

GLOBAL INFORMATION SOCIETY WATCH 2015

Sexual rights and the internet



ASSOCIATION FOR PROGRESSIVE COMMUNICATIONS (APC)
AND HUMANIST INSTITUTE FOR COOPERATION WITH DEVELOPING COUNTRIES (Hivos)

Global Information Society Watch 2015

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Porn. Panic. Ban.

Bishakha Datta

Point of View

www.pointofview.org

#PornBan. It's like a rash, this impulse to ban porn all over the world – despite protests that are going viral. The Twitter hashtag #pornban sprung up in July 2015 as the Indian government blocked 857 porn sites,¹ and then backtracked a bit,² asking internet service providers (ISPs) to unblock those that don't contain child pornography. Which makes service providers the arbiters of our constitutionally guaranteed right to freedom of expression, deciding what we may or may not see. Seriously?

The United Kingdom recently banned a number of sex acts online,³ including female ejaculation, even while there were almost 250,000 hits on porn sites from IP addresses in the buildings housing parliament.⁴ The UK government is now asking porn sites to collect proof⁵ that their visitors are adults. Will this data be stored privately and not used for other purposes? A valid question in an age of mass surveillance, hacks on “cheating” sites⁶ and hacker releases of private information, including sexual preferences.⁷

1 Government of India, Ministry of Communication & IT, Department of Telecommunications. (2015). *DOT Order Blocking 857 Websites on Grounds of Decency and Morality*. cis-india.org/internet-governance/resources/dot-morality-block-order-2015-07-31/view

2 Reuters. (2015, 5 August). India withdraws order to block pornography sites. *Reuters*. in.reuters.com/article/2015/08/05/india-porn-ban-idINKCNoQAoKK20150805

3 Saul, H. (2015, 13 September). UK porn legislation: What is now banned under new government laws. *The Independent*. www.independent.co.uk/news/uk/home-news/uk-porn-legislation-what-is-now-banned-under-new-government-laws-9898541.html

4 Withnall, A. (2015, 27 July). Porn in Parliament: Palace of Westminster computers made 250,000 attempts to 'access pornography last year'. *The Independent*. www.independent.co.uk/news/uk/politics/parliament-computers-made-250000-attempts-to-access-pornography-at-palace-of-westminster-10418449.html

5 Doctorow, C. (2015, 3 August). David Cameron will publish the financial details and viewing habits of all UK porn watchers. *BoingBoing*. boingboing.net/2015/08/03/david-cameron-will-publish-the.html

6 Elgot, J, Hern, A, & Weaver, M. (2015, 21 July). Ashley Madison adultery site hack: Will I be found out? *The Guardian*. www.theguardian.com/world/2015/jul/21/ashley-madison-adultery-site-hack-will-i-be-found-out-what-you-need-to-know

7 Fox-Brewster, T. (2015, 19 August). Location, Sexual Preference, Weight: Embarrassing Ashley Madison customer data published by hackers. *Forbes*. www.forbes.com/sites/thomasbrewster/2015/08/19/ashley-madison-breach-is-awful

Iceland⁸ has been threatening to ban “violent” online porn since 2013. Indonesia⁹ and Turkey¹⁰ have blocked lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) content in the name of banning porn. The Philippines¹¹ has outlawed cybersex and cam girls, while a religious lobby in Australia¹² is pushing for anti-piracy laws to be extended to porn. Porn possession is illegal in Botswana,¹³ Egypt¹⁴ and Uganda.¹⁵ And even as the Israel-Palestine conflict escalated in 2012, Hamas managed to ban “full” internet porn in the Gaza Strip.¹⁶ Whatever that means.

Porn. Panic. Ban. That's pretty much the policy response in many parts of the world.

But what is it about porn that terrifies so many governments, derails feminist sensibilities, offends the religious right, and attracts so many users? How can we change the way we “see” porn?

