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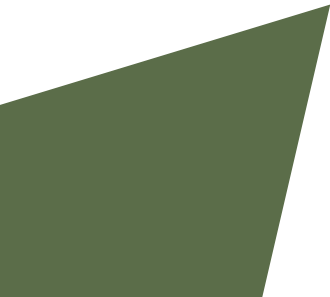
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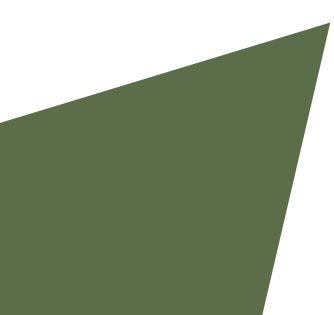
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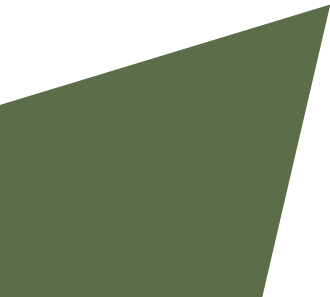
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# **PORNOGRAPHY IN INDIA**

**Rayan Singh Viridi & Darshika Rughani**

## **INTRODUCTION**

Pornography. The word pornography is defined as “books, magazines, films, etc. with no artistic value that describe or show sexual acts or naked people in a way that is intended to be sexually exciting”<sup>1</sup>, or in other words we can say pornography is a picture, film or written that deliberately stimulates sexual arouse.

The Merriam-Webster Dictionary defines pornography as: -

1. “The depiction of erotic behavior (as in pictures or writing) intended to cause sexual exactment.
2. Material (such as books or a photograph) that depicts erotic behavior and is intended to cause sexual excitement.
3. The depiction of acts in a sensational manner so as to arouse a quick untense emotional reaction.”<sup>2</sup>

By the each passing year, pornography has been more and more accepted, it can be seen in books, magazines, televisions and most of all though internet. But at the same time many people go against it, they think that it is destroying our society and misleading our children’s and also their mind is being destroyed by this. But when an analytical examination is being done it is clearly seen that by pornography (book, magazine, television), youngsters get to know about these things which they cannot discuss with their parents because for a child it is very awkward to talk to their parents on this topic, not only for youngsters but for parent also its is awkward and difficult to, to explain.

But for some youngsters the pornography has become the leisure activity for them, to get control over these youngster’s certain laws were introduced like Information Technology act, 2000 (Section 67, 67A, 67B) and Indian Penal Code, 1860 (Section 292 & 293). Which take identity proof from the youngsters and then allowing them to access the sites, but in some of the country’s pornography is not banned like Argentina, Austria, Belgium, Brazil and in many more.

## **GROWING INDUSTRY:**

Pornography is the fastest growing industry which is at its highest peak in India. There is so many ways to access porn and that changes the perception of sex in various ways. The reason

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<sup>1</sup> Cambridge Dictionary, 1995

<sup>2</sup> Merriam-Webster Dictionary since 1828

behind this much growth in pornography is because almost everyone and everything in the world reacts and relates to sex. People are always excited about something new or something they have not seen and now a day's pornography becomes a debating topic in the era of the world.

## **CYBER-CRIME PORNOGRAPHY**

Cyber pornography simply means that the act done by using cyberspace to display obscene material. Cyber pornography is banned in many countries and legalized in some. In India, under the IT Act, 2000, this is a grey area of the law, where it is not prohibited but not legalized either.

But because for these sites cyber-crime pornography is being increased, some of the youngsters take this information in bad way which results in violation of privacy of others, like some youngsters upload their partners video on internet for revenge like case where 27, year old Plaintiff met Defendant when he was studying in an Engineering College in Andhra Pradesh and the two fell in love. However, their college romance did not outlive their graduation days. Six years later in 2016, Defendant blackmailed Plaintiff, now a married woman, to rekindle their romance again. Faced with her rejection, he posted her intimate videos online and sent it her-in-laws through CD.

So, to end these kinds of offences in India we have Section 67, 67A and 67B of Information Technology Act, 2000 and which provides definition and punishment of these offences: -

*“Section 67: - Punishment for publishing or transmitting obscene material in electronic form.”*

This Section defines the punishment for the person who publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious of its effect is such as to tend to deprave a person, shall be punished with imprisonment for a term which may extend to five years and with fine which may extend to ten lakh rupees.

*“Section 67A: - Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.”*

This Section defines the punishment for the person who publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished with imprisonment for a term which may extend to seven years and with fine which may extend to ten lakh rupees.

*“Section 67B: - Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.”*



This Section defines the punishment for the person who publishes or transmits or causes to be published or transmitted images of a child in a sexually explicit act or conduct. If a person induces a child into a sexual act. A child is defined as anyone under 18, shall be punished with imprisonment for a term which may extend to seven years and with fine which may extend to ten lakh rupees.

### **EFFECTS OF PORNOGRAPHY ON: -**

Whenever there is absence of other information, pornography may be the main source of a youngsters or adolescent sex education.

