
POSITIONS ON THE POLITICS OF PORN

A DEBATE ON GOVERNMENT PLANS TO CRIMINALISE THE
POSSESSION OF EXTREME PORNOGRAPHY

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DEBATING 'EXTREME' PORNOGRAPHY: AN INTRODUCTION

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In March 2007 we organised a seminar at Durham University on the Government's plans to criminalise the possession of extreme pornography (Home Office, 2005; Home Office, 2006; Criminal Justice and Immigration Bill, 2007).¹ These proposals reignite not only the debate regarding the legitimate scope and role of the criminal law in proscribing private adult behaviour but also the so-called 'porn wars' of the 1980s. Our aim was to bring together speakers and participants from a variety of ideological positions and perspectives to discuss not only the proposals, but also the politics of porn more generally. In providing a forum in which to consider the varied, and often polarised, responses to pornography, the seminar sought to create a space for dialogue and debate between the diverse groups through the exploration of, inter alia, the international discussions on the role of law in regulating pornography and conduct across borders; the gender dimension to debates regarding the regulation of pornography and, in particular, the links between government regulation of pornography and other policy fields such as trafficking and prostitution; the boundaries between the explicit and exploitative understandings of harm contained therein; and different conceptions of 'human rights' involved in the porn debates.

The seminar was truly interdisciplinary. Over seventy delegates attended the seminar, including members of related campaign and support groups (Feminists Against Censorship, backlash, Wearside Women in Need, Rape Crisis, Cyber-Rights and Cyber-Liberties), Enforcement agencies (New Scotland Yard and the Internet Watch Foundation), the national and local press as well as academics and students from law, social sciences, sociology, criminology, computer sciences, and media and cultural studies departments. It has since been reported and discussed in forums as diverse as *The Times*, the *Northern Echo*, seenoevil.org.uk and *Skin Two*.

The papers that follow discuss the Government's proposals as of March 2007 and are, as far as possible, as given at the seminar including the order in which they were presented². Read together, they highlight the difficulty of conversation at the extremes, of finding enough common ground for effective engagement. At times the papers appear to be addressing different things; the different concerns, priorities and background of the author(s) reflected in their diverse styles, content, and even format. At once polemic, academic and political, the papers occupy a space at the intersection of the personal, political and the academic.

¹ The proposed offence, as amended in the 2006 consultation document, seeks to criminalise the possession of pornographic material (defined as material produced solely or primarily for the purpose of sexual arousal) which includes explicit actual scenes or realistic depictions (thus excluding written work, cartoons and drawings) of three categories: intercourse or oral sex with an animal; sexual interference with a human corpse; and, 'serious violence' (Home Office, 2006; part II, paras 12-14). 'Serious violence' was further defined as 'images of acts that appear to be life threatening or are likely to result in serious, disabling injury' (Home Office, 2006; para 14). The Government stated that defences would mirror those in place in respect of possession of child abuse images (Home Office, 2005; paras 53-54 and 49). For a detailed discussion of these proposals and of the responses to the Government consultation, see further McGlynn and Rackley (2007).

² The exceptions to this are a) the paper given by Gavin Phillipson and b) the response from Yaman Akdeniz which are not included in this collection. These papers may be submitted for publication elsewhere and therefore cannot appear in this collection.

In an attempt to scope the debate we invited three diverse (politically and disciplinary) keynote speakers – Jill Radford (a feminist academic and activist), Gavin Phillipson (a human rights academic) and Deborah Hyde (a member of backlash) – to speak to four questions: what has informed your position on porn?; what is your position on the politics of porn?; what is your view of the Government’s proposals?; and thinking generally, what would be your utopian position on porn? These questions are most clearly addressed by Jill Radford in her paper ‘The Politics of Pornography: a Feminist Perspective’. Her view of all pornography as about the ‘eroticisation of hate’ is explicitly grounded in her involvement in the women’s movement and, in particular, her work with survivors of sexual and domestic violence. She considers the ‘complex links’ between pornography and violence against women and children and expresses her concern that the proposals’ focus on ‘extreme’ pornography may lead to an increased failure to consider wider impact of all forms of pornography.

Whereas Radford sees all pornography as a record of abuse, in their argument against the proposals as ‘ill-conceived and wrong’, backlash distinguish between pornographic depictions featuring non-consenting and abused participants and those in which fully-consenting actors are performing staged scenes. They suggest that the remit of the proposals should be narrowed in order to target pornographic images of ‘genuine abuse’ only. Their paper explores the ‘false/weak justifications’ for and ‘unintended consequences’ of the proposals – in particular, the absence of a causal link between sexual violence and (extreme) pornography (a concern which occupies a number of the papers), the diversion of police resources and the vague and untested boundaries of the proposals, and the extent to which the provisions would have a disproportionate impact on those who engaged with so-called ‘alternative’ forms of sexual expression.

In ‘Reflections on the Positions on the Politics of Pornography Conference’ Avedon Carol (an invited respondent) explores her own personal response to the debate. Her paper returns to some of the themes raised by Radford in relation to the definition and harm of pornography and its impact on, especially male, sexuality before going on to consider the potential misuse of the proposed law by the ‘unusually dirty-minded’, ‘sexually ignorant’, ‘sexist’ and ‘homophobic’ police porn squads.

Also as an invited respondent, Clare Phillipson (from Wearside Women in Need) addresses pornography from a practitioner’s perspective in her paper on ‘The Reality of Pornography’. Echoing some of Radford’s arguments, Phillipson argues that pornography is harm in itself, and uses graphic examples and language in an attempt to de-neutralise what she perceives to be an overly academic argument. Urging people to ‘get real’, she suggests that academics should listen more to practitioners who have witnessed first hand the real harm that is extreme pornography.

Finally, Laura Graham (an assistant at the seminar) explores her engagement with the discussions about the seminar on the backlash message boards. It explores the immediate aftermath of our seminar and its place in the ongoing debate surrounding the Government’s proposals. It is, for obvious reasons, the only paper not presented during the course of the afternoon. Its inclusion here is important for two reasons: first as a reminder of the importance of engagement beyond the academy and the dangers of (legal) academic tendencies toward reification of legal knowledge and the constraints of academic discipline; secondly, as an acknowledgement of the extent to which, despite our best efforts, we were perhaps more effective in provoking virtual debate and conversations. The silence of many of those attending the event (referred to by both Carol and Graham) perhaps saying best why, despite

the proposals and the campaigns surrounding them, it still seems no one is *really* talking about porn. Put another way, what our seminar, and these papers, perhaps reveal is that despite our increasingly ‘pornified society’ (Paul, 2005) conversations about pornography appear to remain limited by our inability to listen carefully to, and engage with, what others have to say, to find some common ground and to begin to explore new ways forward.

So understood, it is important to identify a number of common themes and concerns with the proposals emerge from the different voices and perspectives in this collection including (but not limited to): the dangers of categories of ‘extreme’ and other porn; the lack of clarity as to where rape sits in relation to the definition of ‘serious violence’; the concern that the provisions would have a disproportionate impact on those who engaged with ‘alternative’ forms of sexual expression; the reinforcement of morality-based rather than harm-based standards/criteria in relation to responses to pornography; concerns that police investigators would have sufficient training and expertise to police law in measured and the importance of clearly-defined prosecutorial discretion; disproportionate and over-severe sentencing; and vague boundaries which may result in some people ‘accidentally’ committing criminal acts.

Since the seminar, the conversation has moved on – the Criminal Justice and Immigration Bill published in June 2007 contained amended versions of the Government’s proposals (McGlynn and Rackley, 2007a). The papers that follow, which were written prior to the latest Government announcement, are a snap-shot of the extreme pornography debate both at and outwith our seminar. As such, they represent an opportunity to consider not only the politics of porn, but also nature and purpose of academic engagement.

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REFERENCES

- Home Office. (2005) *Consultation on the Possession of Extreme Pornographic Material*. London: Home Office.
- Home Office. (2006) *Consultation on the Possession of Extreme Pornographic Material: Summary of Responses and Next Steps*. London: Home Office.
- McGlynn, Clare and Erika Rackley (2007) ‘Striking a Balance: arguments for the criminal regulation of extreme pornography,’ Sept *Criminal Law Review* 677-690.
- McGlynn, Clare and Erika Rackley (2007a) ‘The politics of porn’ *New Law Journal* 157: 1142-1143.
- Ministry of Justice. (2007) *Criminal Justice and Immigration Bill*.
- Paul, Pamela (2005) *Pornified: How Pornography Is Damaging Our Lives, Our Relationships, and Our Families*, US: Owl Books.

