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Visual Violations: The Ban on Extreme Pornography, Politics of Representation, and the Discursive Creation of 'Docile Bodies'

By Mika Pasanen

Abstract

This paper focuses on a law that came into force in January 2009 in the United Kingdom prohibiting the viewing and possessing of 'extreme pornography'. This law will be approached through Foucaultian notions of discursive power and 'docile body'. This will be used to create a framework for understanding the production of sexuality in/through the family, and pornography's relationship with the family. The paper then moves on to the problematic nature of the politics of representation and the realm of the imagination. The argument here suggests that the law aims to create 'docile bodies' through the control and regulation of the 'pornographic imagination', and that this process reiterates the discourse of sexuality found in the institution of the family. However, the law is limited in its ability to create 'docile bodies' due to the nature of pornography that eroticises the transgression of restrictions.

Keywords: pornography, law, imagination

Introduction

Pornography is a matter that divides public opinion as much as it appears to unify the bodies it depicts. The debate over pornography often boils down to a simplistic dichotomy: *for* or *against*. Yet this does not mean that the debate is simplistic.

My intention in this paper is to generate a general overview of the nature of pornography, and to engage with the anti/pro pornography debate. This is important for two reasons. Firstly, although I am focusing here on a specific legal matter dealing with 'extreme pornography' in a specific social, cultural and political context in the United Kingdom, this needs to be contextualised as a sub-genre within a more general framework of pornography. Secondly, a huge amount of research and literature has been devoted to the anti/pro pornography debate, and as such it serves as an archive of feminist theory of gender and sexuality. It is also a gateway into the debates over representation and the technology that enables it, both of which are major concerns of the new law. Thus, it is important to recognize and engage with the anti/pro debate, despite the risk that this debate appears old.

The main focus of this paper is concerned with the highly problematic politics of representation and its relationship with the imagination. Through analysing the anti/pro debate in relation to the ban I will interrogate the 'crisis of spectatorship' (Halberstam 1993: 196). This notion rests on the observation that, in a society obsessed with representations, we no longer know how to relate to this flow of imagery, particularly sexual. As such, one of the concerns here is whether representational violence incites violence in the lived reality, and if a dichotomy of reality vs. fantasy is indeed possible to conceptualise in the first place.

This paper's theoretical foundation is built upon Foucaultian notions of discursive power and sexuality. I will argue that the ban on extreme pornography aims to create 'docile bodies' through the control over the 'pornographic imagination'. Before

embarking on this argument I shall focus on the role of the family in producing sexuality. This understanding will then be analysed in relation to pornography. Towards the end of the paper I focus on the possibilities and limitations of the extreme pornography law in the discursive creation of 'docile bodies'. Finally I argue that due to the intrinsic nature of pornography as a genre of representation based on transgression of taboos, any prohibition attempting to control the 'pornographic imagination' will, at least partially, fail.

Extreme pornography and the law

A law that came into force January 26th 2009 in the United Kingdom prohibits the viewing and possession of 'extreme pornography'. This law is part of the Criminal Justice and Immigration Bill 2008 (2007) and is included in Part 6 of the Criminal law, under the title *Pornography etc.* The law's foundation lies in the aftermath of Jane Longhurst's brutal murder in East Sussex, UK, in 2005. She was murdered by Graham Coutts who, according to the police had for some years had been consuming violent pornography online. Sometime after Jane's murder, her mother, Liz Longhurst, began campaigning for a ban on 'extreme pornography'. Although the law is not explicitly a feminist construction, Mrs Longhurst has stated that she hopes the law will prevent other women from suffering a similar fate as her daughter did (Etim 2007). Stemming from Mrs Longhurst's statement, I shall discuss the feminist debates around pornography, representation, imagination and action later on.

What, then, is 'extreme pornography'? The law defines it in two parts: primarily an image can be defined as 'pornographic' if 'it appears to have been produced solely or principally for the purpose of sexual arousal' (Appendix 3). These images can be either still or moving, meaning a photograph or a video (Appendix 7). Secondly, the image must be 'extreme' in nature. Extreme is defined as:

- (a) An act which threatens or appears to threaten a person's life;
- (b) An act which results in or appears to result (or be likely to result) in serious injury to a person's anus, breasts or genitals;
- (c) An act which involves or appears to involve sexual interference with a human corpse;
- (d) A person performing or appearing to perform an act of intercourse or oral sex with an animal, where (in each case) any such act, person or animal depicted in the image is or appears to be real (Appendix 6).

