



DIGITAL SEXUAL EXPLOITATION OF CHILDREN: A REVIEW OF INTERNATIONAL CONVENTIONS AND NATIONAL LEGISLATION

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Abstract:

The sexual exploitation of children via the Internet is one of the most serious challenges posed by the digital revolution, as children have become vulnerable to multiple crimes such as sexual solicitation, production and distribution of child pornography, and virtual trafficking, requiring strict legal intervention to protect them. This study addresses the international legal framework for combating this phenomenon, as well as the national framework, reviewing how Algerian lawmakers have dealt with these crimes by criminalizing related acts, explaining investigation and prosecution mechanisms, and highlighting the importance of international cooperation and developing mechanisms to monitor cyberspace.

Keywords: Sexual exploitation, children, digital revolution, international cooperation.

Introduction

The Internet has become one of the most critical new tools and means utilized for pornographic and criminal purposes in our current era. This is due to the ease of accessing numerous websites without censorship or filtering, which poses a severe temptation difficult for individuals to resist, even for huge sums of money (Mahmoud Ahmed Taha, 2012, p. 177). With the advent of smartphones, the promotion of the trade in explicit sexual images, especially those of women and children, has become widespread. Certain websites are now exploited to lure women and children for sexual exploitation through the exchange

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of explicit photos and sexual conversations between individuals (Hani Eissa El-Sobky, 2014, p. 104), and this has become widely known as pornographic lists and websites (Youssef Hassan Youssef, 2011, p. 90).

The crimes associated with computers are characterized as a modern pattern of crime known only to contemporary societies. The widespread use of computer devices by some individuals has led to the unlawful exploitation of this advanced technology, particularly the Internet (Khaled Mamdouh Ibrahim, 2009, p. 36), which has spread globally. This has transformed the internet into an open arena for the commission of all possible and even potential types of crime, including acts that violate public morals and ethics, which vary from one country to another. Given the dangers arising from the publication and display of obscene material via the Internet using digital technology to showcase pornographic images that violate public morals, rapid legislative intervention was necessary. This intervention is required to ensure a minimum level of protection from exposure to these images, considering they target a large segment of society regardless of age or gender. The need to protect children from being exposed to or becoming the subject of this pornographic material—which constitutes both material and moral harm—is constantly pressing (Mohamed Amine Chouabka, 2009, p. 105).

It must be noted that in recent years, cases of child sexual exploitation have emerged, such as pimping, soliciting or inciting prostitution, as well as the recording and trafficking of pornographic or obscene films, which are produced featuring sexually exploited children of different ages (Abdelfattah Bayoumi Hegazy, 2007, p. 706). Statistics resulting from the study conducted by the US Department of Justice's Office for Victims of Crime in 2000 indicated that the scale of the problem of pornography and sexual activities, especially those involving children, is escalating. Estimates showed that one in five young people had communicated with a sexual website on the Internet, one in thirty-three young people had received an offer for sexual

activities in one way or another, one in four young people had received unsolicited sexual material, and one in seventeen young people had received a threat, blackmail, or other abusive material (Mahmoud Ahmed Taha, 2012, p. 179). This often occurs due to misplaced trust in others, lack of guidance or supervision, and insufficient experience or awareness to assess the risks. Faced with the current reality and recorded figures, we must raise the following question:

What is the position of national and international legislation regarding the digital sexual exploitation of children? What measures have been put in place to protect them?

To answer this question, we have decided to divide our research into two sections. The first section addresses child sexual exploitation by clarifying the study's terminology and presenting the position of both international and national legislators on child sexual exploitation. The second section addresses child sexual exploitation as a cybercrime by classifying the crimes related to sexual exploitation and the extent to which legal texts concerning sexual harassment apply to the Internet.

Section One: Child Sexual Exploitation

Sexual harassment or assault on children is technically defined as the use of a child (Convention on the Rights of the Child, 1989) to satisfy the sexual desires of an adult or adolescent, or it may occur between minors with an age difference of more than five years. Harassment includes exposing the child to any sexual activity or conduct, such as touching them or getting them to touch the sexual harasser.

