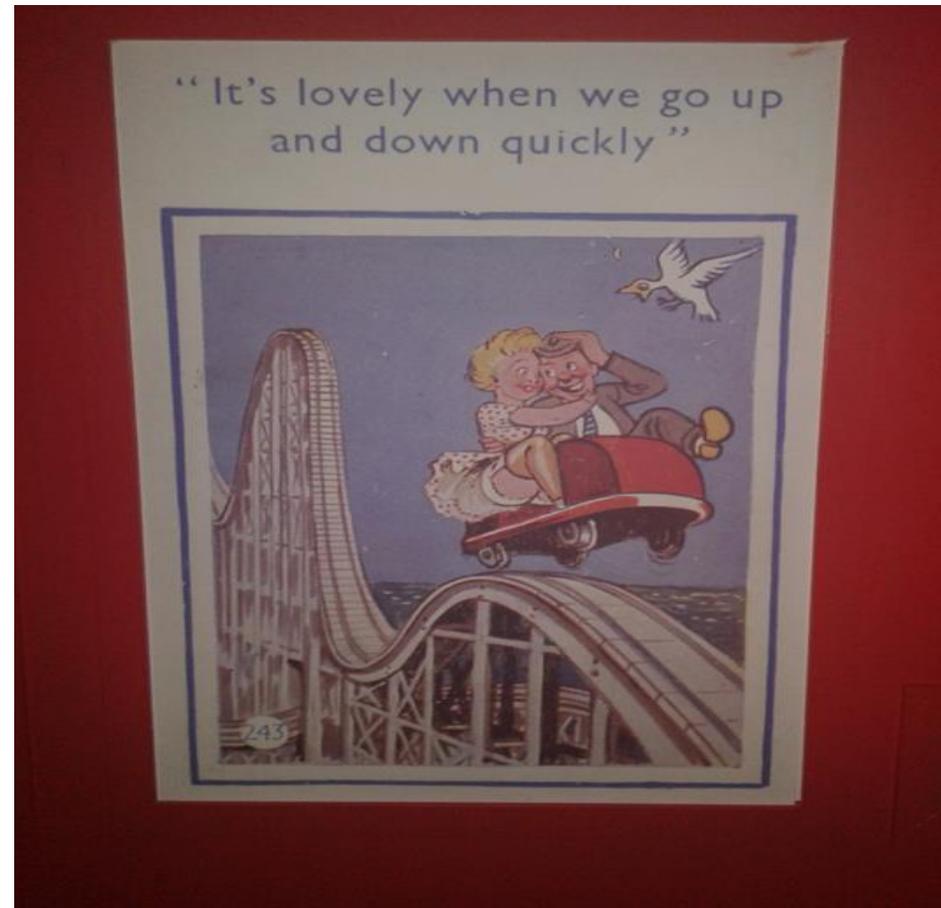


Pornography in the European Union:

***Problematizing the use of pornography in the context of
European Union Law and International Human Rights***

Antónia Barradas



Objectives from a legal perspective

- Look at pornography laws around the world
- Assess scope of International Human Rights Instruments
- Access scope of European Union Legal Instruments

Objectives from a Sociological Perspective

- Understand the impact of Porn
 - In college and at work
 - In pop culture
 - On youth
 - On ethics
 - In politics

Concept

- The term *pornography* derived from the ancient Greek word *pornē* and *graphos*; *pornē* means “whore”, and *graphos* means writing;
- The term means “writing about whores”, who were the women in brothels; The “lowest class” of prostitutes were in the brothels, as they were the cheapest and most unprotected of all women (included slaves);
- *pornography* did not mean to write about sex, or depicting erotic or sexual acts, rather, it was equivalent to the “graphic depiction of women as vile whores”, as not all prostitutes were considered “vile”;

Concept

- Robert Jensen defines pornography as “(...) the graphic sexually explicit material that one finds in a pornographic video store that depicts primarily heterosexual sex and is consumed primarily, though not exclusively, by heterosexual men.” He (most of the material widely available on the pornography market, which can also be viewed on the internet).
- The nature of the relation behind the consumption of pornography can be seen as trilateral; The seller of pornography is usually a man, and the buyer is also usually a man, who usually wants to buy pornography depicting women.
- Michael Flood, defines pornography as “ (...) sexually explicit media that are primarily intended to sexually arouse the audience (...)” or as « “Sexually explicit materials” which show “genitals and sexual activities in unconcealed ways” ».

