

# The Development Direction of Chinese Law in the Context of the Growth of the Internet Pornography Industry

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**Abstract.** With the rapid development of Internet technology, the Internet pornography industry has gradually emerged and taken on complex and diverse forms. This phenomenon not only severely impacts social morality but also poses a great threat to the physical and mental health of citizens, especially teenagers. China's existing laws have established a certain regulatory system for the Internet pornography industry, which has played an important role in cracking down on related illegal and criminal activities. However, in the face of the ever-changing new forms and characteristics of the Internet pornography industry, the current laws have revealed many deficiencies in terms of scope of application, law enforcement intensity, and regulatory coordination. This paper aims to analyze the current situation and characteristics of the development of the Internet pornography industry, systematically review China's current relevant legal provisions and the difficulties in their implementation. By drawing on advanced international legislative experience and combining it with China's national conditions, this paper explores the development direction of Chinese law from dimensions such as improving the legal system, strengthening law enforcement efforts, and enhancing regulatory coordination. The purpose is to provide useful theoretical references and practical guidelines for effectively curbing the spread of the Internet pornography industry and maintaining a healthy and orderly online environment.

**Keywords:** Internet; Pornography industry; Restricted level; Control; Law.

## 1. Introduction

With the scale of Internet users in China exceeding 1.09 billion (data for 2023), the governance of cyberspace is facing complex challenges. Among them, Internet pornographic content, with the iteration of technology and the infiltration of capital, has shown trends of being more concealed and industrialized. According to the Report on the Internet Use of Minors in China in 2022, the scale of minor netizens reached 193 million, and the Internet penetration rate was 97.2%. The risk of minors being exposed to inappropriate information has increased significantly. It is worth noting that after the exposure of the "Nth Room" incident in South Korea in 2020, similar cases of organizing online sexual crimes using encrypted communication software also emerged in China. For example, in 2021, a mass sexual exploitation incident of minors occurred within a group on a social platform, which triggered extensive public concern about the online pornographic black industrial chain.

The spread of Internet porn not only impacts the traditional ethical order but also gives rise to social problems such as premature puberty among minors and the breeding of gray industrial chains. Although China has established a legal framework centered on relevant provisions of the Cybersecurity Law, the Law on the Protection of Minors and the Criminal Law, there are still bottlenecks in practice, such as difficulties in evidence collection and insufficient cross-border law enforcement coordination. For example, in 2022, public security organs across the country investigated and dealt with 12,000 cases of online dissemination of pornographic items, but the actual conviction rate was less than 30%, highlighting the gap between legal application and enforcement effectiveness. Against this backdrop, clarifying the historical context of the development of Internet porn, analyzing the social risks it triggers, and exploring the optimization path of the legal system have become key issues in social governance in the digital age. This paper attempts to provide a

theoretical reference for improving China's Internet porn governance system by combining typical domestic and international cases and empirical data.

## **2. The Background of the Development of Internet Pornography in China**

### **2.1. The Development Process of Laws on Pornography Control in Chinese History**

In the ancient Chinese legal system, pornographic content was always subject to dual regulation of morality and ritual laws. Since the "Tang Code with Commentaries", articles such as "Those who create and use poisonous insects and teach others to do so shall be hanged" clearly regarded the dissemination of obscene items as a serious crime. During the Song and Yuan dynasties, the "Song Code" implemented a system of confiscating and burning erotic pictures and pornographic novels. In the Ming and Qing dynasties, both the "Great Ming Code" and the "Great Qing Code" established the crime of "producing and selling pornographic books and paintings", incorporating the production and dissemination of obscene items into the criminal punishment system, which reflected the patriarchal society's high emphasis on the order of "social mores".

