

On the Current Dilemma and Way Out of the Governance of Child Pornography in China

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ABSTRACT

Child pornography, being a grave infringement upon the personal rights and interests of children, has faced condemnation from all nations. While China's criminal law imposes stringent controls on the production, dissemination, and sale of child pornography for profit-driven purposes, the possession of such material remains unregulated within the realm of criminal law. While China's criminal law imposes stringent controls on the production, dissemination, and sale of child pornography for profit-driven purposes, the possession of such material remains unregulated within the realm of criminal law. It shall subsequently highlight how Chinese laws and regulations characterize child pornography while analyzing relevant cases to the extent that they are not in conformity with the law. It shall subsequently highlight how Chinese laws and regulations characterize child pornography while analyzing relevant cases to ascertain methods for identifying it. Furthermore, it shall elucidate the current state of criminal regulation pertaining to child pornography. It shall subsequently highlight how Chinese laws and regulations characterize child pornography while analyzing relevant cases to ascertain methods for identifying it. Ultimately, this paper aims to address this issue from a multidimensional societal perspective.

KEYWORDS

Child Pornography; Holding Behavior; Obscenity.

1. MEANING OF CHILD PORNOGRAPHY

Child pornography belongs to one of the categories of pornography, and when referring to pornography-related concepts, the terms "obscenity" or "pornography" are often used, but the connotations of the two are not the same in practice. Pornography refers to text, images, audio, video, and other information content that is not obscene in its entirety, but some of which overlaps with the definition of "obscene" information, is toxic to the physical and mental health of the general public, especially minors, and lacks artistic or scientific value. In the Encyclopedia Britannica, it is interpreted as "the act of depicting sexual love in drawings, books or movies, etc., with the aim of provoking sexual excitement"; the definition of "pornography" in China's Dictionary of the Chinese Language refers to the lust between the sexes. The Criminal Law provides a legal definition of the concept of obscene materials: books, photographs and images that specifically depict sexual behavior or explicitly promote pornography or obscenity. In other words, there is a relationship between pornography and obscene articles, and pornography has a broader scope than obscene articles, including products with a lower degree of indecency, and such products are less offensive to social morality. In short, the two cannot simply be confused and regarded as synonymous.

When discussing child pornography, it is all the more important to distinguish between the connotations of the two terms. The traditional concept of child pornography refers to any means of displaying real or simulated explicit sexual activities directed at minors, or displaying minors' sexual

organs mainly for the purpose of obscenity. However, with the development of Internet technology and changes in social attitudes, non-explicit child pornography with hidden meanings is gradually spreading, and it is no longer appropriate to use only explicit sexual behavior as a criterion for combating child sex crimes, thus the concept of child sexual exploitation materials has come into being. The so-called child sexual exploitation material does not only refer to the more indecent explicit sexual acts, i.e., hard pornography that directly depicts sexualized material of children, but also includes the less subtle sexual acts, i.e., soft pornography with sexually suggestive meanings.

Our criminal law does not define child pornography as a separate concept. The Law on the Protection of Minors prohibits the production, reproduction, publication, dissemination or possession of obscene and pornographic articles and Internet information relating to minors, but this provision does not provide a good explanation of the meaning of child pornography.

2. RECOGNITION OF CHILD PORNOGRAPHY

2.1. Grounds for Criminalization of hy

Child pornography can be categorized into the following three main types: 1. images and videos based on real people, 2. images and videos synthesized through computer technology, and 3. images and videos produced by adults portraying minors. For the first category, there is little dispute that child pornography based on real people often directly and genuinely infringes on the rights and interests of the person being filmed, and is generally recognized as obscene because of the highest degree of explicitness. As for the second and third types of productions, since there is no direct victimization, the rationale for including these types of productions within the scope of the criminal law needs to be explored.