Laws around the world



Countries that ban pornography

- Saudi Arabia
- Iran
- Syria
- Bahrain
- UAE
- Kuwait
- Malaysia
- Indonesia
- Singapore
- Kenya
- Cuba
- China

Porn Producers around the world

As far as revenue goes, the porn industry has an annual profit of more than 10 billion dollars in the USA (more than the 9.5 billion Hollywood revenue), having produced around 11,000 hardcore films a year in recent years (Jensen, 2005).

Top Ten:

USA

Brazil

Netherlands

Spain

Japan

Russia

Germany

United Kingdom

Canada

Australia

Others:

Sweden

Italy

Denmark

France

Switzerland

Belgium

Romania

Portugal

Israel

Serbia/Czech-Republic

Examples: USA, Canada, Japan and Germany

- **Canada:** generally bans production and distribution of all so-called pornography involving children, all forms of excessive exploitation of sex, sex and crime, horror, cruelty or violence, incitement to genocide or hatred.
- **USA:** general ban on a Federal and State level on pornography and obscene material, mostly applicable to photos and videos. The First Amendment - the constitutional principle of freedom of speech - can also be applied in this context (i.e. to speeches inciting hatred or discrimination).
- **Japan:** complete ban on the distribution and possession of obscene material to sell it; industries have established regionally variable codes of good practice; not illegal to possess or produce obscene material in order to export it.
- **Germany:** judicial authorities use classification system - list of publications which may harm children (usually immoral publications, those with violence or pornography, which incite people to crime, defend National Socialism, attack human dignity or encourage the use of drugs).

European Union in general

- Most unanimous legal ban: pornography involving children (i.e. pictures, simulations of photos and animated material).
- General concepts - obscenity, sound morals, for example.
- *violent pornography* (includes material which involves non-consenting adults) and *zoophilia* are widely prohibited.
- Incitement to racial hatred and/or violence is completely prohibited in great number of EU countries.
- More or less tight definitions of what is prohibited material.
- Possession of prohibited material is mostly not an offense due to the protection of private life, with the exception of supplying or intending to supply the materials to others.

Assess scope of EU legal instruments

2014 EU Parliament Report on sexual exploitation and prostitution and its impact on gender equality :

- negative effects, particularly of online mass-media production and pornography “in creating an unfavourable image of women, which may have the effect of encouraging the human personality of women to be disregarded and of presenting them as a commodity;”
- “sexual liberty must not be interpreted as a license to disregard women;”

Assess scope of EU legal instruments

- **1996 European Commission Green Paper - protection of minors and human dignity in audio-visual and information services:**
 - Different problems: so-called pornographic material involving children, which is illegal and subject to penal sanctions **Vs** children accessing pornographic content for adults (harmful for development of kids but may not be illegal for adults).
 - Access to certain types of material may be subject to a general ban, regardless of the age of the audience or how it is shown.
 - General category of material which violates human dignity: primarily with so-called pornographic material involving children, extreme violence, incitement to racial or other hatred and discrimination (irrespective of different laws on a national level).

Assess scope of EU legal instruments

- **1997 EU wide campaign for zero tolerance of violence against women:** research and work needed on impact of pornography and prostitution on men's violence against women; take action against perpetrators when violence and coercion occur in connection with prostitution and pornography; proactive measures to support women to escape these situations.
- **1997 Council of the EU Resolution :** need to “ (...) combat the illegal use of the technical possibilities of Internet in particular for offenses against children”.

