

ONE STEP FORWARD, TWO STEPS BACK The Constitutional Court's flawed definition of child pornography

Thea Pumbroek died in Amsterdam on the 27 August 1984. She had already appeared in a number of child pornographic videos, and died of an overdose of cocaine while being filmed in another. Nobody remembers her. She seems to have been treated in death as little more than the object she had been in life. Thea Pumbroek was..... 6 years old. (Prof Max Taylor and Dr Ethel Quayle, COPINE Project, University College, Cork, In Child Pornography: An Internet Crime, Brunner-Routledge, 2003)

Introduction

1 Many child protection practitioners have commented on the difficulties¹ of defining "child pornography", pointing, in particular, to the different definitions in the legislation of different jurisdictions. *"The question of what constitutes child pornography is extraordinarily complex. Standards that are applied in each society or country are highly subjective and are contingent upon differing moral, cultural, sexual, social, and religious beliefs*

¹ See, for instance, Max Taylor and Ethel Quayle, Child Pornography: An Internet Crime, Brunner-Routledge, 2003; Jens Waltermann and Marcel Machill (eds) Protecting Our Children on the Internet: Towards a New Culture of Responsibility, Bertelsmann Foundation Publishers, 2000.

*that do not readily translate into law. Even if we confine ourselves to a legal definition of child pornography, the concept is elusive.*²

2 The legal definition of "child pornography" varies from country to country, sometime even among states or provinces within the same country, with regard to, mainly, the definition of "child", the inclusion of images and descriptions and the concept of the "virtual child". However, almost without exceptions, there is a common theme in the definitions among all jurisdictions – child pornography is not defined with reference to pornography but with reference to the abuse of a child for sexual purposes.

- The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography defines child pornography as "any representation of a child engaged in real or simulated explicit sexual activities or of the sexual parts of a child for primarily sexual purposes." There is no reference to *descriptions* of child pornography, the sexual activities must be "explicit" and the reference is only to the "sexual parts of a child". The use of the expression "any representation of a child..." suggests that a "child" in this definition would include the product of one's imagination, such as a "virtual" child, for instance, produced entirely through the use of computer technology.
- Section 163.1 of the Canadian *Criminal Code* defines child pornography as "a photograph, film, video or other visual representation.....that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity, or the dominant

² Margaret A Healy, Child Pornography: an international perspective

characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years; or any written material or visual representation that advocates or counsels sexual activity with a person under the age of eighteen years that would be an offence under this Act.” Descriptions of child pornography will not constitute child pornography in terms of Canadian law, unless the description *advocates or counsels* sexual activity with a child. However, following the judgment of the Supreme Court in *R v Sharpe*³, Bill C-2 proposes certain amendments to Canadian child pornography provisions to include, within the definition of child pornography, audio recording and any written material *“whose dominant characteristic is the description, for a sexual purpose, of sexual activity with a person under the age of eighteen years that would be an offence under this Act”*.

- In terms of Chapter 1, § 2256, Ch. 110 of the United States *Federal Code*, child pornography *“means any visual depiction....of sexually explicit conduct where the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct, or such visual depiction has been created, adapted or modified to appear that an identifiable minor is engaging in sexually explicit conduct.”* US legislation is, clearly, harm-based: if no child has been harmed, no offence has been committed⁴. Descriptions of

child pornography is not prohibited under US law, presumably on the basis that no child is harmed in the production of written child pornography. “Virtual” child pornography, unless the prosecution can establish that the depiction has been created, adapted or modified to represent an *identifiable* minor, is not an offence. “*Identifiable minor*” has been interpreted to mean an actual or real child and not a fictitious person. The US Congress is expected to introduce legislative amendments to include “virtual-child pornography” within the definition of child pornography. The US Justice Department employs five criteria to decide whether or not an image is child pornography: there must be focus on the genital area; the image must show unnatural poses; depict children as sex objects; imply that children are willing to engage in sex and the image must have a suggestive setting.

