

Controversies Regarding the Determination Standards of Online Child Pornography Offenses under the UN Convention against Cybercrime and China's Countermeasures

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ABSTRACT

The criminalization of online child sexual exploitation material (CSEM) represents a global governance challenge. Within the framework of the United Nations Convention on Cybercrime, significant controversies persist regarding multiple standards for its legal definition. Concerning behavioral elements, disputes arise over the criminalization of mere possession or access and the criteria for establishing a profit-making purpose. Regarding the scope of the prohibited object, controversies exist on distinguishing between depictions of real children and virtual/simulated material, alongside regulatory difficulties concerning textual and audio representations. Pertaining to protected legal interests, conflicts emerge between the identification standards for "persons appearing to be children" and the safeguarding of creative freedom. The determination of such offenses should adhere to three core principles: the primacy of the child's best interests, substantive assessment of the conduct, and consideration of dissemination impact. China should construct a multi-tiered governance framework. Legislatively, this entails introducing possession offenses and establishing quantitative thresholds. Judicially, it requires developing comprehensive evaluation rules for "persons appearing to be children" and defining standards for artistic creation exemptions. At the international level, efforts must strengthen collaborative governance mechanisms within the Convention framework to balance cultural differences with the imperative of child protection.

KEYWORDS

United Nations Convention on Cybercrime; Cyber-facilitated Child Sexual Exploitation Material Offenses; Sexual Integrity Rights of the Child.

1. INTRODUCTION

The rapid advancement of internet technology has rendered offenses involving cyber-facilitated child sexual exploitation material (CSEM) a multifaceted global governance challenge, posing severe threats to the physical and mental well-being of children and undermining social stability. While the United Nations Convention on Cybercrime aims to address this global issue through international cooperation, it has engendered extensive controversy regarding the standards for defining cyber-CSEM offenses. Significant divergences exist among states concerning the definition and punishment of such criminal conduct, stemming from their distinct legal traditions, cultural contexts, and judicial practices. These controversies not only impede unified international efforts to combat cyber-CSEM offenses but also introduce considerable confusion and challenges into domestic judicial proceedings. Against this backdrop, conducting in-depth research into the focal points of international controversy surrounding the definitional standards for cyber-CSEM offenses, clarifying common principles, and exploring responsive measures within China's criminal law framework-informed by its specific circumstances-is of critical importance. Such an undertaking is essential for fully realizing the Convention's constructive role, enhancing the comprehensiveness of China's

criminal legislative system, strengthening the efficacy of its judicial practice, and safeguarding the rights and interests of children.

2. THE CONTROVERSIAL ISSUES REGARDING THE DEFINITIONAL STANDARDS FOR CYBER-FACILITATED CHILD SEXUAL EXPLOITATION MATERIAL OFFENSES WITHIN THE CONTEXT OF INTERNATIONAL LEGAL FRAMEWORKS.

2.1. Controversies Surrounding Comprehensive Suppression Strategies for Cyber-facilitated Child Sexual Exploitation Material (CSEM) Offenses.

Article 14 of the United Nations Convention on Cybercrime adopts a comprehensive regulatory strategy concerning offenses related to cyber-facilitated child sexual exploitation material (CSEM). The provision criminalizes not only conduct such as producing, offering, making available, distributing, transmitting, procuring, or possessing CSEM for the purpose of distribution through computer systems, but also extends culpability to the mere possession or access to such material. By subsuming acts including production, dissemination, and possession of child sexual exploitation material within the scope of criminalization, Article 14 embodies a zero-tolerance stance. However, this broad criminalization model has sparked significant contention at the international level.

2.1.1. The Contentious Debate Regarding the Criminalization of Mere Possession

Article 14 of the United Nations Convention on Cybercrime criminalizes offenses related to child sexual abuse or exploitation material (CSAM). Specifically, paragraph 1(b) criminalizes "soliciting, procuring, or accessing" CSAM through information and communications technology (ICT) systems. Paragraph 3 further criminalizes "possessing or controlling" CSAM stored on ICT systems or other data storage media.