Although there is no direct victimization, the latter two genres still depict children as objects, and in determining whether a certain type of work is child pornographic, we can look at it from two dimensions: first, from the producer's point of view, we can infer whether there is an intention to cause the viewer to become sexually aroused by the child; and second, from the viewer's point of view, we can penalize the viewer and infer whether the viewer can become sexually aroused by the child as a result of watching it. . And while the second and third types are not directly based on real children, they would indeed fulfill both of these conditions. And there are two main types of viewers of child pornography: the episodic, sexually fantasized type, and the sex offender with the intent to cause harm.[1] In the case of the former, it does not usually lead directly to their sexual abuse of children, but in the case of the latter, viewing child pornography (including the three types above) induces a sexual desire, and thus may lead to further incidents of child sexual abuse.

2.2. Determination of "Childishness" of Child Pornography

While the first and third types can be proved by official documents such as family registers to prove the age of the person being filmed, there is no clear criterion for recognizing the childishness of the second type (images and videos synthesized through computer technology). As a result, producers of such child pornography often use the excuse that "in real life, there are cases in which people are adults but their bodies still resemble those of children" as a defense. In the author's opinion, we should establish a complete mechanism for recognizing the sexuality of children.

Regarding the controversy over the determination of child sex, there is a case in Japan: On December 13, Heisei 21, Suspect X, with the purpose of making it available to an unspecified majority of people, used photographs taken of children who were not partially or fully clothed as data material, and used image editing software, such as Photoshop, to draw image data (a total of 16 items) from the aforementioned photographs of the children, and stored them on the hard disk of a computer (hereinafter referred to as CG set A). This media of electromagnetic recording depicts images of

children who are unclothed or partially unclothed, and is visually stimulating and arousing. At the same time, Suspect X intended to entrust the sale of CG Collection A and the original child pornography data (18 items in total) to Company B, which operates an Internet mail order website, and Company B accepted the entrustment and sold CG Collection A to D and two other persons browsing the website three times between April 20, 2007 and March 27, 2007, for a total of JPY 8,820, and D and the other two persons sold CG Collection A to D and the other two persons browsing the website for a total of JPY 8,820. D and the other two persons downloaded and saved the CG Collection A in this case, and provided the child pornography to an unspecified number of people. They were prosecuted for allegedly violating the child pornography control regulations. However, there was a debate on whether the children depicted in the CG Collection A were under the age of eighteen.[2]

In this case, the doctor adopted the internationally recognized Tanner Scale. The Tanner Scale is a measure of the development of primary and secondary external sex characteristics of the body, such as breast size, genitalia, testicles volume, pubic hair and axillary hair, categorized into 1-5 degrees, which is used to identify the physical development of adolescents and children and adults. At the same time, doctors conducted extensive research on the relationship between Tanner's stages and the degree of sexual maturity of Japanese women, speculating on the corresponding degrees of breast and pubic hair and the corresponding degree of age, and ultimately concluding that the woman depicted in this CG set A was under eighteen years of age.

However, some scholars have questioned this conclusion. First, the Tanner stage is, in the final analysis, nothing more than a judgment based on statistical data, which can only represent the general situation, but there are exceptions in practice. Secondly, when evaluating an object, the correctness of the result of the judgment should be carefully considered due to various limitations arising from the subject's posture, the lighting at the time of shooting, and the quality of the picture. The angle of view from which the photograph was taken may make the child's body appear more mature because it is merely in the picture rather than actually seen (e.g., adult poses, obvious contrasts in light and shadow to emphasize the contours of the body, etc., should be taken into consideration).

The Tokyo District Court ultimately held that among the images evaluated at three degrees, there were images with breasts that might actually be evaluated at four degrees, and among these images that might be evaluated at four degrees, there were images that were young and physically immature as could be seen at a glance, and thus, it could be strongly inferred that the person photographed was under the age of 18 at the time of the photographing. In the end, the Tokyo District Court found 3 out of the 34 cases in this case to be of a childlike nature.