- In the United Kingdom, child pornography is defined with reference to an *“indecent photograph”* and excludes anything that falls outside the definition of “photograph”, such as written material, but includes computer-generated images, defined as “pseudo-photographs”.⁵ There is no requirement of sexual content since nudity itself is sufficient, in certain circumstances, to constitute an indecent image to come within the definition of child pornography in the United Kingdom.
- The *International (or Budapest) Cyber-crime Convention*, to which South Africa is a signatory, defines “child pornography” as

³ 2001 SCC 2

⁴ See *John D Ashcroft, Attorney General, et al., Petitioners v The Free Speech Coalition et al*, discussed in my article *Ashcroft v Free Speech Coalition Notwithstanding, ‘Virtual-Child’ Pornography Is Child Abuse* (2002)

⁵ *Protection of Children Act, 1978*

including pornographic material that visually depicts a minor, or a person appearing to be a minor, or realistic images representing a minor, engaged in sexually explicit conduct. Written material is excluded from the definition.

What is child pornography?

3 The fact that different jurisdictions have different legal definitions of child pornography does not necessarily mean that there is no one understanding of the concept itself. One can extract, from the different legal definitions, a common thread: child pornography is not about consensual sex or obscenity⁶ but about images of the abuse, for sexual gratification, of a child. A “child”, of course, may be defined differently in the different jurisdictions. In most jurisdictions, a “child” is a person under the age of 18 years. However, some jurisdictions, for the purpose of child pornography, define a “child” as a person under the age of 16 years. But any difference in the legally-defined age does not, in my opinion, fundamentally alter the substance of what constitutes child pornography as commonly understand – that is, images of the abuse of a child for sexual gratification and, therefore, images of a serious crime having been committed against a child and the continuing non-contact abuse and degradation of children. Child pornography is, in itself, the act of the abuse and degradation of children and as well as a description, in words or pictures, of a crime against a child. Child pornography is inherently

⁶ See the opinion on the third prong of the Miller test for obscenity by Justice O'Connor in her concurring judgment in *New York v Ferber*

harmful⁷ and not just a fantasy or misrepresentation of otherwise normal and acceptable sexual conduct. Child pornography creates child pornography by stimulating a demand and leads to the abuse of more children.

The Constitutional Court's definition of child pornography

4 Child pornography came under the scrutiny of the Constitutional Court in the matter of *Tascoe Luc De Reuck v Director of Public Prosecutions (Witwatersrand Local Division) and Others*.⁸ De Reuck was charged with possession of child pornography under section 27(1) of the *Films and Publications Act, 1996*. Early in the proceedings, De Reuck challenged the constitutional validity of the provisions of the Act on which the charges were based.

According to the Constitutional Court, the central issue⁹ before it was the interpretation of “child pornography” as defined in section 1 and employed in relation to publications and films in section 27(1) of the Act.

At paragraph 20, the Constitutional Court referred to the dictionary meaning of “pornography” as *“the explicit description or exhibition of sexual subjects or activity in literature, painting, films, etc. in a manner intended to stimulate erotic rather than aesthetic feelings; literature etc. containing this.”* (Emphasis added)

Based on this definition, the Constitutional Court held that the *“stimulation of erotic rather than aesthetic feelings is an essential element of the definition of child pornography”* and that any “image that

⁷ Harm is discussed below

⁸ CCT 5/03

⁹ Paragraph 16, page 11 of the judgment

predominantly stimulates aesthetic feelings is not caught by the definition.¹⁰ (Emphasis added) This, in my view, is what makes the judgment, though not the result, flawed. The restriction of the application of criminal law only to child pornography that stimulates “*the erotic rather than aesthetic feelings*”, amounts to openly endorsing the abuse and degradation of children as long as that abuse and degradation produces an image that evokes *aesthetic* and not *erotic* feelings in the observer. Any sexual conduct involving a child is child abuse and child pornography is evidence of that abuse. It matters not to the child-victim, or to society itself, what that record of abuse stimulates in others. Defining child pornography as only those representations which evoke erotic feelings in the possessor reveals a disturbing misunderstanding of what child pornography is all about and echoes the frightening conclusion of Manuel Castells on the use of the Internet for the distribution of child pornography...“*Thus, the network society devours itself, as it consumes/destroys enough of its own children to lose the sense of continuity of life across generations, so denying the future of humans as a humane species*”¹¹.”

