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# Pornography & The Law

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Namita Malhotra

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# Introduction

*“If you really want to be amazed at the total sightlessness of your blind spot, do a test outside at night when there is a full moon. Cover your left eye, looking at the full moon with your right eye. Gradually move your right eye to the left (and maybe slightly up or down). Before long, all you will be able to see is the large halo around the full moon; the entire moon itself will seem to have disappeared.”<sup>1</sup>*

This monograph is an attempt to unravel the relations between pornography, technology and the law in the shifting context of the contemporary. It is these shifts that push the arguments here to be relevant beyond specific occurrences or phenomenon in the digital world (the moment of video pornography, interactive cyber sex, webcam sex, camfrog, social networking and sexual behaviour, chatroulette, facebook, confessional and sexualized blogging, sexting and mobile phones, etc.) to attempt to understand the nature of affects that surround pornography, especially as reflected in the law and its desire to contain it, and how law’s desire to contain is also about subjectivities and practices around technology. The structure of the monograph is somewhere between a willful literature review and a dressing room, where various concepts, ideas, images or visions around law, film/video, technology and new media are tried on for size to explain or unravel parts or whole of the picture around pornography in the Indian context.

Of specific interest is how law in the Indian context looks (or doesn’t) at pornography. Here the use of the phrase ‘looks at’ is deliberate because the law is not merely examined in terms of how it governs and policies images, but also as a cultural document of how society relates to images, and what tropes, symbols and metaphors does the law employ or deploy in its examination of the pornographic. The affective life of law and its confusing account and relationship to the explicit image is explored in the monograph. However rather than centering this enquiry solely around the law, the interest here is to break away from legal research even in critical legal studies to a methodology that looks more clearly at the object itself, or to answer questions while keeping the object in view. This necessarily leads to a focus on pornography itself and from there to proceed to questions around law, history, film, video, new media and technology (which necessitates an exploration of film and video studies, new media, culture studies and technology/science studies in relation to pornography).

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<sup>1</sup> Similar and more fascinating games or tests can be found online to find the limits of vision because of the retinal blind spot, especially at Neuroscience for Kids – The Blind Spot. Available online at <http://faculty.washington.edu/chudler/chvision.html>. In these games, an object simply disappears for a brief bit or at a specific distance, because of the retinal blind spot. A scientific and understandable explanation for the blind spot can be found at <http://en.wikipedia.org/wiki/Retina>, but basically the blind spot is the where the optic nerve touches the retina and this is point at which we don’t see anything at all – **a spot of no-vision in a field of vision.**

It is simplest perhaps to begin with the mechanics of the construction of pornography in the legal discourse, because the prohibitive law is expected to have a clear definition for pornography. Justice Potter's statement for hard core pornography – I know it, when I see it – is overcast over legal discourse around objects whose pornographic qualities have to be ascertained by courts. But it is overcast, rather than grounding the legal discourse, precisely because of an inability or unwillingness to pin down the category in spite of its alleged obviousness<sup>2</sup>. The law has a peculiar blind spot when it comes to the recognition and prosecution in relation to pornography and it falls somewhere between the law for obscenity (of which pornography is an aggravated form in legal terms) and the certification guidelines<sup>3</sup> for cinematograph films. This blind spot is where my curiosities and investigations about pornography come from, as opposed to any other category of material which could be obscene material, or the category of video and new media forms. But instead it is about pornography because of a resoluteness with which it is not seen even when it is in our field of vision.

The etymology of pornography can be traced to *graphos* (writing or description) and *porneia* (prostitutes) and hence it means the description of the life, manners, etc. of prostitutes and their patrons. The first known use of the word to describe something similar to pornography as understood today was in eighteenth 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'<sup>4</sup>. 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 and DVD)

The first two chapters trace the history of obscenity jurisprudence and the fear of the image in law; the ways in which the law itself banished images from its own kingdom and was rendered largely textual. Indian law is borrowed or handed down from colonial legislation whose histories are intertwined with religious power and attempts of secularization in England. In the second chapter we look at how pornography is dealt with in Indian law and the ways in which visuality has dominated, as opposed to the other senses of touch and smell. The co-relation of obscenity with dirt and filth is explored here and how that relates to other aspects of the functioning of Indian law. In chapter three, this exploration of Indian law in relation to legal and illegal pleasures and gender is taken further. Here the schism in the nation and the house is introduced, of incest pornography and its proliferation. In this chapter we also explore some ideas of radical feminist

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<sup>2</sup> *Jacobellis v. Ohio*, 378 U.S. 184 (1964)

<sup>3</sup> Films are either certified for universal exhibition (U), restricted to adults (A), universal exhibition with parental guidance for children less than 12 years old (UA), films for specialised audiences e.g. doctors (S)

<sup>4</sup> Walter M. Kendrick, *The Secret Museum: Pornography in modern culture*, University of California Press, 1996. He also said that Pornography is a "thought structure" and "a melodrama" with new players in every age.

perspective on pornography and how it views pornography more as an act, rather than speech as how it is perceived in law.

Chapter four is the beginning of a new section that is no longer obsessed only with the law but is an attempt to look at the actual object of pornography, specifically video and amateur material in the contemporary. Here ideas of film as being beyond speech or act are explored, where film can be understood as a body that responds and relates to the viewer. What can this affective relation to film as theorized in film studies say about our relation to pornography is the question that is posed. Chapter five looks at a field of pornography studies that is interdisciplinary and also relates to new media studies and film studies. Though largely located or about phenomena in the global North (or West), porn studies offers some interesting ideas and concepts around the making of the genre of pornography, amateur video and its pleasures, what falls outside the frame of scopophilic pleasure of pornography that is explored especially through art and digital projects. The slowing down of a pornographic film reveals as much as photographic motion studies of pre-cinema revealed about the human body, and our fascination with capturing its movements.

Chapter six is an attempt to bring together various domains explored so far – affective life of law, how we relate in embodied ways to film and video and the new aspect of technology (the embodiment and simulation that it introduces). In this chapter we examine a few judgments in further detail and especially in terms of how they talk about technology. From here, in chapter seven, we transition to talking about technology – its futures and pasts, the various ways in which it can be understood. Perhaps technology is a symbiotic beast – not autonomous but not entirely within our control as well. At the end are three vignettes that can barely capture the entirety of what pornography can lead us to explore, but perhaps can act as some kind of end parentheses so that future explorations can take some things for granted as they move forward; and also take forward certain ideas and concepts about video technology, Internet, body, tactility and affective life of law.

## Chapter 1

# The Knowing yet Blindfolded ‘Gaze’ of Law upon the Profane

*“The seeking out of images is the beginning of whoredom, saith he”*

Sermons: or Homilies, Church of England<sup>5</sup>

*“Its exterior was a beautiful woman or doll, richly dressed, with arms extended, and around her feet a semi-circle was drawn; the victim who passed over this fatal mark, touched a spring, which caused the diabolical engine to open its arms, clasp him, and a thousand knives cut him into as many pieces in the deadly embrace. This was called the virgin.”*

The Confessional Unmasked<sup>6</sup>

Derrida points out the foundational moment of law always contain violence i.e., “would consist of a coup de force, of a performative and therefore, interpretative violence that in itself is neither just, nor unjust and that no justice and no previous law with its founding anterior moment could guarantee or contradict or invalidate.” It is here, at this foundational moment that the metalanguage of law laid down faces a silence, a limit laid down or the mystical foundation of authority<sup>7</sup>. The word of law is violence<sup>8</sup>. As cover states this is true not only for revolutionary constitutional understandings of the law but

**“...the relationship between legal interpretation and the infliction of pain remains operative even in the most routine of legal acts.** The act of sentencing a convicted defendant is among these most routine of acts performed by judges. Yet it is immensely revealing of the way in which interpretation is distinctively shaped by violence. First, examine the event from the perspective of the defendant. The defendant's world is threatened. But he sits, usually quietly, as if engaged in a civil discourse. If convicted, the defendant customarily walks – escorted – to prolonged confinement, usually without significant disturbance to the civil appearance of the

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<sup>5</sup> Church of England, Sermons: or, Homilies, Parts 1-2, T. and J. Swords, 1815, p.149.

<sup>6</sup> H.M. Hatch, The Confessional Unmasked – excerpted in Poppery Unmasked, Showing the Depravity of Priesthood and Immorality of the Confessional; Being the Questions put to Females in Confession, Extracted from the Theological works now used by Cardinal Wiseman, His Bishops and Priests, Published by H.M.Hatch, Lowell, Massachusetts, 1854. The above is a description of the “horrid inquisition rooms” in Spain. This is the book whose trial led to the establishment of the Hicklin test for obscenity.

