

Question 4.a.

Act C of 2012 on the Criminal Code penalises the following sexual offences committed against children:

- Section 196 (sexual coercion)
- Section 197 (sexual violence)
- Section 198 (sexual abuse)
- Section 199 (incest)
- Section 200 (procuring)
- Section 201 (Facilitating prostitution)
- Section 203 (exploitation of child pornography)
- Section 204-204/A (child pornography)
- Section 205 (indecent exposure).

For textual reference, see the relevant parts of the Criminal Code as follows:

Sexual coercion

Section 196

(1) A person who coerces another person to engage in, or tolerate, a sexual act is guilty of a felony and shall be punished by imprisonment for one to five years.

(2) The punishment shall be imprisonment for two to eight years if sexual coercion is committed

a) against a person who has not attained the age of eighteen years,

b) against a relative or a person raised by or under the supervision, care or medical treatment of the perpetrator, or by abusing any other power or influence over the aggrieved party.

(3) The punishment shall be imprisonment for five to ten years if sexual coercion is committed against a person who has not attained the age of fourteen years.

Sexual violence

Section 197

(1) A person who,

a) commits sexual coercion by violence or direct threat to life or physical integrity,

b) to engage in a sexual act, takes advantage of the state of another person who is incapable of self-defence or unable to express his will commits sexual violence, is guilty of a felony, and shall be punished by imprisonment for two to eight years.

(2) A person who engages in a sexual act with another person who has not attained the age of twelve years, or has another person who has not attained the age of twelve years engage in a sexual act, also commits sexual violence and shall be punished by imprisonment for five to ten years.

(3) The punishment shall be imprisonment for five to ten years if the criminal offence specified in paragraph (1) is committed

a) against a person who has not attained the age of eighteen years,

b) by the perpetrator against a relative or a person raised by, or under the supervision, care, medical treatment or otherwise the power or influence, of the perpetrator, or

c) by more than one person at the same time, with knowledge of the activities of each other.

(4) The punishment shall be imprisonment for five to twenty years if

a) the criminal offence specified in paragraph (2) is committed

aa) in a manner specified in paragraph (1),

ab) against an aggrieved party specified in paragraph (3) b), or

ac) in a manner specified in paragraph (3) c), or

b) the criminal offence specified in paragraph (3) a) also qualifies under paragraph (3) b) or c).

(4a) The punishment shall be imprisonment for ten to twenty years if the criminal offence specified in paragraph (4) a) aa) also qualifies under paragraph (4) a) ab) or ac).

(5) A person who makes available the conditions necessary for or facilitating the commission of sexual violence is guilty of a felony and shall be punished by imprisonment for up to three years.

Sexual abuse

Section 198

(1) A person who has attained the age of eighteen years who engages in a sexual act with a person who has not attained the age of fourteen years, or induces such a person to engage in a sexual act with another person, is guilty of a felony and shall be punished by imprisonment for one to five years.

(2) A person who has attained the age of eighteen years who seeks to induce a person who has not attained the age of fourteen years to engage in a sexual act with him or another person shall be punished by imprisonment for up to three years.

(3) If the aggrieved party is a relative or a person raised by or under the supervision, care or medical treatment of the perpetrator, or the perpetrator commits sexual abuse by abusing any other power or influence over the aggrieved party, the punishment shall be imprisonment for

a) two to eight years in the case specified in paragraph (1),

b) one to five years in the case specified in paragraph (2).

(4) A person who has attained the age of eighteen years who engages in a sexual act with a person who has attained the age of fourteen years but has not attained the age of eighteen years by abusing his power or influence over that person shall be punished by imprisonment for up to three years.

Incest

Section 199

(1) A person who engages in a sexual act with a lineal relative is guilty of a felony and shall be punished by imprisonment for up to three years.

(2) A person who has intercourse with a sibling is guilty of a misdemeanour and shall be punished by imprisonment for up to two years.

(3) A descendant shall not be liable to punishment for committing the criminal offence specified in paragraph (1) if he had not attained the age of eighteen years at the time of committing the offence.

