in India is open, safe, trusted and accountable to all users. Publication or transmission of electronic material depicting children in sexually explicit act, is cybercrime. The Government has zero tolerance policy towards any such cybercrimes. The Government is cognizant of the risks associated with new and evolving medium through which Child Sex Abuse Material (CSAM) are being circulated. The Internet technology and Internet used to be seen as force for good, but in recent years, technology is also exploited for causing user harms and criminality. The number of Internet users in India are expected to increase from 88 crores today to 120 crore users by 2026.

The Government has issued notice to various social media intermediaries including Telegram, YouTube and X, to remove or disable access to all such CSAM and groups circulating such material which is violative of rule 3(1)(d) and rule 4(4) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("IT Rules, 2021") and implement proactive measures, such as content moderation algorithms and reporting mechanisms, to prevent further dissemination of CSAM. They have also been informed that any failure on complying the IT Rules, may be seen as violation of rule 7 of the IT Rules and they shall lose their safe harbour protection under section 79 of the IT Act and shall be liable for consequential action as provided in IT Act, Indian Penal Code, 1860 and other applicable laws. The Information Technology Act, 2000 ("IT Act") and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("IT Rules, 2021"), together, have made a framework which cast obligations on the intermediaries, including social media intermediaries, to observe due diligence and provide that if they fail to observe such due diligence, they shall no longer be exempt from their liability under law for third-party information or data or communication link hosted by them. Such due diligence includes the following:

- (i) To make reasonable efforts to cause the users not to host, display, upload, modify, publish, transmit, store, update or share, information which is harmful to child, or obscene, or invasive of another's bodily privacy, or violates any law;
- (ii) On a voluntary basis on violation of the above, and on actual knowledge upon receipt of a grievance or court order or notice from the appropriate government or its agency, to not host, store or publish unlawful information prohibited under law for the time being in force in relation to the interest of decency or morality or defamation;

- (iii) Upon receipt of an order from a lawfully authorised government agency, to provide information or assistance for prevention, detection, investigation or prosecution under law in a time bound manner within 72 hours;
- (iv) To have in place a grievance redressal machinery, and resolve complaints of violation of the rules within 72 hours of being reported and, in case of a complaint by an individual or her/his authorised representative, remove within 24 hours any content which prima facie exposes the private area of such individual, shows such individual in full or partial nudity or shows or depicts such individual in any sexual act or conduct; further, the rules have been amended on 28.10.2022 to provide for the establishment of one or more Grievance Appellate Committee(s) to allow users to appeal against decisions taken by Grievance Officers on such complaints;
- (v) In case an intermediary is a significant social media intermediary (i.e., an intermediary having more than 50 lakh registered users in India), to additionally observe due diligence in terms of appointing a Chief Compliance Officer, a nodal contact person for 24x7 coordination with law enforcement agencies and a Resident Grievance Officer, and to endeavour to deploy technology-based measures, including automated tools or other mechanisms, to proactively identify information that depicts any act or simulation in any form depicting child sexual abuse or conduct.
- (vi) In case a significant social media intermediary is providing services primarily in the nature of messaging shall enable the identification of the first originator of the information on its computer resource for the purposes of prevention, detection, investigation, prosecution or punishment of an offence related to rape, sexually explicit material or child sexual abuse material.

Keeping in view complaints regarding action or inaction, on the part of the social media intermediaries and other intermediaries on user grievances regarding objectionable content or suspension of their accounts, the Central Government has also established three Grievance Appellate Committees (GACs), as provided for in the said IT Rules, 2021 to enable users to appeal against the decisions taken by Grievance Officer of intermediaries on user complaints. It is further informed that section 67B of the IT Act penalises the publishing or transmitting of electronic material depicting children in sexually explicit act, the creation of text or images, collection, seeking, browsing, downloading, advertising, promotion, exchange or distribution of electronic material depicting them in obscene or indecent or sexually explicit manner, cultivating or enticing or inducing them to online relationship with other children for sexually explicit act or in an offending manner, facilitating their online abuse, and electronically recording abuse pertaining to sexually explicit act with children. Such an offence is punishable with imprisonment of up to five years on first conviction and seven years on subsequent conviction along with fine of up to ten lakh rupees, and is a cognizable offence. Since, as per the Code of Criminal Procedure, 1973, prevention and investigation of cognizable offences is to be done by the police and 'Police' is a State subject under the Seventh Schedule to the Constitution, States are primarily responsible for the prevention, investigation etc. of such cybercrime against children. Accordingly, State police departments take preventive and penal action as per law in respect of cybercrime against children.
