

## Chapter 7.3

# Social and Legal Dimensions of Online Pornography

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### INTRODUCTION

The dialectics between private pleasures and public needs raise various dilemmas, especially in the domain of the erotic and aesthetics. These are relative and abstract terms that can vary from individual to individual. However, in the public spaces of the Internet, the need for community standards of decency, acceptability, and taste often drag many of the debates about the Internet into a legal space, despite its description as a virtual sphere and the libertarian endeavours to keep it free from government and organizational control. While the Internet is a global resource it is often ruled through the laws of its physical embeddedness, and the global nature of the Internet also means that it is consumed and assessed through the differing cultural practices and norms that prevail in various parts of the world. The Internet as a communication and information platform is

then subject to varying codes of ethical and moral conduct by different communities whether online or off-line. While the realm of the erotic is often equated with individual pleasure and psyche, the proliferation of pornography on a public platform raises social, moral, and legal concerns for communities, states, and governments. One significant element in the development of the Internet as a market place has been the availability of explicit sexual material, and these electronic networks continue to feed the pornography boom and facilitate new methods for consumers to interact with sexual content as “porn” (Spencer, 1999). These networks highlight the “privatising” potential of technology, especially in relation to sexual matters, while illuminating new forms of formal and informal exchanges (Jacobs, 2004, p.72; Spencer, 1999). The Internet, from being a rather unregulated enterprise a few years ago, has recently become the focus of multiple ethical

concerns and debates and in some cases, it has amounted to moral panic (Bkardjieva & Feenerg, 2000; Cavanagh, 1999).

## **BACKGROUND**

The emergence of gaming culture and the simulation of reality through the design of gaming technology raises the age-old issues about image and representation; the effects it can have on our cognitive senses, and how these can, as a result, affect or mediate our ability to reason and engage with interactive technology. These questions become ever more salient with regard to online pornography or sexually explicit material. The distinctive element about online porn is its use of multimedia, its ubiquity, and consumer access to it. Due to the anonymity of the Internet and the difficulties in regulating this transnational and anonymous medium, transgressive forms of entertainment, including pornography, have flourished online. According to Spencer (1999), the Internet is structured at one level around the economics and politics of consumption, at another level around the politics of individuality, and at another around communitarian concerns (p. 242).

Online pornography has been acknowledged as a relatively new form of pornography. Authors Stack, Wasserman, and Kern (2004) point out that there were about 900 pornography sites on the Web in 1997 and just a year later, the figure had burgeoned to between 20,000 to 30,000 sites, with revenues reaching US\$700 million by the late 1990s. Its growth has been attributed to the “triple-a-engine” of accessibility, affordability, and anonymity (Cooper & Griffin-Shelly, 2002, p. 11). Fisher and Barak (2001) agree that “spectacular growth in availability of sexually explicit material on the Internet has created an unprecedented opportunity for individuals to have anonymous, cost-free, and unfettered access to an essentially unlimited range of sexually explicit texts, moving images and audio materials” (p. 312). This

increased accessibility and convenience, as well as the exploiting of e-commerce by pornographers, means that the Internet makes it easier for individuals to come into contact with porn. Some suggest that this has enabled the normalization of practices that may have otherwise been stigmatized in traditional markets, leading to a mainstreaming of cyberporn through its visibility and presence (See Cronin & Davenport, 2001, p.35; O’Toole, 1998). In the last few years, undoubtedly, there has been increasing heterogeneity and decentralization on the Internet as a wider variety of producers and consumers participate in the making of globalized markets, and a contemporary notion of pornography should capture such networked sexual agency and politics (Jacobs, 2004).

## **MAIN FOCUS**

Diane Russell (1998) defines sexually explicit material as that which “combines sex and/or the exposure of genitals with abuse or degradation in a manner that appears to endorse, condone or encourage such behaviour” (p. 3). James Check (1985), on the other hand, terms pornography as “sexually explicit material” without further qualifying it. The Internet poses new questions about the reality, regulation, definition, and availability of pornography, as it has dramatically increased the accessibility of pornography, and of violent pornographic images in particular (Gosset & Byrne, 2002). The danger of pornography to adults is much more disputed, and often the arguments for pornography include freedom of speech and the expression of civil liberties, the right to choose, and the right to privacy (Kuipers, 2006).

Nevertheless, what constitutes pornography is often contested in societies. While in terms of ethics adult pornography is a contested terrain, child pornography, on the other, is almost universally prohibited. But in the online environment, a digital image can be manipulated and altered and consequentially it may be difficult to clearly

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