



Submission by the Southern African Catholic Bishops'

Conference on

SALRC Project 107

Sexual Offences: Pornography and Children

Discussion Paper 149

30 July 2019

“It were better for him that a millstone were hanged about his neck, and he cast into the sea, than that he should offend one of these little ones”.

Luke 17:2

1. Introduction

The Southern African Catholic Bishops’ Conference welcomes this opportunity to engage with the South African Law Reform Commission on the matter of pornography and children. Child pornography, in whatever form it takes, is the pernicious exploitation of children.

Pornography involves exploiting the human body and viewing the body as an object.¹ We agree that that the Sexual Offences Act should be amended by substituting the word ‘pornography’ with ‘child abuse materials’. We concur that this change in terminology far more adequately reflects the true nature of child pornography and does not allow for any ambiguity. The term “also describes such materials from within a victim-centred perspective, confirming that these are materials which will abuse, degrade and exploit children portrayed as sexual objects and are not simply images of children who have been abused”.² Miranda Jordan Friedman, founder of Women & Men Against Child Abuse points out that, “Child pornography is actually *sexual abuse images*. They are recordings of crime scenes.”³ Where possible we will adopt this revised terminology in this Submission.

2. Definitions

Child abuse materials are considered to be any visual depiction of a minor or an individual who appears to be a minor who is engaged in sexual or sexually related conduct.⁴ The Film and Publications Amendment Act 3 of 2009, section 1(e)⁵, states that child pornography ‘includes any image, however created, or any description of a person, real or simulated, or who is depicted, made to appear, look like, represented or described as being under the age of 18 years’. The FP Act continues that ‘child pornography’ occurs when a person (including a minor child) ‘shows or

describes the body, or parts of the body, of such a person in a manner or in circumstances which, within context, amounts to sexual exploitation, or in such a manner that it is capable of being used for the purposes of sexual exploitation.’⁶

However, the competence of the Act is severely compromised by the internet, which is extremely difficult to police. Legal Brief 75 reports that, “what once was taboo, hidden inside a suitcase or wardrobe in an older male relative's girlie magazines has moved into all of our homes. The influx has been facilitated by the mass media and more specifically the Internet, mobile phones and television. However, it is no longer just a centrefold model but a deluge of online and increasingly bizarre or violent content.”⁷ The internet is the cheapest, fastest, and most anonymous pornography source.⁸ These continuing developments have made children increasingly vulnerable and in need of greater and more effective protection.

3. Lessons Learnt

The *Catechism* of the Catholic defines pornography as “removing real or simulated sexual acts from the intimacy of the partners, in order to display them deliberately to third parties.”⁹ This definition does not take into account either the exposure of children to pornography or exploitation of children in the production of pornography.

The string of scandals around the globe involving priests abusing children has shaken the Catholic Church to its foundations.¹⁰ Child abuse materials have featured prominently in these scandals. The Church has been compelled to engage in introspection which has illustrated much about the nature of child abuse materials, from which many lessons can be learnt. It has illustrated how ubiquitous child sex materials are, and how those who use such materials hide in plain sight and are frequently in positions of trust. This trust is abused in the context of unequal power relationship where children may be groomed. It corrupts and damages human relationships. Furthermore,

those associated with the user of child abuse materials may tolerate the use of these materials and underestimate the damage done to children. Such collusion condones the abuse.

The psychiatric diagnosis of the perpetrator may obscure the crime and takes the focus off the victim and the lifelong consequences it has on the child. All viewing of child abuse materials is watching the re-enactment of the crime, and in so doing the voyeur is complicit in the crime.

4. Access to and Exposure of a Child to Pornography

Frequent exposure to violence, including sexual violence, in the media can be confusing to children, who are not yet able to distinguish readily between fantasy and reality. “At a later stage, violence in the media can condition impressionable persons, especially those who are young, to regard this as normal and acceptable behaviour, suitable for imitation.”¹¹ The vulnerability of children in the age of social media cannot be overestimated, and the children most affected may well be the younger ones.