Procuring

Section 200

(1) A person who acquires, for gain, a person for another person for engaging in a sexual act is guilty of a felony and shall be punished by imprisonment for up to three years.

(2) A person who offers for prostitution, or invites to engage in prostitution, another person who has not attained the age of eighteen years commits procuring and shall be punished by imprisonment for one to five years.

(3) The punishment shall be imprisonment for two to eight years if procuring is committed regularly for generating income.

(3a) If a criminal offence specified in paragraphs (1) to (3) is committed as a special recidivist, the punishment shall be imprisonment for

a) one to five years, in the case specified in paragraph (1),

b) two to eight years, in the case specified in paragraph (2),

c) five to ten years, in the case specified in paragraph (3).

(4) The punishment shall be imprisonment for two to eight years if procuring, as specified in paragraph (1), is committed

a) against a person who has not attained the age of eighteen years,

b) against a relative or a person raised by or under the supervision or care of the perpetrator, or by abusing any other power or influence over the aggrieved party,

c) by deception, violence or threat.

(5) The punishment shall be imprisonment for five to ten years if

a) procuring as specified in paragraph (4) a) or b) also qualifies under point c),

b) procuring as specified in a point of paragraph (4) is committed as a special recidivist.

(6) A person who agrees to commit procuring regularly for generating income shall be punished by imprisonment for up to three years.

Facilitating prostitution

Section 201

(1) A person who

a) induces another person to engage in prostitution,

b) makes a building or other location available to another person for prostitution,

c) is guilty of a felony and shall be punished by imprisonment for up to three years.

(2) A person who commits the criminal offence specified in paragraph (1) concerning the prostitution of a person who has not attained the age of eighteen years, or provides assistance to the prostitution of a person who has not attained the age of eighteen years, shall be punished by imprisonment for two to eight years.

(3) A person who operates, manages or provides material means for the operation of a brothel shall be punished by imprisonment for one to five years.

(4) If facilitating prostitution is committed as a special recidivist, the punishment shall be imprisonment

a) for one to five years, in the case specified in paragraph (1),

b) for five to ten years, in the case specified in paragraph (2),

c) for two to eight years, in the case specified in paragraph (3).

Exploitation of child prostitution

Section 203

(1) A person who seeks to gain from the prostitution of a person who has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for two to eight years.

(2) A person who provides consideration for a sexual act with a person who has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for two to eight years.

(3) A person who lives, wholly or partially, on the earnings of a person who has not attained the age of eighteen years engaged in prostitution shall be punished by imprisonment for two to eight years.

(4) A person who operates, manages or provides material means for the operation of a brothel where a person who has not attained the age of eighteen years is engaged in prostitution shall be punished by imprisonment for two to eight years.

(5) The punishment shall be imprisonment for five to ten years if exploitation of child prostitution is committed as a special recidivist.

Child pornography

Section 204

(1) A person who

a) acquires or keeps a pornographic recording of a person who has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for one to five years,

b) offers, hands over or makes available a pornographic recording of a person who has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for two to eight years,

c) makes, places on the market, trades in, or makes accessible to a large audience a pornographic recording of a person who has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for five to ten years.

(2) The punishment shall be imprisonment for two to eight years in the case specified in paragraph (1) a) or imprisonment for five to ten years in the case specified in paragraph (1) b) or imprisonment for five to fifteen years in the case specified in paragraph (1) c) if the criminal offence specified therein is committed

a) against a person who has not attained the age of twelve years,

- b) against a person raised by or under the supervision, care or medical treatment of the perpetrator, or by abusing any other power or influence over the aggrieved party or by exploiting the vulnerable situation of the aggrieved party,
- c) by a public officer, using that capacity,
- d) with a recording depicting tormenting or using violence, or
- e) as a special recidivist.

(3) The punishment shall be imprisonment for five to ten years in the case specified in paragraph (1) a) or imprisonment for five to ten years in the case specified in paragraph (1) b) or imprisonment for five to fifteen years in the case specified in paragraph (1) c) if the criminal offence specified therein is committed with a recording of tormenting or using violence against a person who has not attained the age of twelve years.