THE POLITICS OF PORNOGRAPHY: A FEMINIST PERSPECTIVE

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In this article, I address four matters concerning pornography: what has informed my understanding; my position on the politics of pornography; my view on the Government proposals; and my utopian position on pornography.

WHAT HAS INFORMED MY POSITION ON PORNOGRAPHY

The first issue to consider is the lack of any accepted definition of pornography in law or popular discourse. Traditional legal definitions turn on obscenity, with its moralistic connotations. This approach has produced debates about apparently blurred boundaries between art and pornography and linked to notions of 'free speech'. In contrast, I draw on feminist definitions that identify pornography as representations of hate, as in hate speech or hate crime. This perspective links pornography to other forms of violence against women and positions it within the sex industry along side other forms of sexual exploitation: prostitution, trafficking in women and children, sex tourism, sex clubs and lap dancing.

This approach recognises that pornography is about sexualising, or 'making sexy', any inequality of power. Consequently, pornography is the sexual exploitation of power relationships of dominance and subordination; its purpose is to pleasure the powerful. The primary subject of pornography continues to be the power relations of gender, men's dominance and women's subordination. Pornography, then, is 'texts' that sexualise and exploit male domination and the subordination of women and children through processes of objectification, degradation, and commodification. It reflects dominant heterosexist representations of sexuality, which underpins sexual violence in all its forms, including rape, as revealed in Jensen's (1998) analysis of the common themes of pornography.

Beyond this though, there are specific genres of pornography that trade on other power inequalities, including those of race and racism. Examples include, the celebration of nineteenth century 'master – slave' relationships and twentieth century Nazi concentration camps. MacKinnon noted in 'Turning Rape into Pornography: Post-modern Genocide' (1993), how pornography became a tool of genocide in concentration camps in Bosnia-Herzegovina, where the massacres in villages as well as rapes and executions in the death camps were filmed as they happened. The torture camps became sexual spectacles of ritualised sadism, involving intense pain and death, and exploited by the global pornography industry.

My understanding of pornography emerges from working to combat violence against women and children in the Women's Aid and Rape Crisis movements since the 1970s. As an activist, campaigner, support worker, as well as an educator and researcher, my concern is to influence policy and practice as a way of working to eliminate violence against women and children in all its forms. This view is also informed by my personal circumstances as a mother and grandmother of four, three of whom, now aged about ten, will be soon exploring their own sexualities. But, it was working with survivors of sexual and domestic violence that led me to an understanding of the connections between pornography and sexual violence and its centrality to men's use of violence to maintain their dominance and control of women and children.

POSITION ON THE POLITICS OF PORNOGRAPHY

My position on the politics of pornography is a feminist one, which recognises the real links between pornography, the sexualisation of relations of dominance and subordination and hate crime, violence against women, racist violence and the other violent forms. It is about the eroticisation of hate of whomever it objectifies, exploits and sexualises.

The populist question, raised by defenders of pornography, of whether pornography causes sexual violence – is, I suggest – an unanswerable distraction. It is unanswerable because it assumes a deterministic model of human nature, which denies human agency, refuting our capacity to make choices as to how we behave. Such arguments deny agency to perpetrators of sexual and racist violence and simply offer them excuses, which then leave perpetrators neither responsible nor accountable for their choice to use violence. Such arguments also suggest that if pornography disappeared, then so would sexual violence and racist violence, which is simplistic and naive.

Rather than focus on narrow, unanswerable causal questions, I argue that pornography, as an element of the larger sex industry, is heavily implicated in violence against women and children, racist violence and other hate crimes. The focus I adopt recognises that there are complex links between pornography and violence against women and children, as detailed below:

A. PORNOGRAPHY IS A PERVASIVE FACTOR IN SHAPING POPULIST CONCEPTIONS OF SEXUALITY

Pornographic representations of (hetero)sexuality for men are constructed through assumptions of dominance and, for women, from positions of subordination, which as Jeffreys (2004) argued, makes for its excitement.

Pornography today is readily accessible. No longer do men have to take brown paper bags on visits to the run-down, dangerous inner cities to seek out seedy venues. Rather with the Internet, DVDs and cable TV, pornography is normalised and accessible. Further, all commentators agree that today's pornography is more extreme than in earlier times. As pornography becomes increasingly extreme, mainstream TV has moved up a gear and become increasingly sexualized.

Consequently, today men and boys are presented with increasingly violent notions of male sexuality and at an ever earlier age. It is concerning that their understandings of sexuality are informed by extreme pornography. Is it then so surprising that those accused of sexual violence fail to recognize their behaviour as rape and even have difficulty with the word 'no'?

It is also a matter of concern that women and girls are similarly exposed to and influenced by such images. These representations are pervasive and extend beyond the Internet to the sexualized 'bunny club' clothes marketed for girl children, as I've seen when shopping with my ten year old grand-daughter. A news item (Chittenden, 2007) reported that Tesco and WH Smith were forced by protest to remove a pole dancing kit (an eight foot long pole, thongs, frilly garters and DVD) from the Toys and Games section of their web site. Apparently this is an example of a marketing phenomenon called 'kids getting older younger' or 'age compression'. Competition has led to marketing 'adult toys' to young girls – to give a 'sexy' or 'cool' image to clothes and toys. At last, mothers are protesting this marketing of sexualized toys and clothes to girls as young as six, recognizing its implications for their understanding of sexuality.

B. PORNOGRAPHY IS USED TO INTIMIDATE AND UNDERMINE THOSE VICTIMISED BY SEXUAL VIOLENCE

Wyre (1992) found that pornography is implicated at every stage in a 'cycle of sexual violence', from predisposing men to violence, legitimizing it, reducing external and internal inhibitions, and perpetrating the violence. Another danger of pornography, he identified, is the fact that 97% of all rape stories in pornography end with the woman changing her mind and 'enjoying rape'. Russell (1998) also notes that rapists use pornography to break down resistance to unwanted sexual activity. This highlights some of the ways pornography facilitates and is used in perpetrating sexual violence.

C. WOMEN ARE HARMED IN ITS MAKING

In the same way that child pornography represents a record of the abuse of children, pornography depicting adult women represents a record of that abuse. Linda Marciano (1986) has spoken out about the conditions facing women working in pornography, highlighting high levels of force and coercion. However, in an era of sex trafficking, the sex industry is able to acquire women seemingly willing to perform. But, as Farley (2003) found, performing in pornography in this context is still associated with both physical and psychological harm and heavy drug and alcohol abuse.

GOVERNMENT PROPOSALS

I have argued (Radford and Kelly, 1995) that because law is inherently patriarchal, simplistic reforms are frequently counter-productive. Nevertheless, although law alone can never offer complete solutions, as this would require wider social and attitudinal change, law has a role to play in creating beneficial change. Making changes, which reflect the circumstances and interests of women, as well as men, requires moving beyond simplistic reforms and the closing of loopholes. Such change requires more strategic approaches, which engage with the problem in a more holistic way.

While I welcome the fact that the Government addressed the question of pornography in the era of the Internet, I am seriously disappointed with the proposals to outlaw the possession of 'extreme' pornography, already unlawful to produce and disseminate. Even the Government recognises them as 'simplistic' in just addressing 'a loophole' in existing law (Home Office, 2005: 1), itself widely recognised as reliant on outmoded and unclear concepts like obscenity and decency.

'Extreme' requires definition. Pornography routinely sexualises acts of violence and humiliation. It normalises them to the point where they are represented as 'just sex'. Restricting the scope of law to the 'extreme' will inevitably serve to legitimise and further normalise all other pornography. Like Scottish Women against Pornography (2006), I am of the view that there is no valid distinction between pornography and its 'extremes'. Constructing a distinction will serve to further legitimise the vast majority of pornography and leave the massive, exploitative pornography industry much as it is.