In the author's view, when identifying the third category of child pornography, the medical standard-i.e. the Tanner stage - should first be used as the benchmark, combined with the current physical development of adolescents in China, and at the same time combined with the juridical standard, and the presumption of fact in the criminal procedure law should be used as a reference to see if it can be clearly identified as belonging to a child according to the rule of thumb. At the same time, it can also be rebutted if there is evidence to the contrary that confirms that he or she is not a child.

3. CURRENT DILEMMA OF CONTROLLING CHILD PORNOGRAPHY IN CHINA

3.1. Lack of a Clear Definition of Child Pornography

China's criminal law only defines the concept of obscenity, but does not specifically characterize child pornography, and does not distinguish between child pornography and adult pornography in its characterization of the concept. When convicted and sentenced, child pornography can only be recognized according to the definition of obscene articles in the Criminal Law, which leads to the

problem of too narrow a scope of protection - because the Criminal Law only regulates obscene articles of a higher degree of indecency, but not child pornography of a lower degree of indecency. However, according to the principle of the best interests of the child, the best interests of the child should be the primary consideration. This principle should also be followed in legislation, and legislators should typify in criminal law all behaviors that may harm a child's physical, mental, moral and spiritual development. The reason why the criminal law only provides for obscene articles but not pornography is because the criminal law should maintain its modesty, for vulgar content, with other predecessor regulations or morality can be adjusted; but for child pornography is different, as mentioned above, whether it is indecent degree of pornography or higher obscenity, will have a negative impact on children's physical and mental development, so only in accordance with the definition of the criminal law for the The definition of obscene material in the criminal law alone would not be conducive to the protection of children.

3.2. Mere Possession of Child Pornography is Not Criminalized

With regard to crimes of obscene materials, our criminal law provides for the crimes of disseminating obscene materials and disseminating obscene materials for profit, and does not provide for the simple possession of child pornography. Currently, many countries have already criminalized the possession of child pornography, but China has not yet introduced relevant regulations. There are several reasons why possession of child pornography should be penalized.

3.2.1. Child Pornography Possession through the Lens of Supply and Demand

"If we want to eradicate the proliferation of child pornography, it is not only necessary to control the supply side, but more importantly, to cut down the demand side, which is the root cause of child pornography. Although we are currently for the production and provision of child pornography behavior to carry out a greater crackdown, but for those who download, browse, watch the behavior of people but no regulation, so long as there is such a "consumer group" exists, for the supply side no matter how severe the crackdown is difficult to truly eradicate such problems, and therefore Therefore, as long as such a "consumer group" exists, no matter how severe the crackdown on the supply side is, it will be difficult to eradicate such problems, and thus it will be difficult to truly protect the environment in which children grow up.

China's criminal law in the obscene material crime belongs to one-sided to the crime, according to Professor Qian Yeliu's point of view, one-sided to the crime is punishable, depends on "whether the participant beyond the mere use of the marginal role of the opportunity to become the role of creating opportunities and thus create the law does not allow the risk or significantly increase the risk of the sign", for the possession of child pornography behavior will greatly condone the sick psychology of pedophilia, resulting in the increase of child sex crimes, and ultimately a serious threat to the healthy growth of children. The act of possessing child pornography will, to a great extent, condone the pathological mentality of pedophiles, leading to an increase in child sex crimes, and ultimately posing a serious threat to the healthy environment in which children grow up, therefore, the author believes that there should be pre-emptive prevention and intervention in order to avoid the occurrence of greater tragedies.

3.2.2. Possession of Child Pornography is Different from Possession of Adult Pornography

The criminal law does not control the possession of adult pornography or obscene materials because it is necessary to maintain the modesty of the criminal law and to avoid restricting the freedom of nationals by overly broadening the scope of criminal law control. However, the possession of child pornography, regardless of whether it involves children's obscene articles or pornography, should be included in the scope of control of the criminal law, because the legal interests protected by the two are different. The legal interest protected by the former is the social legal interest, and the basis of punishment for obscene material crimes in China mainly contains diversified theoretical foundations,