With the development of the times, the transformation of the modern legal system was also reflected. In 1935, Article 235 of the "Criminal Law of the Republic of China" first criminalized the act of "disseminating and selling obscene items", marking the transformation of porn control from moral admonition to modern legal interest protection. After the founding of the People's Republic of China, the "Decision on Dealing with Illegal Books and Magazines" in 1955 established an administrative supervision model of "striking against pornography and illegal publications", clearing feudal remnants through campaign-style governance. The legislation during this period focused on ideological guidance and had not yet formed a complete set of porn classification and dissemination standards. In 1997, the revised "Criminal Law" added Article 363, the crime of "producing, reproducing, publishing, selling, and disseminating obscene items for profit", clearly defining for the first time the criminal punishability of online pornography. In 2006, Article 68 of the "Law on Public Security Administration Punishments" included the online dissemination of obscene information in the scope of administrative punishment, forming a dual regulation system of criminal and administrative measures. In 2017, Article 12 of the "Cybersecurity Law" established the principle of "a clean cyberspace". In 2020, Article 1010 of the "Civil Code" introduced a civil relief system for "sexual harassment", marking the expansion of legal regulation from simple content control to the dimension of rights protection.

### **2.2. The Emergence of Internet Pornography Platforms Driven by Capital**

Firstly, from the capital logic of technological empowerment and legal circumvention, Internet pornography platforms build a "technological moat" to avoid legal supervision through overseas server setup (such as in Cambodia and the Philippines), digital currency payments (Bitcoin, USDT), and AI content generation technology. According to data from the Supreme People's Court in 2021, cross-border online porn cases accounted for 67%. Capital takes advantage of legal jurisdiction conflicts to maximize profits.

Secondly, regarding the legal risk distribution in the industrial chain, under the current legal framework, platform operators face the criminal risk of up to life imprisonment under Article 363 of the "Criminal Law", and content creators may violate Article 364 of the "Criminal Law", the crime of "disseminating obscene items". However, in practice, technology service providers (CDN providers, payment interface providers) often plead "technological neutrality", making it difficult to implement the platform's review obligation stipulated in Article 47 of the "Cybersecurity Law". The typical case of the "Qvod Case" in 2016 revealed the judicial identification difficulties of the indirect intention of technology providers. Finally, due to the conflict between legal lag and the speed of capital innovation, online pornography has shifted from traditional video dissemination to new carriers such as VR immersive experience and ASMR voice. However, the current legal definition of "obscene items" is still limited to the list-style standards in the "Interim Provisions on the

Identification of Obscene and Pornographic Publications" in 1988. The "AI face-swapping obscene video case" heard by the Hangzhou Internet Court in 2022 highlighted the legal interpretation dilemmas brought about by technological iteration.

### **2.3. Society's Views on Internet Pornography**

In fact, any online activities related to sex, including purchasing sexual products through Internet platforms, engaging in pornographic chats, viewing pornographic pictures or movies, seeking sexual support, having virtual online sex, using the Internet to find sexual partners or sexual services, are collectively referred to as online pornographic activities [1]. Statistics show that nearly 90% of people in China have engaged in more than one type of online pornographic activity [2]. And 88.32% of them conduct pornographic activities through mobile applications or websites [3]. Thus, it can be seen that the Chinese public, especially adult students, have a relatively high demand for pornographic information and other online pornographic activities [4]. A survey conducted by the Chinese Academy of Social Sciences in 2023 shows that the proportion of people over 45 years old who support strengthening the control of online porn is 82%. Among the Generation Z group aged 18-25, only 54% think that browsing pornographic content should be punished by law. This difference in perception results in uneven implementation effects of the "Online Addiction Prevention" system in Article 74 of the Law on the Protection of Minors in family scenarios. When judicial organs crack down on online porn, they face the boundary dispute between freedom of expression and public order and good customs. For example, in the "Case of a Female Artist's Nude Photography Exhibition Being Reported" in 2021, the public security organs investigated and dealt with it according to Article 44 of the Law on Public Security Administration Punishments, which triggered criticism from the art circle that the identification standard of "obscenity" is too vague. Such disputes reflect that legal interpretation needs to take into account the dynamic changes in social tolerance. Compared with the "rating system" and "platform accountability system" in European and American countries, China adopts a strict model of "absolute prohibition + active filtering". According to Article 24 of the Cybersecurity Law, all domestic online platforms must deploy content review systems. However, a study by Harvard University in 2022 pointed out that this model may lead to an increase in the use rate of VPNs (the number of VPN users in China reaches 120 million), which instead intensifies the concealment of the underground porn market.