Other forms of sexual assault on children include intercourse, child prostitution, and sexual exploitation via explicit images and pornographic sites. Child sexual assault can occur in a variety of places and by different means, including the home and school. The World Health Organization (WHO) considered child sexual exploitation to be a situation where a child is a victim of an adult attempting to achieve sexual gratification



through them, and this exploitation takes several forms (Salah Rizk Abdel Ghaffar, 2015, p. 42). Furthermore, a child's involvement in the sex trade exposes them to torture and abuse by deviants who unleash their sexual disorders, problems, and obsessions, making the vulnerable bodies of children a means of gratification. They leave the child behind traumatized, bearing signs of torture and cigarette burns (Mezzouz Barkou, 2014, p. 347).

First: The Concept of Child Sexual Exploitation

Sex crimes in general are defined as the indecent act committed by a person to satisfy their sexual instinct, which is a violation of the prevailing customs and norms in the society where the individual lives, and which constitutes a legal violation leading to the conviction of the perpetrator. They can also be defined as the crime committed by a perpetrator against a victim's honor or chastity, by committing a sexual act upon them without the victim's consent or by coercion (Nabih, 2008, p. 15).

The term child sexual exploitation via the Internet means the depiction of any child, by any means whatsoever, engaging in actual or simulated explicit sexual activities, or any depiction of sexual organs primarily for sexual gratification. It also refers to the appearance of children in images, films, or scenes of a pornographic nature or sexual content (Nesrine Abdel Hamid, 2015, p. 24).

Digital child sexual exploitation is also defined as any use of technological media or the Internet to lure, expose, or involve a child in real or simulated sexual conduct, whether for direct sexual purposes or for the production, distribution, or broadcasting of pornographic material. This is considered a crime against childhood that necessitates specific criminalization in accordance with international standards. This type is an extension of traditional crime but is characterized by its danger due to its cross-border nature, as it occurs across international platforms that are difficult to track. It also has rapid spread, as images and clips can spread widely and instantly, and is characterized by

difficulty of detection, often taking place in secret without the knowledge of family or authorities. It leaves a deep psychological impact even without direct physical contact. It also refers to a person performing sexual acts via the Internet directed at a child with the aim of making the child engage in sexually charged acts, either by forcing, encouraging, brokering, benefiting from, or exploiting them through publishing, distributing, and disseminating them among groups of children in any other form for various purposes that differ according to the desires of the perpetrator, either for sexual gratification or for material gain. Thus, there are two types of objectives: non-commercial for pure sexual gratification, or commercial such as photographing children in pornographic material for a considerable financial return (Douara, 2024, pp. 180-192).

Crimes of child sexual exploitation via the Internet are classified as crimes against the person (Youssef, 2011, pp. 287-288). They are indirect sexual crimes aimed at sexually exploiting children by inciting acts of a sexual nature against them by any means, direct or indirect. Perpetrators of sex crimes use email, instant messages, and chat rooms to gain a child's trust and then arrange a face-to-face meeting, where these children are used to achieve sexual ends (Ahmed Suleiman, p. 76). Unlike direct sex crimes such as rape or indecent assault, crimes of sexual exploitation are not directly focused on the child's body to satisfy the perpetrator's sexual desire or a desire for revenge. Instead, they involve exploiting the child's body to achieve material or other benefits (Adel, 2015, p. 12). This is what some pornographic websites on the Internet do, as they contract and facilitate contracts between individuals for prostitution, essentially acting as a pimp in forms appropriate to modern technology and development. Viewers can also purchase and download obscene films by paying electronically to watch them on their computer screens, which leads to the spread of pornography and the collapse of morals (Ghanem, 2016, p. 71) and juvenile delinquency (Hussein, 2010, pp. 68-187), in



addition to facilitating the extension of this crime from closed spaces to public domains.