The use of pornography by adolescents or youngsters is associated with stronger sexual attitudes (e.g., premarital sex, casual sex). When we talk about it there are evidences that are exposure to pornography and can increase the likelihood of earlier first-time sexual experience, particularly for those who are adolescents and who consume pornography more frequently. There are different ways it effect those are: -

#### ➤ THE FAMILY

- Married couples who is involved in pornography feel less satisfied with their conjugal relations and less emotionally attached to their partner.
- Pornography may lead to a pathway to adultery, infidelity and divorce.
- They expect more than usual and when it doesn't happen leads to differences.
- It leads to differences between both spouses and because of them their children have to suffer.
- Pornography viewing may lead to a loss of interest in family relations.

#### ➤ THE INDIVIDUAL

- Neuroscientists are trying to map the biological substrate of this addiction and pornography is addictive.
- Viewing same type of pornography again and again by the users may lead to being bored with it and then seek more perverse forms of pornography.
- Men who view pornography regularly have a higher tolerance for sexual promiscuity, abnormal sexuality, including rape and sexual aggression.

- Continuous consumption of pornography by men produces stronger notions of women as commodities or as "sex objects."

➤ OTHER EFFECTS OF PORNOGRAPHY

- Most of the adolescents or youngsters who watched pornography initially feel shame, decrease self-confidence, and sexual uncertainty.
- Uneducated adolescents or youngsters who watched pornography may significantly harm the surrounding community, leading to increases in crime and decreases in property values.
- Most commonly defenses that are taken against pornography are keeping good family life, a good and happy marriage and happy sex life, coupled with deliberate parental monitoring of Internet use.
- Traditionally, government has kept a tight lid on sexual traffic and businesses, but in matters of pornography that has waned almost completely, except where child pornography is concerned.
- Given the massive, deleterious individual, marital, family, and social effects of pornography, it is time for citizens, communities, and government to reconsider their laissez-faire approach.

### **WATCHING OBSCENE AT HOME OFFENCE OR NOT: -**

In case *V. Sundarranjan v. State of Tamil Nadu*<sup>3</sup>, it was held if a blue film is found in the possession of the accused, he cannot be convicted simply on the grounds of possession unless it is further proved that the purpose was for selling or letting out.

Also, in case of *Jagdish Chavla v. State of Rajasthan*<sup>4</sup>, it was held that mere viewing of obscene films at home on T.V with VCRs does not amount to an offence under section 292 IPC because an offence under section 292 IPC can only be made when an obscene article is kept for sale, distribution, circulation and public exhibition. It is only when the person viewing the content goes out of the door and calls his friends for public exhibition of the prohibited material that an offence under section 292 IPC is committed.

So, from these above cases we can see that it is not illegal to watch pornography or porn, what illegal is selling, distribution or circulation of pornography or porn, but there should be a age

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<sup>3</sup> CrI P.C No. 376/1978

<sup>4</sup> 1999 Cr. LJ 2562

restriction because these kind of films are made for the adult's not for the children's, but now a days there are youngsters more than adults watching pornography or porn and it is not difficult to find a pornography or porn on internet, you just have to type "porn" you will get n number of sites which provide you porn or pornography, on that sites there are no age restriction or identity proof.

## **CHILD PORNOGRAPHY**

Child pornography is the most terrible and disturbing social problem that our society is facing today, year by year now pornography has become the youngsters (10-19 years) most visited sites on internet, they have become addicted to it. Because of these sexual crimes by minors are on the rise and the easy accessibility to porn is considered one of major reason. Today's generation are dependent on the 'Technology' i.e. WhatsApp, Facebook, Instagram and many more, it is good to be high savvy, but if someone uses these technologies to harm others then the consequence will be dangerous. Specially, youngsters get into this mess and get victimized.

In case *Kamlesh Vaswani v. Union of India & Others*.<sup>5</sup>, The petition filed by Kamlesh Vaswani, an advocate, before the Supreme Court that demanded for a separation law to govern online pornography since the general cyber laws were insufficient to curb the circulation of pornography content and the PIL also sought a ban on access to such online pornography. Ms. Mahalaksmi Pavani, Sr. Adv. Supreme Court and President of Supreme Court Women Lawyers' Association (SCWLA) argued on behalf of SCWLA. She argued that "Child pornography is spreading like cancer and it would not be out of place to call it a moral cancer." Vaswani argued that pornography encourages violence against women and it threatens the social security of the country. The central government had then ordered for 857 websites that contained pornography material to be blocked vide an order dated 31 July as it was in contravention with Section 79(3)(b) of the IT Act and it also violation "morality and decency"

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<sup>5</sup> WP 177 of 2013

## **CONCLUSION**

I believe law in India are based on emotions and moral values rather than practicality, every time something happens, we make law to stop it without valid reasoning, I am not questioning law makers but at the same time I don't agree with this concept as well, I don't think banning sites is the solution to our societal problems.

The reason why youngsters search for these kinds of acts on internet because they are eager to know about these things and no one is available to them to answer and if they consult their parents about these things, they might get a tight slap. The reason why they don't prefer to consult their parents.

According to our parents, we live in a society where watching these kinds of thing is crime even talking about it is a crime, "what will they say, what will they think".

There are few suggestions that I believe should be there: -

1. There should be an age restriction and strict laws while accessing porn sites only for children and not for adult as youngsters get influence easily and Identification proof of the accessor/user.
2. Parents should talk to there children about this matter according to there age, if their parents talk to them then these kinds of offences which are being committed, youngsters watching pornography illegally, will be reduced.