## **3. Social Problems Caused by Internet Pornography in China and Legal Responses**

With the rapid development of Internet technology, the online space has become an important carrier for the spread of pornographic information. In recent years, a series of pornographic criminal incidents in the Internet field in China have not only exposed the complexity of online supervision but also posed a severe challenge to the protection of minors' rights and interests and social ethical order. This article analyzes the social problems caused by online porn from a legal perspective and explores the response mechanisms and improvement paths of the current legal system [5].

### **3.1. Incidents Similar to the "Nth Room" in China's Internet**

With the anonymity and technical concealment characteristics of the Internet, a criminal model similar in nature to the "Nth Room" incident in South Korea has emerged in China's online space. In the "Online Secret Room" case cracked by the public security organs in Xuzhou City, Jiangsu Province in 2022, the criminal Gang established multiple chat groups through encrypted communication software, forced female victims to shoot pornographic videos by coercion, and implemented a hierarchical membership payment viewing mechanism. The cash amount involved in the case has reached more than 30 million yuan [6]. Such crimes show organizational and industrial characteristics, and their harmfulness far exceeds that of traditional pornographic dissemination behaviors. According to Article 363 of the Criminal Law on the crime of "disseminating pornographic materials for profit" and Article 237 on the crime of "compulsory insult", judicial organs can hold direct responsible persons criminally accountable. However, in the face of indirect participants in the

criminal chain such as technical supporters and fund settlement platforms, there are regulatory blind spots in the existing law. Although the judicial interpretation issued by the Supreme People's Court in 2023 clearly includes behaviors such as "deep linking" and "traffic sharing" in the scope of accomplices, there is still a lack of operable standards for determining the duty of care of online service providers [7].

### **3.2. Premature Sexual Maturity and the Gray Industry Involving Minors Caused by Online Pornography**

The prevalence of online pornography has directly led to an intensification of premature sexual maturity among minors and given rise to a gray industrial chain involving them. According to the 51st Statistical Report of the China Internet Network Information Center (CNNIC), 12.3% of minors were first exposed to pornographic information before the age of 10 [8]. This premature awakening of sexual awareness is closely related to the spread of "soft porn" content in the online space. Examples include "child soft porn emojis" on short video platforms and the phenomenon of "rewarding child models" in online live broadcasts. What is even more alarming is that some lawbreakers take advantage of the loopholes in the identity authentication of minors to conduct hidden pornographic transactions through forms such as virtual anchors and game companions. Although Article 72 of the current Law of the People's Republic of China on the Protection of Minors stipulates that network service providers should establish a network protection mechanism for minors, in actual implementation, the age verification of users by platforms often becomes a mere formality. In the "Xingyuan APP" case investigated and dealt with in Zhejiang Province in 2021, the criminal gang recruited minors to participate in online pornographic performances by forging identity information, which exposed the legal tension between the "principle of technological neutrality" and the special protection of minors [9].

### **3.3. Inadequacies in China's Current Relevant Legal Provisions**

China's current legal system has formed a regulatory framework integrating criminal, administrative, and civil regulations in the field of online pornography governance. Article 364 of the Criminal Law, Article 12 of the Cybersecurity Law, and the special chapter on network protection in the Law on the Protection of Minors respectively make prohibitive provisions on the dissemination of pornographic information involving minors from different perspectives [10]. However, there are still significant institutional obstacles in the process of law implementation [11].

Firstly, technical obstacles restrict the effectiveness of law enforcement. The fixation and admissibility of electronic evidence face technical challenges such as the dispersion of storage media and the cross-border distribution of cloud servers. Investigation agencies encounter practical difficulties in collecting evidence of data under a distributed storage architecture.