such as moralism, paternalism, utilitarianism, etc., of which the most important principle is offensivism, due to the characteristics of sexuality is hidden, and the public dissemination of obscene materials is a violation of people's sexual shame; secondly, according to the theory of exploitation, the crime of obscene material may result in the exploitation of the weak by the strong, i.e., the weak is exploited by the strong, which means the weak is exploited by the weak. Secondly, according to the exploitation theory, obscene material crimes may lead to the exploitation of the weak by the strong, i.e., the weak may be forced to engage in obscene material-related behaviors by the strong by taking advantage of their certain lack of freedom; thirdly, according to the social disintegration theory, society means a community of ideas, and a society can not exist without the sharing of ideas about politics, morality, and ethics, and immoral behaviors will have an impact on the public well-being and the longer-term interests and sentiments of human beings and lead to the disintegration of the society, and the circulation of obscene materials will have an impact on the formation of common social concepts. The circulation of obscene materials is detrimental to common social values, and the intervention of criminal law is justified and necessary. In the case of child pornography, which is a protection of individual legal interests, the theoretical basis of criminal law comes more from the soft paternalism of paternalism, that is, the state has to take a parental stance in controlling immature and incomplete people - this is reflected in the provisions of China's criminal law: disseminating obscene articles to minors under 18 years of age shall be punished with heavier penalties, and the punishment for disseminating obscene articles to minors under 18 years of age shall be increased to a higher level. Obscene articles to minors under the age of 18, from the heaviest penalty, this provision reflects the criminal law to promote the formation of children's healthy, positive concept of sexual protection; and for children as a direct target of child pornography in a series of behavior, if the possession of the act is not included in the scope of regulation, it is difficult to truly protect the physical and mental development of children, on the one hand, it will make children forced to shoot the children in the body, psychological indelible trauma, and on the other hand, will also be difficult to establish the correct social and psychological development of children. On the one hand, children who are forced to be filmed will be left with indelible physical and psychological trauma, and on the other hand, it will be difficult to establish a correct concept of sexuality in society, which will in turn affect the environment in which children grow up.

3.3. The Types of Legal Interests Violated by Child Pornography Offenses are Not Yet Clear

Also in accordance with the principle of maximizing the interests of the child, adolescents, as the pillars of a nation, should be given extra protection in the environment in which they grow and develop, so that such crimes should infringe more on individual legal interests than on the social legal interests infringed upon in the case of the current criminal law on obscene materials. As children are still in an immature stage physically and mentally, they have not yet established a complete and correct understanding of things, and because of their physical and intellectual vulnerability, they are extremely vulnerable to persecution. Thus, on the one hand, children are vulnerable to being lured and coerced, and are used by unlawful elements to take relevant videos and pictures. Although children are not yet able to understand the meaning of sexual behavior, they should have a basic sense of "sexual shame", and sexual abuse in childhood can cause mental problems such as PTSD and depression, which can greatly impede children's healthy growth. At the same time, the dissemination of child pornography will lead to the damage of children's right to privacy and right to reputation, especially in today's society where network technology is developed, due to the fast speed and wide range of network communication, once child pornography is uploaded to the network, it is very easy to disseminate it among the majority of the people who are not specific, and children's right to reputation will be infringed upon, and the victim's social appraisal will be greatly lowered, and the victim will suffer a great deal of harm due to the lowered social appraisal. As a result, the victim's social evaluation will be greatly lowered, and due to this lowered social evaluation, he or she may be subjected to various kinds of unfair treatment in life, study and even in future work, and this kind of

negative evaluation may accompany the child throughout his or her life, with extremely serious consequences.

On the other hand, a lack of discernment may also expose children to undesirable information in the complex network society. Some network operators, with malicious intent, deliberately set up enticing information in their web pages, and children may click on them out of curiosity to watch pornographic content, some of which involves child pornography, which will seriously interfere with children's formation of correct sexual concepts, and may even induce adolescents to commit acts of rape against children.