<sup>7</sup> Derrida, Jacques, “Force of law: Mystical foundation of authority”, Margins of Philosophy, The Chicago University Press, 1982

<sup>8</sup> Robert M. Cover, “Violence and the Word”, 95 *Yale Law Journal* 1601 (July 1986)

event. It is, of course, grotesque to assume that the civil facade is “voluntary” except in the sense that it represents the defendant's autonomous recognition of the overwhelming array of violence ranged against him, and of the hopelessness of resistance or outcry.”

Cover is not objecting to or sympathizing with the defendant’s plight, but pointing out that the legal system is also a form of violence – that interpretations of the law are not ‘conversations’ even if seemingly civil. “Legal interpretive acts signal and occasion the imposition of violence upon others: A judge articulates her understanding of a text, and as a result, somebody loses his freedom, his property, his children, even his life.” Legal interpretation takes place in the field of pain and death.

The link between law and justice is assumed to be self evident but in fact has been questioned by several critical and philosophical examinations of the law. Derrida clearly distinguishes between law and justice – for him justice is always required immediately and a just decision must rend time and defy dialectics, unlike law. Yet justice is also always yet-to-come and it has a hopeful and transformative potential for the recasting and refounding of law and politics each time. “Perhaps, one must always say perhaps for justice”. A connection is also drawn between the law’s application of general norms and how it cannot speak to the particular, uniquely human aspects, while justice is particular.

Costas Douzinas talks about this and says – ‘Justice must be blindfolded to avoid the temptation of facing the concrete person and putting individual characteristics before the abstract logic of the institution.’<sup>9</sup> Justitia, the symbol of justice is blindfolded, so as to be able to discern even a fraction of a slip in the scales of justice that visual cognition would not be sufficient for her to tell. Martin Jay traces the trajectory of how justice became blindfolded through the ages, in the article – Must Justice be blind<sup>10</sup>. Justice was initially wide-eyed and alert – she was blindfolded by the Fool in a period when corruption of the rulers was rampant; she was immortalized by Vermeer as staring at empty scales; and in a transitory state before being completely blinded she had two heads – a pair of eyes that could see, and a pair that was blindfolded – shielded, maybe, from the profane and embarrassment.

It is perhaps in the symbol of justice itself that the complexity of the gaze or rather the (lack of) visual transactions in the law becomes most obvious. How does a law blinded by its own application of general norms to the particular then confront the image<sup>11</sup>? In the

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<sup>9</sup> Costas Douzinas, The legality of the image, 63 *Modern Law Review* 6 (2000), p. 813-831

<sup>10</sup> Martin Jay, “Must justice be blind”, *Law and the image: the authority of art and the aesthetics of law* (Costas Douzinas, Lynda Nead (Eds)), University of Chicago Press, 1999, p.19.

<sup>11</sup> Here a difference between image and visual might be interesting to draw – image being that which holds out against the experience of vision and the visual, and the visual being the optical verification of a procedure of power (technological, military, political, advertising, corporate, legal). Serge Daney, “Before and after the image”, translation by Melissa McMahon, *Discourse: Journal for Theoretical Studies in Media and Culture*, 20.1, 1998. Serge Daney’s distinguishing between image and visual, would then mean that the law that seeks to impose meanings on the image, does so also by judging it and thus taming its possible meanings

context of obscenity law, this transaction takes place at many levels – between the public and contentious images and materials, the observation of the law of this public in its interactions with the image, between the law and the image themselves and the image looking back to the law and the public in obedient, subversive and rebellious ways. These questions are further complicated by questions that would seem relevant only to media studies, for instance the interaction between the characters in a movie and the placing of the spectator and the point of view of the camera’s gaze in that interaction. Even the law engages with these questions of aesthetics far more than we would imagine – with questions about narrative, misc-en-scene and genre.<sup>12</sup> Here however, we will trace how justice lost its/her sight and the beginnings of the complicated and fearful idea of the image in law.

Jay’s tracing of the allegorical symbols of justice, places the appearing of the blindfold for Justitia and its shifting meanings in the social context of transformations and political turmoil in Europe. But the blindfold originally put there to show that justice was mistaken or off-balance acquired positive connotations of sagacity and of being capable of ensuring justice, in spite of being blinded or rather because of – standing in for neutrality, rather than helplessness<sup>13</sup>. The image of the Fool blinding Justice is listed in *The Ship of Fools*, by Sebastian Brant for the sin of being quarrelsome and going to court, thus indicating that initially there was a negative connotation to the blindfold.

Jay also remarks that this period was marked by the move away from private, feudal justice to the early modern period. Images of law and justice became more austere and law was presented entirely in language – “we were well along the road to the modern cult of the abstract norm in juridical positivism”<sup>14</sup>. One of the implications of this banishment of images, except as metaphors in legalese, is the removal of the possibility of a divine revelation (necessarily to be seen) or of God in law or justice, but perhaps another implication is the reduction of justice to law; of the application of general norms with no space for the unique, incommensurable or improper. For it is the eye that notices particularity, or it is the eye that places us in relation with each other and the closing of eyes distances us from other beings or even objects (here sight is then not just about the physical capacity of sight not present in the visually impaired, but about being drawn into the symbolic and taking into account the particular, unique, incommensurable and the improper).

The blindfold is thus in place so that Justitia is able to decide on each case as if it is something general, that can be resolved by a general norm in law, that it is equivalent to similar cases and that it can be subsumed under a general principle that can be re-

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(Hussain’s dejected Mother India must be read as patriotic rather than sensual, erotic or seditious) or if that is not possible by banishing it from the public realm by prohibiting it.

<sup>12</sup> Lawrence Liang, Mayur Suresh, Namita A. Malhotra, *The Public is Watching Sex, Laws and Videotapes*, Public Service Broadcasting Trust, New Delhi, 2007.

<sup>13</sup> Ibid Jay

<sup>14</sup> Ibid Jay



applied<sup>15</sup>. This principle, applied without regard to circumstantial uniqueness, is understood to hover above specific cases, recalling the origin of the word justice in Latin *iubeo* (“to command”)<sup>16</sup>. Justice is however, depicted as female, and with a sword that makes her strong – does this allow us to infer that deprived of sight, she still has other senses and other means by which she can see more clearly?

The point made that the law is not invested in the particular, in a manner in which a more humane (feminine) justice would be, is perhaps not that new and has been often repeated by both experiential accounts of lawyers or academic work on law, but perhaps what is relevant here is that this is inferred from the deprivation of sight for the allegorical image of justice. And would it be enough to confine this question to the politics of sight. In the next chapter, we would encounter how it is indeed that pornography is marked not particularly because of visual reception but because of bodily reactions (of arousal, pleasure and masturbation) and it is the body that reacts with all film, not just sight alone.

## The Obscene Object in Law

In many countries like India and Malaysia, British law (the Hicklin test for obscenity) left over from a colonial legacy is still used to determine what is obscene. The Hicklin test of obscenity<sup>17</sup> is whether “the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall.” 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. These standards are relevant in the context of Internet governance as well, since most countries are either extending existing legislation for other media (television and cinema) to the Internet. New laws enacted for the Internet adopt the same definitions regarding obscenity or sexually explicit material, inheriting also the weight of precedents that have determined what is obscene. This definition of obscenity and the penalisation of it under the Indian Penal Code, 1860 (sections 292 and 293) is further extended by other laws that prevent the distribution of such material (Young Persons Harmful Publication Act, 1956, Indecent Representation of Women (Prohibition) Act, 1986).

The case that laid down the Hicklin test i.e., *R. vs. Hicklin*<sup>18</sup> was about the mass distribution of inexpensive pamphlets called provocatively “The Confessional Unmasked” described how priests extracted erotic confessions from female penitents. The publication of the pamphlet was encouraged by the Protestant Electoral Union and used by them to discredit the Catholic Church and specifically to prevent laws that would

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<sup>15</sup> Justice, 1. is painted, sitting on a square stone, 2. for she ought to be immovable; with hood-winked eyes, 3. that she may not respect persons; stopping the left ear, 4. to be reserved for the other party. Taken from an ancient children’s picture book – *Orbis Sensualium Pictus: A World of Things Obvious to the Senses drawn in Pictures*, originally published in 1658, pp.38-39.