Second: International and National Confrontation of the Crime of Sexual Exploitation

Since child sexual exploitation leaves extremely negative physical and psychological effects on children, exposing them to many diseases such as AIDS, syphilis, and gonorrhea, in addition to the risk of early pregnancy and maternal mortality for girls, not to mention the feeling of losing trust in others and the erosion of a sense of security and social adaptation—these are among the reasons that led the international community to criminalize the sale of children and their use in prostitution and pornography. Other reasons mentioned in the preamble of the Optional Protocol to the Convention on the Rights of the Child include: the seriousness of the practices of child sale, prostitution, and pornography; the increasing international trade represented by sexual tourism targeting children; the practice of companies directly encouraging the sale and exploitation of children in prostitution and pornography; the high risk of sexual exploitation faced by extremely vulnerable groups, including girls, who are disproportionately exploited; the increasing availability of pornographic material on the Internet and other emerging technologies that promote this trade; and the frequent armed conflicts and child trafficking (Oruba, 2009, p. 221). We will discuss the international response to this crime first, followed by the national response.

1- International Confrontation of the Crime

States, under the Convention on the Rights of the Child (1989), pledged to protect children from all forms of sexual exploitation and abuse, and to prevent the inducement or coercion of a child into any unlawful sexual activity, their use in prostitution or other unlawful sexual practices, and in pornographic performances and materials. States committed to enacting comprehensive legislation to cover acts and activities under their criminal laws, whether these crimes are committed

locally or internationally, or whether they are committed individually or in an organized manner. They also committed to preventing the sale and sexual exploitation of children, the production, distribution, publication, import, export, display, sale, or possession of child-related pornographic material, and any attempt to commit any of these acts, or complicity or participation in any of them.

The preamble to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000) provided a definition for the exploitation of children in prostitution: "For the purposes of the present Protocol, 'child prostitution' shall mean the use of a child for the purpose of sexual activities for remuneration or any other form of consideration." It also provided a definition for the exploitation of children in pornography: "'Child pornography' shall mean any representation, by any means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes" (Article 2 of the Protocol).

At the Arab level, Article 17 of the Draft Arab Model Law on Combating Computer and Internet Crimes stipulates that "Anyone who establishes or publishes a website on the information network or a computer device and the like, with the intent of trafficking in human sex or facilitating dealing in it, shall be punished by imprisonment and a fine."

Finally, it must be noted that these crimes have been included as offenses warranting extradition in any extradition treaty in force between the States Parties and shall be included as extraditable offenses in every extradition treaty concluded subsequently between them, subject to the conditions provided in those treaties (Oruba, 2009, p. 227). International cooperation is achieved through bilateral, multilateral, and regional arrangements to prevent, detect, investigate, prosecute, and punish those responsible for acts involving the sale of children, child prostitution, child pornography, and sexual tourism. States



Parties also promote international cooperation and coordination between their authorities and national and international non-governmental organizations, and enhance international cooperation to assist child victims in physical and psychological recovery and social reintegration and repatriation, and to address root causes such as poverty and underdevelopment that contribute to children being targeted for sale and exploitation in prostitution, pornography, and sexual tourism (Article 10 of the Protocol).

2- National Confrontation of the Crime of Sexual Exploitation

The Algerian legislator has guaranteed protection for children from sexual crimes involving direct physical contact or those that expose the child to delinquency, in both the Penal Code and the Child Protection Law. It criminalized prostitution as a crime against honor (Mahmoud Naguib, 1988, p. 525) in the Penal Code, reflecting its belief in the content of international conventions in this field. This crime is addressed in Section Seven of the Penal Code under the title Incitement of Minors to Debauchery, which includes eight articles that criminalize and punish the incitement, assistance, exploitation, and use in prostitution, the management of prostitution establishments, and public solicitation.

