



Punishment for Creating Pornographic Materials on the Internet and Methods of Combating It (A Study of Arab and International Laws)

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Abstract

The creation of pornographic networks on the internet has become a crime that troubles the international community due to its severe effects on all members of society, both young and old. This has prompted the international community and its organizations to call for the imposition of strict penalties to prevent these websites, which threaten societal peace and security.

Therefore, it is incumbent upon each state, in particular, to take the necessary measures and procedures to prevent the creation of pornographic materials on the internet and to impose appropriate penalties as a just response to this crime. This aims to reform and deter the offender while protecting society as a whole.

In this research, seeking the help of Almighty Allah, I attempt to clarify the most important aspects related to the punishment for creating pornographic materials on the internet and the methods of combating it by studying the relevant Arab and international laws.

Research Plan:

To elucidate and clarify the topic of this research, I have divided it into four sections and a conclusion:

First Section: Explanation of the key terms mentioned in the research.

Second Section: The punishment for creating materials related to pornographic networks in Arab laws.

Third Section: Methods of combating the crime of creating materials related to pornographic networks on the Internet under international laws.

I ask Allah, the Almighty, for success and assistance in completing this study, for He is the One who grants guidance and has power over all things. All praise is due to Allah, the Lord of the Worlds.

Keywords: Punishment, Pornography, Internet, Laws, Combating.

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Introduction

Cybercrimes have had a significant and tangible impact both internationally and locally, with negative effects at all levels. This necessitates the establishment of appropriate laws and penalties to address these consequences and prevent such crimes, especially those that violate honor, morals, and values, by imposing the strictest punishments on perpetrators.

Punishment in both local and international laws must be proportionate in nature and severity to the personality of the criminal and should be appropriate to their individual circumstances. Every person who commits a criminal act is undoubtedly influenced by various social, economic, and psychological factors. Therefore, the type and extent of punishment must be suitable to their condition, as penalties are

established out of necessity—to reform the offender, prevent their harm to society, and uphold the collective interests of the community. It is a fundamental duty that cannot be waived, pardoned, or neglected.

In this research, I aim to clarify issues related to the punishment for creating pornographic materials on the internet.

Research Importance

This study aims to highlight and clarify the appropriate laws and penalties to address cybercrimes, particularly the crime of creating pornographic materials, which poses a clear danger to both local and international societies. Additionally, it seeks to understand the extent to which crime rates increase in society as a result of the negative influence of pornographic websites, making this topic of critical importance at both the local and international levels.

Reasons for Choosing This Topic:

- The dangers of creating pornographic materials for future generations and the necessity of finding effective solutions to deter the criminals promoting them.
- The need to punish anyone involved in creating pornographic materials and to enact appropriate legislation for this purpose.
- The necessity of contributing to the development of effective solutions to combat the crime of creating pornographic materials, raising awareness about its dangers and ensuring that perpetrators are held accountable.

Research Objectives:

- To outline the penalties in Arab and international laws imposed by the international community on the creation of pornographic websites and assess their proportionality to the crime.
- To highlight the importance of activating the role of civil society organizations in combating the creation of pornographic materials and emphasize the role of official authorities in fighting this crime.

Research Methodology:

- I will adopt the inductive-analytical approach in addressing the research issues and establishing their foundations from both legal and Islamic perspectives.
- Reviewing and analyzing the research sources and references to gather as much relevant information as possible.
- Presenting the research topics while providing the legal perspective.
- Focusing on the research subject and presenting the viewpoints of Arab and international laws regarding the issue.

First Section: Explanation of Key Terms in the Research

This section consists of two subsections:

Subsection One: Definition of Punishment in Language and Law

Definition of Punishment in Language:

In linguistic terms, "punishment" refers to retribution, accountability, recompense, and reward. The phrase means "you inflicted a consequence" or "you penalized." (Lisan Al-Arab 1/615, Taj Al-Arous 2/428).

The difference between (punishment) and (penalty) is that the former refers to the suffering a person endures in the Hereafter as a consequence of sin, whereas the latter refers to the suffering inflicted in this world as a consequence of wrongdoing (Kashshāf Iṣṭilāḥāt al-Funūn wa al-'Ulūm, (2/1192)).

Definition of Punishment in Law

Punishment is legally defined as: "A sanction and corrective measure imposed in the name of society on a person held criminally responsible for an offense, based on a judicial ruling issued by a competent criminal court." (Penal Code, General Section, p. 371).