<sup>16</sup> *Ibid* Jay

<sup>17</sup> The Hicklin test has been modified with reference to judgments such as *Miller v. California* 413 U.S. 15 (1973) and in India *K.A. Abbas v. Union of India* (1970) 2 SCC 780

<sup>18</sup> *R. v. Hicklin* (1868), L.R. 3 Q.B. 360, Cockburn C.J.

allow Catholics into the Parliament. A description of the social and political context of this case or even the content of the pamphlet found obscene is rarely found in discussions on obscenity law in the contemporary. In a handbook on pornography law, Thomas C. Mackey discusses this case – “Protestant Electoral Union sought to ‘protest against those teachings and practices which are un-English, immoral and blasphemous, to maintain the Protestantism of the Bible and the liberty of England’. Further, the Protestant Electoral Union supported electing as Members of Parliament, men who shared their anti-Catholic sentiments and who wished to ‘expose and defeat the deep laid machinations of the Jesuits’<sup>19</sup>. It is perhaps not so difficult to draw a link between the political and social connotations in this case and the use of obscenity law to control political speech, especially since the birth of print culture and urban spaces, led to the proliferation of explicit sexual writing in early stages of modern Europe that was used to satirise and criticise the church, state and monarchy and was controlled for its defamatory and blasphemous nature, more than its obscenity<sup>20</sup>. The court acknowledges that maybe the objective of the appellant was “not to deprave the public mind; his purpose was to expose the errors of the Roman Catholic religion especially in the matter of the confessional.”

The Confessional Unmasked itself reads like a salacious expose of the Catholic Church. As per this book, the priest tells the female penitent – “Thou tremblest; thou darest not tell to this terrible God thy weak and childish acts. Well, then, tell them to thy father, an indulgent father, who wishes to know them in order to absolve them ; come, then, child, come and speak that which thou hast never dared to whisper in thy mother's ear ; tell me ; who will ever know it!” This is followed by the list of questions that a priest must ask female penitents, even if they are reluctant to share:

“Have you been guilty of thinking about the young men? Have you thought of marrying, or of the marriage bed? Have you never thought you should like to marry some one in particular? Have you thought of him when in bed? Did you feel any sensations that was pleasing at the time? Did you not wish he was with you, or would you have liked to have him with you, (recollect you are in the presence of God.) Would not you let him into your bed-chamber if he should want to? Have you never been by him or no one else, neither man or any other creature? Have you designed or attempted to do any such thing or sought to induce others to it?”

The purpose of this listing is of course to entreat parents and others to stay away from the confessional but also perhaps to summon mental images whose power was particularly understood during this age and is what led to the laying down of obscenity as an offence in common law. It is in this case that displays the fissures of English society along the lines of religion and Church, class, gender that became the test for obscenity law and was followed throughout the British Empire; several colonies including America and India followed this as precedent.

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<sup>19</sup> Pornography on trial: a handbook with cases, laws and documents, Thomas C. Mackey, ABC-CLIO, 2002, p.134.

<sup>20</sup> Laurence O’Toole, Pornocopia: Porn, Sex, Technology and Desire, Serpent’s Tail, London, 1999. O’Toole also refers to how historically, pornography or obscenity has served this purpose of being a mode of speaking against authority, of truth-telling and straight-talk

## Looking away from God

The conflict between Catholicism and Protestantism is fundamentally about iconoclasm or idolatry, but what is interesting for us is how in the shift to Protestantism, also marked by the early modern period, it was the concept of gaze itself that took center stage as it began to be theorized, defined, and demonized for a Protestant audience<sup>21</sup>. In sixteenth century England, mimetic visual images had an ambiguous status as they moved out of the domain of iconoclasm. Problematic images (of God in his human form) had been cleared away – but to achieve that the politics of the gaze or looking itself had become problematic in legal and social discourse. Andrew Stott examines a series of sonnets called Zepheria (which are not considered literary accomplishments inflected as they were with legalese rather than poetics) to look at visuality in sixteenth century England in relation to the law. He draws connections with the growing professional class of lawyers in England during this period and also the dismissal of religious icons from public gaze. The article provides an important clue to understanding the complicated and fearful idea of the image in the law.

Stott in his analysis of the series of sonnets about Zepheria states about mimetic visual images in sixteenth century England, says – “Visuality goes beyond the simple prohibition placed on the iconoclasm, and begins to be understood as a multifaceted area for the contestation of meanings.”<sup>22</sup> Stott’s analysis of Zepheria literally reflects this change in the gaze – a man is lured by a beautiful woman that he gazes upon in rapt fascination, till she looks back (‘At gaze, I stood ; like deer...’) at which point the man (a poet and lawyer) is no longer just a voyeur, but participant or drawn into relation terms with others.

Zepheria, the object of desire, is never adequately described in the sonnet, as much as the act of gazing upon her – she acts as an intangible concept or “a highly suggestive space in which a variety of ideas, prohibitions, problems, modes of representation and languages converge and conflict.”<sup>23</sup> In the poem, the moment when Zepheria looks back at the oter, is the point at which according to Stott the gaze is returned by the other and the subject is implicated in a network of interactions that redefine him in terms of the symbolic order of law and the production of meaning.

The sonnet in different forms and languages (Italian, Latin amongst others) attempts to adequately describe the fantasy of possessing Zepheria but it/she keeps slipping away. At a point of dejection and unfulfillment, the sonnet turns to the language of law. Legal terms such as supersedeas, dispense and abrogate replace the heavily romantic language of the preceding sonnets. Stott says that “the language of the law is an obvious choice... it seeks to render all relations minutely and definitively as a way of securing the order of the world.”<sup>24</sup> He says, that it is this tension between the imaginary aspect of the gaze and

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<sup>21</sup> Andrew Stott, “From 'Voi Che' to 'Che Vuoi'?: the gaze, desire, and the law in the 'Zepheria' sonnet sequence”, *Criticism*. Volume: 36. Issue: 3, 1994, p.329

<sup>22</sup> *Ibid* Stott.

<sup>23</sup> *Ibid* Stott.

<sup>24</sup> *Ibid* Stott

the symbolic register of law that Zepheria enacts that is of interest to us as we attempt to understand the ways in which, even in the contemporary, the law sidesteps carnal visibility.

In the end, Zepheria is judged and found wanting – she is clad in ghostly white as if for penance whether it is an allusion to the punishment of an adulteress or a witch (who is also clad in white and killed) or it is a foreshadowing of her own ghost. Stott on the sonnet Zepheria says “Based as she was upon an imaginary visualization of male desire, in many ways her presentation/non-representation is the perfect expression of the tension between the law and the gaze, desire and the symbolic, that can be perceived in early-modern England.”<sup>25</sup>

The analysis of Zepheria that Stott undertakes provides us with an insight into obscenity law, especially the Hicklin test. The case itself (*R v. Hicklin*) is not entirely about the obscenity of the pamphlet as much as about a religious conflict between Catholics and Protestants. However, what is of more interest is that the Hicklin test laid down a general norm to be followed – a norm that could be generalized to such an extent that it was applied across the British empire and for more than a hundred years in some countries; a norm that shifted the gaze of the law from the material itself to questions that seemed more relevant, but were abstracted from very particular and religious ideas of image and obscenity (questions that related to who would see it, how and what is the impact on it on a reasonable man). Common law that is supposed to be built on precedent, established a basic general norm that avoided the unique and the particular. However, at the same time, each object or material that crosses over this line of obscenity has to be examined by the court seemingly to answer questions raised by the Hicklin test (see above), but necessarily this would entail looking at the material itself closely.

Since the relation to Zepheria was entirely specular and Zepheria seems less an actual woman than a highly suggestive space (standing in for ideas, prohibitions, etc.) it would seem like Zepheria could be understood as something that could be prohibited, something that is desired. Once such an object is drawn into the language of law i.e., there is a case about it – then the person viewing it, the object itself, the act of viewing are all drawn into the symbolic order of law; desire or interaction of any kind must be stopped or replaced and mediated by the law. (Zepheria either must marry the poet or must be punished). The law has to be able to tame the object and give it meanings/explanations (beauty, narrative, patriotism, religion) that allow it to exist. For instance, M.F. Hussain’s painting of mother India as possibly a nude woman had to be understood through the lens of patriotism. In this particular case, the figure had to be read as the suffering of mother India because of various ailments of modern society, thus allowing it to be redeemed and declared not obscene.