Assess scope of EU legal instruments

- **1997 Resolution on the Communication on trafficking of women for sexual exploitation related to trafficking in women for the purpose of sexual exploitation:**
 - Trafficking in women may be related – even if indirectly - to pornography and so-called pornographic material involving children.
 - Trafficking increases because of the vulnerability, poverty and marginalization which women are subjected to in their countries of origin.
 - High profits and low risks by traffickers and demand for women for prostitution and other forms of sexual exploitation in Europe.

Assess the scope of EU legal instruments

- **2002 Council of the EU framework decision on combating trafficking in human beings:** imprisonment with a maximum penalty of no less than eight years should be applied in the case of the offense having been committed against a victim who was particularly vulnerable: victim under age of sexual majority under national law and offense has been committed for the purpose of the exploitation, prostitution or other forms of sexual exploitation, including pornography.
- **2005 Council of Europe Convention on action against trafficking in human beings** refers to recommendations on sexual exploitation, so-called “pornography” and “prostitution” of and trafficking in children and young adults.

Assess scope of EU legal instruments

- **2009 Resolution on the elimination of violence against women:** measures to prevent gender-based violence among young people through targeted education campaigns and enhancing cooperation among stakeholders and the various circles affected by the phenomenon (i.e. families, schools, public space, media);
- **2011 EU policy framework to fight violence against:** advertising and pornography frequently show gender-based violence, thereby hindering gender equality strategies, by trivializing violence against women;
- **2012 EU Strategy Towards the Eradication of Trafficking in Human Beings:** children are particularly vulnerable to victimization and re-trafficking;
- **2013 Resolution containing recommendations on action and initiatives on organised crime, corruption and money laundering:** fight against so-called pornographic material involving children to be reflected in the tasks drawn out for Europol; need for adequate funding.

Assess scope of International HR instruments

- **Palermo Protocol** : “trafficking in persons” includes the purpose of exploitation, which includes the exploitation of the prostitution of others or other forms of sexual exploitation (particularly women and children).
- **OSCE Vienna Ministerial Resolution nr. 1**: Sign and ratify UN Protocol on CRC and Optional Protocol to the CRC on the Sale of Children, (so-called) Child Prostitution and (so-called) Child Pornography.
- **World Health Organisation 2002 World Report on Violence and Health**: access to porn among risk factors for sexual VAW; factors that can lead to rape: sexually violent men have coercive sexual fantasies which are generally encouraged by access to pornography, and are believed to differ from other men in terms of impulsive behavior and antisocial tendencies, also tending to have an exaggerated sense of masculinity.

Assess scope of International HR instruments

Reports of UN Special Rapporteurs

SR on the human rights aspects of the victims of trafficking in persons:

- digitally created pornography may be considered to foster sexual exploitation, even when actual people are not used to make the images.
- further specifies definition of porn.
- several references to so-called pornographic material involving children: study of the relationship between trafficking and the demand for commercial sexual exploitation.

Assess scope of International HR instruments

SR on promotion and protection of the right to freedom of opinion and expression:

- hate speech may be restricted to protect rights of affected communities against national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence;
- States often restrict Internet content without a legal basis, create these restrictions based on unspecific and ambiguous laws, without an adequate or proportional justification;
- Availability of software filters to parents and schools to control children's access to certain content makes government blocking actions unnecessary and hard to justify.

Understand impact in College and Work

Men

- loosing their footing, trapped in something describable as fraternity land.
- social intensity syndrome -overload with pornography and video games, making them inept when for full blown human connections.
- brains transformed in such a way that they are not useful for the purposes of involvements which include romance.

Workplace - USA example

- display of pornographic pictures pointed as workplace habit Ivy League business school women.