However, certain States contend that the mere possession of a minimal quantity of CSAM, absent any intent to distribute or profit therefrom, constitutes a moral transgression rather than a criminal offense. They argue that such conduct exhibits lower levels of mens rea (subjective culpability) and social harm, and that its criminalization risks excessive expansion of the scope of penal sanctions[1]. Significant divergences exist in national legislative approaches. United States law, notably 18 U.S.C. § 2252A, imposes severe penalties for the possession of child pornography; in judicial practice, possession of a certain quantity suffices to constitute an offense. Brazil also adopts a stringent stance against child pornography offenses. Its legislation criminalizes the production, distribution, and possession of child pornography, imposing criminal penalties irrespective of profit motive. Conversely, while countries like the Netherlands criminalize the possession of child pornography under their penal codes, judicial practice tends towards a more lenient approach in cases involving non-commercial possession of a minimal quantity with no intent to disseminate. Such conduct may be treated as a minor violation or subjected to non-criminal sanctions[2]. [China's revised Law on the Protection of Minors (Article 52), building upon existing prohibitions against "producing, reproducing, publishing, or disseminating" obscene or pornographic material involving minors, has newly introduced a prohibition against "possessing" such material or related online information. Although the operational effectiveness of this provision is hampered by the lack of specific penalties, it provides a foundational legal basis for corresponding judicial protection. These legislative disparities reflect differing national interpretations concerning the appropriate boundaries of criminal punishment.

2.1.2. Controversy Over the Distinction between Profit-Driven and Non-Commercial Purposes

Article 14 of the United Nations Convention on Cybercrime does not explicitly differentiate between conduct driven by profit motives and non-commercial purposes. This omission has led certain States

to argue that the mere non-commercial possession of or access to child sexual exploitation material (CSEM) should fall outside the scope of criminal penalties, thereby avoiding excessive expansion of the reach of penal sanctions. Legislative approaches to this issue exhibit marked divergences among States. Japan's Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children (1999), while prohibiting the dissemination of child pornography, imposes relatively lenient penalties for non-commercial possession-prescribing imprisonment of not more than one year. This reflects a legislative philosophy of "graded governance" (tiered regulation). In stark contrast[3], the United Kingdom adopts a zero-tolerance stance towards child pornography. The possession, downloading, or distribution of indecent images of children constitutes a criminal offense irrespective of profit motive, with perpetrators liable to imprisonment for a term of up to five years. The United States, under 18 U.S.C. § 2256 (which provides the statutory definition of child pornography), imposes severe penalties for the production, distribution, and possession of such material. Critically, the establishment of these offenses does not require proof of commercial intent or pecuniary gain[4]. Germany enforces stringent penalties for the production and dissemination of CSEM. However, its regulatory approach to non-commercial possession is complex and context-dependent. Cases involving possession without commercial intent are typically evaluated based on specific circumstances; conduct of lesser severity may result in non-custodial penalties such as fines.

Significant divergences also exist among States regarding the criteria for establishing "profit-making purpose." This variation poses substantial obstacles to unified international efforts to combat such crimes. In cases involving the production or specific dissemination of child sexual exploitation material (CSEM), jurisdictions adopting a "potentiality-oriented approach"-such as the United States-apply relatively permissive legal standards. Under this framework, the mere potential for an actor to derive economic benefit from CSEM suffices to establish a "profit-making purpose." For instance, pursuant to the Child Pornography Prevention Act, U.S. law treats the production or dissemination of CSEM-where a potential opportunity exists to obtain economic benefit (e.g., via online platforms)-as conduct undertaken with a "profit-making purpose," even absent actual pecuniary gain[5]. Conversely, jurisdictions employing a "concrete conduct-oriented approach" require demonstrable acts specifically aimed at generating profit.

This divergence creates challenges for international law enforcement cooperation, potentially undermining the effectiveness of cross-border investigations and prosecutions due to inconsistent legal thresholds. Under Article 363 of the Criminal Law of the People's Republic of China, read in conjunction with the Interpretation of the Supreme People's Court and Supreme People's Procuratorate on Several Issues Concerning the Specific Application of Law in Handling Criminal Cases of Producing, Reproducing, Publishing, Selling, or Disseminating Obscene Electronic Information via the Internet, Mobile Communication Terminals, or Audio-Video Stands, criminal liability for producing, reproducing, publishing, trafficking, or disseminating obscene electronic information involving minors via the internet or mobile communication terminals requires proof of a "profit-making purpose." This approach emphasizes the conjunction of subjective intent and objective conduct, mandating evidence that the actor engaged in the production or dissemination process with a demonstrable pursuit of economic benefit.

2.2. Controversy Regarding the Scope of Definition for Child Sexual Exploitation Material (CSEM)

The United Nations Convention on Cybercrime adopts a comprehensive scope for defining Child Sexual Exploitation Material (CSEM), encompassing both visual depictions (such as images and videos) and non-visual formats (including textual narratives and audio recordings). However, this definition faces significant application challenges in judicial practice.