8 The Economist. (2013, 23 April). Why does liberal Iceland want to ban pornography? *The Economist*. www.economist.com/blogs/economist-explains/2013/04/economist-explains-why-iceland-ban-pornography

9 Institut Pelangi Perempuan. (2014). *Queering Internet Governance in Indonesia*. erotics.apc.org/research/queering-internet-governance-indonesia

10 Tremblay, P. (2015, 27 April). 'Unnatural' porn becomes ticket to jail in Turkey. *US News & World Report*. www.usnews.com/news/articles/2015/04/27/unnatural-porn-becomes-ticket-to-jail-in-turkey

11 BBC News. (2012, 20 September). Philippines outlaws cybersex and 'cam girls'. *BBC News*. www.bbc.com/news/technology-19659801

12 Turner, A. (2015, 24 June). Porn will be next on Australia's website blocking agenda. *Sydney Morning Herald*. www.smh.com.au/digital-life/computers/gadgets-on-the-go/porn-will-be-next-on-australias-websiteblocking-agenda-20150624-ghw6ow.html

13 APA. (2015, 13 March). Botswana: Three arrested for cyber porn material. *Star Africa*. en.starafrica.com/news/botswana-three-arrested-for-cyber-porn-material.html

14 RT. (2015, 20 May). Egypt's top court bans porn sites, demands enforcement. *RT Question More Live*. www.rt.com/news/260609-egypt-ban-porn-websites

15 Strategic Initiative for Women in the Horn of Africa. (2015). Anti-pornography Act: Human rights activists and civil society organisations challenge the legality of the act in Constitutional Court, Uganda. www.sihanet.org/news/anti-pornography-act-human-rights-activists-and-civil-society-organisations-challenge-legality

16 Daily Mail. (2012, 3 September). Hamas bans internet porn in Gaza Strip as Islamic hardliners crack down on Palestinian freedoms. www.dailymail.co.uk/news/article-2197876/Hamas-bans-internet-porn-Gaza-Strip-Islamic-hardliners-crackdown-Palestinian-freedoms.html

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Lesbian. Threesome. Squirt. Change the words and you change the lens. From the user's perspective, porn leads to pleasure, not panic. That's what porn has always been about, from ancient times, when it found its first mention in the word *porneia*.¹⁷ This Greek word was variously defined as fornication, whoredom, promiscuity and adultery, all of which have two things in common: sex and pleasure. For most users, that's what porn is really about: sexual pleasure. (Dirty, dirty.) Arousal. (Dirty, dirty.) Orgasm. (Dirty, dirty.) Problem is that in the parental gaze called policy, sex is kinda dirty. (Dirty, dirty.)

Problem is that in this global policy gaze, the sexual pleasure-seeker aka Porn User is always a man. Even though globally a quarter of porn viewers are women.¹⁸ Make that 35% in Brazil and the Philippines, 24% in France, 23% in India and Argentina, and come on, Japanese women, you 17% laggards.¹⁹ A 2015 survey of Pornhub and Redtube,²⁰ which gets 40 million viewers each month, shows that women like watching women. (And Kim Kardashian, James Deen, pussy-licking and rough sex.) "What immediately jumps out is that ladies prefer to take their time, with their average visits to the site lasting a lavish 10 minutes and 10 seconds, compared to men who go for just 9:22," notes the cocky analysis. "Treat yourselves, ladies!"

So one gender gap is slowly closing as porn moves indoors from the publicness of peepshows and DVD parlours to the relative privacy of one's own home. (We should be celebrating, not lamenting this "normalisation" of porn, no?) And don't forget how notions of privacy shape behaviour here. No Peeping Toms. No looking over one's shoulder. No idea of what we get off on so long as porn sites don't start matching individual viewers to their viewing habits. Which means that even though "lesbian", "threesome" and "squirt" are the top three terms that women searched for on Pornhub and RedTube in 2015, the data is anonymised and secure. (Hopefully.) No one's going to land up at their doorsteps to blackmail them. (Hopefully.) They're not going to be branded with the scarlet letter P, the digital equivalent of Nathaniel Hawthorne's analog

adulteress,²¹ forced to wear the letter A in the 17th century.