Between the necessary particularity of justice for those who ask for it and the language of law that abstracts and generalizes principles, is another aspect of law’s functioning and inheritance of a fear of the image itself. This could explain why till the disruptions introduced by technology, rarely any cases of pornography came before the courts and

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<sup>25</sup> Ibid Stott.

video stores and shops, pirate markets thrived and flourished in spite of the alleged illegal nature of material that was circulated or produced. Legally, a cursory description of pornography is that it is an aggravated form of obscenity; but while many kinds of material (magazines, films, images, paintings, etc.) are examined in excruciating detail for signs of vulgarity and obscenity, such energy is not expended on the obviously explicit material that is meant for sexual arousal i.e. pornography.

If the objective of law is not only to decide what we should be allowed to see or not see, but also how we see and how we read it<sup>26</sup>, then this disengagement with the carnal visual or the sexually explicit mirrors how the mass circulation of illicit material is not to be looked at or commented on. Hence, it is only when the allegedly pornographic object surfaces in public discourse (for example the DPS MMS clip or Savita Bhabhi, etc.) that it attracts the attention of the law, and even technology with its potential for mass circulation across the lines of gender and class, does not imbalance the control of the law that is dependent on avoiding the image, rather than addressing it. It still however, is a peculiar blind spot; pornography though mediated and controlled by other structures in society including that of college, hostel, school, ISP provided network, offices, etc., is however, not often directly addressed in the law.

## Stumbling blind: contemporary legal discourse in India around obscenity

In the legal discourse pornography is missing as a category except as an aggravated form of obscenity (See *Ranjit Udeshi v. State of Maharashtra*<sup>27</sup>). In this case the obscenity of *Lady Chatterley's lover* was on trial, and it was held that the book as per the Hicklin test is obscene since it has the potential to deprave and corrupt by immoral influences. In essence the judgment deals with slang and colourful language and it was held that there was not enough preponderance of art or social purpose in the text. The judgment does make reference to pornography as “dirt for dirt’s sake” further explained as “libidinous writings of high erotic effect unredeemed by anything literary or artistic and intended to arouse sexual feelings”. It is this judgment that establishes the Hicklin test as the law to be followed in independent India as well.

In the recent fairly progressive judgment on M.F. Hussain’s painting, this definition was reiterated, giving some degree of distinction to the category of pornography apart from it being an aggravated form of obscenity and to say that it is a class of objects, images, paintings, videos designed for sexual arousal, while other material which may or may not be obscene is layered with other meanings (aesthetic, patriotic, narrative). But as such it is not a much more evocative definition than “dirt for dirt’s sake”. Does this missing descriptive category assist in the rampant circulation of pornography, either online or offline? But perhaps the more interesting question to ask is how does the legal discourse

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<sup>26</sup> Lawrence Liang, Mayur Suresh, Namita A. Malhotra, *The Public is Watching Sex, Laws and Videotapes*, Public Service Broadcasting Trust, New Delhi, 2007.

<sup>27</sup> AIR 1965 SC 881.

sidestep the question of pornography, while minutely examining material that could be described as obscene. This intensity of the legal gaze is obvious than in the judgments on obscenity of film, books, magazines (in Indian law) where the material is minutely examined for traces of obscenity.

In the legalistic drive to categorize and label, the court has also drawn fine distinctions between obscenity and vulgarity stating that – “A vulgar writing is not necessarily obscene. Vulgarity arouses a feeling of disgust and revulsion and also boredom but does not have the effect of depraving, debasing and corrupting the morals of any reader of the novel, whereas obscenity has the tendency to deprave and corrupt those whose minds are open to such immoral influences.”<sup>28</sup> This case deals with a fiction story published in a relatively popular magazine Prajapati about a character called Sukhen whose slide into the life of decadence and squalour is narrated in first person. Sukhen hates his teachers, hypocritical politicians and is often violent or at least regarded as a goonda by others. This story of all those encountered by the law seems to be indeed the most erotic and fascinating – here is an excerpt of the court’s description of the story/novella

“Seeing Shikha in that position with the butterfly on her palm and Shikha trying to fix the severed wing in its place in the body of the butterfly, Sukhen is reminded of what happened to Zina, a daughter of one of the officers of the factory at the picnic party of the factory owner and its big executives. Sukhen remembers how at that party Zina, a girl of about 14 years of age was being fondled by the elderly persons holding high posts in the factory and whom Zina would call 'Kaku' (Uncle). Sukhen also recalls that how he thereafter had taken Zina away from those persons to a sugarcane field and had an affair with her there. This part of the affair with Zina in the sugarcane field had been considered to be obscene. Sukhen feels that the butterfly resting in the palms of Shikha resembled Zina in the sugarcane field while she was there with him. After remembering this incident Sukhen turns to Shikha and goes near her. There he notices Shikha's dress and he finds Shikha had only a loose blouse with nothing underneath and a good part of her body was visible and there is some description by Sukhen of what was visible and of his feelings on seeing Shikha in that position. Sukhen's kissing Shikha and going to bed with Manjari, his friend's sister, are other parts of the book considered obscene. The affairs of Sukhen's 'Mejda' (second elder brother) with the maidservant's daughter and Sukhen's description of the same have also been hold to be obscene.”

In the same judgment, pornography was described a little bit more in the words of the High Court judge who held the book to be obscene, and the Supreme Court overruled his decision. The High Court judge stated that the book is in fact pornography – “Pornography it is and with all the gross taste not because it has sacrificed the art of restraint in the description of female body and also because in some part it has indulged in complete description of sexual act of a male with a female and also of lower animal.” In the Supreme Court judgment it was held that the judge must apply his mind dispassionately to the question of whether the book is obscene, and not allow for personal preference or subjective element in the subconscious mind to influence his decision.

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<sup>28</sup> Samaresh Bose v Amal Mitra AIR 1986 SC 967.

Eventually while deciding that the book was indeed not obscene, the court justified this by saying that the book would shock readers rather than deprave them, consequently serving as a moral warning for all the sins and vices described. The decision of the court to not ban the book is also buttressed by interventions of scholars from Jadavpur University in support of the book and the moral stand it takes eventually.

It is also perhaps relevant that Sukhen, the main character is on his way to being reformed, from his restlessness, sexual drives and finding solace and peace with himself, especially with the help of his new lover Shikha, when he gets injured in violent clashes between rival political parties and dies. It is from this bleak ending that the court salvages the moral resurrection of this book as not obscene – the dire punishment of those who succumb to sexual and other vices is most evidently laid out.

The decision in which there was an appeal to the courts to declare that pre-censorship of cinema in India is unconstitutional is *K. A. Abbas v. Union of India and Another*<sup>29</sup>. This appeal was not accepted and it was held that pre-censorship in cinema is necessary because of the impact that cinema has on the senses, unlike other mediums such as books, magazines, paintings, etc., – “with trick photography, vista-vision and three dimensional representation thrown in has made the cinema picture more true to life than even the theatre or indeed any other form of representative art”. The decision relies on *Mutual Film Corporation v. Ohio*<sup>30</sup>, in spite of an acknowledgement that this decision was no longer relevant to American jurisprudence that does indeed give protection to cinema as well under the First Amendment (freedom of expression).

The description of cinema in *Mutual v. Ohio* is probably the most indicative of the fear and suspicion with which the image and especially the moving image as perceived in law. Cinema is likened to magic and sorcery – it is said that “indeed (moving pictures, cinema) may be mediums of thoughts, but so are many things, so is the theatre, the circus and all other shows and spectacles. Rather than being organs of public opinions, of ideas and sentiments, published and known, vivid, useful and entertaining no doubt, but as we have said, capable of evil.” Echoing this general distrust, it was held in *K.A. Abbas* that the reason for treating cinema or moving image differently is that “the motion picture is able to stir up emotions more deeply than any other product of art. Its effect particularly on children and adolescents is very great since their immaturity makes them more willingly suspend their disbelief than mature men and women.” The justification of censorship based on the paternalistic role of the State that must protect the infantile public is often repeated in Indian jurisprudence on obscenity, not only as a rationale for classification of material but also for the banning and censorship of different material.

In the introduction to *The Public is Watching: Sex, Laws and Videotapes*, Lawrence Liang states that rather than giving an account of censorship as incursions into the right of freedom of expression or receiving information, perhaps it is more useful to have a productive account of censorship. This is inspired from Annette Kuhn’s work on early British cinema and the linkages she draws between discourse around birth control and

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<sup>29</sup> AIR 1971 SC 481.