While parents would ideally want children to learn about sexuality and reproduction at home, in a loving and secure environment, the harsh reality is that nearly half of children between the ages of 9 and 16 experience regular exposure to sexual images.¹² Researcher Chantelle Blokdyk observes that “we are the first generation to have the conversation about internet pornography with our children.”¹³ Research shows that “media has a tremendous capacity to teach.” However, what it teaches is the concern. Exposure to media online, on cell phones, through games and in movies, particularly where the content is violent, gender-stereotyped, and/or sexually explicit, skews children’s world view, increases high-risk behaviours, and alters their capacity for successful and sustained human relationships.¹⁴

Adolescence is a particularly critical period, especially for male children. Psychologist Dr Victor Cline posits four progressive effects of pornography which are apposite to this discussion:

“(1) *addiction*, where the need to view pornographic materials leads to a loss of free control over behaviour;

(2) *escalation*, where the person delves into progressively harder pornography, usually to attain the same level of sensation and arousal;

(3) *desensitization*, whereby the user is no longer morally sensitive to the shocking, illegal, repulsive, perverted, or immoral quality of the material, but instead views it as acceptable and begins to look upon others as objects; and

(4) *acting out*, where the fantasizing becomes overt behaviour.”¹⁵

Although the adult mind is vulnerable to pornographic imagery, children are the more severely harmed. Behavioural scientist Ralph Di Clemente comments that, "Children can't just put [porn] in their worldview, because they don't have one. This becomes one of the building blocks that they're going to put into their worldview, and that's what we don't want."¹⁶ Children's minds are still developing so they do not have the capacity to understand the harmful and profoundly disrespectful nature of pornography. These distortions become the filters through which the rest of life is seen and understood. Emotional trauma; having sex earlier; desiring and pursuing sex apart from emotional attachments; difficulty in establishing emotional attachment; higher risk for sexual compulsions and addictions.¹⁷

This is why it is so important that parents start the conversation about sexuality with their children as soon as they can, as “establishing healthy sexual boundaries and values from a young age is essential to prepare them for protecting their minds and bodies.”¹⁸ Children need to develop a strong sense of the corporal integrity of both themselves and others.

5. Consensual Self-Child Sexual Abuse Material ('Sexting')

Unfortunately, children may enable their own vulnerability. One of the basic principles and unfortunate realities of the internet is that nothing posted goes away. Texting/sexting and posting inappropriate language and photos on the internet is also classified as child pornography, if it involves minors. Attorney and social media expert Emma Sadleir says that the harsh reality is that the “minute it has been shared or seen, it exists in cyberspace and may come back to bite you...it is impossible to delete content once it has landed online or on social media. Even if you delete the content from your Instagram account, many people may have taken a screenshot of it or downloaded your images.”¹⁹ The Films and Publications Board reports that a lot of the products of sexting, like pictures and video, often end up online and are used as a means of ‘cyber-bullying.’²⁰ Likewise, peddlers of child pornography have access to these images and there is nothing preventing them from using these images for their own exploitative and nefarious purposes.

6. Creation and Distribution of Child Sexual Abuse Material

The creation and distribution of child sexual abuse material is an extremely profitable business. A report from the USA reports that child pornography is one of the fastest growing businesses online, with estimated annual revenue of \$3 billion. According to the Association of Sites Advocating Child Protection, “child pornography is usually distributed two ways. It’s either commercial child pornography that is distributed for profit or non-commercial child pornography that is offered free or traded among offenders.”²¹

7. Grooming of a Child and Other Sexual Contact Crimes Associated with or Facilitated by Pornography or Child Sexual Abuse Material

Moreover, new statutory offences should be created for adults, resulting in “criminalising the compelling or causing the witnessing of certain sexual conduct and certain parts of the human anatomy, the exposure or display of child pornography and the engaging of sexual services of an adult.”²² This would do much to protect children from grooming. In 2013 the Vatican passed a law penalizing anyone within its jurisdiction who “distributes, disseminates, transmits, imports, exports, offers or sells child pornography.”²³

In December 2012, the United States Sentencing Commission issued a report to Congress regarding Federal Child Pornography Offenses. All child pornography offences, including possession, are viewed as extremely serious because they result in perpetual harm to the child and validate and normalize the sexual exploitation of children.²⁴ Furthermore, speaking after a guilty verdict was handed down to a perpetrator of child abuse materials, the executive director of the SA Male Survivors of Sexual Abuse commented that the children involved “are going to be living with this trauma for the rest of their lives. Every single one of these images out there is evidence of a crime that has been committed against a child. Justice has been done now. But justice has not been done to the kids out there, the unidentified victims of child abuse, rape and even torture.”²⁵