3.4. Gaps in the Control of Child Soft Pornography

Recently, many businesses have intentionally photographed children's private parts when taking pictures of children's clothing models, or have asked children to pose in various sexually suggestive poses; on the other hand, there are also unscrupulous elements who add sexually provocative words to children's photographs, making them into emoticons that are widely disseminated on social media platforms. Although these pictures do not explicitly and directly depict sexual images, they are able to arouse people's sexual desire, which is a kind of "playing ball" behavior, belonging to children's soft pornography. Since children do not have cognitive ability for this kind of behavior, and as physiologically and psychologically vulnerable persons, they have no ability to resist adults who are in an absolute dominant position, therefore, in fact, the photographer, the picture maker, and the user of emoticons take children as the object, and children are "valued" by adults, and become the "gaze" of adults. The child is "assigned" by the adult and becomes the object of the adult's "gaze". This is actually a way for adults to use children's innocence and purity as a cover for their own shame brought about by their sexual needs. When the desire appears too naked, people's inner sense of shame will rush up, in our traditional social morality, sex is still in a "can do not say" position, most people still do not want to be evaluated by the community as "corrupt, vulgar, inner obscene". Therefore, people will not express their sexual desire in an undisguised way, and it is difficult to satisfy people's sexual needs. The emergence of "children's emoticons" has alleviated this embarrassing situation, allowing people to express their sexual needs through cute and innocent emoticons. However, this behavior of sacrificing the rights and interests of children as a way to satisfy selfish desires cannot be taken, which is precisely to build happiness on the pain of others, and cannot satisfy the "happiness of the most people".

The rapid speed and wide range of Internet dissemination and the prevalence of Internet disk resources in recent years have made it difficult to completely delete Internet content. Therefore, for the subjects, these pictures may stay with them for the rest of their lives, leading to a lower social evaluation and damage to their reputation; at the same time, according to the labeling theory, the producers and subjects of pornography are often branded as "vulgar and corrupt", and child pornography, as a branch of pornography, is also stigmatized by the society, even though children do not have knowledge of pornography. Child pornography, as a branch of pornography, although children have no knowledge of pornography, is also stigmatized by society in a similar way, which creates an indelible negative mark on children who are forced to film. At present, the Internet access rate of children in China is as high as 99.2%, [3] and it is very easy for children to come into contact with soft pornography in cyberspace, and the proliferation of this kind of undesirable content may cause children to think that this kind of behavior is "normal", and thus it is very likely to give rise to the situation of children committing sexual crimes against other children, and at the same time, it will of course become a breeding ground for pedophilia, which will be the most common form of pornography. At the same time, it will of course also become a breeding ground for paedophilia, creating a potentially destabilizing environment for children to grow up in.

3.5. Limited Control Over the Dissemination of Child Pornography

Since China has not yet made separate provisions for child pornography, it can only refer to the legislative provisions on obscene materials. China's legislation on obscene articles mainly includes the crime of dissemination of obscene articles and the crime of dissemination of obscene articles for profit; the statutory penalty for the crime of dissemination of obscene articles is less than two years of fixed-term imprisonment, detention or control; and the minimum statutory penalty for the crime of dissemination of obscene articles for profit is less than three years of fixed-term imprisonment, detention or control, but this provision does not satisfy the principle of "the best interests of the child". However, this provision does not satisfy the principle of "the best interests of the child".

First of all, only the dissemination of child pornography behavior of the incrimination threshold is higher, need to meet certain circumstances to be recognized as a crime, that is, need to take into account the number of times the perpetrator dissemination, the number of clicks, the number of people who watched, etc., but as mentioned above, the author believes that for the possession of child pornography are criminalized, then the light to make clear the seriousness of the nature of the act of dissemination of the more serious behavior, more should be to strengthen the strength of the control, so the objective punishment conditions as the objective punishment conditions. Therefore, it seems to be biased to take the number of clicks as an objective condition for punishment. Secondly, according to the requirements of soft paternalism, the State should protect children who are not yet mentally mature as "fathers". The non-profit nature of the dissemination of child pornography makes it easy to obtain child pornography, on the contrary, the dissemination of child pornography for profit makes it more difficult for the public to obtain child pornography, but China's criminal law for the dissemination of obscene articles for profit the statutory minimum penalty is less than 3 years, but for the dissemination of obscene articles is less than 2 years of the statutory minimum penalty, the legislative provisions of this legislation is exactly contrary to the connotation of the soft parentage and can not reflect the state to prevent the public access to child pornography, the state should be a "father" to protect them. It does not reflect the State's determination to prevent public access to child pornography.