Understand impact in Pop Culture

- 1- Significant amounts of youth and kids have been exposed to online porn (particularly accidentally).
- 2- Studies associate exposure of young girls to media which sexualises them to a greater acceptance of sexist stereotyped ideas about sexual roles and gender.
- 3 - Verbal abuse is clear when turning on the radio and this is not eliminating stereotypes against women but solidifying them.
- 4- Degradation through pop songs can be considered to transgress the limits of freedom of expression. (limit broadcasts?)

Understand impact on Youth - Studies

1- Growing number of children exposed to pornography, with particular incidence on boys (studies: **Australia, Cambodia, Canada, Denmark, Norway and Italy**); increasing number saw online porn (mostly accidentally); increased exposure to sexual exploitation and abuse.

2- Italy: relates viewing porn by adolescent girls and tendency for becoming victims of sexual violence.

3- New Zealand: increasing number of adolescents caught with so-called pornographic material involving children; adolescents aged 15 to 19 largest group of traders of so-called pornographic materials involving children on the internet.

4- Australia: over 50 per cent of young people – aged 11 to 17 – saw things they considered to be offensive or that disgusted them on the Internet, and it was mostly porn.

Understand impact on Ethics

- young people need to be given information on sexuality, but in a way which is appropriate for their age(“sexual beings”).
- protection of minors from being harmed sexually **Vs** restricting access to their own sexuality. Keeping kids in the dark about sex can lead to sexual abuse and potential health problems on an emotional and sexual level.
- pornography can be considered to be a bad sex education instrument: too explicit, ignores intimate involvement, portrays sex in a non-realistic way.
- some eroticizes violence, most can be considered sexist.

Understand impact on Ethics

However:

- sexually explicit media can have positive effects on young people and kids.
- may not influence entirety of one's sexual expression: its consumption can be considered a part of a broader sexual experience.
- sexual material – including porn- can teach sexual knowledge in an educational way, can counteract repression and to be “sex-positive”.
- It is pro same sex sexuality when it comes to gay and lesbian online porn.

Understand impact in Politics

Perspectives of several authors on pornography in the USA: Where is the fight against pornography centered politically?

- a) **Some consider the 'radical left' nowadays is far from its original intent**, which was to go deep into the core of oppression and try to get women out, but that this is no longer the case today;
- b) One of the reasons pointed out for this by some is the fact **that political movements in America are in the hands of sexists who continue to use porn**;
- c) Some consider that the **'radical left' is not only dominated by men but also antifeminist**, and that it denies the relation between porn and violence against women;
- d) **The fight against censorship** is pointed out to have often been used by some subcultures of the 'radical left'.
- e) **Some men consider that they were not protected from the contact with the porn culture**;

Understand impact in Politics

f) **What is considered transgression and sexual dissidence for some is oppression for others;**

g) **Some men** who have joined women in feminist activism against the misogyny of the porn industry consider there is a **need to critique the role of pornography in shaping men's sexuality;**

h) **Men have been supporting feminist activism since the 70's**, producing work on the role of porn in maintaining sexism, racism and other forms of inequality alive (For example, Michael Kimmel's 1991 book entitled *Men Confront Pornography*).

i) Some say we need a **"a feminist, antipornography radical left"**, with the objective of defending basic human rights by taking down **" (...) the cult of masculinity (...)"**, **as porn dehumanizes men as much as women** in its consumption.

Next steps

- Is there a need and is it admissible to further regulate the consumption of adult pornography?
- How do you strike a balance between the right to freedom of expression, private life and the regulation adult pornography?
- Regulate access of youth through new technologies? How?

**“I want a world which encourages both women and men to explore
erotic possibilities.**

**I want a world where pictures of naked bodies and sex can be
pleasurable, hot, funny and mutual. Where sex isn't about abuse.”**

(Kaufman and Kimmel, 2001:124)

Thank you!

- antoni martinbarradas@gmail.com

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