Article 343 of the Algerian Penal Code outlines the acts considered as the use of minors in prostitution, punishing with imprisonment from two to five years and a fine from 20,000 to 100,000 DZD, unless the act committed constitutes a graver crime, "anyone who uses, entices, or supports a person, even an adult, for the purpose of committing prostitution, even with their consent, or seduces them to practice prostitution or debauchery." Attempting to commit the misdemeanors mentioned in this article is punished with the same penalties prescribed for those misdemeanors. Article 344 raises the penalties set forth in Article 343 to imprisonment from five to ten years and a fine from

10,000 to 100,000 DZD if the misdemeanor is committed against a minor under nineteen years of age. Article 343 punishes anyone who uses, entices, or supports a person, whether a minor or an adult, for the purpose of committing prostitution, and the victim's consent is not considered even if they are an adult, due to the baseness of this crime and the moral degradation it represents. It also punishes anyone who seduces persons into practicing prostitution or debauchery, i.e., making prostitution a profession to earn a living, which leads to the corruption of the individual's morals and extends to affect society as a whole. It should be noted that the attempt to commit the crime of usage is punishable even if the result is not achieved.

The judge has the right to impose a supplementary penalty pursuant to Article 349, which is the deprivation of the perpetrator from one or more of the rights mentioned in Article 14, and a ban on residence for a period of not less than one year and not more than five years.

Following Algeria's ratification of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (Optional Protocol to the Convention on the Rights of the Child), the Child Protection Law was amended to include several penalties for those who violate a child's morals. A child is considered "at risk" if they are subjected to sexual exploitation in its various forms, especially in pornographic material, prostitution, and sexual shows. Among the penalties are those found in Articles 140, 141, and 143 of the Child Protection Law, which stipulate that anyone who infringes or attempts to infringe upon the child's private life by publishing or broadcasting texts and/or images by any means that could harm the child (Article 140 of the Child Protection Law) shall be punished. It also punishes anyone who exploits a child through communication means, whatever their form, in matters contrary to public decency and public order (Article 141 of the Child Protection Law), and refers to the Penal Code regarding the crime of sexual



exploitation of a child and their use in prostitution and pornographic acts (Article 143 of the Child Protection Law).

Section Two: Child Sexual Exploitation as a Cybercrime

As previously stated, sexual crimes have emerged on the Internet, taking various forms, including pornographic websites that incite prostitution, promote sexual deviance, and sexually exploit children. This has been confirmed by international reports indicating that about 2 million children, mostly males, are subjected to sexual exploitation (Adel, 2015, p. 8). Statistical and field studies conducted on sexual deviants, specifically those who sexually exploit children, prove that child pornography and abuse are the main preoccupation of a large segment of this type of criminal in Europe and the United States (Abdelfattah Bayoumi, 2007, p. 698). Child sexual exploitation via the Internet takes several forms and appears in several areas that we will discuss below, while highlighting the extent to which traditional texts on sexual harassment and related matters apply to the Internet in Algerian law.

First: Areas and Forms of Child Sexual Exploitation via the Internet

The exploitation of children in the sex trade appears through three main areas:

- Direct arrangements for the exchange, purchase, and sale of child pornography, either through mail or hand-delivery.
- Direct arrangements between adults seeking access to children for sex work and others willing to provide or sell children for sexual purposes.
- Establishing direct online friendships with children that lead to face-to-face meetings where these children are used to achieve sexual ends (Ahmed Suleiman, p. 76).

The European Convention on Cybercrime stipulated three forms of sexual exploitation, or what is known as child pornography:

- Necessarily associated with real sexual abuse of children.
- Related to wholly or partially composite images, such as replacing the original face of the person appearing in the image with the face of a child.
- Images that feature adults chosen with childlike physical specifications that make the viewer believe they are children, the aim of which is to arouse the instincts of deviant adults with sexual tendencies towards children.