The primary controversy centers on the dichotomy between Child Sexual Exploitation Material (CSEM) depicting real children and computer-generated imagery (CGI) or virtual depictions. Certain

States contend that synthetic materials warrant differential treatment from CSEM involving real children, as their creation does not entail the direct victimization of actual minors. Japan exemplifies this position. Owing to considerations for its domestic cultural industries—where anime frequently contains sexually suggestive content featuring virtual childlike characters—and a foundational belief that such virtual depictions are fundamentally distinct from scenarios involving the actual abuse of children, Japan adopts a relatively permissive regulatory stance toward pornographic material utilizing virtual child characters. This approach is predicated on the view that such material constitutes a categorically different phenomenon from conduct directly infringing upon the rights and interests of children. This stance has sparked significant debate regarding the reconciliation of cultural industry protections with international standards safeguarding children's rights.

A second major area of contention concerns the inclusion of textual narratives and audio recordings within the definition of Child Sexual Exploitation Material (CSEM). The core challenge lies in the inherently subjective criteria required to classify such non-visual materials, coupled with the absence of precise, objective boundaries. This ambiguity creates significant legal uncertainty in application. France exemplifies a jurisdiction emphasizing this concern. Within its strong tradition of valuing pluralism and innovation in cultural and artistic expression, French literature may incorporate depictions or narratives involving sexual themes. Such content often serves purposes including the exploration of complex human nature, social phenomena, or specific cultural contexts. The position represented by France contends that sexual descriptions within literary works may possess artistic merit. It cautions that categorically classifying such textual content or its audio adaptations as CSEM and imposing criminal sanctions risks unduly constraining artistic freedom. Furthermore, this approach could subject creators lacking illicit intent to unjust legal consequences, thereby creating a tension between competing societal values: the protection of cultural expression and the safeguarding of children's rights.

2.3. Conflict Concerning Protected Legal Interests: "Persons Appearing to Children" versus Freedom of Creative Expression

The United Nations Convention on Cybercrime adopts a pluralistic stance on legal interests protection, safeguarding both the right to health, sexual autonomy, and privacy rights of actual children, while extending its regulatory reach to circumstances involving "persons resembling children" participating in explicit sexual conduct, so as to uphold social order and prevent potential offenses. However, this regulatory approach has prompted concerns among certain States.

From the perspective of creative freedom, the artistic domain emphasizes pluralistic expression and innovative thinking, with numerous works conveying profound ideas and emotions through diverse character portrayals. Certain States emphasize that excessive enforcement against content involving "persons resembling children" may readily infringe upon freedom of creative expression. Germany has argued with particular emphasis that conduct concerning actual children must be strictly distinguished from that involving persons resembling children, given that many artistic works—whether portraying specific historical contexts, reflecting complex human nature, or conducting social critique—may incorporate potentially controversial depictions. Such depictions could be misinterpreted as representing "persons resembling children" engaged in explicit sexual conduct. Absent precise differentiation, distinctive artistic representations risk improper inclusion within punitive regulatory scope, consequently suppressing creative vitality and impeding cultural innovation. This concern stems from fundamental valuations of freedom of artistic expression and cultural diversity preservation.

At the level of judicial practice, the ambiguity in defining "persons resembling children" presents significant challenges. Due to culturally contingent perceptions of juvenile physical characteristics across different societies, judicial systems encounter difficulties in establishing uniform identification standards for this concept[6]. In certain Western nations, the physical markers of childhood differ

from those in Eastern societies, with corresponding variations in aesthetic perceptions and evaluative frameworks regarding human appearance. In adjudicating cases involving "persons resembling children," the absence of precise and universally applicable criteria creates definitional uncertainties that may yield inconsistent judicial outcomes. This undermines judicial credibility while simultaneously creating potential for arbitrary enforcement. Such challenges are particularly exacerbated in transnational contexts, where divergent Eastern and Western aesthetic standards regarding juvenile physical characteristics intensify this predicament.

3. COMMON PRINCIPLES FOR DEMARCATING CRIMINAL LIABILITY IN ONLINE CHILD PORNOGRAPHY OFFENSES

3.1. Principle of Paramountcy of Children's Interests

The 1959 Declaration of the Rights of the Child first established the "paramount interest principle" for child protection, which received definitive articulation in Article 3(1) of the 1989 Convention on the Rights of the Child: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." This provision constitutes the foundational basis for protecting children's rights under international law.