This law must be conceptualised as a product of its time, after the turn of the millennium, as advancements in information technology have made almost any image or text very easily accessible via mobile phones, computers and the internet. The law around extreme pornography applies pressure neither on the availability of the material nor on its production. The law is not censorship; instead it criminalises the individual viewer or possessor of the material.¹ Extreme pornography can be produced and it might be readily available, but it is illegal to view it or possess it, no matter what format. Martin Salter, a

Member of the Parliament from the Labour Party, who worked closely with Mrs Longhurst in getting the law passed, said on *BBC News* that the law will not be banning anything that is not already prohibited by the Obscene Publications Act (Summers 2007). 'It simply plugs a hole in the law', he went on to say, 'because the Obscene Publications Act is about as much use as a chocolate fireguard as far as the internet is concerned. This new law is designed to meet the challenge of the internet' (ibid.). Therefore, the law can be understood as attempting to regulate and sanction the relationship between the current technological landscape (the computer, the camera, the video, the mobile phone, the internet, and the endless representational possibilities they enable) with the mind and the body.

Deborah Hyde from Backlash, a coalition of various groups in support of personal sexual freedoms, stated that the law would criminalise the consumers, whereas the Obscene Publications Act criminalises the producers of certain kinds of pornography (Summers 2007). Therefore, the new law must also be understood through a geographic dimension. The producers and publishers of online extreme pornography could be located in any part of the world, and consumers from all over could access this material. Thus, the focal point of pressure of the ban is in criminalising the consumers of the representations that are within the law's reach, namely in the United Kingdom.

Following the rationale of the law, extreme representations are understood to be damaging to the mind, which has the potential of making people do extreme and harmful things. Susan Sontag once declared that '[t]here still remains a sizeable minority of people who object to or are repelled by pornography not because they think it's dirty but because they know that pornography can be a crutch for the psychologically deformed and a brutalization of the morally innocent' (Sontag 1967: 116).ⁱⁱ In my opinion this is the primary premise of the law: that it may lead some people to behave in a manner similar to the murderer by Graham Coutts referenced in the beginning of this paper.

When looking into the history of pornography, or other material that has been classified as obscene, a pattern emerges: one of technological progress and reactions to it. Indeed, when a representational technology reaches a certain point of efficiency and becomes low enough in cost in order to reach mass audience, a public concern surfaces (Rubin 1984, Cossman & Bell 1997: 15, Hunt 1993). These waves of concern have appeared in accordance with mass availability of print text, photography, music recordings, television, the VHS, and in this case, the internet. It is my view that this new law can be understood as part of a continuum of concerns, where advancements in technology transforms the representational possibilities and potentially destabilises society.

'Docile bodies', discourse and power

In *Discipline and Punish: the Birth of the Prison* (1977) Michel Foucault focuses on the body as a vehicle for analysing the societal changes in France during the seventeenth and eighteenth centuries in order to understand the Western society today. He looks at the ways in which the mechanisms of governing, disciplining and punishing people started changing in the eighteenth century (Foucault 1997: 8). This change was characterised by the decrease of violent corporeal punishment that was often staged as a public spectacle (Foucault 1977: 32-72). Simultaneously a thorough institutionalisation of the prison system took place together with the emergence of new forms of education,

military strategy and means of surveillance. In order to analyse the recently passed law on extreme pornography I shall draw on the idea of ‘docile bodies’ that runs through *Discipline and Punish*.

Foucault explains that ‘[a] body is docile that may be subjected, used, transformed and improved’ (Foucault 1977: 136). The docility of the body was produced through ‘disciplines’: the body was not subjected as and coerced to be a slave, but as a useful part of the ‘machinery of power’ (1977: 137-138). These disciplines include the education system, the military, the medical complex, the legal system and the prison, and effectively all institutions in society which coerce and discipline the body in a certain manner.

