# Search history: Examining pornography on the internet
## by Namita Malhotra[*]

In India, where freedom of expression is still a contested ground for civil and political speech[1] and the women's movement has only recently succeeded in reforming laws related to matrimony[2], it would seem that pornography would hardly be of great concern. Regardless of this, many issues regarding sexual, obscene or vulgar content are often debated hotly in the newspapers, news television and other forum. Though most of these debates are about content on television and cinema, there exists discourse to a lesser extent about internet pornography.

The first known use of the word to describe something similar to pornography as understood today was in 18th century, when the city of Pompeii was discovered. The entire city was full of erotic art and frescoes, symbols, inscriptions and artefacts that were regarded by its excavators as 'pornographic'. All these finds were kept at the Secret Museum and only men of a certain upper class were allowed and 'trusted' to have access to these objects, and not the 'easily corruptible rabble or women'[3]. Such distinctions would often arise in the case of pornography and be the reasoning behind censorship and regulation of many media in the next few centuries. Whether the birth of photography, cinema, video, and in recent times the internet and new media (CD,VCD, DVD), each technology has been greeted with suspicion of its possible harm to society. Cinema was initially regarded as 'evil', and likened to magic and sorcery. It is with this understanding, that one has to navigate in the information era when changes in technology are swift, especially in trying to understand the sexual and moral panic around the internet in the context of a developing country like India.

There has been in the recent decades a new visibility of pornography. The home video revolution made pornography available at every video store[4]. Soft core version of pornography have flooded television channels in the West, and recently there has also been a remarkable increase of explicit sexual depiction in mainstream Hollywood cinema (Taking Lives), alternative or art cinema (Romance, Intimacy) and even television (L word) and last but hardly the least, there is a flood of pornographic material on the internet. The statistical evaluation of pornography on the internet is mixed to say the least. Some evaluations of the economics and availability of pornography claim that it has business that exceeds the record and film industries combined, or at the other extreme, that less

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[1] Vikalp and Films for Freedom struggled to do away with the requirement of a censor certificate for documentary films. In India, all films undergo precensorship before public exhibition is permitted. When documentary films on issues of political significance (the State pogrom in Gujarat in 2002, the movement against the dam on Narmada river etc.) are made, often these are not given a censor certificate by the CBFC (Central Board of Film Certification). The documentary filmmakers have over the past few years campaigned against censorship on documentaries and to some extent have made small advances.

[2] Rules for Domestic Violence Act were passed in 2006 and rights of women under this Act, can now be exercised. The Act finally recognizes marital rape, the women's right to the matrimonial home, live-in relationships as legal.

[3] Kelly Simca Boyd, One index finger on the mouse and the other on the clit, PhD Dissertation, Simon Fraser University, 2001

[4] Video was introduced through first the Betamax tapes, and then VHS format, from 1975. Imports of video players into India began by 1982.

than one percent of the content on the internet is sexual or pornographic[5]. All such figures should be read with a degree of circumspection, but regardless of the size of the industry and its profits (estimated to be 8 billion dollars in America)[6], there is no doubt that pornography is, and has always existed.

**Trial by Fire: Technology, women's movement and censorship**

Pornography poses a serious dilemma to the women's movement. This is especially true of those committed to addressing the reality of violence against women, who do not want to fall into the trap of viewing gender always through the lenses of exploitation and victimhood. Feminist struggles and the women's movement in India must begin to talk about women in terms of their sexuality, desire and pleasures, so as to combat the invisible violence, exclusions and silences imposed by heteronormativity and patriarchy. Demanding censorship of pornography or sexually explicit material, and asking the State to play the role of the censor (by the standards of the reasonable **man**) might well lead to suffocation of spaces for women to express themselves regarding sex and sexuality.

This is further complicated in the context of the women's movement in India in a largely conservative society, where sexualizing the women's body is seen as humiliating and degrading to her as a person, and where women's bodies have been used to symbolise of the honour of the nation. Regardless of the lived realities of women in India, ostensibly they are venerated, and such fallacies often inform judgments, laws and public opinion on the matter of obscenity. As stated by Bose, the Indian woman's body represents the threat of transgression in Indian society. "The 'exploitation' of women – in pornography or commercial advertising, and the censorship/control/prohibition of sexualised images of women, are aspects of the same set of assumptions about the 'indecent' representation of women, in which the battle is over women's bodies as the problematised sites of discourse". [7]

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.

