

Criminal Regulation of Recording or Distributing Sexual Images and Videos

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Abstract

This study aims to review the criminal law protection for sexual images or videos in Articles 319-1 to 319-3 of the newly revised Criminal Law.

Recently, revenge porn has entered our everyday lives, causing privacy and emotional damage to many victims. Perhaps not surprisingly, most of the victims are women. The perpetrator coerces the victim with sexual images or videos, controls their actions, and demands sexual intercourse or property. The victim suffers damage, but is afraid to call the police because the sexual image is still in the hands of the perpetrator. In order to deal with this social problem, Taiwan criminalizes such behaviors as recording or distributing sexual images or videos, and takes related measures to seek to delete or remove the sexual images and videos from the internet. This article focuses on the criminalization of recording or distributing sexual images or videos. As a comparison material, this research introduces the provisions of Japan's Revenge Porn Prevention Act, and discusses the object of the act, legal interests, and illegal behavior patterns.

In this article, three questions are raised: (1) Under Article 319-1, shall we provide protection for all "sexual images or videos" as long as the sexual images or videos meet the definition of sexual images or videos in Paragraph 8 of Article 10? Are all sexual images or videos worthy of protection by criminal law? (2) What is the relation between the two illegal behaviors of video record and distribution concerning the protection of legal interests such as sexual privacy and secret infringement? (3) Should secondary distribution be punished?

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In order to answer the above questions, this article discusses the protection of privacy as a legal interest, confirms the nature of sexual images or videos that are necessary for criminal law protection, and focuses on the significance of recording and distributing punishment in privacy protection.

Keywords: privacy, secrets, non-public, intimate, record, distribute, disclose, sexual images or videos, revenge porn