Yes. Porn is becoming a bit of a Scarlet Letter – a private act portrayed as a public menace. Privacy is the right to be let alone, wrote Justices Warren and Brandeis of the United States (US) Supreme Court in their iconic 1890 essay.²² That too was in a context when new media technologies – "instantaneous photographs", "newspaper enterprises", "mechanical devices" – were producing panic. Technological change has, of course, always given rise to panic: even the sewing machine was once thought to create deviant desires in women, as they rhythmically moved their legs up and down to its gentle whirr. And women, of course, have always been subjected to moral panics and moralistic privacy²³ when it comes to sexuality, notes law professor Anita L. Allen. One that is associated with "heightened modesty", self-concealment, and chastity. (Don't show yourself. Don't watch other women. In short, no pornification.) Porn's genteel cousin, erotica, has also faced similar panics. Remember the ban on D. H. Lawrence's *Lady Chatterley's Lover*²⁴ in the 1960s?

Problem is, in the policy gaze, women are still stuck in the passenger seat when it comes to sex. It imagines the hubby coming home, all pumped up, and asking the missus to go beyond the missionary position. Just like he saw on his iPad mini. (Dirty, dirty.) You see? Man, driver. Woman, passenger. From the first utterance of *porneia*, men have been seen as the drivers of sex, women its passengers. Never mind that this is rooted in another P – Patriarchy – which insists that women must have no sexual desire, let alone know pleasure-enhancing postures. (Dirty, dirty). Never mind that many women still can't refuse men sex, or get them to wear condoms. Never mind every inequality between men and women that pops up everywhere, including in the bedroom. If there was greater equality between the genders, fewer women would feign headaches when they don't want to have sex.

17 Biblehub. biblehub.com/greek/4202.htm

18 IANS. (2015, 1 August). Boys ain't having all the fun: Indian women watch more porn now. *Hindustan Times*. www.hindustantimes.com/sexandrelationships/boys-ain-t-having-all-the-fun-indian-women-watch-more-porn-now/article1-1375150.aspx

19 Pornhub Insights. (2015, 25 July). More of what women want. www.pornhub.com/insights/women-gender-demographics-searches

20 Ibid.

21 McCrum, R. (2014, 6 January). The 100 Best Novels: No 16 – The Scarlet Letter by Nathaniel Hawthorne. *The Guardian*. www.theguardian.com/books/2014/jan/06/scarlet-letter-nathaniel-hawthorne-100-best-novels

22 Warren, S. D., & Brandeis, L. D. (1890). The Right to Privacy. *Harvard Law Review*, 4(5), 193-220. www.jstor.org/stable/1321160

23 Allen, A. L. (2000). Gender and Privacy in Cyberspace. *Faculty Scholarship*, Paper 789. scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1788&context=faculty_scholarship

24 Robertson, G. (2010, 22 October). The trial of *Lady Chatterley's Lover*. *The Guardian*. www.theguardian.com/books/2010/oct/22/dh-lawrence-lady-chatterley-trial

That's gender inequality. That's what we need to fix. But it's so much easier to blame porn for patriarchy, no?

* * *

Multi-million. Dollar. Industry. This is how anti-porn crusaders often refer to porn. It's a magic bullet, this phrase, guaranteed to derail logic. Guaranteed to make folks see red. As if we're not doing all sorts of things like buying biscuits and Maggi noodles and data connections from multi-million dollar enterprises.

