

Strategy Planning Workshop of the Feminist Network on Gender, Development and Information Society Policies

**October 5th – 7th, 2007
Bangalore**

Namita A. Malhotra
Alternative Law Forum, India

IT for Change
ISIS International-Manila
Association for Progressive Communications
International Women's Tribune Centre

With

IDRC
HIVOS
UNIFEM
Bread for All
UN Global Alliance for ICTs and Development

the world wide web of desire: internet, sexuality and pornography

The internet is for porn but what is porn?

Very often debates around pornography, including academic discourse examine the category of 'pornographic' without addressing exactly what is pornography. It becomes a term around which various kinds of media, activities and behaviour are clustered.

An analogy can be drawn to how sexuality as a term in the eighteenth century was made to describe various emotional, affective, physical, intuitive and other phenomena. As Foucault says when talking about the modern compulsion to speak incessantly about sex that, there is an immense curiosity about sex, bent on questioning it, with an insatiable desire to hear it speak or be spoken about, quick to invent all sorts of magical rings that might force it to abandon its discretion.' 'Speaking sex' is the technique for exercising power over pleasure that operates in many discourses, medicine, law, psychoanalysis and also obviously in pornography. In these discourses, sexualities are solidified and become identities and scattered sexualities become rigid, stuck to an age and/or type of practice. Ofcourse motion pictures and then pornography are yet another way in which to speak sex.

Defining pornography

Pornography has been defined as representations which a dominant class or group does not want a less privileged group to have access to. This was one of the descriptions/definitions of pornography given by Walter Kendrick (*Secret Museum of Pornography*), referring to how only men of a certain class and not easily corruptible rabble like women and children, could peruse through the Secret Museum at Pompeii, in the name of scholarly interest. Pornography as a category came into being, only when there was mass circulation, and thus the use of the term was first meant to ensure limited access. As Walter Kendrick says, 'by over valuing both sex and representations, the nineteenth century created a category which had not existed, except in a rudimentary form in any past age'

Andrea Dworkin describes pornography as the sexually explicit subordination of women, either in graphics or words. According to her, pornography ensures that the woman's body is seen as the victim, and pornography described as 'an act of violence, subjugation, threat, and intimidation and, most important, an act that legitimates and enforces widespread criminal behavior, such as rape and sexual assault'.

It may be interesting also to note that pornography or sex-talk, dirty pictures etc. first began as political and anti authoritarian speech. Marquis de Sade is one example of such speech (though this may not be true about how he is read today) but also with the Marquis, political pornography reached its limit and started to change into commercial porn for sexual arousal that was then suppressed on moral and social grounds. Examples of political pornography include stag films of priests doing unspeakable acts that were meant to undermine the authority of the church (in Mexico) (*Pornocopia*, Laurence O'Toole).

One could say that modern porn is about fantasy and arousal. That it no longer has aspects of the obviously political. But there are aspects of the political, of taking back control of media/medium and freedom of expression in the plethora of pornography around varied paraphilias available today that is generated amongst users of the internet, rather than any pornography or sex work industry. But at the same time there is also a

disturbing spread of war porn, images of mutilated bodies, of torture in camps including sexual humiliation and torture, or even non-sexual that people view with as much fascination, horror, involvement and (yes) arousal as they do pornography. An apt commentary on these images and videos is 'The MTV generation goes to war. They should enter it at Sundance', but these images are not only the diary of a soldier at the war front but also include images and videos of extreme torture and sadistic brutality.

These images and video (and most of contemporary advertising and cinema) indicate towards the saturation of media in everyday lives with pornographic meanings. The purpose here is however to explore pornography or sexually explicit material as such, which in no sense is devoid of political implications and is an illicit peek into the politics of desire. 'Pornography is saturated with political meanings about sexual practices, morality, pleasure, private liberties and individual rights. And the continued regulation is ofcourse a political matter' (Laurence O'Toole, Pornocopia).