4. STATUS OF EXTRATERRITORIAL LEGISLATION ON CHILD PORNOGRAPHY

4.1. United States

The standard adopted by the United States for pornography originates from the "Miller standard" created by the United States Federal Supreme Court in the 1973 Miller v. California case^[4] which consists of the following three rules: First, according to the general rules of the society, the general public will consider that the material, as a whole, arouses the sexual desire of human beings; Second, the law of the state clearly states that the material depicts or describes sexual conduct that is a clearly egregious offense; and third, the material as a whole lacks literary, artistic, political, or scientific value. However, this is only a definition of pornography and does not single out child pornography. Therefore, in 1982, in the case of New York v. Ferber, even if child pornography does not meet the level of obscenity in the Miller standard, but based on the government's protection of the necessary national interests, it can also be included in the scope of the control, which is also used to determine the child pornography of the later "Ferber standard".^[5]

The United States Congress passed the Child Pornography Prevention Act (CPPA) in 1996, which focuses on combating child pornography. It emphasizes that child pornography includes not only pornography based on real children, but also virtual child pornography. The virtual child pornography, in turn, includes child pornography synthesized by computer software and child pornography produced by adults disguised as children. However, in the case of Ashcroft v. Speech Coalition in

2002, [6] the definition of child pornography in the bill was considered to be too broad in the scope of punishment, contrary to the provisions of the First Amendment, because there was no direct victim of the virtual work, but this made many defendants claim that the child pornography involved was virtual, which caused great obstacles to the subsequent prosecution. a great impediment to subsequent prosecution. Therefore, in order to solve this dilemma, the U.S. Congress passed the Prosecutorial Remedies And Tools Against The Exploitation Of Children Today Act in 2003, which again included virtual child pornography still within the scope of child pornography. child pornography.

4.2. United Kingdom

In the United Kingdom, child pornography synthesized through computer technology was also brought under the regulation of the Criminal Justice and Public Order Act enacted in 1994. Like the United States, child pornography as defined in the UK law includes both live and computerized child pornography. In addition, the United Kingdom gives sexual consent to young people of school age as an exculpatory provision, and the Sexual Offences Act 2003 provides that a child who is 16 or 17 years of age and in a marital or cohabiting relationship consents to the filming, or the defendant reasonably believes that the child consents, and that the effects have not been disseminated to a third person, does not commit an offence.

4.3. Japan

Japan enacted the Child Selling, Child Pornography Punishment Ordinance and Child Protection Law in 1999, which prohibits the production, sale, import and export of child pornography, and imposes varying degrees of penalties depending on the severity of the circumstances for the dissemination of child pornography information on the Internet. The Child Pornography Prohibition Law, which came into effect in July 2015, stipulates that child pornography means photographs, videos, or other items that depict, in a visually recognizable way, intercourse or content similar to sexual intercourse. photographs, videos, or other items with content of sexual intercourse. However, due to Japan's status as a major ACG exporting country, there is still a great deal of controversy as to whether or not online child pornography involved in manga and video games can be brought under the scope of regulation.

5. COMPREHENSIVE APPROACH TO THE CONTROL OF CHILD PORNOGRAPHY

5.1. Defining Child Pornography

The definition of child pornography should not be limited to obscene materials with a high degree of indecency, but should also include pornography with a lower degree of indecency, and pornography should include soft-core content. Combined with the definition of obscene materials in the Criminal Law, child pornography can be summarized as "the use of a natural person under 18 years of age as a sexual object in films, photographs, books and internet information carriers, in order to arouse the viewer's or reader's sexual desires". [7] This definition essentially encompasses both hard and soft pornography in child sexual exploitation materials.