Of course we're all proponents of the small, the stand-alone, the artisanal. But. Can porn be damned just because it's big business? Let's stop eating Glucose biscuits first. And must we start loving all independent²⁵ or homemade porn, right from consenting cam girls to non-consensual hidden cam porn in cyber cafés? Nah. Like in other industries, porn production is "ethical" when there are no unfair or exploitative contractual or labour practices. When performers are not being pushed to perform sex acts beyond the contract or without condoms. But that's not enough. Porn is legit, first and foremost, if it's based on consent. And consent cuts all the way down the line: from those who are paid to perform porn to those who freely turn their images into porn for private pleasure. That some of these images end up as non-consensual porn – often called revenge porn – is a problem that policy makers in some countries have finally begun to tackle, notably in the US where revenge porn is a crime in several states.²⁶

But try asking anti-porn campaigners to use consent as a yardstick. No. In the anti-porn worldview, ALL porn causes harm to ALL women: those who consume it and those who don't. All porn objectifies and dehumanises women, never mind women who have starred as "personified" subjects! In this camp, there's only one kind of porn – in which men treat women as instruments to satisfy their sexual desires. In which porn is the villain with a capital P, mutating "healthy" sexual desires and relationships into "unhealthy" ones.²⁷ It's never about mutual pleasure or that there are as many kinds of porn as there are sexual desires. Including queer crip porn.²⁸ It's rarely about porn performers who don't see themselves as victims. Or the issues porn

performers themselves raise. "My stage name is less about withholding parts of myself or maintaining privacy than it is a symbol of the idea that I am more than just my job or any other isolated slice of my identity," says US porn performer, Stoya.²⁹ "Yes, there's a paradox here in that I willingly engage in work that reduces me to a few sexual facets of myself but expect to be seen as a multifaceted person outside of that work. I participate in an illusion of easy physical access..."

If objectification is the charge that some feminists typically hurl at porn, addiction is its moralist cousin. In the digital porn discourse, access is often vilified as "addiction" with untold consequences. Portrayed as a drug. A petitioner to India's parliament argues that online porn must be banned before we turn into the equivalent of "Motherless or Fatherless America".³⁰ This trend is "related to those 'orphaned' children, whose father or mother, though alive, are addicted to cyberpornography and don't take any care of their children or the family," the petitioner argues. Another #pornban petitioner in India's Supreme Court raises this bombast to untold heights.³¹ "Nothing can more efficiently destroy a person, fizzle their mind, evaporate their future, eliminate their potential or destroy society like pornography," he argues. "It is so terrible that many do not even recognize it until it is too late, and most refuse to admit it. It is worse than Hitler, worse than AIDS, cancer or any other epidemic. It is more catastrophic than nuclear holocaust, and it must be stopped."

This #pornban petition goes on to hold online pornography accountable for increasing violence against women, an emotive charge (like "multi-million dollar industry") that unites moralists and many feminists. Does porn cause rape? Or, as feminist Robin Morgan famously argued in the 1970s, is "porn the theory, rape the practice"?³² No. Even those who campaign against porn warily agree there's no evidence to back this charge.³³ In the

25 Morris, C. (2014, 17 January). The economics of being an independent porn star. *CNBC*. www.cnbc.com/2014/01/17/the-economics-of-being-an-independent-porn-star.html

26 End Revenge Porn. www.endrevengeporn.org/revenge-porn-laws

27 Massey, A. (2015, 3 April). Porn is not coming for our sex lives. *Pacific Standard*. www.psmag.com/books-and-culture/its-all-ok-you-can-watch-some-porn-right-after-you-read-this-article

28 Loree Erickson, Porn Star Academic. femmegimp.org

29 Stoya. (2014, 8 March). Can we learn about privacy from porn stars? *New York Times*. www.nytimes.com/2014/03/09/opinion/sunday/can-we-learn-about-privacy-from-porn-stars.html?hpw&_r=0

30 Prabhudesai, A. (12 June 2013). Petition to ban pornography by amending IT Act filed in Parliament. *Trak.in*. trak.in/random/ban-pornography-petition-1203

31 Singh, M. (2015, 10 July). Kamlesh Vaswani v. Union of India & Ors. *One Law Street*. onelawstreet.com/2015/07/pornography-ban-kamlesh-vaswani