These are almost the same crimes adopted by the French legislator in the new Penal Code. After criminalizing all that conflicts with public decency in Articles 283–288 of the old Penal Code—which punished "anyone who manufactures or possesses with the intent to trade, distribute, rent, advertise, display, import by themselves or through an intermediary, or export or export through an intermediary, or transport or transport through an intermediary knowingly and for the same purpose, or advertises or displays or publishes to the public or sells or rents or offers for sale or rent even in private, or gives, even without compensation, even in private, in any form whatsoever, directly or indirectly, or distributes or gives with the intent to distribute, in any form whatsoever, prints, writings, drawings, posters, engravings, pictures, or anything or image that violates public decency, shall be punished by imprisonment for a term of not less than one month and not more than two years and a fine of not less than 360 French Francs and not more than 30,000 French Francs" (Article 283 of the old French Penal Code)—the texts of the new French Penal Code defined the concept of public decency, confining it to acts of indecency that a child could view or those whose subject is a child, and limited protection to certain acts that constitute child sexual exploitation.

The French legislator, in the new Penal Code, addressed three types of crimes involving child sexual exploitation: the crime of corrupting a child (Article 227/22 of the FPC), the crime of exploiting a child's image (Article 227/23), and the crime of exposing a child to sexual material (Article 227/24). It should be



noted that these texts are characterized by their flexibility, which allows them to be applied to the commission of one of the acts mentioned in the previous articles if they are committed via the Internet and minors are the subject of those acts (Mohamed Amine, p. 135).

Second: Applicability of Sexual Harassment Texts in Algerian Law to the Internet

Initially, the Algerian legislator, like most Arab legislations, did not specifically intervene to address the sexual exploitation of children on the Internet but was content with imposing protection for children within the punitive provisions for traditional crimes that might harm the safety and security of children, even though it had criminalized acts violating public morals and decency. By examining the traditional texts criminalizing acts involving the corruption of a child's morals, we find that they do not restrict the means used, as they contain the phrase "by any means whatsoever" (Article 343/1&2 of Law No. 06/23), which means their validity extends to cover acts committed via the Internet. Furthermore, the legislator added a crime to the Penal Code after the 2020 amendment (Order 20-06), criminalizing the production, distribution, or possession of child pornography (Article 303 bis 04). The recent amendments to the Penal Code and the Code of Criminal Procedure also provided a strong punitive framework for combating the digital sexual exploitation of children. It is now possible to issue judicial rulings prohibiting contact between the convicted person and the victim as a supplementary criminal sanction for a period of up to three years after the completion of the sentence (Article 17 of the Code of Criminal Procedure), with the possibility of imposing electronic monitoring as an alternative or supplement to fixed-term sentences, which provides an effective monitoring tool for perpetrators of digital child exploitation crimes. The powers of confiscation and seizure of means and tools were also expanded to include the confiscation of devices and software used in the commission of the crime, which is crucial for gathering digital

evidence and preventing re-circulation. Finally, criminal procedures were adapted to accommodate digital evidence.

For its part, the Egyptian legislator criminalized all forms of child sexual exploitation occurring over the Internet under Law No. 126 of 2008, which added Article 116 bis (a) to the Child Law, stipulating: "Whoever imports or exports or produces or prepares or displays or prints or promotes or possesses or broadcasts any pornographic works in which children participate or which relate to the sexual exploitation of a child shall be punished by imprisonment for a period of not less than two years and a fine of not less than ten thousand Egyptian pounds and not exceeding fifty thousand Egyptian pounds. The tools and equipment used in the commission of the crime and the funds obtained therefrom shall be confiscated, and the premises where the crime occurred shall be closed for a period of not less than six months, all without prejudice to the rights of good faith third parties. Without prejudice to any harsher penalty stipulated in another law, the same penalty shall apply to anyone who uses a computer or the Internet or information networks or animated graphics to prepare or save or process or display or print or publish or promote pornographic activities or works related to the incitement of children or their exploitation in prostitution and pornographic acts or their defamation or sale, and anyone who uses a computer or the Internet or information networks or animated graphics to incite children to delinquency or to harness them in the commission of a crime, or to engage in illegal or immoral activities or acts, even if the crime did not actually occur."