One of his key theoretical methodologies in creating *Discipline and Punish* goes as follows:

[d]o not concentrate the study of the punitive mechanisms on their “repressive” effects alone, on their “punishment” aspects alone, but situate them in a whole series of their possible positive effects, even if they may seem marginal at first sight. As a consequence, regard punishment as a complex social function. (Foucault 1977: 23)

I shall focus on the law as ‘complex social function’, one that needs to be understood via a combination of other factors. This must be done because strategies of punishment do not exist in a vacuum, and hence must be studied as a social phenomenon, locating them in the field of their own operation (Foucault 1977: 24). This enables me to analyse the discourse of sexuality and that of pornography wherein the debate over extreme pornography can be located, and comprehend it in a more holistic manner than focusing only on the rather obvious, punitive aspects of the law.

In what follows I will combine this notion of ‘docile bodies’ with Foucaultian understanding of power in *History of Sexuality Vol. 1: the Will to Knowledge*. The central concern in Foucault’s *History of Sexuality* (1979) is the body’s relationship to power, and how power is created through discourse. Foucault argues that discourses should not be comprehended as unified, stable, and continuous entities, but the opposite (1979: 100). He states that ‘we must not imagine a world of discourse divided between accepted discourse and excluded discourse, or between the dominant discourse and the dominated one; but as a multiplicity of discursive elements that can come into play in various strategies’ (ibid.). As such, discourses are power-knowledge producing elements at function in the field of power relations. In his understanding, power produces knowledge through discourse (1979: 58, 97), and hence these ‘discursive facts’ are produced as ‘truths’ through the mechanisms of power-knowledge.

Foucault suggests that this relation is formed in two differing ways: firstly, certain forms of power – anatomo-politics of the human body – concentrate on disciplining the individual body as a machine (1979: 139). This is done through ‘its disciplining, the optimization of its capabilities, the extortion of its forces, the parallel increase of its usefulness and its docility, its integration into systems of efficient and economic control...’ (1979: 139). Secondly, other forms of power – bio-politics of population – focus on the organisation of larger quantities of bodies, of populations, in the form of controlling fertility, mortality, birth rates, the level of health, life expectancy, etc.

(Foucault 1979: 139). These two forms of power were ‘directed toward the performances of the body, with attention to the processes of life’ and ‘characterized a power whose highest function was perhaps no longer to kill, but to invest life through and through’ (1979: 139).

As such, from the eighteenth century onwards, these two forms of power started operating in more mundane ways, on multiple levels in society in comparison to their earlier forms (Foucault 1979: 139). ‘The old power of death that symbolized sovereign power’, Foucault argues, ‘was now carefully supplanted by the administration of bodies and the calculated management of life’ (ibid.). Thus what emerged is a new form of ruling, of governing and administering: a more subtle way that penetrates into the daily lives and routines of individuals and populations.

Power, however, is something that Foucault conceptualises from multiple viewpoints. For him, power is not purely a top-down relation, a subject-object situation, where one has power and the other doesn’t, where power is exercised by some and not others. Instead he suggests that power is to be understood as a force relation (1979: 92). As such, power can be seen as a fluctuating web in all aspects of the society. For him it is a process which,

through ceaseless struggle and confrontations, transforms, strengthens, or reverses them (the force relations); as the support which these force relations find in one another, thus forming a chain or a system, or on the contrary, the disjunctions and contradictions which isolate them from one another; and lastly, as the strategies in which they take effect, whose general design or institutional crystallization is embodied in the state apparatus, in the formulation of the law, in the various social hegemonies. (1979: 92)

Here Foucault explains power as something that does not appear as absolute or omnipotent, but something that is continuously embedded in processes of transformations and confrontations everywhere.

This understanding of discursive power will be utilised later on in order to analyse pornography as a proponent of a discourse of sexuality, and how regulating extreme pornography can be used to create ‘docile bodies’.

Pornography in the realm of sexuality

Since the mid-nineteenth century the United Kingdom has become increasingly secularised (Weeks 1993: 6). As a consequence the institutional evaluation, judgement and control of decency and appropriate sexual activity have shifted from the church to the state and the experts in social and mental hygiene – the medical institution (ibid.).

A society going through such a transformation has to establish new discursive ‘truths’ about sex and sexuality, and sanction them in different ways. As Weeks argues, we are faced with new issues of value and ethics, and must decide on new criteria for evaluating ways of life, desire, and activities (1993: 5). Therefore, new discourses and power relations emerge.