Shohini Ghosh argues that the women's movement has always had an uncomfortable relationship with sex, sexuality and the body. The rise of moral and sexual panic in the 90s around vulgar songs in films, the nude body in magazines or films, and the staging of a beauty pageant, saw the shaping up of a dubious alliance between the Hindu right wing conservative elements and the women's movement[8]. At the heart of all the lobbying and resultant laws, is the assumption that media impacts its audience directly, giving no space for multiple subjectivities, interpretations and experiences. The

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[5] The Internet is 99 percent porn free. 15 Nov, 2006. Available at http://www.vnunet.com/vnunet/news/2168636/internet-per-cent-porn-free

[6] Numerical estimations of business related to pornography are analysed in Joseph W. Slade, *Pornography in the Late Nineties*, Wide Angle, 19.3 (1997) 1-12.

[7] See Introduction by Brinda Bose, Gender and Censorship, Ed.Brinda Bose, (New Delhi: Women Unlimited

[8] 2006)

[ ] Shohini Ghosh, *The troubled existence of sex and sexuality*, Gender and Censorship, Ed.Brinda Bose, (New Delhi: Women Unlimited, 2006) p.255

discourse on "objectification", "commodification" and "degradation" of the women's body in media (adverstisments, cinema, television, music videos etc.) in the women's movement (despite movies like Fire, Bandit Queen being at the centre of censorship controversies), indicates a collapse of categories of sexism, sex and sexuality. Any explicit sexual depiction becomes unacceptable, whether it is lesbian, queer or celebrates women's experience and desires. The women's movement in India actively protested against problematic representations in mainstream cinema, music videos and advertisements, but didn't engage seriously with pornography and somehow steered clear of having to negotiate different positions around sexually explicit depictions.

In the West, pornography inspired a lot of debate and divisions within feminism, but in comparison in India, there is little opposition to the widely held belief that pornography is somehow harmful to women. Andrea Dworkin's slogan on pornography is violence, or "sexually explicit subordination, either graphically or in words" that influenced legislation in Canada, is reflected to some extent in most mainstream debates on sexual content and pornography. Even if such a virulent attack is not launched specifically on pornography, the underlying assumption seems to be that people are passive recipients and consumers of any medium. While the very logic of the internet that involves active choice from a person at least to some degree, challenges these assumptions, what remains to be seen is whether internet pornography will be seen by the women's movement, organizations and feminist voices as different, or will it be collapsed into the conventional definition of pornography. Is internet pornography a different set of practices around sex and sexuality?

Before delving further specifically into the question of pornography, one has to understand that there is no specific category for pornography in the law. 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. The paradox is that, only by watching and being aroused/depraved/corrupted can the judge then decide whether the material is obscene.

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. 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. Thus 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'. [9]

## The taming of the Internet: Internet censorship in India

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[9] Ratna Kapur, 'Who draws the line? Feminist Reflections on Speech and Censorship', *Economic and Political Weekly*, 20-27 April, 1996, 26.

The last ten years, and especially since 2000, has seen the introduction of new elements (internet, new media, new technologies) into the debate on censorship. As Bose comments, we may need to overhaul all questions related to media censorship to begin with; "The Censor Board will become suddenly obsolete as all new films are released simultaneously on DVDs (original or pirated) and pay channels mushroom on television, not to speak of camera phones and internet websites that merrily collude to circulate hitherto 'forbidden' sexually explicit images."[10]

Regulation and censorship of the internet in India however, has largely been on the grounds of national interest, sedition and anti-terror manoeuvres of the State. On the other hand, the introduction of new laws and rules to regulate cyber cafes, reveal a certain anxiety about cyber cafés as a space, where young people gather and what they have access to, via the internet[11]. In a move reminiscent of earlier endeavours to regulate cinema theatres and then video parlours[12], the State through many laws and rules attempts to regulate the nature of the space where internet is accessed. Rules have now been promulgated regarding customers showing photo identity cards, storing of information regarding their use, installation of filtering software and the spatial arrangement of computers. In a country where most people don't have access to the Internet, the cyber café at the corner of almost every street in large cities and mushrooming across the country in small towns are able to open a gate to the world of information and knowledge. However the State perceives the cyber café as a threat because of possible terrorist activity and networking, prevalence of seditious content, and also as a den of vice, where young people are exposed to sexual and pornographic content on the internet. This fear of sexuality has been characterised by Ghosh as 'urban India's fear of the visual and its speculated potential to cause 'deviance', leading people to lose control and thereby their culture and heritage'[13].