Collapsing pornography and internet in India

The moral and social panic around pornography on the internet has led to a collapsing of internet (the medium or space) and pornography (the content). There is a public perception of internet as the dark underbelly of the city, a haven for either illegal or queer or unacceptable sexual and other practices. Other than the obvious fact that the internet is hardly only about pornography, there are also various other anxieties that then attach themselves to the internet. Looking at Annette Kuhn's work on censorship in early cinema, and borrowing from her theoretical framework it then becomes important to recognize the social, moral, political discourses that take place around censorship, rather than view it only in terms of the act of the State on specific content (whether a website, video, images etc.).
(Annette Kuhn, Cinema: Censorship and Sexuality-1909-1925)

For instance, in the Indian context, pornography has rarely been openly discussed and yet the internet is characterized as the dark underbelly of unspeakable sexual practices. The anxieties (of the State or other players) now seem to extend to the existence of social networking sites and what it means for the 'social fabric' (access to orkut, guys4men, yahoo etc.) to the publication of alternate views and news (ban on blogspot, yahoo groups). The above are the actual instances of censorship by the State in India, all of which are not necessarily linked to pornography. Most censorship in the Indian context has been around anti-national material. At the same time, the drive to regulate cyber cafes, the primary space in which internet can be accessed by a majority of the population at cheap rates, is about preventing, controlling and limiting access to sexually explicit material. Rules require the computer to face outwards and in the view of the cyber café owner, that each user should provide identification before using a cyber café so that a record can be kept of each user. The effectiveness of these rules is however not yet evident yet, either in its implementation by cyber café owners or in the use of this information by the State, which is probably a blessing in disguise.

A recent example of public discourse on the internet that seems to characterize it as an unsafe space, is what in popular terms has been referred to as the orkut murder case. Coverage of this case seems to put on trial not only the alleged kidnappers and murderers of the boy, also the website that **may** have linked all of them together (Did they meet through orkut or offline is unclear, and every young person has a profile now). Speculation is rife in newspapers about the nature of people that one could meet on the internet. This is hardly the only time that orkut has been dragged into controversy, and it has been the target of State action and accused of harbouring networks of terrorists, fans of crime lords in Dubai, nefarious murderers and kidnappers. At the same time, for any ordinary crime and murder story, orkut profiles are mined by journalists

and police alike to write stories in newspapers and for investigation. This is just once instance, of the paranoia that is around sex, sexuality and consequently sexually explicit material in the Indian context.

To return to what Kendricks says that porn is not a thing but an argument, because as times change the boundaries of obscenity and acceptability keep changing; hence its not a fixed thing like say the act of killing another person. But the arrogance of the law allows it to assume that there is such a thing as pornography even if it is elusive and changing. This is most evident in the statement of Justice Potter Stewart.

I know it when I see it: Justice Potter Stewart

The law is not merely a descriptive but a constitutive force. In allegedly describing an objective reality, it also describes the outer domain of that reality; in other words law doesn't chance upon a pre-existing object called pornography but actually creates that category of material by defining what is and what isn't obscene material.

The report by the Meese commission on Pornography (1986, U.S.A) is the first exhaustive examination of the available pornography at the time (725 magazines, 2000 books, 2300 films), and as stated by a lesbian feminist activist and sex worker Susie Bright, was probably the most pornographic material available (I masturbated to it, its so filthy, I almost passed out. The ACLU lawyer quipped – I fully defend my government's right to publish filth'). Each item is described in terms of positions, actors/players – naked Caucasian female lying on her back while two male Caucasian erect penis

The reason why these descriptions sound familiar is probably because this is exactly the way that search engines and peer to peer networks list and describe porn, in terms of race, positions, combinations, perversions etc. A shorthand of description that they very likely got from the Meese Commission on pornography.

A similar contrast is the following statement –

She nudged various customers at their backside and blew smoke on their heads. She approached the customers in the dance hall of Blue Nile to remove her clothes. Some customers obliged till she was left only with transparent panties. She then lay fatly on the floor making erotic moves with her legs and body suggesting sexual acts. She made strokes against the floor and uttered cries, which made people, get up from their chair and look at her.

Though the above probably sounds like erotica, it is infact the judgment on the existence of dance bars that provide livelihood to many women in Mumbai, India (Temiko v. State of Maharashtra, 2005).