In the determination of online child pornography offenses, the principle of paramountcy of children's interests requires adjudicators to prioritize the protection of minors' rights when handling relevant cases[7].

Given minors' incomplete physical and psychological development during critical growth stages, coupled with relatively underdeveloped risk resilience and self-protection awareness, they remain particularly vulnerable to sexual victimization and exploitation. Consequently, judicial practice must apply heightened thresholds of criminal liability to any conduct potentially constituting sexual abuse or exploitation of minors, thereby ensuring comprehensive safeguarding of their fundamental rights and interests.

3.2. Principle of Substantive Conduct Assessment

The determination of online child pornography offenses has transcended traditional boundaries of physical contact, manifesting novel digital characteristics. The application of modern information technologies has diversified criminal modalities, including but not limited to: inducing, deceiving, or coercing minors through digital media to participate in sexualized activities-such as producing nude imagery or engaging in live-streaming sexual acts. Such non-contact conduct, despite the absence of physical interaction, substantively constitutes severe violations of minors' sexual autonomy, psychological integrity, and human dignity. These violations concretely manifest as: undermining minors' sexual integrity, impairing the development of sexual self-determination, and disrupting normative personality formation.

China's judicial authorities have affirmatively established the criminal liability for such conduct through binding judicial interpretation. Article 9 of the 2023 Interpretation on Several Issues Concerning the Application of Law in Handling Cases of Rape and Molestation of Minors, jointly issued by the Supreme People's Court and Supreme People's Procuratorate, expressly stipulates: "When perpetrators exploit digital networks to coerce or induce minors into committing sexually explicit acts including 'screen-mediated molestation,' they shall be prosecuted for compulsory molestation or child molestation offenses." This provision embodies the preferential safeguarding stance toward minors' rights and interests.

In determining the constitutive elements of online child pornography offenses, the pivotal criterion resides in whether the conduct embodies the substantive essence of sexual stimulation or exploitation.

Specifically, the instrumentalization of children's bodies or images for pornographic performances or content production-when pursued for sexual gratification purposes-constitutes criminal conduct irrespective of its presentational form. Such acts intrinsically objectify minors as vehicles for sexual satisfaction, thereby gravely violating child dignity and fundamental rights while inflicting severe detriment to physical and psychological well-being. This contravenes universal consensus enshrined in international instruments including the Convention on the Rights of the Child and domestic legislation across jurisdictions.

3.3. Principle of Impact Assessment Regarding Dissemination Scope

The open architecture of digital networks and borderless nature of information dissemination enable child sexual exploitation materials to propagate uncontrollably upon entering cyberspace. Compared to traditional criminal modalities, online child pornography offenses transcend spatiotemporal constraints through viral propagation mechanisms, rendering their harmful consequences irreversible and inherently unquantifiable. Consequently, judicial determinations must systematically evaluate-beyond examining perpetrators' direct infringements-the dissemination tier within digital ecosystems, potential secondary victimization risks, and systemic threats to public order governance[8]. Specifically, the quantitative scale of materials produced/distributed, technological characteristics of platforms/channels employed, and demographic attributes of actual recipients constitute core metrics for assessing infringement severity, thereby enabling precise delimitation of criminal elements and proportionality between culpability and sentencing.

4. CHINA'S RESPONSIVE FRAMEWORK TO THE DEFINITIONAL CONTROVERSIES SURROUNDING CYBER-FACILITATED CHILD SEXUAL EXPLOITATION MATERIAL OFFENSES

Within the legal framework governing cyber-facilitated child sexual exploitation material (CSEM) offenses, international conventions and domestic legislation collectively establish a protective regime for minors. Article 14 of the United Nations Convention on Cybercrime explicitly criminalizes conduct such as the possession and accessing of child sexual exploitation material, thereby embodying a zero-tolerance stance towards violations of children's rights.

However, China's current Criminal Law has not fully aligned with this standard. Article 364 of the Criminal Law solely criminalizes the dissemination of obscene materials and does not encompass the non-commercial possession of such items. Consequently, the acts of accessing and possessing material proscribed under paragraphs 1(2) and 1(3) of Article 14 of the United Nations Convention on Cybercrime cannot independently constitute criminal offenses within China's judicial practice. Addressing this legislative gap necessitates the introduction of a distinct offense of "Unlawful Possession of Child Sexual Exploitation Material" through a Criminal Law amendment. Furthermore, comparative legal experience should inform the establishment of quantitative thresholds and multi-factor assessment rules for qualifying circumstances to mitigate the risk of over-expansion of the criminal net.