One of the first publicized attempts at censorship on the internet by the State was the blocking of entire yahoo groups for a period of a week, because of the existence of one yahoo group that discussed issues relevant to Meghalaya (North East) regarding the insurgency and other political and social issues (September, 2003). Another attempt was the blocking of the website www.hinduunity.org (April, 2004) because it might incite or hurt religious sentiments of people. In both cases, there was an astounding leap in popularity and traffic after the ban, pointing to the paradoxical nature of censorship in the information era. The most recent attempt at censorship was on blogspot (and other websites such as Dalistan.org, Hinduhumanrights.org etc.) after the Mumbai blasts, ostensibly for reasons of national security and anti-terror. On the basis of a report submitted by CERT-In (Computer Emergency Response Team-India), several blogs were identified as problematic. As result of the usual ineptness and miscommunication between the government and Internet Service Providers (ISPs), blogspot as a service that hosts millions of blogs for free was banned entirely, leading to an uproar, at least amongst the online community of bloggers and to some extent in mainstream media[14]. Recently, the government has raised concerns about the existence of

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[10] Supra note 7.

[11] The Secret Lives of Cyber cafés. Available online at
http://www.chapatimystery.com/archives/homistan/the_secret_lives_of_internet_cafes.html

[12] Stephen Hughes, Policing silent film exhibition in colonial south India, in Ravi Vasudevan (Ed.), Making meaning in Indian cinema, (New Delhi: OUP, 1999), pp. 39-64

[13] Supra note 8.

[14] The ban on blogspot was first reported by Rediff, a popular Indian website. Shivam Vij, *Are Indian ISPs blocking blogs?* July 17, 2006. Available online at http://in.rediff.com/news/2006/jul/17blog.htm. Later the story was picked up by mainstream newspapers. See Sulakshana Gupta, Pragya Singh, *Post 7/11, Government targets 'extreme' websites, bloggers on the blink*, July 18, 2006.

fan clubs for underworld dons on orkut (an online networking community), and several states have raised concerns regarding security and seriously implemented rules for identity cards in cyber cafes, including Goa and Karnataka[15].

In 2004, what is now referred to as the MMS scandal took place, which involved two teenagers in a school in Delhi engaged in a sexual act, captured on a mobile phone camera that was circulated through mobile phones, and then on the Internet. An attempted sale of the clip on an online shopping site led to the arrest of the CEO of the website. The MMS scandal led to a furore and public debate and it was said that this "single event has the potential to start a process that may completely transform the legal, economic, sexual, cultural, judicial and informational landscape of the nation".[16] In retrospect it can be said that such dramatic changes did actually not take place, but nonetheless the MMS scandal in some way marks the entry of sexually explicit imagery into the realms of public debate.

For the longest time, pornography, B-grade films, have existed in India, inspite of a Censor Board that attacks films like Bandit Queen for obscenity, but has rarely been raised within the women's movement or public discussion. Neither is the MMS the first of its kind. Sexually explicit material of a couple that videotaped themselves has long been part of the pornography video circuit (Mysore Mallige), and subsequently many similar videos (Miss Jammu) were made available both online and in video stores. A pornographic clip that allegedly was of a famous movie star was also circulated. Concern regarding sexual content was building up, and in recent times a case by a college professor Pratibha Nathani has led to the banning of movie channels such as HBO and Star Movies on television in Mumbai and Maharashtra. However, maybe because the computer is still not prevalent in every household, concerns regarding the internet are not being raised with the same fervour. Each technology has a social, cultural and political life that too determines its fate and how it will be used in society, and what needs to be researched and theorized, is the relationship of people with technology and computers, especially in the context of a developing country.

As stated before, there is no specific law regarding pornography, but there are laws regarding obscenity and indecent representation of women in India. In this context the next incident involving the use of the internet by those of a marginalized sexuality minority to connect and 'hook-up' with each other, becomes important. What would be policed on the internet along with pornography, would be practices of people around sex and sexuality on the internet. The internet raises a whole host of issues, apart from freedom of expression, which includes privacy, data retention, surveillance by the State and corporations.

**Bad girls and sick boys**
*Porno services the polymorphous perverse: the near infinite chaos of human desire. If you harbour a perversity, then porno will sooner or later identify it for you.*
*Martin Amis, Porno's last summer[17]*

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[15] *Police ask cyber cafes to follow rules*, The Hindu, 26 July, 2006. Available online at
http://www.hindu.com/2006/07/26/stories/2006072626010300.htm

[16] Rohit Gupta, 'The porno paradox', Gender and Censorship, Ed.Brinda Bose, (New Delhi: Women Unlimited 2006), p. 323.