Secondly, the conflict of legal jurisdiction is difficult to resolve. The transnational nature of online pornography crimes leads to competing criminal jurisdictions. A typical example is the case of the main culprit of the "Nth Room" in South Korea in 2020. After his extradition, the handling of data on domestic servers was deadlocked due to the absence of an international judicial assistance mechanism.

Thirdly, there are structural defects in the connection mechanism between administrative punishment and criminal liability. Some online platforms take advantage of the differences between administrative punishment and criminal prosecution standards and adopt a strategy of "substituting fines for criminal punishment" to maintain user traffic, resulting in a serious imbalance between the cost of violations and commercial benefits and weakening the deterrent effect of the law.

These dilemmas expose deep-seated institutional weaknesses in China's online pornography governance, such as the lagging electronic evidence rules, the lack of cross-border cooperation mechanisms, and the fragmentation of the legal liability system. Urgent systemic institutional supply is needed to address these issues.

## **4. The Development Direction of China's Internet-related Laws in the Future**

### **4.1. Improvement of Existing Laws**

The governance of Internet pornographic information has become an important issue in global cyberspace governance. With the rapid iteration of digital technologies, the dissemination methods of Internet pornographic information in China have shown characteristics of concealment, cross-border nature, and technical complexity, posing severe challenges to the existing legal framework. How to build a scientific and efficient governance system while protecting citizens' legitimate rights and interests has become an urgent issue to be addressed in the process of China's modernization of the rule of law.

The current legal system has obvious lags in dealing with new types of online pornographic crimes. Article 364 of the Criminal Law stipulates the constitutive elements of the crime of disseminating pornographic materials in a rather general way, making it difficult to cover complex situations such as hierarchical dissemination and encrypted transmission in the cyberspace. In judicial practice, for new criminal means such as pornographic content generated by deepfake technology and distributed storage based on blockchain technology, sentencing differences often occur due to vague legal application standards. In addition, although Article 75 of the Law on the Protection of Minors clearly states the content filtering obligations of Internet service providers, it lacks specific liability determination standards, resulting in selective implementation by some platforms when fulfilling their obligations. Therefore, it is necessary to clarify the judicial determination standards of "pornographic electronic information" through legislative interpretations or special legislation, establish a dynamically updated hierarchical and classified catalog, and formulate special evidence rules for deep synthesis technology.

### **4.2. Strategies for Improving Law Enforcement Efficiency**

Improving law enforcement efficiency requires the construction of a technology-driven comprehensive governance system. The public security organs can rely on the national network identity authentication system to establish a pornographic information monitoring platform covering the entire network and use artificial intelligence algorithms to achieve real-time identification and positioning of illegal content. The immutability feature of blockchain technology can provide technical support for the fixation of electronic evidence. The Xihu District Procuratorate in Hangzhou has successfully handled many cases of online dissemination of pornographic materials through the blockchain evidence storage platform. At the same time, the cross-departmental coordination mechanism should be strengthened. The Cyberspace Administration of China and the State Administration for Market Regulation need to establish an information sharing mechanism and implement joint disciplinary actions against Internet platforms that violate the law repeatedly. The "Network Ecosystem Governance Joint Conference System" established in Shenzhen in 2022 has achieved the rapid transfer and joint disposal of illegal clues by integrating the law enforcement resources of 12 departments including the cyberspace, public security, and culture departments. This model is worthy of promotion.

### **4.3. Integration of International Experience and Localization**

The localization transformation of international experience should focus on institutional compatibility. The "notice-removal" rule established in Germany's Network Enforcement Act requires platforms to handle illegal content within 24 hours [12]. China can draw on its time limit requirements but needs to establish a supporting appeal review mechanism. The platform liability exemption system established in Article 230 of the United States' Communications Decency Act can stimulate the enthusiasm of enterprise self-governance, but it is necessary to establish a hierarchical liability system in combination with China's national conditions [13]. The mandatory installation obligation of the "harmful information filter" established in Japan's Act on the Preparation of the Youth Internet Environment can guide enterprises to develop a filtering system adapted to China's network

environment through the formulation of technical standards [14]. It is worth noting that the special obligation system for very large platforms established in the EU's Digital Services Act has important implications for regulating China's leading Internet platforms. Special regulatory clauses targeting platforms with over 500 million monthly active users can be added in the revision of the Cybersecurity Law [15].