4.1. Refinement of the Elements Constituting Cyber-Facilitated Child Sexual Exploitation Material Offenses

China should refine the elements constituting offenses related to cyber-facilitated child sexual exploitation material (CSEM), integrating internationally prevalent practices with domestic circumstances. Regarding the criminalization of mere possession, while the Law on the Protection of Minors currently prohibits possession but lacks specific penal provisions, amendments to the Criminal Law and supporting judicial interpretations are necessary. Criminal liability for possessing CSEM should be contingent upon exceeding a quantitative threshold indicative of severity, such as

possessing a specified number of illicit images. Reference may be made to standards like that under the United States Child Pornography Prevention Act, which criminalizes possession of three or more child sexual abuse images. China must establish a critical threshold calibrated to reflect the degree of social harm within its own context, concurrently integrating assessment parameters including the perpetrator's subjective culpability and the risk of dissemination. This approach aims to prevent the excessive application of abstract endangerment offenses[9].

Regarding the determination of a profit-making purpose, Article 363 of China's Criminal Law and the 2010 Interpretation (II) of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Concrete Application of Law in Handling Criminal Cases of Producing, Reproducing, Publishing, Selling, or Disseminating Obscene Electronic Information via the Internet, Mobile Communications Terminals, or Audio-Video Stands establish the profit-making purpose as a core constitutive element of the offense. For instance, Paragraph 2 of Article I of this Interpretation stipulates that producing or disseminating obscene videos containing minors under the age of fourteen, exceeding ten in number, or generating illegal proceeds exceeding RMB 5,000, constitutes the crime of disseminating obscene materials for profit. However, a fundamental divergence exists between the legislative models of jurisdictions such as the United States and Germany and that of China: Section 2252A of Title 18, United States Code, and Section 184b of the German Criminal Code (Strafgesetzbuch - StGB) do not require a profit-making purpose, criminalizing the conduct per se. To strengthen the suppression of upstream activities within the criminal supply chain, China could, through judicial interpretation, expand the scope of the profit-making purpose determination to encompass "preparatory acts with a high likelihood of realizing profits," such as establishing fee-based download systems or entering into transaction agreements. This approach could draw reference from the objective circumstances indicative of "knowledge" enumerated in Article 8 of the aforementioned Interpretation (II), permitting the inference of subjective intent from objective conduct.

4.2. Establishing Clear Parameters and Boundaries for Child Sexual Exploitation Material (CSEM)

In defining the scope of child sexual exploitation material (CSEM), domestic legislation must establish scientifically rigorous identification criteria. For pornographic material depicting virtual or synthetic child representations, the formulation of such criteria must carefully balance the inherent distinction from scenarios involving actual child victims against the potential derivative risks. Consistent with the obligations stipulated in Article 2(c) of the Optional Protocol to the Convention on the Rights of the Child, it is recommended that virtual material meeting the following three cumulative elements be subsumed within the scope of criminalization: (1) the direct depiction targets individuals represented as being under the age of eighteen; (2) the depicted content possesses a high degree of verisimilitude sufficient to cause an ordinary person to mistake it for depicting an actual child; and (3) the material presents a substantial risk of inducing the commission of offenses against actual children. This approach mitigates the risk of indirect harm to the child population resulting from regulatory gaps while simultaneously preventing undue interference that could impede legitimate innovation applications of digital technology within the cultural and entertainment sectors.

Concerning textual and audio materials, objective criteria must be established to balance creative freedom against the imperative of child protection. An "artistic purpose exception" rule should be formulated: creation and dissemination are permissible if the work possesses recognized literary or artistic value, and the sexually descriptive content does not predominantly utilize children as the focal point of sexual stimulation—such as avoiding explicit focus on genitalia or the glorification of sexual exploitation. Conversely, criminal liability should attach to child-directed content that exceeds reasonable boundaries and is created with the predominant purpose of stimulating sexual desire.