4.1 Almost all jurisdictions define child pornography without reference to ‘erotic or aesthetic feelings’. For instance, UK legislation defines “child pornography” with reference to an “indecent photograph” and, in fact, does not require sexual content since mere nudity is sufficient to constitute an indecent photograph, and therefore child pornography, in certain circumstances. “*The danger associated with the representation (child pornography) does not depend on what was in the mind of the maker or possessor, but in the capacity of the representation to be used for*

¹⁰ Paragraph 32, page 18

¹¹ The sexual exploitation of children, in End of Millennium, The Information Age: Economy, Society and Culture, Vol III, Blackwell Publishers, 1998

purposes like seduction. It is the meaning which is conveyed by the material which is critical, not necessarily the meaning that the author intended to convey...The test must be objective, based on the depiction rather than what was in the mind of the author or possessor. The question is this: would a reasonable observer perceive the person in the representation as being under 18 and engaged in explicit sexual activity?”¹² (Emphasis added)

4.2 The objective of all anti-child pornography legislation is to eliminate depictions (and, in many jurisdictions, descriptions) of child pornography so as to protect children from abuse. Whether or not it arouses “erotic” or “aesthetic” feelings in the possessor is irrelevant to the child-victim. Child protection practitioners and law enforcement agents regard every image of child pornography as a crime scene. Child pornography cannot be produced without abusing a child. The argument that the mere possessor is removed from the abuse involved in the making of that image ignores the objective of such legislation – which is to eliminate child pornography. Collectors of child pornography stimulate the market of what is a multi-billion dollar industry in which thousands of children are abused and tortured to meet the demand for such images. As the Canadian Supreme Court held in *R v Sharpe*: “*The greatest benefit to prohibiting the possession of child pornography is that it helps to prevent the harm to children which results from its production. By aiming to eradicate the legal market for such materials, the legislation acts as a powerful force to reduce the production of child pornography.*” The acceptance of the court’s position that the stimulation of the erotic rather than the aesthetic feelings is an essential element of child pornography amounts to saying that something illegal and abhorrent becomes legal and acceptable merely

¹² *R v Sharpe* 2000 SCC 2. File No. 27376

because it arouses aesthetic rather than erotic feelings even if it involves the abuse of children. Just as an illegal image does not become legal simply because it is produced by a different means, an illegal image does not become legal because it arouses aesthetic rather than erotic feelings. In *New York v Ferber*¹³, Justice O'Connor, in her concurring opinion, argued that *Ferber* does away with the third prong of the *Miller* obscenity test - that materials with a serious literary, scientific or educational value are not obscene - commenting that the state may ban sexually explicit materials regardless of the value society may place on them: "*Society's interest in any such material is irrelevant in protecting children from psychological, emotional and mental harm.*" What is relevant, and satisfies the requirements of most definitions of child pornography, is whether or not the image depicts sexual conduct involving a child. Any other approach ignores the fact that child pornography, whether it arouses aesthetic or erotic feelings, is a product of child abuse and is itself a form of non-contact abuse and degradation of children. More importantly, possessors of child pornography may be incited to become child molesters. While there is no concrete evidence that collectors of child pornography move on to actual molestation and abuse of children, the correlation between collectors and abusers is sufficiently high to come to the conclusion that, given an opportunity, a collector will become an abuser. As Staff Sgt Matt Logan, a criminal psychologist in the Royal Canadian Mounted Police Behavioural Science Group, who has done extensive work with sex offenders, states: "*Child pornography exists primarily for the consumption of predatory child molesters.*"¹⁴ A study of Internet child pornography possessors arrested in 2001, for instance, "*showed... most frighteningly, (that) about 40 percent were so-called 'dual offenders, 'who also sexually victimized children in*

¹³ 458 U.S. 747 (1982)

¹⁴ Reported in *White Rock Peace Arch News*, White Rock, BC, Canada, 21 February 2006.

person"¹⁵.

4.3 Child pornography is not a *genre* of pornography but a separate and distinctly different concept. Even if it is held that it is not clearly defined in the Act (which it is, in fact), it cannot be defined by reference to "child" and "pornography". Pornography is normally understood as images or descriptions of sexual activities involving consenting adults and, usually, gives rise to discussions about what constitutes art, or erotica, or free speech or censorship. But no matter what issues may arise when discussing pornography in general, *child pornography* does not belong in that debate because child pornography is not about freedom of speech or art or erotica but about the abuse of children. Child pornography records the abuse, torture and rape of children who are not, in most cases, emotionally or legally capable of consenting to what is being done to them and being photographed at the same time.