In *History of Sexuality Vol. 1* (1979), Foucault describes sexuality thus:

[s]exuality must not be described as a stubborn drive, by nature alien and of necessity disobedient to a power which exhausts itself trying to subdue it and fails to control it entirely. It appears rather as an especially dense transfer point for relations of power: between men and women, young people and old people, parents and offspring, teachers and students, priests and laity, an administration and a population. Sexuality is not the most intractable element in power relations, but rather one of those endowed with the greatest instrumentality: useful for the greatest number of manoeuvres and capable of serving as a point of support, as a linchpin, for the most varied strategies. (1979: 103)

Sexuality, then, emerges as something that is intricately linked to relations of power that function through gender, age, the family, the education system, the religious and moral organization of society, and between rulers and the ruled. The discourse of these elements is not a struggle to limit or repress sexuality, but to produce and reproduce it (Foucault 1979: 105). Foucault argues that the history of sexuality needs to be described as a history of discourse that has produced certain truths about sex and sexuality (1979: 69), thus it is important to ask why sexuality is such an instrumentally effective element in the relations of power.

One of the reasons is that people do not know how to talk about sexuality and lack a common language. As Jeffrey Weeks says, in a way or another everyone has something to say about it, we are all experts of a kind, but this somehow increases our confusion instead of reducing it (Weeks 1993: 1). This does not mean that everyone is an 'expert', for some have more expertise than others and thus are in more powerful discursive positions.

Another reason why sexuality is an effective instrument in power relations is that it is often perceived as negative and murky: a site of danger (Foucault 1979: 69). It has been seen 'by nature' (ibid.: 68), uncivilised, as the secret key to life, while simultaneously plagued by sin, greed, evil, weakness, and the ultimate transgression of life: death. This renders it an easy target for discursive strategies of the anatomo-politics of the human body and the bio-politics of population.

Foucault explains the power dynamics in sex as a binary system: 'licit and illicit, permitted and forbidden' (Foucault 1979: 83). He locates the main domain of power relations in producing sexuality in the institution of the family (ibid.: 109, Haug 2001: 60). This means that the family is the main site of discursive production of sexuality: this institution is at a crucial crossroad of multiple bio-political (Foucault 1979: 139) discourses of sexuality and is thus affected and produced by them (the medical institution, the law, pedagogy, sexology, etc.).

Yet the family is also the location of production of discourses that take place on the anatomo-level (Foucault 1979: 139), meaning inside the family. Here the production of sexuality involves the creation of received wisdoms, 'truths', such as the incest taboo (ibid.), defining reproductive heterosexuality as the norm (Duvert 2007) and the sexualised gender relations which children learn from their parents (Haug 2001: 61).

Tony Duvert also comprehends the family as the locus of the production of sexuality. In criticising the family institution, he writes that the family

adapts the subject to the series of alienations encountered while growing up, ending with the final stage: adult age, marriage, procreation, production-consumption, confinement within the family, obedience – state-sanctioned sexuality, which keeps all of it in place and will turn out to have created it: *good sex*. (2007: 17 italics original)

As such, the family is defined and produced through a multitude of discourses such as practices of giving birth, legalities that define parenthood and inheritance, and sex education in schools. Simultaneously, the family itself constitutes and produces sexuality (defining licit childhood sexuality, and demonstrating monogamy, marriage and procreative sexuality as the norm). This produces certain discursive ‘truths’ and hence family defines the appropriate adult age and the acceptable and preferable social items accompanying it. The family produces the boundaries of licit and illicit sexuality, in Duvert’s words: good sex.

Foucault states that the main point is not to decide whether one is for or against sex, or prohibitions for that matter, but to unravel the discursive constructions of sex (1979: 11). He writes that ‘[w]hat is at issue, briefly, is the over-all ‘discursive fact,’ the way in which sex is ‘put into discourse’” (ibid.). The recent ban on extreme pornography conceptualises ‘pornographic’ as something that ‘appears to have been produced solely or principally for the purpose of sexual arousal’ (Appendix 3). This definition is merely satisfactory, and thus we need to ask: what constitutes pornography? How should pornography be conceptualised?

Although pornography is mass-produced and mass-consumed, Wicke argues that pornography should be understood as a genre of consumption with multiple subdivisions in order to dismantle a notion of pornography as monolithic entity (1991: 76). This definition renders ‘pornography’ conceptually comprehensible. When seen as a genre, it should be noted that the vast majority of pornography is highly conservative in terms of genre conventions. The scenes, gender roles, sex acts, camera angles, acting, and, finally, the climax, are often highly predictable and stereotypical (Wood 1993: 145).