MY UTOPIAN POSITION ON PORNOGRAPHY

In my utopia, all forms of violence against women, racist violence and the violence of war would have been eliminated, along with their representation in pornography. This leaves the question of 'non violent erotica', representations that do not feed on the sexualising of dominance and subjugation. If, as Jeffreys (2004) argues, rather than being sex devoid of emotion, the excitement of pornography stems from an emotional base in hate, pornography devoid of emotion would be repetitive and lacking in excitement.

In terms of law change, I liked the shift to a harm based definition pioneered by MacKinnon and Dworkin (1994) in the United States, and the similar approach adopted later in Canada. However, in a UK context, there are difficulties in their approach. In the United States, the MacKinnon and Dworkin Ordinances were based in civil law. As such it puts the onus on survivors of pornography to take legal action to prove 1) that they have been harmed and 2) that harm caused can be attributed to a specific pornographic representation. This after-the-fact, individualist approach constructs too many barriers to be an effective remedy.

Instead, my preference is for the criminalisation of pornography as hate crime. Consequently, I support the demand from Scottish Women Against Pornography (2004) for a new approach that outlaws any pornography that sexualises, exploits, promotes and sustains the subordination of women through a definition of hate crime. My proposal, then, would be for legislation that outlaws the incitement of sexual hatred, similar to the laws in place against race hatred.

REFERENCES

- Chittenden, Maurice (2007) 'Mothers boycott 'sexualised' toys', *The Sunday Times*, 4 March. Available at:
http://women.timesonline.co.uk/tol/life_and_style/women/families/article1466567.ece.
- Dines, Gale and Robert Jensen (1988) 'The Content of Mass-marketed Pornography' p. 65-100 in Gale Dines, Robert Jensen and Ann Russo (eds) *Pornography: The Production and Consumption of Inequality*. London: Routledge.
- Dworkin, Andrea and Catharine MacKinnon (1994) 'Regarding Canadian Customs and Legal Approaches to Pornography'. Available at:
<http://www.nostatusquo.com/ACLU/dworkin/OrdinanceCanada.html>.
- Farley, Melissa (2003) *Prostitution, Trafficking and Traumatic Stress*. New York: Hawthorn Press.
- Jeffreys, Shelia (2004) 'Prostitution as a Harmful Cultural Practice' in Rebecca Whisnant and Christine Stark, *Not for Sale: Feminists resisting Prostitution and Pornography*. Melbourne: Spinifex Press.
- Home Office (2005) *Consultation: on the Possession of Extreme Pornography*. London: Home Office.
- MacKinnon, Catharine (1993) 'Turning Rape into Pornography: Postmodern Genocide' *Ms Magazine* 4(1): 24-30
- Lovelace / Marciano, Linda (1986) *Out of Bondage*. Secaucus, New Jersey: L. Stuart.
- Radford, Jill and Liz Kelly (1995) 'Self Preservation: Feminist Activism and Feminist Jurisprudence' pp. 186-199 in Mary Maynard and June Purvis (eds) *(Hetero)Sexual Politics*. London: Taylor and Francis.
- Russell, Diana E.H. (1998) *Dangerous Relationships: Pornography, Misogyny and Rape*. Thousand Oaks, California: Sage.
- Scottish Women Against Pornography (2006) *Response to Consultation on the Possession of Extreme Pornographic Material*. Available at:
<http://www.scotland.gov.uk/Resource/Doc/1099/0021463.pdf>.
- Wyre, Ray (1992) 'Pornography and Sexual Violence: Working with Sex Offenders', pp. 236-249 in Catherine Itzin (ed), *Pornography: Women, Violence and Civil Liberties*. Oxford: Oxford University Press.

‘EXTREME’ PORNOGRAPHY PROPOSALS: ILL-CONCEIVED AND WRONG

***backlash*³**

Violent and abusive behaviour (such as assault, rape, murder and necrophilia) is always indefensible and should be unreservedly condemned. However, the Government’s proposal to criminalise the possession of extreme pornography is overly broad and will impede efforts to curb real acts of abuse by wasting law enforcement and criminal justice resources on non-abusive activities involving consenting adults (Home Office, 2005; 2006). If it is to become law, it can and should be amended so as to concentrate exclusively on genuine abuse.

INTRODUCTION

In essence, the issues that arise from the proposals are as follows:

- The proposals will potentially affect (i.e. criminalise) a much larger number of people than the Government’s consultation paper suggested: hundreds of thousands, if not millions, who currently engage in non-abusive, consenting activities in the UK.⁴
- Putting all these people on the Sex Offenders Register will dilute its effectiveness, and divert a significant quantity of specialised police resource from matters that involve proven harm (e.g. paedophilia and rape) to those that do not.
- The definition of violent pornography is vague and will be determined by the courts, so people will not know if they are breaking the law at the point at which they view material. This makes for unclear law – and therefore bad law.
- This uncertainty regarding what is lawful is a key problem (among others) under the Human Rights Act, as Rabinder Singh QC has observed in a written Opinion (Singh, 2005).
- The Government’s own consultation paper made it clear that the evidence gathered to date does not support the conclusion that this material encourages violent behaviour (Home Office, 2005: 1).
- Nor has the Government offered evidence that those involved in the production of this material have been coerced or harmed (if this was so, there would be evidence in hospitals and morgues). The material instead features staged scenes with consenting actors.
- The proposals will hamper efforts by responsible organisations to educate people about safe, sane and consensual BDSM (Bondage, Domination, Sadism and Masochism) practices. This could result in real harm, i.e. people being injured or dying through accidents.
- Some will doubtless find such material abhorrent or offensive. However, sending people to prison on grounds of taste is not consistent with the values of a free and fair society.

THE CASE AGAINST THE LEGISLATION

FALSE/WEAK JUSTIFICATIONS

³ backlash was created in 2005 by the Libertarian Alliance, the Spanner Trust, the Sexual Freedom Coalition, Feminists against Censorship, Ofwatch and Unfettered to collate evidence for an informed debate on censorship and to fight plans to criminalise ownership of material the Home Office finds abhorrent. (<http://www.backlash-uk.org.uk/index.html>)

⁴ The Home Office estimates that the financial impact of the new offence will be low, because of its ‘limited attraction for most individuals’ (Home Office, 2005: Annex C, 1, (III))

'The material encourages violent/abusive behaviour.'

The Government admits in its consultation paper that the evidence does not support this claim, but makes it anyway (Home Office, 2005: para. 27). Suggestions that the evidence only just falls short of supporting the claim are misleading – the research record is conflicted (some studies suggest pornography has beneficial effects, and may reduce violent behaviour), and its aggregate yields no conclusion (see Howitt and Cumberbatch, 1990; D'Amato, 2006; Diamond, 1999).

It is sometimes claimed that the material 'legitimises' real abuse, and that anyone who uses it must therefore be a 'psychopath'. But the claim misconceives or ignores the nature of sexual fantasy and role play, assuming falsely that to entertain a fantasy about some activity implies a wish to engage in that activity for real. This reasoning easily produces absurd conclusions: for example, that a person who entertains a fantasy about being raped (and perhaps engages in consenting role play with their partner) would therefore want to be raped for real.

'The material features actual abuse of non-consenting participants.' (Home Office, 2005: 2)

The Government has not been able to adduce a single site featuring genuine abuse. The ones it has mentioned (apparently the most extreme that can be found) claim to feature staged scenes performed by consenting actors. If this were not true, and people were really being maimed, murdered etc, the material produced would constitute clear evidence of real crimes that could be used against producers. Such productions would also leave behind physical evidence – seriously injured people, bodies, reports of missing persons by family members, etc. Since the sites in question have not been prosecuted, it seems reasonable to infer that the scenes are in fact staged. It is also worth noting that not one genuine 'snuff' film has yet been discovered, as a recent Channel 4 documentary showed (Barry, 2006; see also Kerekes and Slater, 1996). There is a critical difference here from the production of paedophile material, which cannot (by definition) involve consent and is therefore always abusive.

'The legislation will break the cycle of supply and demand.' (Home Office, 2005: 1)

As just discussed, there are good reasons to doubt the existence of a market for abusive material of the kind described. Even if there were such a market: (a) curbing supply could easily increase rather than reduce demand, and (b) nearly all material is hosted abroad, so legislation in the UK would have barely any effect.