At the risk of simplifying what is a complex issue, defining "child pornography" by intertwining "child" and "pornography" leads to the same error one would be making by defining "cry-baby" by intertwining "cry" and "baby", or "baby shower" by intertwining "baby" and "shower". A "cry-baby" is not a "very young child crying" and a "baby shower" is most certainly not a "very young child having a shower-bath". Or how about defining a "child minder" by intertwining the definition of "minder" with that of "child"? "Child pornography" is not an intertwining of "child" and "pornography" but a distinct concept with a very specific meaning, which is unrelated to the

¹⁵ *Child-pornography Possessors Arrested in Internet-Related Crimes: Findings from the National Juvenile Online Victimization Study*, Janis Wolak, David Finkelhor and Kimberly J Mitchell, 2005

meanings associated with either “child” or even “pornography”. “Child pornography” refers to expressions of child abuse.

5 The problem, perhaps, lies in the use of the expression “child pornography” to refer to what are, actually, images of child abuse and degradation. In fact, most American and European jurisdictions have recognised that “child pornography” has nothing to do with “pornography” but with the abuse of children and therefore the preferred and more appropriate expression is “child abuse images”.¹⁶

“Child pornography’ is a misleading term. This is not the tawdry glamour of Playboy centerfolds, nor yet the gory gynecology of hard-core. In fact it is not pornography in any real sense: simply the evidence of serious sexual assaults on young children...Still, people choose to confuse it with adult pornography, lending it an air of spurious legitimacy and titillation, an aura of faintly harmless ‘naughtiness’...The reality of child pornography is that it cannot be produced without a child being sexually abused. Failure to grasp that essential truth – which, above all, separates it from adult pornography – has lain behind years of legislative confusion throughout the world. And in those years, child pornography has become established as a world-wide commodity”¹⁷. (Emphasis added)

Detective Superintendent Peter Spindler, co-editor of Policing Paedophiles on the Internet reports: *“Uninformed commentators in this subject have made a lot of assumptions about the scope and nature of this criminal activity. First and foremost we are not dealing with*

pornography’...Pornography is an acceptable, passive word, which fails to accurately describe the vile acts performed on the youngest and most vulnerable members of our society. ‘Child abuse images’ is a more appropriate phrase to use when discussing this subject.”¹⁸ (Emphasis added)

The US *National Juvenile Online Victimization (N-JOV) Study*, an analysis of arrests for Internet-related sex crimes against children in the United States for the period 1 July 2000 to 30 June 2001, also noted that...*“The term ‘child pornography’, because it implies simply conventional pornography with child subjects, is an inappropriate term to describe the true nature and extent of sexually exploitive images of child victims. Use of this term should not be taken to imply that children ‘consented’; to the sexual acts depicted in these photographs...”*¹⁹ (Emphasis added)

“...its (child pornography’s) continuing use does present some problems, notably in terms of the comparison it invites with ‘adult pornography’. The issue here is the often-ambivalent view of the nature of adult pornography, and the sense in which that ambivalence might leak into the way we think about child pornography. Adult pornography can be bought in respectable bookshops, it is available from newsagents (even if on the top shelf); we see frankly pornographic advertisements for new cars, we may be sent mildly pornographic calendars. There is often a sense of titillation, of adolescent manly mild rudeness, associated with adult pornography that inappropriately diminishes its abusive content. A better term than child pornography would be ‘images of sexual abuse’, or more

¹⁶ See, for instance, the Home page of the Internet Watch Foundation at www.iwf.org.uk

¹⁷ Tim Tate, *The Child Pornography Industry: International Trade in Child Sexual Abuse*, 1993

¹⁸ the New Police Bookshop (2003)

¹⁹ Janis Wolak et al, *Child Pornography Possessors Arrested in Internet-Related Crimes: Findings from the National Juvenile Online Victimization Study*, 2005

simply 'abuse images'. This unambiguously expresses the nature of child pornography, and places it firmly outside of the range of acceptable innuendo and smutty jokes...."²⁰ (Taylor...page 7)

6 The focus on the effect or feelings images of child abuse evoke in the possessor fails to acknowledge the harm to the child-victims, non-consumers and society in general. It is irrelevant, in my view, whether the material tends to "deprave or corrupt" or whether it arouses "erotic rather than aesthetic feelings" in the hands of the possessor. What matters is that it depicts or describes the abuse of a child and is evidence of a crime. As the USA Supreme Court said in *Ferber*: "A work, which taken as a whole, contains serious literary, artistic, political or scientific value may, nevertheless, embody the hardest core of child pornography. It is irrelevant to the child who has been abused whether or not the material has a literary, political or social value. The distribution of photographs and films depicting sexual activity by juveniles is intrinsically related to the abuse of children in two ways...the materials produced are a permanent record of the child's participation and the harm to the child is exacerbated by their circulations."²¹