4.3. Standardized Determination of "Persons Appearing to be Children" in Legal Contexts

For cases involving representations of persons appearing to be children, Chinese judicial authorities should establish a tiered judicial assessment framework. This framework must be predicated on a strict distinction between depictions of real children and purely virtual representations, while integrating comparative legal experience and international obligation frameworks to achieve a dynamic balance between protecting the rights and interests of children and safeguarding cultural and creative freedom. When referencing Article 14 of the United Nations Convention on Cybercrime concerning the definition of child sexual exploitation material (CSEM), it is essential to clarify that while the Convention subsumes sexually explicit content "that visually depicts, describes, or represents a person, real or simulated, below the age of eighteen years" within its scope, paragraph 3 explicitly permits States Parties to restrict criminalization to material "depicting a real person." This provision offers a doctrinal reference point for differentiated governance of virtual representations. The 2023 Judicial Interpretation of the Supreme People's Court has already incorporated acts of "remote sexual molestation" within the ambit of Article 237 of the Criminal Law concerning the crime of child molestation. Consequently, for cases involving the use of artificial intelligence technology to superimpose the faces of real children onto illicit material, judicial organs may directly apply the crime of child molestation to impose criminal liability. In contrast, for depictions utilizing purely fictitious representations, administrative sanctions pursuant to Article 64 of the Law on the Protection of Minors and Article 12 of the Cybersecurity Law—such as content removal and platform fines—are the appropriate remedies. At the present stage, subjecting such purely virtual depictions to criminal punishment through expansive interpretation of existing penal provisions is inadvisable.

Concerning exemptions for bona fide artistic creation, stringent criteria must be established. For film, television, or artistic works to qualify for criminal immunity, simultaneous satisfaction of three cumulative conditions is imperative: the creation must demonstrate a serious narrative necessity, wherein explicit scenes serve essential functions such as historical reconstruction or social critique, rigorously avoiding gratuitous focus on genitalia or glorification of exploitation; a significant technical distinguishability must be achieved through design elements like fantastical features (e.g., heterochromia, distinctive attire) to mitigate risks of confusion with actual children; and the content must inherently exclude sexual stimulation as its core function, requiring creators to furnish value assessment reports from authoritative artistic institutions attesting that the work's primary purpose is not to stimulate sexual desire in the audience.

For conduct intentionally blurring the boundaries of child representations, judicial organs should implement a dual-dimensional objective assessment standard. The verisimilitude element necessitates data-driven biometric analysis utilizing quantifiable metrics such as height and secondary sexual characteristics, superseding subjective "ordinary person" misidentification tests, with paradigmatic criminal instances including non-consensual deepfake videos synthetically grafting facial features of real minor females without technical mitigation. The substantive endangerment element mandates professional risk assessment by panels of psychological experts. Conduct fulfilling both criteria may be sentenced analogously to the "causing other serious consequences" provision under the crime of child molestation, while fictional creations implementing effective distinguishing measures should be excluded from criminal liability.

To fortify institutional safeguards, China urgently requires a tripartite legal implementation mechanism. At the judicial interpretation level, objective standards combining content attributes and dissemination scope should be adopted, focusing critical examination on whether depictions detail minors' sexual acts and whether mandatory age-restriction measures were absent. Within criminal legislation, amendments to the Criminal Law should introduce the offense of producing or disseminating virtual child sexual exploitation material, establishing sentencing gradients commensurate with the crime of child molestation. Regarding administrative-judicial coordination,

aligning with the Cyberspace Administration of China's Qinglang 2025 Campaign mandates, an interdisciplinary classification assessment committee comprising child psychologists, artists, and legal experts must be established, concurrently mandating the embedding of standardized national watermarks in AI-generated content for forensic evidentiary purposes. Ultimately, guided by the paramount principle of the best interests of the child enshrined in Article 4 of the Law on the Protection of Minors, the organic integration of technologically rigid standards and judicially elastic discretion shall fortify protections for children's rights and interests while preventing undue constriction of the artistic creation space guaranteed under Article 47 of the Constitution.

5. CONCLUSION

The controversies surrounding the definitional standards for cyber-facilitated child sexual exploitation material (CSEM) offenses reflect divergent international perspectives and considerations in confronting this complex criminal phenomenon. Analysis of the core contentious issues and exploration of common principles serve to clarify the fundamental doctrines that should underpin the adjudication of cyber-CSEM offenses. In addressing these crimes, China must refine criminalization thresholds and precisely delineate the scope of prohibited conduct, ensuring the scientific rigor and proportionality of judicial practice, grounded in both international experience and domestic realities. Concurrently, China should enhance international cooperation and exchange, actively engage in the formulation of global norms, and play an active role in worldwide efforts to combat cyber-CSEM offenses. By contributing its expertise to the protection of children's rights and interests, the maintenance of cyberspace security, and the preservation of social harmony and stability, China will help foster a more equitable, rational, and effective international governance framework for cybercrime. This collective endeavor is essential to secure a brighter future for children and cultivate a clear and secure online environment.

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