This paradox arises when law attempts to deal with sexually explicit material and has been referred to as the Hidayatullah paradox in the Indian context (The public is watching, Lawrence Liang et.al.). The Hidayatullah paradox is that judges, legislators that are supposedly above the ordinary desires of people are meant to judge content for obscenity and on the basis of whether they are affected or aroused by it, to declare it obscene. Though ofcourse the state of arousal necessarily implies that they are no longer 'reasonable', but paradoxically the judge only by being aroused/depraved/corrupted can determine whether the material is obscene or not.

These two rather amusing paradoxes, indicate towards a larger problem of the law determining what is obscene or not, and the impossibility of the law determining what is obscene or pornographic, as if above and not implicated by the moral, social, political discourses in society.

In the Indian context, the situation is further complicated by the fact that the term pornographic is not used in the law as such (though referred to in guidelines and codes, but very rarely) and the umbrella category under which it belongs is obscenity. The test to determine obscenity is still the Hicklin Test, which has been abandoned in its original jurisdiction of England but continues to be the standard here.

What we have to deal with is the notion of obscenity as defined by the criminal law, judgment that lays down the Hicklin test and numerous guidelines for cinema or television. Obscenity is defined in Indian law as anything which has the tendency to deprave and corrupt persons who read, see or hear the matter. The Hicklin test for obscenity, first formulated in 1868, was upheld in *Ranjit Udeshi v. State of Maharashtra* (AIR 1968 SC 881). The test defines 'obscene' as all visual or written material that is "lascivious or appeals to the prurient interest", and has the capacity to corrupt those exposed to it.

This definition of obscenity is further extended by other laws that prevent the distribution of such material (Indian Penal Code, Young Persons Harmful Publication Act, 1956), and by the Indecent Representation of Women (Prohibition) Act, 1986. The latter Act, is a result of intense lobbying by women's groups, and prohibits the depiction of the figure of a woman, or any part of her, in a manner that has the effect of being indecent, denigrating or derogatory. Debates around sexual, obscene or vulgar content in India, generally has two predominant players: the women's movement and the Hindu right wing. Both players, with often radically different ideas of acceptable content, and definitely distinctly different ideologies backing their agenda, have found in each other, strange bedfellows in the struggle for regulation of content.

But what is also of grave importance to the women's movement are sexist depictions of women, as a servile housewife, obedient maid etc. but such depictions are not the target for the censor. Also with State protectionist measures of censorship, the spaces for women to express their sexual desires becomes narrower, and the association of 'any sexual image with a negative or degrading representation of women has also made it difficult to produce alternative erotica or sexual materials as they risk being collapsed into the obscene'.

Policing sexuality

In 2006, in Lucknow, the police cracked down on four men who used the internet, specifically the website "guys4men", to hook up. The men were taken into custody on grounds that they were committing a criminal offence under S.377 of the Indian Penal Code, which is the law that criminalises homosexuality, specifically sodomy and any "intercourse that is against the order of nature". This incident echoes a previous incident in 2001 in the same city, where members of an organization were arrested for conspiracy to commit sodomy and for obscenity because of material they were carrying that was about sexuality, AIDS and safe sex. What is policed along with pornography are practices around sex and sexuality on the internet

It is in this frightening draconian context, where the State has no compunctions about policing sex and sexuality that our understanding of censorship laws has to be located.

Disturbing questions then arise – Is it even possible to argue with such a State that retains the anti sodomy law, that queer, lesbian erotica and pornography provides a space for alternative sexualities and should not be censored?

Is it possible to argue in a context where the High Court has allowed for the banning of English movie channels for obscenity and depictions contrary to Indian culture and heritage, that the depiction of consensual sexual interactions between two adults, whether they are women or men, is acceptable.

Is it possible to argue that what needs to be tackled is not the depictions of sexuality and sex, but exploitative conditions for women and other sexuality minorities in the pornography industry?

This frightening context is hardly relevant only to India. The only difference is that the instruments of surveillance are far blunter in the case of India, but no less or infact maybe far more terrifying. Nonetheless in the context of America and Europe, there was much debate on the data retention laws, that are already implemented in Europe, that allow ISPs to keep information about their users for a period of 3 years. Analysis points to the fact that this data has rarely helped in the catching of paedophiles but means that the data would be accessible to any local or state law enforcement official investigating anything from drug possession to tax evasion.