Child pornography is, by definition, obscene and harmful to children and its distribution is inseparable from its role in the abuse of children. Child pornography is not a freedom of expression issue. Even in the

²⁰ Professor Max Taylor and Dr Ethel Quayle: *Child Pornography: An Internet Crime*, Brunner-Routledge 2003

²¹ At pages 3356-59

USA, the court in *New York v Ferber*²², (I say "even" because of the legendary extent of US *First Amendment* protection), held that child pornography is not entitled to protection under the *First Amendment*.

7 The judicial determination of challenges to the constitutionality of statutes criminalizing the creation, possession, and use of child pornography, must be fundamentally different from the analysis brought to bear on pornography depicting consenting adults. The approach of the Constitutional Court in the *De Reuck* judgment, does not show a proper appreciation and understanding of the fundamental difference between pornography involving consenting adults and child pornography.

7.1 In fact, the approach of the Constitutional Court confirms precisely the concerns of child protection experts that the use of the expression "child pornography" does not adequately describe the nature of this crime against children. The Constitutional Court has not grasped the essential truth that child pornography cannot be produced without a child being sexually abused, whether it results in erotica or "aesthetica", "which, above all, separates it from adult pornography", allowing "the often-ambivalent view of the nature of adult pornography" to "leak into the way we think about child pornography".

7.2 There is no reference in the *de Reuck* judgment to the Parliamentary debates²³ on the *Films and Publications Bill* and the result is precisely what Parliament said should not happen to the definition of child pornography. Parliament, by expressly excluding the art exemption in

²² 458 U.S. 747 (1982)

²³ Debates of the National Assembly, *Hansard No 12: 28 August to 12 September 1996*, Cols 4107-4155

Schedules 5 and 9 for child pornography, had closed the door on any defence based on artistic merit or *aesthetic rather than erotic feelings*. Had the Constitutional Court read into the relevant section of the *Films and Publications Act*, an exclusion from the definition of child pornography for representations created or produced without involving a real child and intended for strictly personal and private use, it might have made some sense. But its generalization that child abuse images *that stimulate aesthetic rather than erotic feelings* is not child pornography is a chilling reminder that children are yet to enjoy a judicial response that affords them better protection from paedophiles and child abusers.

I hope I may be forgiven for coming to the conclusion that the Constitutional Court shot its arrows at the abuse of erotica and not that of a child.

Why we should be concerned about child pornography

8 There are many reasons why we should be concerned about the production, distribution and possession of child abuse images and why distinguishing between child pornography that *"predominantly stimulates aesthetic feelings"* from *erotica* makes no sense to child protection practitioners, law enforcement agents, families of child-victims and, most importantly, children themselves.

- Child pornography requires that a child be abused to produce it. The process of its *"production requires the photographer to create a situation where a child is either directly abused, or posed in sexualized ways, and as such it is a product of an illegal and*

*inappropriate act. The viewer is in some sense aiding and abetting that process, by providing a market for the material and for making evident (through Internet activity, private contact or through payment for commercial material) a demand"*²⁴.

- *"A photographic record in whatever media preserves the pictures of that abuse. At worst, therefore, it is a permanent record of a crime, and serves to perpetuate the images and memory of that abuse for as long as it exists. Distributing and viewing child pornography, therefore, ensures the continued and even increased availability of the pictures. The implications of this for the family of the child and the child itself may be very severe and traumatic; it also represents a violation of the child and its family's privacy, and generally a visible demonstration of abuse of position or relationship. This becomes of greater significance in the context of the Internet. Once a photograph is digitized and distributed on the Internet, it can be perfectly reproduced endlessly by anyone in possession of it. In the case of a normal photograph, destruction of the negative severely limits the likelihood of that photograph being reproduced; in the case of Internet images, the only way to control reproduction of a photograph is to destroy all copies – an impossible task once a picture has been posted to an Internet source."*²⁵
- Generating inappropriate sexual fantasy in an individual opens the risk of that fantasy becoming a reality. Watching a sexual assault may normalize that activity and encourages the viewer subsequently to commit such assault. Research by Carter

²⁴ Taylor and Quayle, op.cit.