<sup>30</sup> 236 U.S. 230 (1915).

copyright paradigms. Annette Kuhn's emphasis on the productive discourse of censorship allows for the shift away from looking only at the content/material that is to be censored to the forces, institutions, notions, ideologies that are pulled into play and are produced for censorship to take place; to move away from a straight forward account of power.

Kuhn says – “To question this model is by no means to deny that censorship has anything to do with power. On the contrary, what I want to suggest in fact is that an understanding of power as a purely prohibitive gesture - especially where the object of prohibition is taken to be the representation of some preexisting reality - does not go far enough, and may actually inhibit our understanding of how, and with what effects, the powers involved in film censorship work. The prohibition model of censorship is usually associated with a further assumption: that censorship is something that takes place within certain organisations, especially in organisations with an explicit institutional remit to censor.”<sup>31</sup>

Liang takes this thesis further to state that the prohibitive idea of censorship doesn't allow us to see that the law is building a theory of cinema, of spectatorship and the idea of the public – “The law of instance, is not merely interested in prohibiting a particular kind of 'seeing', but also equally interested in suggesting the proper way of seeing.” In other words, the productive project of law is also about a discursive crafting of the ideal viewer of cinema – where he (and this ideal is not inclusive of she) will view cinema, what he will see and read from it. Hence, each judgment that lays down the meaning of an object – whether *Bandit Queen* and *Prajapati* as not erotic but shocking and containing a moral regarding social evils (of vice, alcohol and caste violence) or Hussain's painting *Bharat Mata* as not erotic/obscene but as patriotic, is also stating that this is what the ideal viewer/spectator would see – this is the meaning that is attached to the image (like a caption) with which it must be read.

The court has a heavy investment in the question of aesthetics and especially narrative as is evident in the decision on Shekhar Kapur's *Bandit Queen* (*Bobby Art International & Ors. v. Om Pal Singh Hoon & Otrs* 1996 AIR (SC) 1846). In *Bandit Queen*, Phoolan Devi is raped and walks through the street of the village, naked. This caused much consternation and led to the case coming up before the court. Aesthetic opinions on the film varied – even as Arundhati Roy described it as the ‘great Indian rape trick’<sup>32</sup> the court held that it is a film that attempts to show the reality of a social evil. Consequently it must show that social evil in the film. The narrative demands that the rape sequence that puts Phoolan Devi on the path to becoming a cruel, vengeful dacoit is essential – “in aid of the theme and intended not to arouse prurient or lascivious thoughts but revulsions against the perpetrators and pity for the victim.”<sup>33</sup>

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<sup>31</sup> Annette Kuhn, *Cinema, Censorship and Sexuality*, Routledge, London, 1988.

<sup>32</sup> Arundhati Roy, *The Great Indian Rape Trick*. Available online at [http://www.sawnet.org/books/writing/roy\\_bq1.html](http://www.sawnet.org/books/writing/roy_bq1.html)

<sup>33</sup> *Bobby Art International & Others. v. Om Pal Singh Hoon & Others* 1996 AIR (SC) 1846.



Perhaps the most important decision in this regard, that characterizes the slippage between obscene and pornographic objects, is the case of *Pratibha Naithani v. Union of India*<sup>34</sup>. The court was called upon to decide whether English movie channels (like HBO and Star Movies) should be pulled off the air for broadcasting adult content, and what controls should be put on the channels (censoring bad language, timings of adult movies, etc.). This case exemplifies the blurry borders of obscenity as a category – whereby innocuous objects are pointed at, as aspects of a sleazy modernity that are separate from Indian culture, and thereby rendered obscene. Indian culture plays an important referent role in most of the judgments on obscenity – to answer the question of what affect is produced in people by allegedly obscene objects and sometimes to emphasize the existence of erotic, sexual texts within Indian culture that are not found objectionable and point to a tradition of eroticism that should be taken into account<sup>35</sup>.

Subsequent judgments have dealt with as varied objects as newspapers and their erotic content, a documentary film by Anand Patwardhan which contains a scene of an aphrodisiac being sold and eventually M. F. Hussain's painting *Bharat Mata*. This painting depicts India in the shape of a nude woman distressed or grieving and was put up on a website for auctioning for a worthy cause. However, this led to a case about the painting and the court eventually decided that it was not obscene in one of the more progressive judgments about obscenity in India.

The purpose of this short account of obscenity jurisprudence in India is perhaps merely to point at how various objects, most of them barely obscene and innocuous, have been examined by the law in much detail. It is this detailed and minute examination that is intriguing. Pornography itself has very blurred boundaries – as various objects slip into this category, whether it is Hollywood films with very minor sexual content, soft porn films often called blue films, BF or neela chalne chitre, films like *Choker Bali* that are circulated in cinema halls that are meant for blue films<sup>36</sup>.

Soft porn itself points to how there exists various gradations of material – some of them marked only by slang, suggestive language, minimal dressing and references to sexual activity rather than sexual explicitness (nudity, genitalia or sexual activity). Hard core pornography is circulated largely through CDs, DVDs in video parlours and piracy markets and through the Internet; it ranges from material from Europe and America and a smattering of Indian pornography which is mostly heterosexual. Amateur pornography or sexually explicit material which is made and put online either as part of the porn industry, which is not very large especially in comparison to the global North, or by people themselves, is a relatively new phenomenon assisted by digital technologies and the Internet. In the last decade, the leaking of such material, and consequently the swarm of

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<sup>34</sup> AIR 2006 (Bom) 259.

<sup>35</sup> Raj Kapoor's popular film *Satyam Shivam Sundaram* too came up before the law for deciding whether it is obscene or not (*Raj Kapoor v State* AIR 1980 SC 258). This judgment also brings into play the references to India's cultural heritage of the Khajurahos and the Kamasutras that play a greater role in the public discourse and discomfort around the shifting lines of obscenity.

<sup>36</sup> Ratheesh Radhakrishnan, "Soft Porn and the Anxieties of the Family", *Women in Malayalam Cinema : Naturalising Gender Hierarchies* (Ed. Meena T. Pillai) Orient Blackswan, 2010.

moral, ethical, social dilemmas that have arisen has led to most of the 'scandals'. It is these scandals that are literally pushing the category of pornography out of the grey zones of being a public secret; out of rampant and unexamined illegality into the realm of the law – its imperatives, violence and descriptive plenitude.

## Chapter 2

# Pornography the Trials and Tribulations of the Indian Courts

*“(a) According to the learned Counsel for the petitioner, the meaning of the lyrics on the song is heroine telling the hero to become like an eight legged insect and walk through her entire body and asking him to go below, still below and still more below, which conveys vulgarity and obscenity.*

*(b) In reply to the same, learned Counsel for the third respondent would submit that the song has been penned by the greatest lyricist Mr. Vairamuthu and, as this is the imagination of the heroine, there is no trace of vulgarity.*

*(c) This reply is quite strange. There is no explanation by the learned Counsel for the third respondent as to why the heroine asks the hero to become like an eight legged insect and walk through her body and to go below and below and still more below on the body...”*

*Ms. A. Arulmozhi vs The Govt. Of India And Ors.*<sup>37</sup>

Pornography itself in its hard core explicit avatar has rarely been examined by the court, for its merits as either an artistic product or as to whether it could fall within the parameters of free speech. This however, has also meant that exhibition through small cinema halls and circulation of pornography through video and other new media forms, has been taking place allowing people to access such material. Radhakrishnan talks about the practices of watching soft porn in theatres and specifically the pleasures, practices and understanding around watching pornography in or with a public surrounding you. The existence of pornography and its circulation is not in question, but this existence was never acknowledged in the public domain or was a fact that was conveniently forgotten or erased by the courts and public discourse. The dichotomy that is peculiar is especially in relation to all that the court has to examine for obscenity in its minutiae.

However, what seems to underlie the obsession with obscenity and extends towards this blindness to explicit pornography is the fear of the image in law as inherited through colonial legislation. Here we examine the mental images that are summoned before the law, beyond the explicit or obscene image itself – a mental image of who is looking at pornography, who stumbles into spaces such as blue film cinema halls that are meant largely for a male, often lower class public, how explicit and violent is the image evoked by words and also perhaps the mental image of the mass of distributed networks, circuits and leaks that breaks out of confined forms of circulation and is summoned up especially by the entanglement of technology with pornographic material.

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<sup>37</sup> (2005) 3 MLJ 497.

