

Abuse Of A Sexual Nature Performed On Children Through The Internet

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Abstract:

The growth of the information network and the expansion of communications led to the emergence of actions that exploited this technological progress to constitute serious crimes against society and its members. The crime of sexual exploitation of children via the internet is one of these crimes, the effects of which are not limited only to childhood but also the society and its future. As a result, the Jordanian libel law was enacted as a proactive measure to combat this crime (2015).

As a result, this study aims to shed light on the idea of immoral cybercrime, define the offence of child sexual exploitation over the internet, and provide its constituent parts and potential penalties.

Keywords Crimes committed online, sexual exploitation of minors, illegal use of information technology networks, criminal legislation, and Jordanian law.

Introduction:

Even though there have been many positive effects of progress on society as a whole and individuals as a result of the process of developing information technology, there has also been an impact on the negative side against a portion of society, particularly children, as a result of this development. This has been the case, although there have been many positive effects of progress on society and individuals due to the process of developing information technology. During the past decade, there has been a tremendous development in the field of communication and information. Some people have used the development of the Internet and other electronic fields to commit various crimes against childhood. Child sexual exploitation is one of the most serious of these crimes. The Internet has played a role in committing many sexual crimes against children. These crimes are committed by taking advantage of children's limited mental and physical capabilities, as well as the fact that they do not yet have all of the moral knowledge they need and the fact that they are unaware of the dangers that these

obscene acts pose to. Therefore, rather than using the Internet and other forms of information technology to expand a child's knowledge and educational and social capacities, this growth has been used in a manner that is detrimental to children and society.

As a result, positive laws and international covenants were required to combat and confront these dangerous acts to protect children and enhance the moral security of society. This is because children are the future pillars of any society, and protecting them is essential to the society's continued existence.

By including a provision in its sixth Article that reads as follows, the Constitution of Jordan has acknowledged the importance of safeguarding the rights of mothers and children (The law protects motherhood, childhood and old age and takes care of the young and the disabled and protects them from abuse and exploitation).

In addition, the Jordanian legislative body in charge of criminal matters included a provision

for protecting minors from being subjected to sexual exploitation in Article 9 of Law No. (27) Of (2015), which states:

"1. Whoever intentionally sends or publishes through the internet system or the information network whatever is audible, read, or visual that includes pornographic acts related to sexual exploitation for those who have not completed eighteen years of age shall be punished with imprisonment for not less than three months and not exceeding one year in addition to a fine of not less than three hundred dinars and not more than five thousand dinars. "2. Whoever intentionally sends or publishes through the information network whatever

2- Anyone who intentionally uses the internet system or the information network to create, prepare, save, process, present, print, publish, or promote pornographic activities or works to influence those who have not completed eighteen years of age or who are mentally or psychologically disabled, or directing or inciting them to commit a crime, by imprisonment for no less than two years and a fine of no less than (1,000) one thousand dinars an infraction.

3- Anyone who intentionally uses the information Whoever intentionally uses an information system or information network to exploit a person who has not completed eighteen years of age or who is mentally or psychologically disabled in prostitution or pornography acts shall be punished with temporary hard labor and a fine of no less than (5,000) five thousand dinars and not exceeding (15,000) fifteen thousand dinars. "3- Whoever intentionally uses an information system or information network to exploit a person who has not completed eighteen years of age It is also important to highlight some of the positive laws that have been enacted in response to the severity of these crimes and that have been enshrined in its legislation. These laws are as follows: Article 17 of the Law of the UAE states: Whoever creates, manages, or supervises a website, broadcasts, sends, publishes, or republishes pornographic materials or gambling activities through an information network, as well as anything else that could compromise public morals, shall be punished by

imprisonment and a fine, not less than two hundred and fifty thousand dirhams and not more than five hundred thousand dirhams, or either of these two penalties. In addition, whoever violates this provision shall be subject to these penalties.

Anyone who produces, prepares, facilitates, sends, or stores for exploitation, distribution, or presents to others, through the use of an information network, any pornographic materials or gambling activities, as well as anything else that would prejudice the public morals, will be subject to the same penalty.

If the pornographic content is designed to attract juveniles under the age of eighteen or if the title of the pornographic content is a juvenile under the age of eighteen, then the perpetrator shall be punished with imprisonment for not less than one year and a fine of not less than fifty thousand dirhams and not exceeding one hundred and fifty thousand dirhams. In addition, the perpetrator may face a maximum fine of one hundred and fifty thousand dirhams.

Article 18 of the Law of the United Arab Emirates states that Whoever intentionally possesses pornographic materials related to juveniles using the information system, the internet, a website, or any other information technology means will be subject to the penalties of imprisonment for not less than six months and a fine of not less than one hundred fifty thousand dirhams and not more than one million dirhams. These penalties will be imposed on the offender.