32 Morgan, R. (1977). *Going Too Far: The Personal Chronicle of a Feminist*. New York: Random House.

33 Jensen, R., with Okrina, D. (2004). *Pornography and Sexual Violence*. National Online Resource Center on Violence Against Women. www.vawnet.org/sexual-violence/print-document.php?doc_id=418&find_type=web_desc_AR

1990s, one research study looked at four countries where porn was freely available in the previous two decades, including “aggressive porn”.³⁴ In all four countries, the availability of pictorial porn – including violent porn – had gone from “extreme scarcity to relative abundance” in the study period. It noted that other studies have shown that “rapists’ and nonrapists’ immediate sexual reactions to presentations of pornography showed generally *greater arousal to non-violent scenes*.” It concluded that in none of the countries did “rape increase more than nonsexual violent crimes. This finding in itself would seem sufficient to discard the hypothesis that pornography causes rape.”³⁵

Disregarding such evidence, anti-porn feminists continue to insist that porn is an act of sexual violence, that porn is not “words” and “images”, that porn is not speech to be protected.³⁶ Not media. This positioning is, of course, part of the problem, since it exceptionalises porn, locating it in a category by itself, unlike other speech or media. But seriously, what is porn – composed of words, sounds and images, albeit of naked bodies – if not media? Innumerable studies indicate that there is no causal relationship between media representations and realities, that spectators hold diverse and different positions to what they view.³⁷ Do we hold on-screen rape depictions in feature films responsible for causing actual rapes? No. Do we hold on-screen depictions of murder responsible for causing actual murders? No. Then why hold on-screen porn responsible for real-life rape and sexual assault? Why blame the representation for the reality in this one case alone? What’s so unique about porn – another media representation – that it must be singled out thus? Are naked bodies inherently harmful? Or what?

* * *

In a 2009 TED talk that went viral, Cindy Gallop, a 50-something fan of hardcore porn, described how she sees online porn.³⁸ “I have sex with younger men...” in their 20s, she says, “and encounter

directly the effect of a flood of hardcore porn.” One of these effects is the misbelief that women love men coming on their faces, a porn staple. “There’s an entire generation growing up that believes that what you see in hardcore pornography is the way that you have sex,” says Gallop. “Hardcore porn has become sex education.” But why has hardcore porn become sex education? One, because it’s easily available. Two, because there’s no other sex education. Three, because we’re so puritanical about sex, we won’t talk about it to our kids. Ergo, vacuum. Enter, online porn. As a “mature experienced self-confident older woman,” Gallop is adept at telling her 20-something lovers: “No, thank you very much. I’d rather you did not come on my face.”

As a user, how would Gallop change porn? “Reorient, reeducate, rehabilitate” is her motto. In other words, resocialise minds, reshape headspaces, rewire neurons away from the dungheap of patriarchy. Towards a more equitable gender-friendly porn. Sounds like sex-positive feminism to me. Her site³⁹ busts a bunch of porn myths including balloon boobs, while understanding that porn is play, a pleasure-enhancer, like sex toys. A form of sexual expression. In another TED talk that went viral, erotic filmmaker Erika Lust talks about how it’s time for porn to change.⁴⁰ Change. Not vanish. How it’s time to fight unethical porn with ethical porn, counter-porn, porn that makes women and transpersons⁴¹ the subjects of their sexual journeys, pleasures and destinations.

That’s right. Change porn, not ban it. Think about it. Seriously. Think how we try to change other media representations – through critique, debate, dialogue and alternative representations. Not through bans, right? If policy makers understood porn as sexual expression, why would they want to ban it?