## The Nude Body and Blushing Law

In the case of *Fatima Riswana v. Chennai & Ors.*<sup>38</sup> both the public prosecutor and counsel for the petitioners applied to the court for transfer to another (male) judge, to save the district lady judge from embarrassment of having to view certain CDs that are part of the evidence. The order for transfer was passed and the justification for this was that the “said trial would be about the exploitation of women and their use in sexual escapades by the accused, and the evidence in the case is in the form of CDs. and viewing of which would be necessary in the course of the trial, therefore, for a woman Presiding Officer it would cause embarrassment.”

This is a rather obvious case of the squeamishness of the court when confronted with explicit and pornographic material; perhaps gesturing towards the larger complicity that allows society and law to create a ruckus about Richard Gere and Shilpa Shetty’s kiss, HBO English movie channels, dance bars and other such aspects of the sleazy modernity that we inhabit<sup>39</sup>, but simultaneously remaining comfortably oblivious to circulation of pornography, both online and offline. Such secretive/covert consumption does not disturb the heteronormative familiar and familial, in fact probably reaffirms it since the access to most of these spaces is gendered in rather obvious ways<sup>40</sup>.

Obscenity law in India has laid down that “nudity in art and literature is not per se evidence of obscenity”. As stated in the judgment that dealt with the circulation of Hussain’s untitled painting (later titled *Bharat Mata*) “the work as a whole must be considered, the obscene matter must be considered by itself and separately to find out whether it is so gross and its obscenity so decided that it is likely to deprave and corrupt those whose minds are open to influences of this sort.”

Legal and public discourse is often around the various meanings that become possible because of the placing of this naked body. A naked body whether that of Phoolan Devi depicted in a film, in a sequence about her rape and humiliation, or Savita Bhabhi – a character in a pornographic comic online bearing a crown saying ‘I will be Miss India’, or as a faceless hazy outline in the foreground of the map of India. Each one of these

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<sup>38</sup> *Fatima Riswana v. State Rep. By A.C.P., Chennai & Ors.* Case No.: Appeal (crl.) 61-62 of 2005.

<sup>39</sup> See Nitya Vasudevan, Namita A. Malhotra, “The State of Desire and other flights of fantasy” to be published. Also Ashish Rajadhyaksha, in his essay ‘Is Realism pornographic?’, which deals with the writings of Pramod Navalkar, former Minister for Culture in Maharashtra, points to how explicit or hard-core pornography does not seem to be the concern as much as a whole range of practices attached to the phenomenon of modernity. He says “...in a clear shift of subject matter, what we are now seeing is an explicitly politicized moral censor looking at all this—looking not so much at the sex industry as at society-in-general, at society itself now theatricalised into a morbid stage of sleaze.”

<sup>40</sup> Cinema halls or the morning show of blue films which was largely the mode through which A rated films were seen, however, now piracy markets and Internet opens up the circulation of material to a much wider group of people, breaking down barriers of gender and even class, though Internet is still limited in its access and largely men access pornography and cyber sex through these newly opening up online spaces.

images carries meanings beyond nudity but especially in relation to the nation. Hussain's depiction of the naked woman on the map of India, embodying India (in pain or anger) carries many jostling conflicting meanings. In spite of the furore over the painting, the High Court finally held that the painting was not obscene stating that the intention of the painter was to evoke sympathy for a woman – indeed a nation – in distress.

Before proceeding to look at pornography related judgments, let us look at the most recent and very progressive judgment on obscenity in the case of Hussain's painting.

“One of the tests in relation to judging nude/semi nude pictures of women as obscene is also a particular posture or pose or the surrounding circumstances which may render it to be obscene but in the present painting, apart from what is already stated above, the contours of the woman's body represent nothing more than the boundaries/map of India. There can be a numbers of postures or poses that one can think of which can really stimulate a man's deepest hidden passions and desires. To my mind, art should not be seen in isolation without going into its onomatopoeic meaning and it is here I quote Mr. Justice Stewart of the US Supreme Court in *Jacobellis v. Ohio* 378 U.S. 184 (1964) who defined 'obscenity' as, “I will know it when I see it”. The nude woman in the impugned painting is not shown in any peculiar kind of a pose or posture nor are her surroundings so painted which may arouse sexual feelings or that of lust in the minds of the deviants in order to call it obscene. The placement of the Ashoka Chakra or the States in the painting is also not on any particular body part of the woman which may be deemed to show disrespect to the Ashoka Chakra/States and the same was conceded by the learned counsel for the respondent during the course of the arguments advanced.

Even if a different view had to be taken that if the painter wanted to depict India in human form, it may have been more appropriate to cloth the woman in some manner may be by draping a sari or by a flowing cloth, etc., but that alone cannot be made a ground to prosecute the painter.

It is possible that some persons may hold a more orthodox or conservative view on the depiction of Bharat Mata as nude in the painting but that itself would not suffice to give rise to a criminal prosecution of a person like the petitioner who may have more liberal thoughts in respect of mode and manner of depiction of Bharat Mata.”<sup>41</sup>

As per the Hicklin test, the court should not determine obscenity on the basis of specific fixed characteristics in the material itself, such as nudity or explicitness but on how these characteristics are placed within the material and into whose hands such material might fall. If a judgment focuses only on the content of the material then it isolates censorship practices from their broader social and historical conditions. But doing so, also helps to construct an object of enquiry (be it a film, website, book) that is relatively amenable to

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<sup>41</sup> Maqbool Fida Husain Vs Raj Kumar Pandey CRL. REVISION PETITION No. 114/2007. Decided on 08-05-2008.

understanding and study, rather than the existence of varied discourses and anxieties that surround censorship practices.<sup>42</sup>

It is through a transaction that an ‘object’ is rendered obscene – or rather the anxiety of the state is not just about the object, but its circulation, the public that is in turn sexualized by looking at it (and sexualizes it with its gaze), thus making them vulnerable to the perversion that is modernity itself<sup>43</sup>. This transaction of the sexualized gaze with explicit pornography has been so removed from the public gaze (pornographic movies are spliced into mainstream films, circulate surreptitiously through video stores, piracy markets or through online spaces that cannot be easily accessed because of regulations and filters in most places – colleges, homes, schools, offices and cybercafes<sup>44</sup> etc.) – that it does not merit discomfort and anxiety for the state or public, until it nefariously slips into public discourse, as in the case of much talked about Mysore Mallige video and the Delhi Public School MMS clip<sup>45</sup>.

## Hard and Near Hard Pornography: Close Encounters of the Law with the Profane

In the case of *Anonymous v The Commissioner of Police*<sup>46</sup>, yet another encounter takes place between the embarrassed law and the pornographic text. The excerpt below describes the encounter of two women advocates asked by the court to examine what movies are being exhibited at a specific theatre. In the peculiar clash of social mores that ensure who has access to pornography and the law that ensures equal access to all legally sanctioned media to everyone, the movie theatre was held responsible for violating the fundamental right of women to have access to their premises – and thus access to pornography.

“We approached the Booking counter of Rs. 20/- and asked for tickets. The Booking clerk first informed us that it is an English movie and it is not meant for ladies to view. When we insisted for tickets, he asked us to come inside the booking room from the main entrance of the theatre. When we were entering the theatre, the gate-man informed us that ladies are not permitted as it is a 'SEX MOVIE'. However, we walked into the booking room. Booking clerk issued us Box-A tickets and further asked us to see the Manager before taking seats. We did not see the Manager but directly went to Box-A and took seats. Even the Box-A doorman asked us to leave the theatre advising us that we being ladies cannot see it as the

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<sup>42</sup> Kuhn, Annette. *Cinema, Censorship and Sexuality, 1909-1925*. Routledge, 1989.

<sup>43</sup> Nitya Vasudevan and Namita A. Malhotra, *The State of Desire* (Unpublished).

<sup>44</sup> The regulation of cybercafes takes place in a manner reminiscent of how cinema spaces such as movie theatres were sought to be regulated by the colonial law. Current laws demand placing of computers so monitors face outward, identity card for every visit, data retention for at least a month for most users, etc.

<sup>45</sup> The Mysore Mallige incident/video is described in detail in Chapter 4 and 5, and the DPS MMS clip and the related case is described later in this chapter.