Most radical and second wave feminist accounts of and attacks on pornography function through an element of homogenisation; pornography is produced and functions in the social world as a unified object with particular and obviously general outcomes. Such an understanding does not make porn easily comprehensible; rather it obscures the nuances and varying forms of pornography. In order for an analytical discussion to proceed, pornography needs to be engaged with as a genre with a multitude of highly heterogeneous subgenres.

Sontag (1967) establishes three differing (although overlapping) ways of comprehending pornography: ‘pornography as an item in social history’, ‘pornography as a psychological phenomenon (according to the usual view, symptomatic of sexual deficiency or deformity in both the producers and consumers)’, and pornography as ‘a minor but interesting modality or convention within the arts’ (1967: 83). What is of special interest here is the middle category, the psychological phenomena. While this paper is concerned with the socio- rather than the psycho-logical, the law on extreme pornography is primarily interested in the realm of the mind, and seeks to regulate the mental through the physical, the psychological through the social.

Sontag argues that in the UK and the US, the examination and judgment of pornography is tightly limited in the discourses of historians, jurists, sociologists, psychologists, and social critics, and as such it 'is a malady to be diagnosed and an occasion for judgement' (1967: 84). Hence, it is these disciplines and professions that produce the bio-political discursive truths about pornography, and sexuality's relationship to pornography.

Following on from that one has to ask how does pornography relate to family, or the other way round? What is their relationship? Pornography and the family have a relationship more intimate and intertwined than it may first appear. Where the family defines good, licit sex and sexuality, pornography utilises these notions and thrives on transgressing their boundaries (Barker 2000: 664). Langman (2008) states that pornography as a genre obeys certain rules,

...and its primary rule is transgression... it's greatest pleasure is to locate each and every one of society's taboos, prohibitions and properties, and systematically transgress them, one by one. Like sci-fi, porn replaces existing realities with wild alternative universes (against which to measure the lackluster, repressive world we've inherited). (Langman 2008: 669)

I take from Langman the idea that the logic of pornography tries to locate taboos and transgress them. Although I don't agree that pornography 'replaces existing realities', I do believe that pornography feeds on the human capacity to imagine, and hence I wish to turn to the role of imagination. As Foucault asks, what has been the impetus behind constituting sex as the secret, all-powerful, unstoppable force, the hidden meaning, the constant fear (1979)? In other words, what is it about sex that excites us and makes it the secret cause of potential evil, the object of fear that needs to be controlled? In search for answers it is crucial to turn to the politics of representation and the 'pornographic imagination'.

Representation, imagination and action

Pornography as a representation is particularly seen as dangerous because it is about sex and sexuality, on the border of nature-culture, and where bodies appear intimate outside of the family setting. In fact, the recent interest in pornography over the last decades, whether juridical, academic, or political, can be seen as a manifesto of the anxieties in the West in relation to representation (Wicke 1991: 86). Pornography is about sex only via representational technology, as it is something delivered via text or image. The ban on extreme pornography can be understood as one of the most recent waves in this anxiety, fuelled by technological advancements, and thus leading to a 'crisis of spectatorship' (Halberstam 1993: 196).

Pornography occupies a place in the mental landscape of sexuality, constructing something that Sontag calls the 'pornographic imagination' (1967: 86). This is the site of most contestation within feminist pornography debates, and the terrain of regulation for the extreme pornography law.

Foucault notes that '[i]t is often said that we have been incapable of imagining any new pleasures' (1979: 71). Resting on that notion, it could be said that the consumption of pornography is the process of producing, reproducing, redefining, and

manufacturing old and new pleasures through visual and aural stimuli. Hence, the act of consuming pornography can be understood as the process of forming the ‘pornographic imagination’. What I mean by this is that pornography introduces the viewer to new ways of knowing about the possibilities of sex and sexuality, while simultaneously restricting them. This is due to the conservative genre conventions of pornography, its predictability and its focus on the act of penetration. Yet one must raise the question of the implications of this imagination on reality.

MacKinnon (1993) argues that ‘the fantasy’ and ‘the imagined’ are reality. She tackles the idea that pornography should be understood as speech or defended in the name of freedom of speech. Indeed, she demands it to be understood simultaneously as hate speech and actions in the social world resulting in women’s subordination and discrimination (MacKinnon 1993: 106). The existence of pornography, MacKinnon argues, constructs the world as a ‘pornographic place’ from where rigid gender roles are learnt and then acted out in the social world (*ibid.*).