5.2. Criminalization of Possession of Child Pornography

Possession is a harmful act under criminal law that consists of the perpetrator's de facto possession or domination of a specific object. The determination of possession of child pornography can be divided into the following two scenarios for discussion. The first is the act of possession during the production, reproduction and dissemination of child pornography, at which time possession is a kind of implicated, preparatory act, absorbed by a more serious act of execution, and therefore not within the scope of this section. The second scenario, i.e., the perpetrator merely browses, plays, downloads,

or saves the child pornography to generate the possession behavior, which is actually a kind of static possession. The characterization of possession remains controversial in criminal law circles. One point of view is that the act of possession belongs to the act, because the possession of the article violates the provisions of the criminal law of the prohibited possession of the article; one point of view is that the act of possession belongs to the act of omission, because when the perpetrator possesses a certain article, there exists the obligation to hand over the article to the relevant departments, but the perpetrator can fulfill the obligation, but did not hand over to the relevant departments, so that it conforms to the establishment of the elements of the act of omission; and there is also another point of view is that the act of possession Does not belong to the first two kinds of behavior, but belongs to an independent third, has the characteristics of both static and dynamic; In addition, there are also points of view to adopt a choice, that should be on the specific circumstances, specific analysis of specific problems in the end belongs to the action or inaction. [8] But no matter which doctrine is adopted, the act of possession still belongs to the hazardous act, and the characterization of its act does not affect its criminal punishability.

In the specific determination of the possession of child pornography can be considered from both the unlawful and the liability aspects. At the unlawful level, reference can be made to the foreign expression for the possession of child pornography: 1. active behavior. For example, in order to obtain or save child pornography and take the behavior of actively searching and exploring. 2. browsing cache behavior. 3. cover-up behavior. That is, after viewing a website involving child pornography, the perpetrator deletes the browsing record and saved child pornography images in order to cover up his or her viewing record. 4. Multiple browsing and entering chat rooms. At the liability level, it is necessary to consider whether the perpetrator "knew". Generally speaking, there is no major controversy over the subjective intent of possession of physical child pornography, as the perpetrator is consciously and actively looking for and purchasing it. However, the determination of child pornography in cyberspace is somewhat difficult. In practice, there may be such a situation, assuming that the actor A in browsing the ordinary web page, I would like to point to a shopping site, point to open but found that only similar to the domain name, in fact, contains child pornography site, and thus "accidentally" browse the content of child pornography, at this time for the behavior of the A how to determine? In the author's view, originally A subjectively did not watch child pornography intentionally, but only because of the accident and accidentally entered the child pornography website. If A accidentally browsed the pornographic website and then quickly closed the webpage, and did not browse or download for a long time, then there is no reason for A to be subjectively incriminated. However, if A inadvertently opens the child pornography website and then views it for an extended period of time, caches it and downloads it, then even though the initial access to the website was purely accidental, the subsequent conduct clearly demonstrates A's subjective and direct intent to possess child pornography.

5.3. Clarifying That Child Pornography Violates Personal Legal Interests

The organization of the chapter on possession of child pornography is still controversial. Because of the competing relationship between child pornography and obscene materials, one view is that possession of child pornography should be made a separate article in Chapter 6, as an independent offense; another view is that an additional paragraph should be added to article 367 of the Criminal Law, which would make possession of child pornography a supplement to the aforementioned article. Other scholars are of the view that, although not yet regulated by legislation, possession of child pornography can be regarded as an accomplice to the crime of producing, trafficking and disseminating obscene materials at the judicial level, and in the absence of explicit provisions in the law penalizing the opposite offender, it should be dealt with as an abettor or an aider, and scholars of this view believe that, objectively speaking, the act of purchasing child pornography provides financial support for the producer and thus objectively, the act of purchasing child pornography provides the producer with financial support, thus creating causal power for the result of harming the

child's rights and interests; subjectively, both parties also share a common criminal intent, i.e., they know that child pornography harms the child's lawful rights and interests, but they hope for or allow this harmful result to occur.