It is also defined as "the penalty prescribed by law and enforced by a judge in response to a crime, in proportion to its severity." (Explanation of the Penal Code, p. 667).

From these definitions, it is evident that punishment is a legal consequence for a crime, enforced by a competent judicial authority in proportion to the severity of the offense, to reform and deter the offender.

Subsection Two: Definition of Combating in Language and Terminology

Definition of Combating in Language:

The word combating is derived from the verb, which means to confront or to resist. For example, it means "the people fiercely resisted their enemies." The phrase means "he struggled for a just cause." (Al-Qamoos Al-Muhit, (1/1442); Al-Mu'jam Al-Wasit (2/791) , Al-Mu'jam Al-Mughni, (1/21155)).

Definition of Combating in Terminology:

Combating refers to the measures and procedures adopted by the state to prevent criminal behavior in society and deter individuals with criminal tendencies from committing crimes (Lectures on Criminal Policy, 1997).

Second Section: Punishment for Creating Pornographic Content on the Internet Under Arab Laws

The creation of pornographic content on the internet is considered one of the most dangerous weapons threatening societal security, as it contributes to the spread of moral corruption and pornographic ideologies. Due to its associated risks, this issue has become a major concern for legislators worldwide, prompting the enactment of appropriate laws to mitigate its harmful impact on future generations.

Therefore, legislators—both at the national and international levels—have been compelled to address these violations and crimes, aiming to regulate and control them by establishing a set of legal principles and guidelines to deter any criminal activity conducted via the Internet. Their goal is to curb such offenses to the greatest extent possible through strict and preventative legal measures. The Jordanian legislator has followed this same approach, like other lawmakers, to achieve objectives that safeguard its citizens and society as a whole (Ahmad, Muhammad, 2015).

The Jordanian Cybercrime Law No. 30 of 2010 criminalizes and penalizes electronic offenses, including cyber pornography. Article 8(a) of the law states (Articles 8 and 9 of the Jordanian Information Systems Crimes Law of 2010):

"Anyone who deliberately sends or publishes, via an information system or the internet, any audible, readable, or visual material containing pornographic content involving or related to the sexual exploitation of a person under the age of eighteen shall be punished with imprisonment for no less than three months and a fine of no less than 300 dinars and no more than 5,000 dinars."

Article 9 states: "Anyone who deliberately uses the internet or any information system to promote prostitution shall be punished with imprisonment for no less than six months and a fine of no less than 300 dinars and no more than 5,000 dinars."

It is noteworthy that Jordanian law differentiates between offenders based on age. If the offender is under eighteen years old, the imprisonment term is reduced to no less than three months. However, for those eighteen years or older, the punishment is harsher, with a minimum imprisonment term of six months.

Under Egyptian law, Article 14 of Law No. 10 of 1961 on combating prostitution states: "Anyone who advertises, by any means, an invitation that involves enticing debauchery, prostitution, or drawing attention to it shall be punished with imprisonment for no more than three years and a fine not exceeding

one hundred Egyptian pounds."(Article 14 of Law No. 10 of 1961 - Regarding Combating Egyptian Prostitution).

Additionally, Article 178 of the Penal Code stipulates: "Anyone who publishes visual content on social media that is deemed indecent shall be punished with imprisonment for up to two years and a fine of no less than five thousand Egyptian pounds."(Egyptian Penal Code, 2021).

It is notable that Egyptian law specifies the maximum duration of the penalty but does not set a minimum term of imprisonment for these offenses.

Meanwhile, Saudi Arabia's Anti-Cybercrime Law states in Article 6 (Article 6 of the Saudi Anti-Cybercrime Law):

"A person who commits any of the following cybercrimes shall be punished with imprisonment for up to five years, a fine not exceeding three million Saudi riyals, or both:"

Producing, preparing, sending, or storing content via the internet or electronic devices that undermines public order, religious values, public morals, or privacy.

Creating, publishing, or promoting pornographic content or gambling activities that violate public morals.

As for the UAE Penal Code—Federal Law No. 3 of 1987—it stipulates that: "Anyone who manufactures, imports, exports, possesses, acquires, or transports, with the intent of exploitation, distribution, or display to others, writings, drawings, images, films, symbols, or any other materials that are contrary to public morals shall be punished with imprisonment and a fine of no less than 5,000 dirhams, or one of these two penalties. The same penalty applies to anyone who advertises any of the aforementioned materials."

From the above, it is evident that some countries have enacted strict laws and imposed severe penalties for creating pornographic content online, especially when it involves enticing debauchery or prostitution. However, other countries have been more lenient in punishing offenders.