<sup>46</sup> Anonymous Letter-Un-Signed vs The Commissioner Of Police And Ors. on 26 December, 1996

movie is a 'SEX MOVIE'. When the movie began at 12.00 P.M. simultaneously the Manager along with two men switched on the lights in Box-A and asked us to leave the hall immediately. Since he repeatedly insisted us to leave, we both came out of Box-A. On coming out we enquired as to why we should not see the movie, to which the Manager replied that it is a 'BF'. On asking for further clarification of 'BF', the Manager stated that it means 'BLUE FILM'. When we asked him to identify himself, he informed us that he is Mr. Prasad, Manager of the Theatre, as such he has every right to ask us to leave. When we asked as to how it was not advertised that the movie is meant for men only, he retorted that 'It is understood that whenever English movies are played in this theatre, ladies are strictly not permitted'. As such we were forced to leave the theatre immediately."

The question before the court was whether the films exhibited in this theatre, were being exhibited in accordance to the censor certificate – whether there is any tampering; whether there is any other device or contrivance to interpolate or intermingle blue films with any otherwise innocent-looking film. Here though the court has taken it upon itself to address the pornographic text, it runs into a series of complications when merely trying to access the text or the evidence itself, as two women advocates were sent to determine if there is an illegal film exhibition taking place. Pornography seems to be continuously disappearing even on the rare occasion when it is addressed directly by the court, especially locating the moment of transaction of the gaze with the pornographic object.

The court when finally allowed to examine the film exhibited, found that it was "a hotch potch of short films, advertisement films, party propaganda films, Hindi and Telugu feature film bits."<sup>47</sup> The court finally located the pornographic segments (squeezing breasts in a tub, cunnilingus, brutal murder scene – the court's comment was that 'normal scenes were replaced by sexy scenes'). The recommendation of those who examined the films that were ostensibly being spliced into Secret Games 3 and Dark Dancers, is that, "the only course proper is not to permit entry into the country for such films which prima facie may be classified hard or near-hard".

Finally the court had to acknowledge its own blindness – that there is 'some hole somewhere in the system that even excised portions by the Censor Board of the films have found their way to the theatres', including parts that were never passed through the censor certification process at all.

This tale of women advocates and judges as representatives of law and justice, who are averting their gaze from the pornographic text or the text is constantly eluding their legal stare, is dissonant with the usual masculine figure of the law that can be relied upon to

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<sup>47</sup> For a judicial system that is invested in narrative film or narrative structure for reasons of copyright law (see generally Anne Baron, *The legal property of film*) or for aesthetic reasons as is evident from the judgment in *Bandit Queen* (that held nudity when she was paraded naked in front of the villagers to not be obscene because those scenes are needed for a narrative impact – for people to feel moved and disgusted by Phoolan Devi's plight) it must also be a different kind of horror to find films chopped up into twenty sundry pieces, the last piece thrown somewhere else.

judge dispassionately, especially in matters of obscenity (probably why in both cases there is the shifting of the burden onto more masculine authority figures). On the other hand the dispassionate (male) judge is more prone to be aroused by salacious material – and then how does a judge with a hard-on decide whether such material should be available to others – in other words, how reasonable is a judge with a hard-on. The rhetorical question of the reasonableness of the judge if he is turned on by the obscene material is what Liang quixotically calls the Hidayatullah paradox<sup>48</sup>.

Anne McClintok in her work about how the prostitute becomes fetishized in the legal system<sup>49</sup> begins with this description of a judicial officer – “A prostitute tells me that a magistrate who pays her to beat him confessed that he gets an erection every time he sentences a prostitute in court.” McClintok’s work unravels the racial, sexual, colonial/imperial, gendered, economic dynamics at work in the trial of the prostitute. “By ordering the unspeakable to be spoken in public, however, and by obsessively displaying dirty pictures, filmed evidence, confessions and exhibits, the prostitution trial reveals itself as structured around the very fetishism it sets itself out to isolate and punish. Under his scarlet robe, the judge has an erection.” She examines how the prostitute is fetishized because of linkages to other degenerate classes – militant working classes, the colonized, gays, lesbians, the Irish; she is fetishized because of her dirtiness – dirty body, dirty S/m sex, dirty morals (slutty behaviour) and dirty money (for what should be a woman’s unacknowledged sexual labour in marriage).

The work of Anne McClintok (on the fetishized figure of the prostitute in law), Martha Nussbaum (on emotions in the law specifically disgust and shame)<sup>50</sup>, Lawrence Liang (on cinema and the law), Shrimoyee N. Ghosh (on dance bar judgment and the woman-victim figure as constructed by the courts)<sup>51</sup> all explore varied dimensions of the relation between law and affect – indeed how affect is embedded or moves within the structural edifice and daily functioning of the law like an invisible force or a serpent. To return to the metaphor of justice who is blindfolded, such work on law and affect seems to raise the question – if we could look into the eyes of justice, if she were not blindfolded, what would we see – and if the purpose of the blindfold is indeed to prevent us from observing the affective life of law itself – its arousal, disgust and embarrassment.

## ‘New’ Anxieties in Old Bottles

In a less misdirected effort than Pratibha Naithani’s attack on English movie channels, Ms. Arulmozhi – a woman advocate, complained about a Tamil film being given a universal certificate in spite of it being full of double meanings and obscene visuals. There also was a pending criminal complaint against the producer of the film who had

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<sup>48</sup> Ibid n.11.

<sup>49</sup> Anne McClintok, *Screwing the system: Sexwork, race and the law*, boundary 2, Vol. 19, No.2, Feminism and Postmodernism (Summer, 1992), 70-95.

<sup>50</sup> Martha C. Nussbaum, *Hiding From Humanity: Disgust, Shame, and the Law*. Princeton, NJ: Princeton University Press, 2004

<sup>51</sup> Shrimoyee Nandini Ghosh, *Reading the Bargirls Case: The Erotics of Helplessness and the Madwoman in the attic*, 2006, Unpublished paper.



physically assaulted a lady member of the Censor Board (by throwing his mobile phone at her head) when she refused to certify the film. The film is “New” and is roughly based on the story of Big (starring Tom Hanks) – a small boy (8 years old) as a result of a scientific experiment suddenly is in the body of a 28 year old man, but this transformation takes place only at night and during the day he remains a boy. A boy who as a result of being married and having sex as an adult person during the night, also experiences sexual feelings during the day when, as a boy, he is innocently put on the lap of a woman and is nestling next to her breasts.

In this case, the petitioner has detailed out 29 sequences and the court has in fact taken the effort to see the movie to examine these sequences in detail (unlike in the case of Bandit Queen). Various defences are mounted from the argument that such double meanings are usual fare in comedy films, that the meaning intended is indeed the prosaic one and not the sexual or titillating one, which is being suggested. Perhaps the oddest one is that the lyrics are penned by a respectable lyricist and from the imagination (perspective) of the heroine – and since it is the imagination of the woman, it cannot be vulgar. One is tempted to agree that indeed the demand from a woman for oral sex from a man is hardly vulgar, but the implication of the court is probably not about sexual equivalence and merely that women don’t have vulgar thoughts, as per their nature. The decision of the court relies on scenes that have double meaning dialogue, occasional display of breasts, many invitations to sex issued and instructions for how to have proper coitus between the various characters in the film.

What seems to disturb the court most is the use of a child in the narrative, which has been described in this judgment as child abuse. With regard to the guidelines that are meant to help in the certification process and classification of films, the court states – “The film “New” does not provide a clean and healthy entertainment. The guidelines given in the Cinematograph Act, 1952, that the scenes, showing children being subjected to any form of child abuse or tending to encourage and justify smoking, are not to be shown and human sensibilities should not be allowed to be offended by vulgarity and obscenity and dual meaning words, obviously catering to the baser instincts of the viewers are not allowed.”

Perhaps the most telling of the anxieties of the court is in relation to a rather innocuous scene that was raised as objectionable by the petitioner – “..the last scene is a clear example for the child abuse. In that scene, the heroine is admitted in maternity hospital for delivery and the eight years boy is seen walking from this side to that side inside the hospital with an anxious mood to know whether there will be a safe delivery by the heroine, his wife. Further, after delivery, a nurse comes out of the labour room and shakes the hands of the body, congratulating that he has become a father. Then, he expresses the feeling of happiness of a father. As such, it cannot be said that the character of the child of eight years is depicted as a sincere and innocent boy. This is nothing but child abuse.”

Perhaps it is the existence of this scene in a narrative populated with double meaning and sexual encounter, that renders it obscene. Within the architecture of the film, the pall of

obscenity seems to spread beyond the occasional nudity and obvious references to penis, to even the more playful and almost naïve aspects of the film. A hardcore pornographic film would possibly not attempt to acquire legitimacy via a censor certificate. It also would not be bothered with ensuring a more coherent narrative of a boy trapped in an adult man's body, or his desires and responsibilities at becoming a father. It is as if the exploration of subjectivity that becomes possible, especially in the genre of soft porn, that makes such a film a more difficult object for the law to engage with and unable to let it slip into the unspoken underground circulation of explicit material.