In the author's view, child pornography-related crimes should be set in Chapter IV, the violation of citizens' personal and democratic rights. First of all, as mentioned above, adult pornography and child pornography has the essential difference, the possession of child pornography crime against the legitimate rights and interests of children, its main object for the children's personal and democratic rights, the secondary object for the health of the sexual mores, sexual morality. China's criminal law is categorized according to the same kind of object, and the main object violated by the crime of possession of child pornography is the personal rights of children, so it seems difficult to highlight the State's determination to protect children's right to health by placing the crime of possession of child pornography in Chapter VII, which protects the order of social management as the object. Secondly, to solve the problem of possession of child pornography by the theory of joint crime, the author believes that this kind of treatment is only a temporary measure before the current legislation gives clear guidance, that is, to solve the problem of legislation by judicial measures. Therefore, the most appropriate method is to establish a separate offense of possession of child pornography in Chapter IV instead of Chapter VI.

5.4. Establishment of a Healthy Internet Environment

The current information society is developing rapidly, network information is booming, the popularity of smart phones and computers, basically every household can enjoy the dividends of technological innovation, the Internet has become an indispensable part of people's daily life. However, the Internet is not an illegal place, if we fail to establish a healthy and upward conceptual orientation in the network society, then the ideological and moral concepts of the people are very susceptible to the influence of extreme and corrupt ideas, especially for the young people who are still immature in mind, in the stage of their worldview, outlook on life, and values are still in the process of being constructed, and they should be given extra attention. Internet companies should take social responsibility, supervise and control the works uploaded by users, and eliminate bad information in a timely manner, which can be rewarded by users for positive works or rewarded by the platform for creators based on the number of clicks, the amount of influence, etc. In March 2019, led by the State Internet Information Office, the main short video platforms and live broadcasting platforms piloted on-line the "Youth Anti-Addiction System", which will regulate the online behavior of minors in terms of the use of time slots, duration, functions and browsing content, etc. This model has indeed brought about some changes to the social status quo of today's teenagers who are addicted to the Internet, but in reality, there are still many loopholes in the teenage model, and there are many inconsistencies between the values of online platforms and the values of social. The values of online platforms and social values of goodness have a lot of contradictions, Internet platform creators "traffic is king", "profit priority" considerations, and output a large number of content containing soft pornography, violence; however, the law is not omnipotent, some areas of morality and other methods of governance may be more appropriate, so it may be possible to socialist core values of the Internet. However, the law is not omnipotent, some areas by other methods of governance such as morality may be more appropriate, so it may be worthwhile to integrate socialist core values into the network platform governance, in the area of the law can not touch, so that the Internet enterprise to the inner basic moral bottom line to constrain themselves.

5.5. Strengthening the Regulation of the Dissemination of Child Pornography

Child pornography can be categorized as indecent, obscene and sexually abusive on the basis of its obscenity and the degree of harm it causes to the children who are the subject of the filming, and different sentencing standards should be set for the dissemination of child pornography in accordance with the three categories mentioned above.

6. CONCLUSION

Child pornography is not only a major gap in our domestic legislation, but also a major concern of the international community today. As a major country with a voice in the international arena, we should make a strong crackdown on child pornography, so as to prevent certain Western media from maliciously distorting the cause of human rights protection in China and tarnishing our international image. Although we already have many laws regulating child sex crimes, there are still many legislative gaps that need to be improved. We should actively refer to the legislation of other countries, and on the basis of the legislation of other countries, take into full consideration of China's national conditions, and formulate laws that are in line with the current situation of crimes in China and consistent with China's sexual customs and morals, make clear the importance of the protection of children's rights and interests, and establish a complete set of effective supervision and reporting system, so as to form a set of rigorous safeguard system in the legislative and judicial aspects.

CONFLICTS OF INTEREST

The authors declare that they have no conflict of interest.

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