'The material degrades/objectifies women.'

A familiar objection to pornography is that it degrades (or objectifies) women. This position is often associated with feminism, although an entire tradition within that movement rejects it. (Ironically, feminists who adhere to this view are more likely to find common ground on this issue with social conservatives.) The position holds that pornography is an expression of a socially constructed sexuality, characterized by the subjugation of women by men, which pervades the representation and practice of sex throughout society. The position is striking in that it dismisses as irrelevant defences of pornography based on consent and empirical evidence. The consent defence holds that pornography featuring consenting participants is unobjectionable. The empirical defence holds that opponents of pornography have not demonstrated its harmfulness empirically. Both are rejected in the same way: consent is dismissed as a symptom of socially constructed sexuality, and so is the very idea of the empirical – itself a 'male construct'. For this reason, 'the reality of women's oppression is, finally, neither demonstrable nor refutable empirically' (Mackinnon, 1991: 124).

Can this position be invoked to support the proposed legislation? Consider:

- Unless legislators no longer believe in evidence-based policymaking, the rejection of empiricism must surely discredit the position. Also noteworthy is the inconsistency of those who support this position while also citing empirical studies claiming to demonstrate that pornography is harmful.
- The position refuses to apply the concepts of degradation and objectification consistently, in that it ignores the sexual representation of men. Ironically, it is in 'extreme' pornography that the clearest candidate emerges: i.e. the representation of men in submissive roles.
- Given that the concepts of degradation and objectification are not evidence-based, or dependent on the ethical issue of consent, or applied consistently, it is not clear that the position amounts to more than the fact that its supporters find the material offensive. This is not a sufficient ground for sending people to prison.
- The position, applied consistently, makes for an extremely repressive society. First, it would censor much sexual expression (all pornography, much erotic art, sexual scenes in mainstream films, titillating images in national newspapers, etc). Second, it amounts to a prescription for private sexual behaviour, i.e. a restriction to practices that avoid what proponents would describe as male domination, with noncompliant inclinations regarded as a case for treatment.

'Society needs to be protected from exposure to the material.' (Home Office, 2005: 2)
 Given the weakness of the arguments alleging harm, this boils down to protection from material that some would find distasteful. Again, sending people to prison on grounds of taste is not consistent with the values of a free and fair society. Note also:

- Material of this kind is not widely advertised (unlike mainstream pornography); one has to go and find it. So the members of society that would be 'protected' here would mostly be those who want to see it.
- The current proposal would cover images produced by private individuals or couples for their own personal use.

'Children need to be protected from exposure to the material.' (Home Office, 2005: 2)
 Of course children should not be exposed to this sort of material. But nor should they be exposed to mainstream pornography or certificate 18 films, both of which are far more widely available, and therefore more likely to be encountered by children. Presumably, then, these should be banned too (along with anything children should not see, but might).

UNINTENDED CONSEQUENCES

Bad law

The terms used in the (current) definition of proscribed material are subjective or otherwise unclear. For example:

- 'Realistic' (as in 'conveys a realistic impression of fear, violence and harm') (Home Office, 2006: Part 2, para. 11) – how are people to apply this essentially subjective criterion?
- 'Serious violence' (defined as 'appears to be life-threatening or likely to result in serious, disabling injury') (Home Office, 2006: Part 2, para. 16) – how are people to judge the relevant likelihood here?
- 'Pornographic' (defined as 'produced primarily for the purpose of sexual arousal') (Home Office, 2006: Part 2, para. 9) – how are people supposed to know what the producers' intentions are? Given that fetishistic material often does not show explicit

sex acts, how is 'extreme' pornography to be distinguished from, e.g., low-budget horror films and thrillers?

The Government appears untroubled by such concerns. However, the consequence of such vague definitions is that people will not know if they are breaking the law (or not) until they have been through the trauma of a trial. Equally likely, people will have their lives ruined by investigations that are subsequently dropped. This makes for highly unclear law – and therefore bad law.

Incompatibility with the Human Rights Act

The proposal is likely to be incompatible with the Human Rights Act, according to Rabinder Singh QC:

- The 'prescribed by law' test will not be met because of the lack of clarity described above (Singh, 2005: paras. 13-17)
- The 'necessary in a democratic society' test will not be met because (a) the law is unlikely to meet its intended objectives, and (b) it is disproportionate when set against Articles 8 and 10 of the European Convention on Human Rights (Paras. 19-36).

Numbers of people affected

The proposal is likely to criminalise much larger numbers of people than was suggested in the consultation document because of the lack of clarity described above and the refusal to exempt productions featuring consenting participants.

Those likely to be affected include:

- The BDSM community – an estimated 10% of the adult population have this orientation (Moser, 1999), i.e. up to 4 million people. Various surveys have found that much higher percentages of people have at some time engaged in some form of BDSM activity.⁵
- The Goth community – material catering to it features depictions of death, vampirism, etc, that could easily be counted as pornographic under the proposed definition.
- People who own low-budget thrillers/horror films.

The view, expressed by the Government and others, that the legislation is specific enough to exclude the above is hopelessly optimistic (or disingenuous). Such a view (a) inexplicably ignores the subjectivity and lack of clarity in the proposals discussed above, and (b) exhibits ignorance of common BDSM activities (such as certain forms of bondage or the consensual role play of non-consensual scenarios) that could erroneously appear dangerous or abusive to those unfamiliar with them.

The legislation will undermine the BDSM community, which allows individuals with similar interests to get together, and offers advice and education on consent and safe practice.

Further consequences

The over-broadness described above is likely to result in:

- (a) a swamping of the Sex Offenders Register;
- (b) a diversion of police resources from serious offences (such as real violence and paedophilia) to non-abusive activities involving consenting adults;

⁵ Moser (1999) cites Kinsey et al. (1953), who found that 50% of respondents reported some erotic response to being bitten. A survey (Durex, 2003) of 150,000 people worldwide found that 38% of people in the UK felt the use of handcuffs or bondage to be erotic. Brett Kahr (2007) found that 25% of respondents reported sexual pleasure from being tied up. The high incidence of the theme of force and overpowering within female sexual fantasy has been well documented, e.g. Pelletier and Herold (1988), Knafo and Jaffe (1984) and Strassberg and Lockerd (1998). (Such fantasies are not of course to be confused with actual rape.)

- (c) a larger number of investigations that do not subsequently result in a conviction – with lives nevertheless ruined in that process;
- (d) more overcrowded prisons.

Note: those criminalised will include people who have not harmed or abused another person, and do not own material in whose production some person was harmed or abused.

HOW CAN THE PROPOSALS BE IMPROVED?

Most of the problems described above stem from concentrating on ‘what is depicted in the material’, instead of the real issue of what happens to participants during production. This is to turn existing practice on its head: extremely violent horror films featuring consenting actors are commonly passed for release; but a non-violent film whose actors were coerced and abused into participating would surely be banned. The natural way to avoid the problems would be to target only material involving abused and non-consenting participants, while excluding material featuring consenting participants in staged and other non-abusive productions. This reflects ordinary, common sense principles – why target situations where everyone consents and no one is abused?

The Government has resisted this on the ground that proving that participants did not consent or that the acts depicted were real would be difficult – thereby opting to criminalise the many involved in non-abusive activities in order to catch a theoretical few involved in abusive ones.

CONCLUSION

We have seen that:

- the justifications offered for the proposal are weak;
- the proposal would have unintended and highly undesirable consequences;
- the proposal could be amended to avoid many of those consequences.

Consequently, it would appear perverse in the extreme to press ahead with the proposal in its current form.

REFERENCES

- Barry, Evy (2006) ‘Does Snuff Exist?’ Available at: <http://ftvdb.bfi.org.uk/sift/title/820253>.
- D’Amato, Anthony (2006) ‘Porn up, rape down’, *Northwestern Public Law Research Paper No 913013*. Available at: <http://papers.ssrn.com>.
- Diamond, Milton (1999) ‘The effects of pornography: an international perspective’, in Elias et al. (1999) *Porn 101: Eroticism, Pornography and the First Amendment*. Amherst: Prometheus Books.
- Durex Survey (2003). Available at: <http://www.durex.com/cm/GSSIntro.asp?intGSSYear=03>.
- Home Office (2005) *Consultation on the Possession of Extreme Pornographic Material*. London: Home Office.
- Home Office (2006) *Consultation on the Possession of Extreme Pornographic Material : Summary of Responses and Next Steps*. London: Home Office.
- Howitt, Dennis and Guy Cumberbatch (1990) *Pornography: Impacts and Influences: a Review of the Available Research on the Effects of Pornography*. London: Home Office Research and Planning Unit.
- Kahr, Brett (2007) *Sex and the Psyche: the Untold Story of Our Most Secret Fantasies*. London: Allen Lane.