Countering the liberal freedom of speech argument that views pornography as speech, she writes the following:

[t]o say that pornography is an act against women is seen as metaphorical or magical, rhetorical or unreal, a literary hyperbole or propaganda device. On the assumption that words have only a referential relation to reality, pornography is defended as only words – even if it is pictures women had to be directly used to make, even when the means of writing are women’s bodies, even when a woman is destroyed in order to say it or show it or because it was said or shown. (MacKinnon 1993: 98)

This quote to me represents the most fundamental elements of anti-pornography feminism. Firstly, for MacKinnon, pornography is real, as it is done to some women somewhere. Secondly, it is done *to* women, that is, women involved in the making of the product are used and abused, not willing participants or people with agency. Thirdly, pornography is reality for the people involved in making it, and for anybody who is exposed to it, including the viewers. Fourthly, the consumption of pornography has a causal effect at the receiving end of the representation, that is, sexist behaviour on the screen will be internalised and acted out. Resting on this notion both Dworkin (1981) and MacKinnon understand sexuality as the pivotal locus of gendered inequality, and hence their pro-censorship stances often translate to anti-sex stances (Strossen 1996: 107).

In critiquing feminist anti-pornography argumentations, Halberstam writes that ‘[c]ollapsing real and imagined is a totalizing activity, it refutes to read difference, it refutes the interpretability of any given text, and it freezes meaning within a static dynamic of true and false’ (Halberstam 1993: 199). What Halberstam is effectively saying is that when the definitions of ‘reality’ and ‘imagination’ are equated, interpretation is frozen and meaning is totalised. There is only true and false, good and bad, ‘licit’ and ‘illicit’ (Foucault 1979: 83). In my view, this is not how we as humans make sense of the world.

Through a Foucaultian analysis, the Dworkin-MacKinnon understanding of pornography and sexuality appears unfruitful. The totality of the world is constructed of two distinct discourses: the dominating one and the dominated (Foucault 1979: 100), the

male system and the subordinated womankind (Dworkin 1981). As such, there are no 'multiplicity of discursive elements that can come into play in various strategies' (Foucault 1979: 100). Hence we must turn to more polymorphous discursive strategies to better understand the complexity of representation–imagination–action complex.

The ban on extreme pornography is predicated around the notion that representations of violent sex can incite consumers to act it out. As Longhurst's boyfriend stated: 'Jane would still be here if it wasn't for the internet' (Summers 2007). So, what is violence in reality and what is violence in the imagination? What is the relationship between representation, imagination, and action? Halberstam (1993) addresses this question:

[t]he relationship between imagined violence and 'real' violence is unclear, contested, negotiable, unstable, and radically unpredictable; and yet, imagined and real violence is not simply a binary formulation. Precisely because we cannot predict what actions representations give rise to, it is impossible to describe the boundary that divides imagined violence from real violence in any detail. (1993:187)

Here Halberstam recognises the unpredictable relationship between representation and action, of imagining violence and acting violently. Many opponents of the new extreme pornography law steadily denounce any correlation between the violent pornographic representations they defend as free speech and the possibilities of violent, non-consensual acts which might occur post-exposure to such material due to the presentation's influence on the consumer's pornographic imagination. Deborah Hyde from *Backlash* states in *BBC News*: 'perverted predators like Coutts will always exist and no amount of "kneejerk" legislation would prevent them from killing' (Summers 2007). Here Hyde notes that there are already 'perverts' who will kill with or without the implementation of the law. Indeed, 'perverts' are not, in Hyde's point of view, produced or incited by extreme pornography, they just exist. This appears to be the total opposite of MacKinnon's argument, where there is a direct causal relationship between consuming representations and enacting them out. For Hyde, there is no causality, and that the rational mind can distinguish between wrong and right.