Article fourteen of the Omani Law reads as follows: Whoever uses the internet network or information technology means to produce, present, distribute, provide, publish, purchase, sell, or import pornographic material unless it is for scientific or artistic purposes authorized by, shall be punished by jail for a period not less than one year and not exceeding three years and a fine of not less than one thousand Omani Riyals and not exceeding five thousand Omani Riyals if the title of the pornographic content is a juvenile you. If the title of the pornographic The following is stated in Sudanese Law Article 14: Whoever creates, prepares, facilitates, sends, stores, or promotes any content that violates the modesty of the

morals or the public system through the information network, a computer device, or something similar shall be punished with imprisonment for a period not exceeding five years or a fine or both.

Whoever knowingly or negligently provides or facilitates access to content that is indecent or contrary to public order or morals, whether it be through an information network or a computer device or something similar, shall be punished with imprisonment for some time not to exceed four years, a fine, or both. In addition, the person may be subject to both of these penalties.

"If the act referred to in Clauses (1 and 2) above is directed to a juvenile, the perpetrator shall be punished by imprisonment for a period not exceeding seven years, or with a fine, or with both punishments," the clause reads. "The perpetrator shall be punished by imprisonment for a period not exceeding seven years."

Based on those above, the significance of this research lies in determining the perspective and vision of the Jordanian penal legislator toward this serious crime and defining its elements. Because it is a serious social crime and has an important specificity, this crime has been given much attention in recent years.

By what was included in the Jordanian Cybercrime Law No. (27) Of (2015), the primary focus of this research is on determining the legal provisions and rules related to the crime of child sexual exploitation over the Internet, as well as the adequacy of the penal provisions for this crime. A fundamental question is represented by identifying the legal provisions and rules related to the crime of child sexual exploitation over the Internet.

Given the above, the following are the questions that the study will attempt to answer in order: First, the idea behind cybercrimes involves pornography.

According to Jordanian legal precedent, sexually exploiting a kid is a serious criminal offence.

The idea behind pornographic websites being illegally accessible online

The jurists had different perspectives on how to define the term "cybercrime." Some of them described it as "an unlawful behavior that takes

place using electronic devices, in which resulted in material or moral harms, to obtain material and moral benefits or both." Cybercrime is also known by a variety of other names, including "Electronics crime" (Musa and Mustafa 2009), "Internet crime," and "High-tech crime" (Kahl (M Muhammad.2009).

As for the offence of electronic pornography, some people have defined it as any positive or negative act. The positive acts include sending or publishing a pornographic work, preparing, preserving, processing, displaying, printing, publishing, promoting pornographic activities or acts, or anything related to prostitution or pornography. The negative acts include Internet service providers' failure to report such crimes (Musa & Mustafa, 2005).

The Components That Comprise the Offense of Sexual Exploitation of Children Via the Internet The presence of children in pornographic nature scenes or sexual material represents child sexual exploitation on the Internet. This phrase also applies to child prostitution and the exploitation of children in the pornography industry, as well as sexual tourism (AKharashi.)

Accordingly, the elements of the sexual exploitation crime will be defined by presenting the attitude of the Jordanian penal legislator within Article (9) of the Cybercrime Law No. (27) Of (2015), which includes three crimes, whereas each clause is dedicated to a different crime and its respective penalty: First: The crime of exchanging or sending pornographic material in which the participant or related to sexual exploitation of persons under the age of eighteen in age: by using the information or any information network in order to prevent the spread of such materials and its prevalence among the individuals – (The Crime of Clause (a) of Article (9)). This is referred to as "The Crime of Clause (a) of Article (9)."

It is patently evident that this criminal act is predicated on two components, namely the material component and the mental component: The component is made of material: Sending is differentiated from publishing because sending is an activity directed at a particular individual or group of people, whilst publishing is an action directed toward an unknown group of people. In-which emerges in two behaviors: either by sending or by publishing.

Despite this, and by clause (a) of Article (9), the act of sending or publication must have taken place via the information network. Based on the difference concept, this means that if the publication or the sending acts were carried out through traditional means, then this act shall not be considered a criminal act.

Additionally, it is required that the content of the sending or publication acts be related to pornographic material or child sexual exploitation in any form, whether audible, visible, or readable for those under the age of eighteen, and regardless of whether it is real or fictitious. This requirement applies whether the pornographic material or child sexual exploitation is real or fictitious.

The psychological component: It is required that the general criminal intent in the crime that is represented by knowledge and will be available, and this is accomplished with the perpetrator's knowledge by the act of sending or publishing materials over the information network that contain pornographic acts related to sexual exploitation for those under the age of eighteen, as well as knowledge of the outcome, the will to achieve the act and the result, and knowledge of the pornographic acts themselves.

Regarding the punishment, the legislator has decided that the penalty for this crime will be imprisonment for a period that is not less than three months and a fine that is not less than three hundred dinars and not more than five thousand dinars. These are the parameters that have been set for the punishment.

Second: is the deliberate use of the internet or another information network with the intent to influence, by pornographic behaviors and actions, those who have not yet attained the age of eighteen or who have a mental or psychological disability.