²⁵ Taylor and Quayle, op.cit.

examined the reported use of and exposure to pornographic materials by two groups: convicted rapists and child molesters. While both groups indicated similar prior exposure, child molesters were more likely to use such materials prior to and during the commission of an offence²⁶. A similar study by Marshall²⁷ also found that slightly more than a third of child molesters had been incited to commit the offence by exposure to pornographic material²⁸. *"A much clearer risk lies in pornographic material becoming the model that encourages and generates viewers to take photographs themselves – in other words, for some people it provides the stimulus (when other circumstances allow) to cross the boundary from viewing to abusing. Whether child pornography per se creates that stimulus, whether the social context in which child pornography is traded (especially on the Internet) is the critical factor, or whether it facilitates and gives expression to an intention already formed is not clear. However, that there is a relationship of*

²⁶ See, for instance, Christie Blatchford, *Child-Porn Fan Gets Life for Killing Toronto Girl*, The Globe and Mail, June 2004, about the case of Michael Brier who abducted, raped, murdered and dismembered 12-year old Holly Jones. Brier admitted to being an "avid consumer of child pornography" both at home and at work..."it's easy...you don't need a degree...With time, and I don't know how it is for other people, but for myself, I would say that, yes; viewing the material does motivate you to do other things. In my case, for sure, the more I saw, the more I longed for it in my heart. The more I wanted it..." During the trial, several senior Toronto police officers testified to the existence of a direct causal link between viewing child abuse images and committing contact offences.

²⁷ W L Marshall, *"The use of sexually explicit stimuli by rapists, child molesters and nonoffenders"*, *Journal of Sex Research*, 25(2)

²⁸ The *National Juvenile Online Victimization (N-JOV) Study* in the US (2001) found that 40% of arrested child pornography offenders were dual offenders who "sexually victimised children and possessed child pornography, with both crimes discovered in the same investigation."

*some kind for some individuals is quite clear*²⁹. *The following interview quotation makes this association very apparent: 'When I made this video tape I was copying these er movie clips...that I'd downloaded er...I wanted to be ... doing what they were doing'*³⁰.

- Child pornography is used as a learning instrument in the "grooming process" where a child is de-sensitised to sexual demands and encouraged to accept sexual conduct with adults as normal and "everybody is doing it..." *"Child pornography is produced at the psychological expense of the child because the use of such images binds the child-victim by normalizing the acts and ultimately by acting as a source of blackmail for the child"*³¹. They are bound by the offender into a silent conspiracy and, filled with shame, they feel a sense of degradation, blame and fear of the possible consequences of exposure³².

The viewing, collection and distribution of child pornography is a form of non-contact abuse and degradation of children. Its viewing continues the

²⁹ On 6 March 2000, the *Ottawa Sun* published a story entitled *Cyber porn alert* about an 18-year old charged with the possession and distribution of child pornography. He was arrested after an undercover officer met him online while the accused was looking for a partner in a plot to kidnap, rape and kill a child

³⁰ Taylor and Quayle, op.cit. According to a report from the Attorney General of New Jersey, 70% of convicted child molesters also collect child pornography (*Computer Crime*, June 2000). *Innocence Exploited: Child Pornography in the Electronic Age*, Canadian Police College, May 1998, reports that about half of the 700 paedophiles arrested in Los Angeles had child pornography in their possession and that a study in England showed nearly all child molesters arrested had child pornography in their possession

³¹ Burgess and Hartman, *Child abuse aspects of child pornography*, *Psychiatric Annals*, 1987

³² Svedin and Back, *Children Who Don't Speak Out*, Swedish Save the Children, 1996

abuse and degradation involved in the making of it. Those who view, collect and distribute child pornography contribute, directly, to the process of abuse and support and nourish its production. As the UK Advisory Panel on Sentencing recommended, *"an offender sentenced for possession of child pornography should be treated as being in some degree complicit in the original abuse which was involved in the making of the images. Sentences for possession should also reflect the continuing damage done to the victim or victims, through copying and dissemination..."*³³

Iyavar Chetty (2005)

³³ Foreward by the Chairperon : *The Panel's Advice to the Court of Appeal on Offences Involving Child Pornography*, August 2002