Conclusion

Based on the foregoing, crimes of child sexual exploitation via the Internet represent a pattern of organized crime, surrounded by the utmost secrecy and caution, making it difficult to form a clear picture of them due to their advanced nature and proliferation in societies and the use of modern technological



means for their purposes. The negative impact of the Internet is compounded by its transmission of a pornographic culture to children, far removed from any blame that might be directed at them according to social values, whether religious or moral, because it occurs in secret. The material that may reach the child includes pornographic images and scenes, and advertisements, in addition to their participation in discussion forums or chat rooms, as well as email and electronic mailing lists, through sexual information that they may receive without supervision, especially via electronic lists.

Every Internet user is exposed to the influence of what is displayed on it, which poses a real danger to children due to its harmful and undesirable effects. Its effects can be seen in the rise of rape and sexual violence crimes, the loss of family values and principles, and a change in the feeling towards women to one of vulgarity instead of respect. Furthermore, frequenting such sites and watching sexual material constitutes religious prohibitions that our true religion forbids us from committing and commands us to avert our gaze from, due to the established link between committing forbidden sexual acts and looking at naked sexual images, and the link between deviance and committed crimes and watching sexual video tapes.

The forms of protection imposed by legal texts are insufficient in confronting child sexual exploitation in its traditional and modernized forms, especially when facing high technology and the Internet, which can expose the child to delinquency or make the child the subject of this sexual exploitation. This constitutes a material and moral assault on the safety of children and their right to ownership of their images and their financial exploitation. Furthermore, a new type of tourism called international sexual tourism has emerged as a pattern of current behaviors and problems resulting from social forces external to the societies with the responsibility and political authority to deal with these problems. Eliminating the sale of

children and their exploitation in prostitution and pornography requires:

- Adopting a comprehensive approach that addresses the contributing factors, which include underdevelopment, poverty, income inequality, and unjust socio-economic structures.
- Identifying the children most vulnerable to these risks and communicating with them.
- Criminalizing systematic communication with the intent of luring a minor for the purpose of sexual exploitation.
- Building a unified national protocol for preserving digital evidence.

Footnotes

- (Taha, 2012, p. 177)
- (Al-Subki, 2014, p. 104)
- (Youssef, 2011, p. 90)
- (Ibrahim, 2009, p. 36)
- (Al-Shawabweh, 2009, p. 105)
- (Hijazi, 2007, p. 706)
- (Taha, 2012, p. 179)
- (Younes, 2015, p. 42)
- (Barko, 2014, p. 347)
- (Al-Youssef, 2014, p. 226)
- (Nabih, 2008, p. 15)
- (Kharashi, 2015, p. 24)
- (Youssef, 2011, pp. 287-288)
- (Kharashi, 2015, p. 12)
- (Al-Shammari, 2016, p. 71)
- (Rishwan, 2010, pp. 68, 187)
- (Douara & Abdelli, 2024, pp. 180, 192)
- (Ali, 2006, p. 10)
- (Al-Khazraji, 2009, p. 221)
- (Protocol to the Convention on the Rights of the Child, 2000, Article 2)
- (Al-Khazraji, 2009, p. 227)
- (Protocol to the Convention on the Rights of the Child, 2000, Article 10)



- (Hassani, 1988, p. 525)
- (Protocol to the Convention on the Rights of the Child, 2000, Article 14)
- (Protocol to the Convention on the Rights of the Child, 2000, Article 08)
- (Protocol to the Convention on the Rights of the Child, 2000, Article 08)
- (Protocol to the Convention on the Rights of the Child, 2000, Optional Protocol)
- (Algerian Child Law, 2015, Article 140)
- (Algerian Child Law, 2015, Article 141)
- (Algerian Child Law, 2015, Article 143)
- (Kharashi, 2015, p. 8)
- (Hijazi, 2007, p. 698, quoted from Al-Qudha, n.d., p. 7 et seq.)
- (Al-Zaghaleel, 2014, p. 76)
- (Old French Penal Code, Article 283)
- (French Penal Code, Article 227/22)
- (French Penal Code, Article 227/23)
- (French Penal Code, Article 227/24)
- (Al-Shawabweh, 2009, p. 135)
- (Law 06/23, Article 343/1, 2)

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