- Kerekes, David. and David Slater (1996) *Killing for Culture: an Illustrated History of Death Film*. London: Creation Books.
- Kinsey, Alfred et al. (1953) *Sexual Behaviour in the Human Female*. Indiana: Indiana University Press.
- Knafo, Danielle and Yoram Jaffe (1984) 'Sexual fantasizing in males and females', *Journal of Research in Personality* 18: 451-462.
- MacKinnon, Catharine (1991) *Towards a Feminist Theory of the State*. Cambridge, Massachusetts: Harvard University Press.
- Moser, Charles (1999) 'The Psychology of Sadomasochism', pp. 47-61 in Susan Wright (ed), *SM Classics*. New York: Masquerade Books.
- Pelletier, Lisa and Edward Herold (1988) 'The Relationship of Age, Sex Guilt and Sexual Experience with Female Sexual Fantasies', *The Journal of Sex Research* 24: 250-256.
- Singh, Rabinder (2005) *In the Matter of the Consultation Paper on the Possession of Extreme Pornographic Material*. Available at:
http://www.spannertrust.org/documents/rabinder_singh_opinion_consultation_paper_extreme_porn.pdf.
- Strassberg, Donald and Lisa Lockerd (1998) 'Force in Women's Sexual Fantasies', *Archives of Sexual Behaviour* 27(4): 403-414.

REFLECTIONS ON THE POSITIONS ON THE POLITICS OF PORNOGRAPHY CONFERENCE

Avedon Carol
Feminists Against Censorship

Feminists Against Censorship have been pleased to be asked to recent events on pornographic media that represented feminists with diverse views. For most of the last fifteen years, women who favour censorship of sexual media have often refused to participate in open dialogue with women who disagree with their view. We hope this signals a new openness on the part of anti-pornography women.

However, it has been somewhat of a disappointment to find that many of the myths that have corrupted the debate still continue to be peppered throughout as if they had not already been debunked. There has never been any evidence of the existence of even one real 'snuff film', for example, and there are no vast networks of people who kill women to create such films, but we continue to hear that there are. At Durham, I noted a reference to Jane Longhurst having been "murdered", although this is by no means proven and there is ample evidence that her death may have been an accident, which is why Graham Coutts' conviction was quashed (*R v Coutts* (2005)). Additionally, it was a surprise to hear the claim that so-called 'extreme' material is illegal to produce under the Obscene Publications Acts. This is not true; there is no evidence that such material "would tend to deprave and corrupt those most likely to see it" (Obscene Publications Act 1959, s.1).

PORNOGRAPHY

I note that the meeting opened with the common attempt to re-define 'pornography' as material that by its very nature is violent or degrading toward women (Radford,). We find this a wasteful approach to the subject, since the word already has a meaning that is both accepted in common usage and in professional parlance within the sex industry and among criminologists. It was not a surprise that Radford, who introduced this redefinition, admitted that she would choose to ban all pornography, and not just 'violent' or 'extreme' material.

The common understanding of the term 'pornography' is that it is recreational material intended to sexually arouse - that is how it is used by people who publish it, film or video it, sell it, purchase it, and enjoy it. Most importantly, it is how the police understand the term, and it is the sexual nature of the material that they will always focus on. It is unhelpful to try to make the term mean something else. If we mean 'sexist material', that is what we should say. The same is true if we mean 'violent' or 'degrading' material. To call something 'violent pornography' is not a redundancy; most pornography is not, in fact, violent.

RESEARCH

It seems to me disingenuous to repeat that the evidence of harm from pornography is "inconclusive" (Home Office, 2005: 1). The truth is that laboratory research, clinical work, and criminological evidence have time and again been harnessed in an attempt to find some causal link from pornography to violence or misogyny in real life, and for more than half a century, these efforts have borne no fruit at all. The results are not mixed: No evidence of harm from pornography has ever been found.

There were some researchers during the 1970s, such as Edward Donnerstein and John Court, who believed at first that they had found evidence that viewing pornography made subjects more violent (Donnerstein and Hallam, 1978; Court, 1977). However, they have since repudiated that assumption. Donnerstein later said that you could get the same results from riding a bicycle (Donnerstein, 1989); Court told the New Zealand Indecent Publications Tribunal in 1990 that, "What I am saying is that we do not have evidence that there is such a causal link. I cannot sustain it from my data and I don't know anybody who can" (Court, 1990). (Zillmann's oft-cited "callousness" study was a methodological disaster, but even so, his definition of "callousness" turned out to mean non-sexist, so it hardly makes the case that pornography causes harm (Zillman and Weaver, 1989).

Research on sex offenders similarly finds no evidence of a link between using pornography and sexual violence or abuse. In fact, there is some suggestion that any connection would be inverted: People who have been taught harsh, negative attitudes about sex and pornography seem to be disproportionately represented among sex offenders. Goldstein and Kant found, for example, that having been punished for looking at pornography was consistent among imprisoned rapists, although it was by no means common among the rest of the prison population (Goldstein and Kant, 1973). In fact, the non-rapists had seen more pornography, and seen it at an earlier age.

The police sometimes suggest that a high percentage of sex offenders are found to have used pornography. This is meaningless, since most men have at some time used pornography. What does correlate highly with sex offense is a strict, repressive religious upbringing. No one has ever been known to be harmed by looking at pornography.

But it seems clear that an environment in which pornography is subject to harsh restriction and frequent disparagement may have a negative impact on people growing up. The message that anti-pornography language teaches is that sexual arousal is wrong. It is not a great leap to conclude that whatever arouses sexual desire is also wrong; sometimes that is pornography, but generally, for heterosexual men, it is women. It cannot be an accident that the cultures with the strongest restrictions against pornography are also the cultures which are most repressive toward women. That is pretty strong evidence that trying to restrict pornography is more likely to endanger women than to free them. It should be taken on board that the period when women have emerged into the greatest freedom of any time and place in recorded history occurred in the west while pornography was under fewer and fewer restrictions.

THE DANGERS OF CENSORSHIP

I found it particularly disturbing that civil libertarian concerns about a ban of 'extreme' pornography were so easily shrugged off.

Censorship of any kind is dangerous because it can be so subjective that one may be unsure when one has transgressed. But sexual censorship is particularly harmful because

it is not only difficult to determine what one individual may call 'obscene', 'extreme', or even 'pornography', but it is difficult to ensure that this ambiguity won't be exploited by a government or its agents when it is convenient. It is frighteningly naive to assume this will not happen. It has happened, and continues to happen all the time.

Consider: New legislation was announced within the last few weeks that would make possession of some drawings illegal (Home Office, 2007). The reason for this is that the police found they could not arrest someone who had possession of some drawings. In other words, they could not arrest someone because they had not broken a law - any law - so now they want the law changed. If this person had harmed anyone, they would have been able to make an arrest. Why did they want to arrest someone who was harmless? Why make new laws to do so?

The police like broad laws that are open to misuse because it makes it easy to harass people who are politically difficult. This will be the real effect of these new restrictions on pornography. It always is. It is particularly worth remembering that often, the people who decide whose door to break down in search of 'obscene' material are frequently those who are best described as unusually dirty-minded, and often remarkably sexually ignorant. Police porn squads are filled with some of the most reactionary, sexist men in the world. Are these really the people we want deciding who to arrest for sexual infractions? They will enforce their sexist and homophobic prejudices, but they are unlikely to protect women from real harm.

Most people would be surprised to know what kind of material has been seized as 'child porn', for example. Almost everyone has something in their home of the type that some member of a child porn squad has chosen to ruin a victim's life over; it may not be safe to keep your own baby pictures. Police are also especially fond of harassing users of gay material. A law against 'extreme' pornography will be an invitation for them to go after sexual minorities who pose no threat to society.