* * *

So what should we really think about when we think about porn? Consent. We need to respect the consent of those who enact porn – if it’s given, even to enacting “rape porn”, dare we cavil? And we need to start getting justice for those who never dreamed they’d end up as digital porn – without their consent. Any image that turns into porn without consent can cause actual harm, not the imaginary variety – harm that wrecks lives, jobs, careers, relationships, self-image and identities. Harm that causes real damage, both on and offline. Harm that is harmful

34 Kutchinsky, B. (1991). Pornography and rape: theory and practice? Evidence from crime data in four countries where pornography is easily available. *International Journal of Law and Psychiatry*, 14(1-2), 47-64. www.ncbi.nlm.nih.gov/pubmed/2032762

35 Ibid.

36 MacKinnon, C. & Dworkin, R. (1994, 3 March). Pornography: An Exchange. *New York Review of Books*. www.nybooks.com/articles/archives/1994/mar/03/pornography-an-exchange

37 Tait, S. (2008). Pornographies of Violence? Internet Spectatorship on Body Horror. *Critical Studies in Media Communication*, 25(1), 91-111. www.researchgate.net/publication/232838902_Pornographies_of_Violence_Internet_Spectatorship_on_Body_Horror

38 Gallop, C. (2009, 2 December). Make love, not porn. *TEDTalk*. www.youtube.com/watch?v=FV8n_E_6Tpc

39 Porn world vs Real world. makelovenotporn.com/myths/facial

40 Lust, E. (2014, 1 November). It’s time for porn to change. *TEDx Vienna*. erikalust.com/ted-talk

41 Nadika, N. (2015, 1 April). Supporting ethical queer porn. *The Orinam Blog*. orinam.net/supporting-ethical-queer-porn

enough to be called out and punished as a crime. When actual rapes turn into digital porn, spreading from phone to phone, as is the case in Pakistan⁴² and India,⁴³ that's harm. And that's three counts of consent being violated: one, in forcing sex without consent; two, in filming forced sex without consent; three, in circulating this clip without consent. When physical rape turns into digital porn we know one

thing for sure: it's time to start talking consent. It's time to start talking harm.

If we really want to "do something" about porn, it's time we stopped talking about its imagined harms. It's time we started talking about actual harms.⁴⁴ It's time we started talking along the fault lines of consent.

42 BBC News. (2015, 26 February). How a rape was filmed and shared in Pakistan. *BBC News*. www.bbc.com/news/world-asia-31313551

43 Nelson, D. (2015, 13 April). Indian campaigner inundated by gang rape videos. *The Telegraph*. www.telegraph.co.uk/news/worldnews/asia/india/11533852/Indian-campaigner-inundated-by-gang-rape-videos.html

44 Datta, B. (2015, 29 May). Porn. Panic. Ban. *GenderIT*. www.genderit.org/feminist-talk/porn-panic-ban

Sexual rights and the internet

The theme for this edition of Global Information Society Watch (GISWatch) is sexual rights and the online world. The eight thematic reports introduce the theme from different perspectives, including the global policy landscape for sexual rights and the internet, the privatisation of spaces for free expression and engagement, the need to create a feminist internet, how to think about children and their vulnerabilities online, and consent and pornography online.

These thematic reports frame the 57 country reports that follow. The topics of the country reports are diverse, ranging from the challenges and possibilities that the internet offers lesbian, gay, bisexual, transgender and queer (LGBTQ) communities, to the active role of religious, cultural and patriarchal establishments in suppressing sexual rights, such as same-sex marriage and the right to legal abortion, to the rights of sex workers, violence against women online, and sex education in schools. Each country report includes a list of action steps for future advocacy.

The timing of this publication is critical: many across the globe are denied their sexual rights, some facing direct persecution for their sexuality (in several countries, homosexuality is a crime). While these reports seem to indicate that the internet does help in the expression and defence of sexual rights, they also show that in some contexts this potential is under threat – whether through the active use of the internet by conservative and reactionary groups, or through threats of harassment and violence.

The reports suggest that a radical revisiting of policy, legislation and practice is needed in many contexts to protect and promote the possibilities of the internet for ensuring that sexual rights are realised all over the world.

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