The governance of online pornographic information is essentially a balance of values between the right to technological development and citizens' personality rights. Future legislation should adhere to the principle of "prevention first and combination of prevention and control." Under the framework of the Personal Information Protection Law, the anonymous reporting mechanism should be improved, and the exploration of establishing a special fund for the governance of online pornographic information should be carried out. At the judicial level, the case guidance system should be strengthened. The Supreme People's Court can unify legal application standards by releasing typical cases. It is worth noting that the Guiding Opinions on Strengthening the Management of Internet Information Service Algorithms issued by the General Office of the State Council in 2023 has provided an institutional interface for intelligent content review. Next, efforts should be made to build a full-chain supervision system for algorithm filing, evaluation, and auditing. Only by achieving the organic unity of legal norms, technical governance, and industry self-discipline can a legal barrier for a clean cyberspace be constructed [16].

## 5. Conclusion

The governance of internet pornography, an important proposition in legal regulation in the digital era, has complexity that goes beyond the single dimension of traditional social management. From the perspective of legal evolution, China's regulatory framework for pornographic crimes, which has developed from the "crime of violating public morals" in the feudal period to the contemporary criminal law system, always reflects the interactive logic between the needs of social governance and the development of legal technology. Currently, the alienated development of the internet pornography industry driven by capital not only exposes the lag of the current legal system in response to technological changes but also reflects the deep-seated dilemmas in constructing the value order of the digital society.

Judicial practice shows that the industrialization and concealment trends of online pornographic crimes pose a severe challenge to the traditional criminal regulation paradigm. The localization variation of events similar to the "Nth Room" in South Korea reveals the ambiguity of the liability boundaries of internet service providers and the limitations of the technology for collecting and fixing electronic evidence. In the field of minors' protection, the disconnection between Articles 363 and 364 of the current Criminal Law and Article 72 of the Law on the Protection of Minors leads to a legal vacuum in preventing online sexual abuse. Even more alarmingly, the "information cocoon" formed by algorithmic recommendations of online pornographic content is deconstructing the mainstream social value system. This cultural erosion effect urgently needs to be incorporated into the scope of legal value measurement.

In the future, the improvement of legislation requires the construction of a trinity regulatory system. At the level of substantive law, the judicial determination criteria for "accomplice" should be refined, and gray areas such as traffic monetization and technical services should be included in the scope of criminal crackdown. In the field of procedural law, the blockchain evidence preservation rules for electronic evidence need to be established to enhance the efficiency of judicial cooperation in cross-border evidence collection. In terms of governance models, the "gatekeeper liability" system of Germany's Network Enforcement Act can be used as a reference to establish a hierarchical and classified management mechanism for platforms, and at the same time, the administrative supervision intensity of Article 47 of the Cybersecurity Law should be strengthened. Regarding technological governance, it is recommended to introduce deep learning algorithms for the intelligent identification

of pornographic content, but a technical ethics review mechanism should be established to prevent the abuse of algorithmic power.

The essence of digital rule of law lies in achieving a dynamic balance between technological rationality and legal values. The governance of internet pornography in China not only needs to maintain the rigid bottom line of the deterrent force of criminal law but also attach importance to the flexible wisdom of network space governance. Only through continuous innovation of legislative technology, optimized allocation of law enforcement resources, and creative transformation of international governance experience can a legal regulatory system that conforms to the characteristics of digital civilization be constructed, providing a solid institutional guarantee for the purification of the network space. This is not only an inevitable requirement for safeguarding national cultural security but also a key path to promoting the modernization of network space governance.

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