It is routine that the police arrest people for possession of material that fits no ordinary person's definition of 'extreme' pornography or 'child pornography'. This makes it extremely dangerous for ordinary people to speak up against injustice; either they will have their lives destroyed by a charge of sex crime, or they understand the threat and keep quiet even when there is a serious injustice that they might have been able to redress. We are reminded of a case a few years ago in which an activist for miners rights annoyed a mining company and found himself charged with possession of 'child porn' because his collection of photography-related books included Sally Mann's photographs of her children - a book available in High Street shops (Mann and Price, 1992).

From an historical point of view, it should be remembered that the periods when pornography has been most freely available were also the periods when the availability of good, comprehensive sex education was growing. As the anti-pornography reaction grew, that growth slowed and in many cases was turned backward. We now live in a time of increasing government repression; this is not a time when we should risk giving further excuses to the powers that be to invade our privacy. And, again, let us not forget that the parts of the world that are most repressive toward pornography are also the parts of the world where women have the fewest freedoms.

SEX

When most anti-pornography arguments are broken down, they amount to a libel of sex and of men. There seems to be an assumption that sex is almost by its very nature oppressive and degrading, that male desire is always violent, exploitative, and piratical, and that however suppressed it might be, there is an urge to rape in all men. Additionally, there is a belief that sexual desire in men precludes personal recognition of the humanity of a man's desired partner, that women are inherently objectified by sexual longing. It simply is not true.

Equally false is the persistent conviction among anti-pornography activists that pornography is 'about' male domination of women. Even within the BDSM subgenre, this is not true. For one thing, female dominance appears at least as often as male dominance in such material.

Nor is it true that sadomasochistic or bondage material is particularly a male interest; on the contrary, most pornography that appeals to women is more likely to contain material from this subgenre. Ironically, since women are less interested in mainstream or 'vanilla' sexual materials, this new legislation will impose new harms on women and, once again, privilege pornography that is of more interest to men.

I was shocked when Clare Phillipson, of Wearside Women in Need, accused civil libertarians of just wanting to "protect men's right to wank" (Norfolk, 2007). Everyone should have the right to "wank"; no one should ever face imprisonment for their private masturbatory fantasies. What cruel turn of mind even leads someone to think this is an acceptable position?

But, alas, that is often precisely what motivates people who act against pornography: they are offended by the mere idea of men masturbating.

It is entirely unacceptable for people to promote the ruination of lives and imprisonment for years on what amounts to whim and prejudice. People who make and use BDSM pornography have never been shown to present any particular threat to women, children, or society. The material has never been shown to be harmful. This legislation will criminalize an entire segment of society although they have no connection with any real crime.

CONCLUSION

To make the possession of another subgenre of pornography a crime is to invite considerable costs to society for no positive purpose. It courts invasions of our privacy by overzealous police, expensive trials and vast miscarriages of justice when people are afraid to compound the problem by fighting back and inviting more publicity. The simple cost of imprisoning someone for a few weeks is prohibitive; the costs of being accused of a sex crime are devastating.

When we are being told that things we really need - including things that might genuinely improve the condition of women in our society - are too expensive, it is wasteful beyond sanity to even consider making it illegal to buy and sell recreational sexual material.

But it is incumbent on those who wish to make or keep pornography illegal to show real, empirical evidence of genuine harm, and so far they have not done so. We now have

well over half a century of research, clinical work, and criminological evidence that appears to exonerate pornography and instead indicts sexually repressive environments.

The attention focused on suppressing pornography is, then, a dangerous red-herring, diverting us over and over from finally attending to the real and more obvious culprits in the development of rapists, child abusers, sexism, and inequality in general.

But this red-herring seemed, in my opinion, to be the preference of a majority of the participants at Durham, which made the programme, in the end, a disappointment.

CASES CITED

R v Coutts [2005] EWCA Crim 52

REFERENCES

- Court, John (1977) 'Pornography and sex-crimes: A re-evaluation in the light of recent trends around the world,' *International Journal of Criminology and Penology* 5: 129-157.
- Court, John (1990) *Testimony to New Zealand Indecent Publications Tribunal*, Wellington, New Zealand, transcripts, quoted in Carol, Avedon (1994) *Nudes, Prudes and Attitudes: Pornography and Censorship*: 75. Gloucester: [New Clarion Press](#).
- Donnerstein, Edward (1989) *Testimony to the District Court of Ontario*, Court File No. 4079. Ottawa, Ontario, Canada, quoted in Carol, Avedon (1994) *Nudes, Prudes and Attitudes: Pornography and Censorship*: 63. Gloucester: [New Clarion Press](#).
- Donnerstein, Edward and John Hallam (1978) 'Facilitating Effect of Erotica on Aggression Against Women,' *Journal of Personality and Social Psychology* 36(11): 1270-1277.
- Goldstein, Michael and Harold Kant (1973) *Pornography and Sexual Deviance: A Report of the Legal and Behavioural Institute*. Los Angeles: University of California Press.
- Home Office (2005) *Consultation on the Possession of Extreme Pornographic Material*. London: Home Office.
- Home Office (2007) *Consultation on Possession on Non-Photographic Visual Depictions of Child Sexual Abuse*. London: Home Office.
- Mann, Sally and Reynold Price (1992) *Immediate Family*. New York: Aperture.
- Norfolk, Andrew (2007) 'Jane Austen and the Case for Extreme Porn,' *The Times*, 17 March. Available at: <http://www.timesonline.co.uk/tol/news/uk/article1527806.ece>.
- Radford, Jill. (2007) 'The Politics of Pornography: a Feminist Perspective.' In : McGlynn, C., Rackley, E. and Westmarland, N. (eds) (2007) *Positions on the Politics of Porn. A debate on government plans to criminalise the possession of extreme pornography*, Durham: Durham University.
- Zillmann, Dolf and James Weaver (1989) 'Pornography and Men's Sexual Callousness Towards Women,' pp. 95-126 in Zillmann and Bryant (eds) *Pornography: Research Advances and Policy Considerations*. New Jersey: Lawrence Erlbaum Associates.

THE REALITY OF PORNOGRAPHY⁶

Clare Phillipson
Wearside Women in Need

Wearside Women In Need (WWIN) was set up in 1982 and will open its third purpose-built refuge by the end of 2007. It has its foundations in a grass-roots women's community development programme and was borne out of some of the experiences of the members.. It is a feminist women's charity providing a range of services to women, men and children experiencing Domestic Violence, homelessness, mental health difficulties and social exclusion and was one of the first services in the country to offer a drop-in centre and telephone helpline. WWIN is committed to helping people in crisis but is also dedicated to changing the societal structures which often create these difficulties initially. It is from my position as Director of WWIN that I have formed my opinion about pornography.

PORNOGRAPHY AS HARM

Extreme pornography is harm in itself. Is a woman not harmed when she is pinned down by four men whilst her clitoris, labia and other sensitive and intimate parts of her body are stapled with a gun? There is quite definite harm in such material. Even where the image is a representation, the image portrays women as objects being used by men as they choose. This harm is caused merely for another's pleasure - for men to wank. It demeans and disempowers women. Such material should not be made available.

Part of the contemporary problem of extreme pornography is the way the Internet has made the material easily accessible. It not only does this, it also validates this type of material. But, that pornography is ubiquitous and readily available does not mean it is not harmful. By allowing this material to be available, in effect, this sends a message to individuals with aberrant, violent and dangerous sexual predilections that this material is acceptable. As a consequence, these individuals receive affirmation of their behaviour. The more this behaviour is promoted through its availability, the more it spreads and the more these individuals believe that their behaviour is acceptable and humane. It is not and we must not promote this material.

Objection to extreme pornography is not an objection to people having a sex life, something that is healthy and life affirming. But the type of material at issue cannot be considered healthy. It is hard, nasty, dehumanised sexual interactions between people; there is little sense of boundaries and the limits of what is considered acceptable are being pushed further. I will not get lost in a human rights debate about this. By getting rid of extreme pornography we are censoring evil. I refuse to defend anyone's right to push sexual boundaries further and further.