(4) A person who

- a) provides material means for the commission of the criminal offence specified in paragraph (1) c) is guilty of a felony and shall be punished by imprisonment for one to five years,
- b) commits preparation for the criminal offence specified in paragraph (1) c) is guilty of a felony and shall be punished by imprisonment for up to three years.

(5) A person who

- a) acquires or keeps a pornographic recording of a person who has attained the age of fourteen years but has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for up to three years,
- b) makes a pornographic recording of a person who has attained the age of fourteen years but has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment from one to five years, provided that no circumstances specified in paragraph (2) b) to e) applies.

(6) A person who invites one or more persons who have not attained the age of eighteen years to participate in a pornographic recording is guilty of a felony and shall be punished by imprisonment from one to five years.

(7) A person who invites one or more persons who have attained the age of fourteen years but have not attained the age of eighteen years to participate in a pornographic recording, is guilty of a felony and shall be punished by imprisonment for up to three years, provided that no circumstance specified in paragraph (2) b) to e) applies.

(8) For the purposes of this section a pornographic recording means a depiction of one or more other persons in a way that depicts sexuality in a grossly indecent manner for the purpose of arousing sexual desire, including the realistic depiction of one or more nonexistent persons.

Section 204/A

(1) A person who

- a) attends a pornographic show in which one or more persons who have not attained the age of eighteen years participate is guilty of a felony and shall be punished by imprisonment for two to eight years

b) makes one or more persons who have not attained the age of eighteen years participate in a pornographic show or organises such a show is guilty of a felony and shall be punished by imprisonment for five to ten years.

(2) The punishment shall be imprisonment for five to ten years in the case specified in paragraph (1) a) or imprisonment for five to fifteen years in the case specified in paragraph (1) b) if the criminal offence specified therein is committed

a) against a person who has not attained the age of twelve years,

b) against a person raised by or under the supervision, care or medical treatment of the perpetrator, or by abusing any other power or influence over the aggrieved party,

c) by a public officer, using that capacity,

d) with a show depicting tormenting or using violence, or

e) as a special recidivist.

(3) The punishment shall be imprisonment for five to fifteen years in the case specified in paragraph (1) a) or five to twenty years in the case specified in paragraph (1) b) if the criminal offence specified therein is committed with a show depicting the tormenting of, or the use of violence against, a person who has not attained the age of twelve years.

(4) A person who

a) provides material means for the criminal offence specified in paragraph (1) b) is guilty of a felony and shall be punished by imprisonment for one to five years,

b) commits preparation for the criminal offence specified in paragraph (1) b) is guilty of a felony and shall be punished by imprisonment for up to three years.

(5) A person who invites one or more persons who have not attained the age of eighteen years to participate in a pornographic show is guilty of a felony and shall be punished by imprisonment from one to five years.

(6) A person who invited one or more persons who have attained the age of fourteen years but have not attained the age of eighteen years to participate in a pornographic show is guilty of a felony and shall be punished by imprisonment for up to three years, provided that no circumstance specified in paragraph (2) b) to e) applies.

(7) For the purposes of this section, pornographic show means an act or performance depicting the sexuality of one or more other persons in a grossly indecent manner for the purpose of arousing sexual desire.

Indecent exposure

Section 205

(1) A person who exposes himself to another person in an indecent manner for the purpose of arousing or satisfying his own sexual desires is guilty of a misdemeanour and shall be punished by imprisonment for up to two years.

(2) A person who has attained the age of eighteen years who behaves in an indecent manner before a person who has not attained the age of fourteen years for the purpose of arousing or satisfying his

own sexual desires is guilty of a felony and shall be punished by imprisonment for up to three years, unless a criminal offence of greater gravity is established.

(3) A person who behaves in an indecent manner before another person and, by doing so, violates the human dignity of the aggrieved party shall be punished under paragraph (1), unless a criminal offence of greater gravity is established.