Third Section: Methods of Combating the Crime of Creating Pornographic Content on the Internet Under International Laws

Several countries worldwide have enacted special laws addressing cybercrimes in general and online pornography-related offenses in particular, recognizing the severe threat they pose to international society. Additionally, many nations have worked on strengthening the role of media in raising awareness about the dangers of pornographic websites and promoting preventive measures (Rasha, 2006, p5).

The British legislator has been proactive in combating various forms of pornography, starting with the enactment of the Obscene Publications Acts of 1959 and 1964, which remain the primary legislation addressing pornography in the United Kingdom.

Similarly, the U.S. legislator has taken significant steps in tackling the issue of child pornography online, acknowledging its particular danger to children. In 1996, the Communications Decency Act (CDA) was passed, criminalizing the transmission of obscene and explicit materials to minors via the Internet (Rasha, 2006, p. 4).

At the international level, the global community has made positive strides in fostering international cooperation to combat the online sexual exploitation of children. This includes establishing specialized units dedicated to tackling such crimes and implementing measures to curb their spread (Rasha, 2006, p. 4).

Believing in the grave dangers posed by the crime of creating pornographic content, as well as all forms of sexual exploitation of children and the physical, psychological, and social risks they face, the international community has taken steps to prohibit all forms of sexual exploitation through various international and regional treaties and conferences. Among the most significant international agreements are:

First: The United Nations Convention on the Rights of the Child (1989).

Second: The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography (May 2000).

Third: The Rome Statute (1998).

Fourth: The United Nations Convention Against Transnational Organized Crime and its Supplementary Protocol on Preventing, Suppressing, and Punishing Trafficking in Persons, Especially Women and Children (November 2000).

Fifth: The International Labour Organization (ILO) Convention on the Worst Forms of Child Labour (1996) (Adel, 2013, p. 96).

Sixth: In 1996, the European Union introduced a Communication Paper on illegal and harmful content, along with the so-called "Green Paper," aimed at protecting minors and human dignity from illegal content and sexual exploitation via the Internet (Rasha, 2006, p. 4).

International law has established numerous mechanisms and measures to combat sexual exploitation crimes, including blocking and securing pornographic websites from hacking. Enhancing legislative frameworks and promoting international cooperation in tackling such crimes. Training law enforcement and investigative personnel in handling cybercrime cases (Adel, 2013, p. 134).

To further protect societies from corruption and the dangers of pornographic content, authorities should enforce strict regulations on internet cafés, ensuring monitoring of cafés that provide internet services to their customers. Prohibiting minors from accessing these cafés and imposing penalties and fines on those that violate this restriction (Adel, 2013, p. 134).

To counteract pornographic websites, software developers have created specialized programs that restrict access to harmful content, making it available only to the head of the household. Completely block access to pornographic websites. Additionally, there is a critical need to update and strengthen legislation related to combating pornography, imposing strict penalties on those involved in such crimes (Abdul Aziz, 1438 AH).

Furthermore, improving social conditions—such as enhancing education, tackling unemployment, raising family and community awareness about the dangers of pornography, and encouraging academic research on combating this crime, remains essential in addressing this issue effectively.

Activating the role of civil society organizations in combating the crime of producing pornographic content is essential. It is also crucial to emphasize the importance of community partnership with official authorities, as collaboration is necessary for the successful eradication of this crime.

The dangers associated with the creation of pornographic content on digital networks have become a global concern due to their severe impact. The internet has turned into a platform for the illegal sex trade, allowing criminals to operate from anywhere in the world. This alarming reality has necessitated international cooperation to confront this serious crime effectively.

Conclusion

This section includes the key findings and recommendations derived from the research, as follows:

- Many countries have enacted appropriate legislation and penalties and have increased the severity of punishments for producing pornographic content that involves incitement to debauchery or prostitution.
- Children and minors are the most vulnerable and easily deceived by pornographic networks, images, and scenes, making this a prohibited crime under international law.
- It is essential to ban all forms of sexual exploitation through international and regional agreements and conferences while imposing stricter penalties for violations.

- The researcher recommends raising awareness about the dangers of pornographic websites and their destructive impact on society, alongside enhancing legislative regulations and promoting international cooperation to combat them.
- The researcher emphasizes the need to activate the role of civil society organizations in fighting the crime of producing pornographic content while highlighting that community partnerships with official entities are crucial in eradicating this crime.

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