The caution that needs to be pointed out are the risks to women, but also generally to democracy, to their privacy, about surveillance, data retention, and the narrowing of their own spaces for free speech and expression.

Pornography: an epidemic of signification

There is a legal definition of pornography as sexually explicit material, obscene or harmful content; a socially determined one or a description of pornography as an argument where the lines of social mores and standards keep changing (Kendricks). Pornography is a new object also because of a vibrant, changing sexuality and sexual practices around technology. There is obviously a need to research pornography as such: the thing, practice or behaviour in itself. As it is. Representations of sexual activity. Sexually explicit material. Artistic or not. Erotic or not. (porn is someone else's sleaze or someone else's art or someone else's 'truth' or desire)

Returning to the way sexuality was named and then pathologized in the eighteenth century, the affective, physical, intuitive potential was confined to the term sexuality, thus harnessing the dangerous and intimate power of it. Similarly the potential of pornography and sexual practices around it can be dismissed by anti-pornography feminists or conservative groups. Such a stance implies that any kind of sex with a man is equated with violence and rape, and representations of sexuality are unacceptable unless they are 'absolutely egalitarian forms of mutual love and affection.' And as stated by Linda Williams in her examination of sexuality, culture, pornography – 'what forms of (enjoyable) sex are (ever) egalitarian'.

And what kind of representations of sex would be arousing if they are egalitarian and politically correct. Linda Kauffman in her book *Bad boys and Sick girls*, talks about how often the debate of pornography is often resolved by a convenient distinction between pornography and erotica, and what is wrong with that.

'We do not need eroticism instead of pornography. The very notion of erotica as 'good', clean, non explicit representations of sexual pleasure as opposed to dirty, explicit pornographic ones is false.. We need to see pornography in all its naked explicitness, if we are to speak frankly about sexual power and pleasure, and if

we are to demystify sex; but we also need to recognize that gender, sexual fantasy and sexual desire derive fundamentally from mystifications. Fantasies are not the enemy, which by definition are based on unruly desires rather than politically correct needs.'

Pornography is an epidemic of signification in which myriad aspects of a person (sexuality, caste, race, class) and their unruly desires are at play. Hence to sanitize and compartmentalize porn is difficult, as hard as it is to confine sexuality to some aspects of one's life within heteronormative structures of marriage or as defined and governed by medicine and psychiatry.

The unruly desires of impossible subjects

There is however an obvious problem with pornography. In spite of its enormous potential it only does so much. Pornography today is dominated by representations that are largely within a heteronormative framework that depicts desire as viewed and experienced by the (white) heterosexual male.

Here however one has to look at what the internet has done to pornography and the explosion of sexually explicit material that is uploaded by different kinds of users (C'lick me, A net porn studies reader). The internet was supposed to change the way people related to broadcast medium such as television, cinema, radio and to make a space in which various interactions were possible, back from the consumer to becoming a user and broadcaster. This is probably most evident in the context of sexually explicit content, a substantial portion of which is user based ranging from private cyber sex chats, webcams, pay for view pornography on webcams run by sex workers, websites for uploading material etc.

There are obviously huge problems, there is a space crunch already not in the sense of space but just because of the sheer explosion of material. To capture attention, perversions are taken to gut wrenching extremes. The statement – 'if you can think about it, there is porn about it on the internet', becomes increasingly true. The list of specialities from hentai (Japanese animation porn) showing a woman raped by tentacles to snow bondage to anything else as the list of paraphilias grows is increasing. But censorship hardly seems possible or the answer in an era that has decided to endlessly speak sex.

Obviously women's movements, feminists, techie geek women have to think of other ways to think about pornography, which need to take into account myriad realities from cyber harassment, bullying, child pornography to the enormous boon of the internet to sexual expression by women and sexuality minorities, and to building linkages between women across the globe. This paper raises questions, seeking to destabilize the debate around harmful content, where unfortunately too often the most convenient and easy option seems to be to invoke and ask for the State's paternalistic 'protection' in the name of women and children, instead of exploring more difficult (both in terms of politics and implementation) models of content regulation on the internet.