Those who willfully use the information systems to direct or instigate a person under eighteen or who are mentally or psychologically impaired to commit a crime are also guilty of the offence described in clause (b) of the article (9) of this provision.

Even if the content relates to minors, such as pornography with adults participating, these

behaviours are still deemed illegal and punishable by the law.

The material and mental elements contribute to the commission of this crime.

The material aspect of the equation

The conduct that constitutes this offence includes using an information system to produce, prepare, save, process, display, print, publish or otherwise promote pornographic acts or actions (H Abu Issa- (2017).

The mental component of it all.

The mental component of this offence consists of two types of intent: personal and general intent.

The Overarching Aim: It comprises the knowledge and the will so that the offender is aware of his conduct and his will is focused on obtaining the objectives, thus ensuring that the offender is held accountable for his actions.

The Private Intent: This crime requires the existence of a private purpose, which is represented by the perpetrator's endeavor to influence someone who has not completed the age of eighteen or who is mentally or psychologically disabled, or directing or inciting him to commit a crime. Additionally, the perpetrator must have acted with the knowledge that the person he or she was attempting to influence was mentally or psychologically disabled.

It should be noted that incitement is penalized in this scenario, regardless of whether it is for the commission of a pornographic offence or a regular criminal.

Regarding the penalty, the person who committed this offence shall be punished with incarceration for a term of not less than two years and a fine of not less than one thousand dinars and not more than five thousand dinars. These are the minimum and maximum amounts of the fine, respectively.

Third: the exploitation of a person who has not reached the age of eighteen or who is mentally or psychologically handicapped in the business of prostitution or pornography: An individual, for instance, commits the offence described in Clause (c) of Article (9) when they transmit or advertise an offer to participate in child prostitution.

The material and mental elements contribute to the commission of this crime.

The material aspect of the equation Embodied by the exploitation cause of action, under the condition that the exploitation only takes place in the context of pornography or prostitution.

Moreover, those who were taken advantage of in the commission of this crime include anybody who has not yet reached the age of eighteen or anyone who suffers from a mental or psychological impairment.

It is important to note that the exploitation in this scenario must occur through the internet network. On the other hand, this provision does not apply to anyone who exploits children through prostitution using conventional means; the conventional provisions outlined in the penal law must be adhered to in this scenario.

The psychological component: Because the offender is aware of his actions and his will is oriented towards obtaining the anticipated consequence of exploitation, even if this objective was not realised, the mental aspect of this crime rises due to the general criminal purpose.

The offender of this offence must be punished with temporary hard work and a fine that is not less than (5,000) five thousand dinars and not exceeding (15,000) fifteen thousand dinars. These are the parameters for the penalty.

It is important to note that the criminal justice system has come to accept the presumption that an accused person in a case involving sexual crimes is aware of the age of the victim unless the accused person can demonstrate the existence of compelling reasons or exceptional circumstances that led to his ignorance of the victim's age.

Although there is no reason why this rule cannot be applied to offences involving the sexual exploitation of children.

Case law: Sending, posting, or re-publishing child pornographic images to other individuals using the Telegram application includes the components of the offence described in Article (9/a) of the Electronic Crimes Law (Decision of the West Amman Magistrate's Court 3766/2021).

According to a decision made by the Rosaria Magistrate's Court 371/2021, it is a violation of Article (9/c) of the Electronic Crimes Law when a person sends text messages and pictures through Messenger to a minor who is younger

than thirteen years old and asks him to participate in pornographic activities. This action is considered to be a form of cyberbullying.

The actions of the defendant, which include sending and keeping a picture that contained sexual images related to adolescent boys between the ages of fifteen and eighteen years, are immoral while they are in a state of nudity without clothes from below. A video of the journey of teenage boys and the appearance of one of them naked from below, and they photograph it, but it constitutes all of the pillars of the crime. The infraction is described in Article (9/b) of the Electronic Crimes Law (Decision of the Irbid Magistrate's Court 2743/2021).

Concluding remarks: The sexual exploitation of children via the internet is an egregious violation of children's rights. As a result of this study, many conclusions and recommendations have been drawn:

These are the results: The progressive nature of Arab legal systems in general and Jordanian legal systems, in particular, govern cyber behaviors and the crimes that may result from these actions, as specified in the Jordanian Cybercrimes Law No. (27) Of 2010, (2015).

The pornographic material the perpetrator of a cyber-crime must carry out the criminal activities stated in Law No. (27), and he must have a criminal will, purpose, and motivation for the offence to be considered a cybercrime rather than an ordinary crime.

Here are some suggestions: In order to accomplish their goal of reducing the incidence of criminal behavior, the legislators in charge of Jordan's penal code need to strengthen the penalties outlined in clauses (a) and (b) of Article 9. Any behavior associated with sexual abuse, particularly if it is associated with the sexual exploitation of children, should result in a penalty being imposed on Internet service providers by the government.

The nature of pornographic cybercrimes has to be specified, and the Jordanian legislature needs to define them in a manner that complies with the attitude of important Arab and international organizations. Laws on an international level about this sector.

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