EXPERIENCE OF PORNOGRAPHY

Much of the academic debate on pornography is so neutral. It lacks emotion and humanity. Many people earn more in one year that I get to run a refuge. Such a neutral stance would certainly not be taken if the issue were racism or slavery. We

⁶ This paper was substantially drafted by Fiona Alexander based on a transcript of Clare Phillipson's contribution to the seminar. Claire Phillipson retains sole authorship of the text and has approved its full content.

would not be debating whether any offence would be difficult to police, or whether it would be too wide as to catch innocent people. At the conference I argued that, people need to 'get real' regarding extreme pornography. It must be recognised that pornography is about real women, their bodies and their suffering. As I stated at the conference, I am not going to be an apologist for men's right to wank.

People should look at extreme pornography to see the type of material that is being made. People ought to visit centres such as WWIN to experience the effects of this material. Extreme pornography is not about human rights talk, it is about women such as Tracy. She was raped, forced into a brothel, and forced into prostitution. She died age 36 and has left two young children orphaned. Her death epitomises the pornography industry and what it results in: pornography is about working class, abused women being forced into a massive political, profit making machine in which they suffer and die.

Although the nation may recently have celebrated the anniversary of the abolition of the slave trade, for women who find themselves in the pornography industry, the abolition of the slave trade is not yet a reality. The pornography industry is a capitalist industry that lures women from poverty into a world of harm. There are hundreds of beautiful, unclaimed bodies in Italian morgues; mutilated and murdered, their deaths directly linked to the sex industry. Many will have been trafficked from poorer European and African countries; others will have thought that they would have a better standard of life. In contrast to the bland academic debate, this is the reality of pornography.

CAUSAL CONNECTION

We do not need research to prove that the creation and distribution of material which depicts women being tortured for sexual pleasure (and usually depicts the victims are learning to enjoy linking sexual torture with pleasure) is anything other than harmful. Sexuality and sexual behaviour is culturally constructed. There are many different influences that come to bear on what is sex and what is socially accepted sexual activity. As material is available and promoted, especially through the Internet, the type of activity therein becomes normalised. Through experience of working with women involved in pornography and those who have been sexually assaulted, it is apparent that the type of behaviour contained in extreme pornography has become culturally accepted. It is not recognised for the harm it is, and this is a reason why many reports of sexual assault and abusive sexual interactions are not reported. Pornography signals that this behaviour is ordinary to teenage survivors of child sexual abuse who, rather than feeling assaulted, have been taught and made to believe that what they have suffered is 'cool' and 'okay'.

GOVERNMENT PROPOSALS

It is because of the harm extreme pornography creates that action is needed against it. In proposing to ban the possession of extreme pornographic material, the Government's consultation is an encouraging step. In addition, I welcome that the Government shares my view that this material has 'no place in our society'. In taking this step against extreme pornography, alongside the action against forced marriages, the domestic violence bills and the raft of funding given to women's organisations, this demonstrates that this Government does care about the welfare of women.

Their momentum should not stop here. The Government should not waste the opportunity they have to make a difference to many women's lives. It would be a wasted opportunity for tackling extreme pornography if the Government were merely to amend the Obscene Publications Act (OPA) 1959. The OPA 1959 which currently controls pornography according to whether it depraves and corrupts is not working; violence and extreme pornography has become readily available to the public. Five years ago I complained to the police about the contents of a book I had bought in a mainstream book shop for a pound. Some of the extreme sexual tortures outlined in the publication were very similar to those inflicted by Fred and Rosemary West on their victims. The Crown Prosecution Service (CPS) concluded that while the contents were indeed obscene that the book store had not realised the contents were violent. The CPS said it was not necessary to prosecute the owners of the bookshop under the OPA 1959. A month later, the book reappeared on the bookshop's shelves. This is one example where it is clear that our criminal justice system is failing to deter publishers of extreme pornographic material. Subsequently, the material continues to be available to anyone.

If the Government are committed to eradicating extreme pornography, a new, freestanding offence ought to be adopted to include visual imagery and written text. In fact, this is the Government's stated preferred option. This offence would portray a message that there is a fundamental standard in society by which we should treat people and that to create this type of material is beyond any level of acceptability. The only groups of people that can justify the possession of extreme pornography are those involved in criminal investigation, academics, psychologists, probation officers, social workers, and so forth, in licensed and controlled circumstances. When possession of extreme pornography is not justified thus, perhaps the new offence will encourage the CPS to have an internal debate about their role in protecting the public rather than protecting the rights of pornographers to make a profit.

Although I am in agreement with the material the proposed offence would cover (actual scenes, or realistic depictions of: intercourse or oral sex with an animal; sexual interference with a human corpse; serious violence in a sexual context; and serious sexual violence), I am concerned with the gender neutrality of the proposed offence. The Government should take a more authoritative stance by introducing an aggravating factor of incitement to create gender hatred, similar to the offence of incitement to racial or religious hatred. This crime would be committed, for example, if the material included certain language or images which imply hatred or contempt for a particular gender, which would typically have a misogynous message, then a heavier sentence would be imposed. Such an aggravated offence would signal that extreme pornography disproportionately affects women, rather than making the sexism and oppression of women therein invisible.

CONCLUSION

I support the Government's proposal to ban the possession of extreme pornography. This position is not based on academic texts, my opinions have been shaped by the real experiences of people who have sought the refuge of WWIN - people whose lives have been dominated and sometimes destroyed by the pornography industry. The time has come to realise the very real impact that extreme pornography has on real women's lives. It is time to move away from gender neutral legislation and stop attempting to sanitise the debate by shrouding it in academic and human rights language. When women come to my refuge and others like it across the world, the

stories they tell and the deaths they sometimes suffer, epitomise the pornography industry – I don't need cause and effect research to tell me that. Extreme pornography is harm in itself and it needs to be recognised as such.

POST-POSITIONS ON THE POLITICS OF PORNOGRAPHY: INTERNET DISCUSSION OF THE SEMINAR

Laura Graham
Durham University

On the 15th March 2007 I volunteered as a student assistant at the *Positions on the Politics of Porn* seminar. Having studied the government's consultation paper on the possession of extreme pornography (Home Office, 2005) in Gender, Crime and Punishment, one of my third year modules, I was hoping that the seminar would help me to clarify my own position on the politics of porn. Throughout the time I had studied the topic, I had found it difficult to reconcile my instinctive liberalism with the feelings of anger that I, as a feminist, experienced in reaction to some of the subject matter. While I recognised that not all pornography is made by men for men and about women, it was incomprehensible to me that people would defend images of extreme degradation and torture of women (or men for that matter). Therefore, I went to the seminar with a relatively open mind, ready to listen to people who knew more about the subject than me and, hopefully, leave with more concrete views.

After the seminar, my opinions were still unresolved; while the speakers were mostly convincing and offered a broad range of arguments, I was not wholly inclined to any one point of view. Unsurprisingly perhaps, I found the speakers to be polarised to the point of alienating those who held more moderate views about pornography. This was, in my opinion, the reason for the silence from the people on the floor. Wishing to build on what I'd heard at the seminar, I later searched the internet for media coverage of *Positions on the Politics of Pornography*. It was then that I came across the message boards discussing the Government's proposals and the seminar and was drawn into a debate about these topics. This article is an account of the ensuing debate.⁷

MY FIRST ENCOUNTER WITH THE BOARDS

The thread 'Jane Austen and the case for extreme pornography' was opened on the forum to encourage discussion about the Durham seminar after the Times had published an article about it (Norfolk, 2007). My first impression of the thread was that the initial posts were highly derogatory towards the attendees of the seminar who had not agreed with the point of view of the posters. This was particularly frustrating to me given that many of the people posting had not been at the seminar and were simply responding to the Times' report. 'A' referred to Clare Phillipson as "hysterical" and 'B' referred to her as "the Dworkin clone Feminazi". It appeared to me that in order to undermine opposing points of view, they were undermining the authors of the views on a very personal level. I addressed this in my first post where I urged the other users of the boards to respect Clare Phillipson's position. I considered that her emotional response to the seminar was borne from her work with victims of rape who she believed had been affected negatively by the pervasive images of

⁷ The posts on the message boards, including my own, were written in conversation and there was no knowledge at the time of writing that this article would be written about them. The posts were not written with a view to being quoted or published, and it is for this reason that the screen names of the posters are anonymised in this article. However, although they were not written to be published, the boards require no membership or entry requirement and therefore the boards and the posts therein are freely accessible to the public to read.

pornography. Whether or not there was a proven link between the pornography, I wrote that:

“I think she felt so strongly because the room was full of people talking about the law in a purely academic way, and she felt that this didn’t reflect the reality of what she has seen happen” (‘laura’).