The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography emphasises that “efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography”, and it goes on to stress “the importance of strengthening global partnership among all actors and of improving law enforcement at the national level”.²⁶

Our present legal framework has proven inadequate and does not provide children with sufficient care and protection. Furthermore, it does not protect society from the psycho-social consequences of exposure to child sex abuse materials and the insidious nature of these crimes. Attention should be given to making it an offence for any person who becomes aware of the existence of child

sexual abuse material not to report it to the authorities. Present legislation tends to limit the duty of reporting to specific categories, such as teachers, social workers, medical practitioners, etc.

The Church must also make the best possible use of its own institutions and personnel to give education and formation concerning the media of social communications and their proper role in individual and social life.²⁷ Sound laws must be enacted where they are lacking, weak laws must be strengthened and existing laws must be enforced.²⁸ It is vital to address how offenders are prosecuted, sentenced, incarcerated and supervised once released.

For further information please contact

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¹<https://www.catholicscomehome.org/your-questions/moral-issues/pornography/>

² http://www.justice.gov.za/salrc/ipapers/ip30_prj107_SexualOffences-PC-2015.pdf

³ <https://www.iol.co.za/south-africa/gauteng/joburg-man-found-guilty-of-107-child-porn-charges-14764785/new>

⁴ <https://www.justia.com/criminal/offenses/sex-crimes/child->

⁵ (as amended by the Films and Publications Amendment Act 3 of 2009)

⁶ <http://www.saflii.org/za/journals/DEREBUS/2014/50.html>

⁷ http://www.justice.gov.za/salrc/ipapers/ip30_prj107_SexualOffences-PC-2015.pdf

⁸ <http://catholicstraightanswers.com/what-does-the-church-regarding-pornography/>

⁹ The *Catechism* of the Catholic Church #2337

¹⁰ <https://www.dw.com/en/sex-abuse-scandals-in-the-catholic-church/a-47584426>

¹¹ <https://www.catholicculture.org/culture/library/view.cfm?recnum=5174> Pontifical Council for Social Communications, Vatican City, May 7, 1989, 23rd World Communications Day.

¹² <https://aifs.gov.au/publications/effects-pornography-children-and-young-people-snapshot>

¹³ 'The Harmful Effects of Pornography', presentation by Chantelle Blokdyk at UWC Conference n 'Strengthening Families Through Parenting', 2017

¹⁴ 'The Harmful Effects of Pornography', presentation by Chantelle Blokdyk at UWC Conference n 'Strengthening Families Through Parenting', 2017

¹⁵ <http://catholicstraightanswers.com/what-does-the-church-regarding-pornography>

¹⁶ <https://www.focusonthefamily.com/socialissues/family/pornography/pornography-cause-for-concern>

¹⁷ <https://www.focusonthefamily.com/socialissues/family/pornography/pornography-cause-for-concern>

¹⁸ 'The Harmful Effects of Pornography', presentation by Chantelle Blokdyk at UWC Conference n 'Strengthening Families Through Parenting', 2017

¹⁹ <https://www.news24.com/SouthAfrica/News/Sexting-among-kids-happens-daily-and-they-can-be-prosecuted-for-it-20150529>

²⁰ <https://www.news24.com/SouthAfrica/News/Sexting-among-kids-happens-daily-and-they-can-be-prosecuted-for-it-20150529>

²¹ https://www.huffpost.com/entry/child-pornography-basic-f_b_4094430

²² <http://www.saflii.org/za/journals/DEREBUS/2014/50.html>

²³ https://www.huffpost.com/entry/vatican-busts-its-diplomat-after-child-porn-probe_n_5ac94236e4b0337ad1e8b743?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLm

²⁴ <https://www.huffpost.com/entry/child-pornography-basic-f b 4094430>

²⁵ <https://www.iol.co.za/news/south-africa/gauteng/joburg-man-found-guilty-of-107-child-porn-charges-14764785>

²⁶ <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

²⁷ Archbishop John P. Foley,

²⁸ <https://www.catholicculture.org/culture/library/view.cfm?recnum=5174>