But the process of consuming pornography is much more complex than its critics or defenders often realise. Wicke (1991) wrote the following on pornographic consumption well before the mass access to internet:

...it needs to be accepted that pornography is not 'just' consumed, but it is used, worked on, elaborated, remembered, fantasized about by its subjects. To stop the analysis at the artifact, as virtually all the current books and articles do, imagining that the representation is the pornography in quite simple terms, is to truncate the consumption process radically, and thereby to leave unconsidered the human making involved in completing the act of pornographic consumption. Because of the overwhelming focus on the artefacts or representations of pornography, such 'making' has been obscured in favour of simply asserting that these artefacts have a specific or even an indelible meaning, the one read off the representation by the critic. (1991: 78)

What Wicke suggests here is that pornography is not just the end-product on the screen, that the process of consumption should not be equated with the process of simply viewing. The latter denotes a description of a physical act, whereas the former is a mental process that takes place during and after viewing.

Repeated exposures to certain representations can alter thoughts, feelings and behaviours towards a certain issue, in this case extreme or violent sex. This is recognised by the Obscene Publications Act in terms of gradual reinforcement of ideas and identification with desires and pleasures that accumulates over time through increased exposure to certain representations (Wood 1993: 145).

Indeed, when the police searched Coutt's house a few weeks after he had murdered Longhurst, they found a collection of extreme pornographic images involving strangulation, rape and necrophilia. More importantly, he had accessed this material only a few hours before the murder (Summers 2007). Can we conclude that he was incited by the representations he had been viewing, and had decided to turn his fantasies into reality?

MacKinnon argues that '[t]o say that pornography is categorically or functionally representation rather than sex simply creates a distanced world we can say is not the real world, a world that mixes reality with unreality, art and literature with everything else, as if life does not do the same thing' (1993: 107). Then, according to MacKinnon, there are no ambiguous representations; they are all either good or bad. Butler (1990) contests this idea, and presents a more complex picture. She argues that '[w]hereas anti-pornography feminists presume a mimetic relation between the real, fantasy, and representation that presumes the priority of the real, we can understand the 'real' as a variable construction which is always and only determined in relation to its constitutive outside: fantasy, the unthinkable, the unreal' (1990: 488). Yet Butler (1990) posits this crucial question: 'Does fantasy compel a phantasmatic identification with aggression or victimization? Does it provide a motivational link between representation and action?' (1990: 491). The anti-pornography feminists are keen to say 'yes', whereas anti-censorship feminists are eager to refute any such causality. Drawing boundaries between the imagined, the fantasy, representation and reality appears almost impossible. Yet how does this relate to the creation of 'docile bodies'?

The creation of 'docile bodies'

In the end we must ask in what ways does this new law aim to create 'docile bodies'? What are its possibilities and what are its limitations? The answers to these questions do not consider other implications such as the capabilities and willingness of retrospective police forces to enforce the law. To answer these questions, we must, again, remind ourselves of the discursive forces at operation here.

The 'docile body', in the case of the ban on extreme pornography, is not created in the prison. In fact, the attempt is to create it through the threat of imprisonment. This is the ultimate possibility for the creation of 'docile bodies' through the control over the 'pornographic imagination' via a threat to the bodily freedom. This threat is possible if one transgresses the new legal boundary which, albeit partially, defines the binary power relations of licit and illicit sex. Hence this new law must be understood as an act of

policing and reinforcing the boundaries of licit and illicit sex and sexuality in the modern age of technological advancement.

If this sort of transgression is understood in positive terms, it might lead to a reification of the ultimate offender, in this case Coutts, who transgressed more than just legal boundaries. He murdered. And as such, this reification demands a total refutation. It also demands a moment of silence for Jane Longhurst, who was his victim. And as such, this does not call for a victim identity for all women.

Yet the pivotal limitation for the creation of ‘docile bodies’ lies, ironically, in the nature of pornography and the ‘pornographic imagination’. Butler states:

[t]he effort to enforce a limit on fantasy can only and always fail, in part because limits are, in a sense, what fantasy loves the most, what it incessantly thematizes and subordinates to its own aims. They fail because the very rhetoric by which certain erotic acts or relations are prohibited invariably eroticizes that prohibition in the service of the fantasy. These prohibitions of the erotic are always at the same time, and despite themselves, the eroticization of prohibition. (1990: 493)

Hence, the ‘pornographic imagination’ is formed through the transgression of the boundaries of the family which is the primary site of the production of sexuality. Simultaneously, the ‘pornographic imagination’ also depends on being disobedient to the rules that try to govern it outside the family or which might be constitutive of the family. As such, the law on extreme pornography will inevitably lead to an increasing eroticisation of the transgressive elements of the very pornography it aims to restrict.