[17] Martin Amis, Vintage Amis, (New York: Vintage Books, 2004).

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"[18]. 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.

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?[19] 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?

There are some who would argue that internet pornography as such is different from pornography. Studies in the West have shown that women in the sex industry actually have more agency and control because of the opening up of the internet as a space, for cyber sex via webcams or chats[20]. But as limited as these studies or their implication in the context of a developing country are, pornography on the internet cannot be collapsed into an older understanding of pornography. The boom in pornography along with the development of internet (feedback, lower cost of distribution, lower costs of video or webcam technology) has allowed for queer pornography, erotica, spaces for other sexuality minorities (transgender, fetishes) and pornography for women.

One instance is the rapid growth of slash fiction, which is a space for women to express their desires and sexuality[21]. There is need for thicker descriptions of how women engage with explicit sexual

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[18] Section 377, Indian Penal Code: Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to 10 years and shall also be liable for a term which may extend to 10 years and shall also be liable to fine.
Explanation: Penetration is sufficient to constitute the carnal intercourse necessary to the offense described in this section

[19] S.377 of the Indian Penal Code or the anti-sodomy law has been challenged in the Delhi High Court in 2003. The law covers sodomy or sexual intercourse that requires penetration and thus is seen as being limited in impact to queer men. Queer women are not implicated by the law directly, but there is no legal recognition either of sexual relationships between women.

[20] Kimberlianne Podlas, Mistresses of Their Domain: How Female Entrepreneurs in Cyberporn Are Initiating a Gender Power Shift, Cyberpsychology & Behavior, Volume 3, Number 5, 2000. This particular study located in New York of a small representative sample of online porn sites, concludes that "women constitute a significant portion of cyberporn operators and are emigrating from the sex industries to cyberporn. Furthermore, these actions are motivated by the concerns of the traditional working woman: salary, control of work environment, flexibility of schedule. This article, thus, suggests that far from being complicitous in the oppression and exploitation of women, webmistresses may reflect a degree of emancipation from male dominated female imagery and economic control.

[21] Kelly Simca Boyd, One index finger on the mouse and the other on the clit, PhD Dissertation, Simon Fraser University, 2001

material, of the making of pornography in specific contexts like in India, of what practices of accessing sexual content on the internet entail, before being able to determine (if determinations are possible) whether or not internet pornography is necessarily the same 'evil' as pornography, or whether it is harmful. Invoking censorship by the State and the language of censorship of protection of women, children from harm, necessarily blinds us and doesn't let us see female agency and sexuality. As stated before, the same set of assumptions that govern the possibility/reality/threat of exploitation of women in the sex industry dictate the agenda for censorship of sexually explicit material for the 'protection' of women and children.

In America, while debating laws on data retention by ISPs for a period of 3 years, it was suggested that while child pornography on the internet is an important concern, there wasn't much that could be achieved with legal measures. Critics of the proposal for broad data retention laws in America (already in place in Europe) said that while the justification for Internet surveillance might be protecting children, the data would be accessible to any local or state law enforcement official investigating anything from drug possession to tax evasion.[22] As is evident from the story of tracking down and arresting people based on their profiles on the 'guys4men' website, surveillance in India is a blunter instrument, but not less powerful or draconian.

**Conclusion**

The need for caution when addressing the need for censorship or regulation of sexual content cannot be over-emphasised. The women's movement in India has played an important role in complicating perceptions of gender and heteronormativity in India, by locating it within caste and class as well, but has not been able to sufficiently address concerns of sex and sexuality. Those interested in free speech and expression, have to sympathetically address concerns raised regarding the potential impact of media and violence against women, because without doing so, the dangerous collusion that will remain will be between the conservative Hindu right and the women's movement. The women's movement has to move beyond its discomfort with the body and sexuality, and along with the emerging queer movement, has to actively play a role in creating spaces for discussion and exploration. The only way to counter problematic speech in the information era, is with more speech and representations of women that are not confined either to the pornographic for the male gaze, or the victim of violence that needs the protection of the pater State (family, marriage and other institutions) but representations that are located within the perversity of her own desires.

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[22] Declan McCullagh, Congress may consider mandatory ISP snooping: House Democrat joins Bush administration in supporting a mandate that Net firms store records about consumers' activities, CNET News.com
Published: April 28, 2006 at http://news.com.com/Congress+may+consider+mandatory+ISP+snooping/2100-1028_3-6066608.html