‘C’, in one of the first posts in the ‘Jane Austen’ thread, questioned the qualification of Professor Gavin Phillipson to assert that “the images are not a legitimate use of freedom of expression” and further suggested that he may not “accept the concept of a free society”. These comments seemed particularly unfair to me, given how measured he had been in his views at the seminar. I posted that he had in fact argued with Jill Radford, who disliked the distinction between ‘extreme pornography’ and other types of pornography, that a line had to be drawn, and that the law could not police all types of pornography. However, I also noted a statement that I believed he had made:

“I think his point was that realistic depictions of child sex are banned, despite the lack of direct harm to a child. Therefore, there must be another reason, which could be that such depictions create an impression that it is ok to rape children. In which case, why should women be treated differently? They have as much right to be free from sexual violence as children” (‘laura’).

This comment received the most feedback, which is discussed below, of any of my points, leading me to wonder if I had, in fact, misquoted Professor Phillipson.

The final section of my first post concerned the influence of the seminar organisers in the debate. A post in the thread ‘Getting their relation in first’, which was opened in reaction to an interview given by Professor Clare McGlynn to the Northern Echo (Foster, 2007), had asked for the views of Dr Nicole Westmarland and Dr Erika Rackley. I explained that their views were not important to the seminar, because neither had actually spoken about their own views at the event. As I said in my post, the seminar was not aimed at ‘indoctrinating’ the delegates with pro-censorship ideals; it was aimed at facilitating discussion by inviting individuals with a wide range of views on the extreme pornography consultation. It seemed that posts were not only making personal attacks against people whose views they did not agree with, but also those whose views were not known.

This relates to the second point which attracted my attention, a reflection by ‘E’ that the great majority of the floor had not spoken so it was hard to gauge their opinion. I felt that this implied criticism should be addressed as the extremely polarised views had, in my opinion, silenced those who had less extreme views. I particularly felt that Avedon Carol’s reactions to the pro-censorship group at the seminar was discourteous; she made a point of interrupting people mid-sentence and whispering to the woman to her right while others spoke. I, personally, had not felt comfortable raising my hand when my comments may provoke such a reaction and believe others in attendance felt similarly.

In response to the Times article which reported that “all parties agreed that possessing internet footage of, for example, a genuine strangulation should be unlawful” (Norfolk, 2007), the posts also reflected concerns that non-sexual images of real death would be banned. For instance, ‘G’ made reference to “film footage of a

North Vietnamese Army Officer who was shot in the head as a spy”. This could have been perceived as evidence that the legislation may have a spill-over effect, “having prohibited possession of images of ‘extreme sexual violence’ it will be but another short short step to take to ‘close the loophole’ thus created, and include all depictions of violent acts” (‘H’). However, such fears did not arise at the seminar; in fact material with no sexual context was not discussed at all during the seminar, as the seminar was about pornography. I included this point in my first post, worried that those who had not attended the seminar may be misinformed about the seminar and the general consensus of the delegates in Durham.

TWO DAYS LATER

When I next checked the boards for responses two days later, I was surprised to see how much reaction my first post had created. In fact, the responses I had received were all posted within five hours of my leaving the boards.

My assertion that Clare Phillipson had the right to be emotional at the seminar caused some controversy on the boards. ‘A’ replied that there was no evidence proving a causal connection between ‘viewing fiction and doing in reality’ and law shouldn’t be based on emotional appeals but on evidence, following this immediately with an emotional point:

“Law should not be based on emotional appeals, it should be based on evidence, especially if that law is going to infringe on fundamental rights.

If you know anything about the horrendous ordeal of a sex-offence prosecution, you will know that this law will pile tragedy on top of tragedy.” (‘A’)

I responded to ‘A’'s suggestion by saying this may be so, but:

“rape and sexual violence is also an ordeal. And if Clare Phillipson believes that what she deals with stems from the glorification of violent sex through pornography, then she has the right to be upset”(‘laura’)

‘E’ also responded, beginning by admitting that ‘hysterical’ had been the wrong word to use, but later retracting this statement, saying “hysterical was not an unfair term; both Jill Radford and Clare Phillipson used emotive language and worked on emotion to justify not basing their positions on evidence”. He further suggested that I had “fallen for unfounded assumptions”. I found this to be disrespectful, and said so in my second post:

“I have not fallen for anybody’s views. I have listened, and continue to listen to both sides of the argument, so that I can create an educated opinion of my own... Just because I can see some points of a different argument to your own, does not mean that I am a victim of propaganda” (‘laura’)

‘J’ posted her opinion that women had been represented as victims at the seminar, and that many women knowingly consume and produce pornography⁸. ‘E’ also submitted that “‘the porn is hate’ view is surely challenged by the number of women with an interest in this material”. This seemed to me to be a bit of an obtuse argument. I responded by saying:

“I accept that the women who act in the porn do so consentingly (in most cases), that some women enjoy watching it. But this does not mean there is no effect on women as a whole... The consent of some does not negate the effect on everyone” (‘laura’).

After my first post, my report of Professor Phillipson’s comment about women deserving as much protection as children from the effects of pornography provoked some debate. ‘D’ suggested that in fact people do not agree that faked images of child sex should be criminalised, and criminalising such images creates a slippery slope whereby consensual images would then be banned. Both ‘D’ and ‘J’ voiced concerns about the limits of the law; ‘D’ questioned whether simulated scenes or role-play would be caught and ‘D’ noted that Professor Phillipson had conceded at the seminar that a wider range of images, such as breathplay, could be caught. While the responses were directed at what Professor Phillipson had said, I posted that perhaps I had misrepresented his views in my original post, and any failings in explanation were mine rather than his.

LEAVING THE BOARDS

The responses to my second post were more numerous than those to my first post. However, the responses seemed mostly to echo what had already been stated: that there was no evidence between pornography and violence or pornography and societal attitudes; that women are not victims of pornography; that the proposals were simply an attempt for the government to police liberties. In fact, it seemed that although superficially they were discussing the seminar, the focus of the comments was the same as in previous discussions and other threads. I didn’t feel that I could add anything to what I’d said, as it was obvious that the people who were writing on the boards felt very strongly about what they were saying. I simply did not know enough about the law and the psychological effects of pornography to engage them further in debate, so I chose not to respond to the posts.

Although my posts had not had the effect that I had desired, I was grateful that the other users of the boards had responded to me. Before I posted, there was little debate on the boards, as everyone seemed to hold the same or similar viewpoints, so my posts had introduced a different opinion and provoked a discussion. It is still unclear to me if my posts had been welcome as a representation of the other side of the debate, or if they were felt to be an intrusion into the safe space where like-minded people could explore ideas.

⁸ This point has also been made as part of backlash’s campaign, where they have gathered testimonials from women about their use of pornography. This campaign contends that the Government is suggesting that a “sizeable proportion of women require protection from their own sexuality.” This campaign is available at <http://www.backlash-uk.org.uk/womensviews.html>

After my experience on the message boards, my position on the politics of pornography began to develop, although it is still by no means definite. Despite the weight of the anti-censorship argument in terms of numbers on the message boards, the arguments put forward by the posts did not persuade me of their viewpoints; the further into the debate I delved, the more I supported the Government's proposals.

REFERENCES

- Foster, Sarah. (2007) 'Policing Porn', Northern Echo, 13th March 2007. Available at: http://www.thisisnortheast.co.uk/features/leader/display.var.1254485.0.policing_porn.php [Accessed: 15th June 2007].
- Home Office. (2005) *Consultation on the Possession of Extreme Pornographic Material*. London: Home Office.
- Norfolk, Andrew. (2007) 'Jane Austen and the case for extreme porn.' The Times, 17th March 2007. Available at: <http://www.timesonline.co.uk/tol/news/uk/article1527806.ece> [Accessed: 15th June 2007].

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