But what does such a glorification of the aspect of transgression entail? There will be a number of people who might be exposed to extreme pornography and act in the manner of the representations they have viewed, without the consent of others. Indeed, what is the price of defending this transgression? Will someone else be incited by extreme pornography and commit acts of eroticised violence?

Conclusion

Through looking into the formation of discursive power it has been possible to understand how the family is the most important site for the production of sexuality. And importantly, discursive boundaries instilled by the family appear to underpin pornography, as pornography is, arguably, rooted in the act of breaking these very discursive boundaries that constitute, construct and guard the institution of family.

In *Discipline and Punish* Foucault notes that in the transformation of the mechanisms of disciplining bodies a few centuries ago, there was also a change in the evaluation of the wrongdoer and the motivating force behind the offence. He depicts this change by saying that:

[t]he question is no longer simply: “Has the act been established and is it punishable?” But also: “What *is* the act, what *is* this act of violence or this murder? To what level or to what field of reality does it belong? Is it a

phantasy, a psychotic reaction, a delusional episode, a perverse action?”
(Foucault 1977: 19)

Hence, the question changed from the act itself to the nature of the act, and the doer of that act. The mission was to track down the illness in the person that committed it.

The same logic is still very much intact today. The person who defies the boundaries of ‘licit and illicit’ sex, of good sex, is criminalised. It needs to be stressed that this transgression does not have to be a murder, it can be the act of viewing an acted out extreme pornographic scene online, yet with no intention to harm anyone after the act of consuming it.

Halberstam states that fantasy is one of the safest forms of sex as it avoids physical contact with other people, yet it manages to contaminate anyway, making information viral, and mutating it through language and imagination (Halberstam 1993: 194). This mutation can be understood as the point when one can no longer guarantee what the representation does to the mind of the consumer. This is the point where representations can become dangerous to oneself and other people around. And this is the point the ban on extreme pornography aims to control. This new law on extreme pornography can be seen as a sign of the ‘crisis of spectatorship’ (Halberstam 1993: 196), and as such, it aims to give people some comfort and protection. This crisis is societal, as well as individual; it is anatomo-political and bio-political. Yet the notion remains that the ‘pornographic imagination’ cannot be limited by law as it inherently feeds on such prohibitions. Any and all prohibitions make good pornography.

Biographical Note

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Appendix

Criminal Justice and Immigration Bill (2007), Part 6 of the Criminal law, 64 Possession of extreme pornographic images

- (1) It is an offence for a person to be in possession of an extreme pornographic image.
- (2) An “extreme pornographic image” is an image which is both—
 - (a) pornographic, and
 - (b) an extreme image.
- (3) An image is “pornographic” if it appears to have been produced solely or principally for the purpose of sexual arousal.
- (4) Where an image forms part of a series of images, the question whether the image appears to have been so produced is to be determined by reference to—
 - (a) the image itself, and
 - (b) (if the series of images is such as to be capable of providing a context

- for the image) the context in which it occurs in the series of images.
- (5) So, for example, where—
- (a) an image forms an integral part of a narrative constituted by a series of images, and
 - (b) it appears that the series of images as a whole was not produced solely or principally for the purpose of sexual arousal,
- the image may, by virtue of being part of that narrative, be found not to be pornographic, even though it might have been found to be pornographic if taken by itself.
- (6) An “extreme image” is an image of any of the following—
- (a) an act which threatens or appears to threaten a person’s life,
 - (b) an act which results in or appears to result (or be likely to result) in serious injury to a person’s anus, breasts or genitals,
 - (c) an act which involves or appears to involve sexual interference with a human corpse,
 - (d) a person performing or appearing to perform an act of intercourse or oral sex with an animal,
- where (in each case) any such act, person or animal depicted in the image is or appears to be real.
- (7) In this section “image” means—
- (a) a moving or still image (produced by any means); or
 - (b) data (stored by any means) which is capable of conversion into an image within paragraph (a).
- (8) In this section references to a part of the body include references to a part surgically constructed (in particular through gender reassignment surgery).

Notes

ⁱ The maximum penalty for breaking this law is three years of imprisonment and the possibility of unlimited fines. For more information and details, see ‘Further information on the new offence of Possession of Extreme Pornographic Images’ supplied by the Ministry of Justice (2008), available online.

ⁱⁱ Susan Sontag (1933-2004) was a North American author, literary theorist and activist.

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