## Whose Near (almost) Hard-on Are We Looking for

In 2005, two teenagers frolicking were captured on a mobile phone camera, and the clip circulated first through mobile phones and then subsequently on the Internet. The clip sparked a phenomenon of hidden camera and mobile phone clips – a booming pornographic enterprise on the Internet now. For a split second, it seemed like any kind of desire, even love could be rendered pornographic, captured in a ubiquitous medium and transmitted through the country. That paradoxical mix of anxiety and thrill was possibly grasped at slightly in Anurag Kashyap's *Dev.D*, where Chanda – the prostitute is the one depicted as the unknown girl who was part of the MMS clip.

Very few films have been able to grasp the visceral embarrassment and immediacy of desire as *Dev.D*, and it is possibly not the story of Chanda who is caught inadvertently in a sexual act with a mobile phone camera, but the more secretive desires of the conservative girl Paro who eventually gets respectably married. Paro who because of her love and desire for Dev sends him nude pictures of herself via email so that he would return to the country and to her. She manages to competently navigate the two worlds of her family and her private world where her desire for Dev, pushes her to find someone to photograph her nude and to also take nude pictures of herself and even to make out with him, brazenly outside her home. Her actions convey her desperate sexual desire for Dev – one of the more memorable images in the film is that of Paro cycling with a mattress balanced on the back of her bicycle through mustard fields in small town Punjab. She returns alone from these fields, tears streaming down as Dev seems to have rejected her far too obvious desire.

After three and a half years (countless MMSs, one movie and few articles later) the court passes judgment in the case of the school scandal – of who possibly can be held liable for the circulation of the MMS clip online and specifically its sale on bazee.com (an ebay subsidiary) by a student<sup>52</sup>. Here it is not the pornographic text that keeps slipping and eluding the grasp of the court, but the inability especially in the age of the Internet, to fix the transactions around such an object that is rapidly changing hands and circulating at an exponential speed through the Internet.

The court is in a bind – the wrong person is accused – not the corporate body of Bazee

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<sup>52</sup> Avnish Bajaj vs State on 29/5/2008 by Muralidhar J. Available online at <http://www.indiankanoon.org/doc/309722/>

but Avnish Bajaj himself and as an individual, not in his capacity as the CEO of Bazeo. The court has the responsibility to fix the blame of the circulation of the obscene object on this person, without being able to establish that there is any knowledge on his part about the existence of the clip. Though the court was able to establish that there was negligence on part of Bazeo in running the website (in spite of notification the clip remained on sale for a whole working day after the complaint), that the filters used by Bazeo were obviously inadequate to control what is sold through the website, it was still not possible to find Avnish Bajaj liable for obscenity charges. If the company had been charged, this would have been possible. Eventually even though obscenity as a charge couldn't stick, similar provisions in the IT Act (Sec 67 read with Sec. 85) were used to charge Avnish Bajaj himself, as opposed to Bazeo – the corporate body or the company itself.

Here the court is forced to confront a pornographic text because there has been a public furore around it, and the eventual judgment is not likely to be able to even remotely address the phenomenon of MMS clips and hidden camera footage from cyber cafes and hostels that has been spawned as a result of this incident. The slippery transaction of the gaze with the pornographic object is difficult to fix though in a different way from the earlier judgment – here the pornographic nature of the text is implicitly understood rather than examined, more for its violation of privacy than actual elements in the content (nudity, genitalia – penis, breasts). But it is still hard to determine for the law, especially with the Internet, how and by whom has circulation of the pornographic object has taken place and to fix these transactions to ensure legal culpability. Nishant Shah in an interview, stated that positions which were earlier criminalized with ease – that of a producer, consumer, distributor of obscenity and/or pornography, were in the case of DPS MMS case, vacated rapidly. He analyses in turn each figure in the case – the girl in the clip who could not be punished, as it is statutory rape, and she is already a cultural outcast whose life is ruined. What more (greater) punishment can be given to her? In response to the boy's culpability who is indeed the producer of the clip, a stranger argument was posed – “that in our fast urbanizing societies where parents don't have time for children, they buy off their love by giving them gadgets – which makes possible certain kind of technological conditions... thus the blame if it is on the boy, is on the larger society.”<sup>53</sup>

Shah in his article on state persecution and regulation of Internet describes this shifting blame in the DPS MMS case – “The student was fashioned in a state of psychesthenia, where the guilt of his actions is no longer his own but belongs to the entire space that he is embedded in”<sup>54</sup> – the space being the social, cultural, technological space. Shah further states that what seems to be emerging here is that technology is attributed with the blame of creating pornography – the boy had access to technology, it took over him and made him enter into a sexual condition and record it.

With regard to the IIT (Indian Institute of Technology) student who put it up for auction

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<sup>53</sup> Interview with Nishant Shah on 1<sup>st</sup> August 2010. Available online at <http://pad.ma>

<sup>54</sup> Nishant Shah, 'Subject to Technology: Internet Pornography, Cyber-terrorism and the Indian State', *Inter-Asia Cultural Studies*, 8:3, 2007, pp.349 – 366.

actually on Baze, there was no possession established and only an intention of auctioning which could be inferred – also no one pursued a case against him. Which left only the high profile figure of Avnish Bajaj to be prosecuted by the courts and the public, whose claim was that he ran an auction website and no real control over what people used it for. The distributor or the mode of distribution itself i.e., Baze, could not be fixed upon by the law for criminal liability either in this case, though it was held that Avnish Bajaj could be held liable but the matter should be pursued by lower courts. In relation to the consuming public, in spite of the law not criminalizing consumption of pornography in private specifically, there was an attempt to issue a blanket warning to the public, that anyone found in possession of the clip would be fined and prosecuted – however, that too seemed merely to add to the ‘scandalous’ explosion of events, rather than being able to control and confine using legal means.

Shah points out that in this instance too the focus of the state and indeed public discourse was on the ways in which the video clip was produced, circulated and disseminated amongst a rather wide audience, rather than the content. In conclusion to his analysis, Shah states – “The State’s interest in Internet pornography, then, is not in the sexual content of the material but in the way it sidesteps the State’s authorial positions and produces mutable, transmittable and transferable products as well as conditions of illegality and subjectivities.”<sup>55</sup> Such a focus on practices and behaviours around the obscene object, rather than the content itself, seems not to disrupt the law’s neat sidestepping of the force of the image itself. Other factors that Shah points out (duality of subjects in the physical and digital realms, sexual subjectivity in technologised spaces in relation to State) too play a role in the increasing anxiety of the State around the hybrid creature formed by the interplay of pornography and technology.

## Affective Dimensions of Obscenity Law

Obscenity law is called upon to answer the question – how bad is it and how important is it to keep it away from those who might like it. Obscenity law is in most countries relies on what the ‘reasonable’ or average man would find obscene, lascivious or that which appeals to prurient interest. The decision in *Miller v. California*, defines obscene as that which inspires emotions of disgust and revulsion. The judgment also refers to the etymology of obscene that derives from ‘caenum’ – the Latin word for filth. In *Ranjit Udeshi v. State of Maharashtra* which resulted in the banning of *Lady Chatterley’s Lover*, both *Miller v. California* and the Hicklin test (laid down in *R. v. Hicklin*) were referred to. Here the quality of being obscene is understood as ‘offensive to modesty or decency; lewd, filthy and repulsive’.

Martha Nussbaum has done important work that break down the perception of law as neutral and devoid of emotions. She analyses the cognitive content of emotions that work within law. In the case of determining obscenity, she points to how emotions of disgust and revulsion play a significant role. In Nussbaum’s analysis of the cognitive content of disgust, she remarks that in most cultures, disgust is about discomfort with our own

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<sup>55</sup> Ibid Shah, p.358.

bodies and decaying selves, the fluids the body leaks and specifically the messiness of the female body<sup>56</sup>. She states that “though the feeling of disgust involves a strong bodily reaction to stimuli and often an instant revulsion and rejection to an object, image or text, it is in fact learnt behaviour that has to be taught to a child, and doesn’t come ‘naturally’<sup>57</sup>. Disgust concerns the borders of the body and crossing a boundary between the world and self – thus what is very acceptable within the body like shit or saliva, once outside becomes disgusting. Or it is about the proper place of things – what is acceptable on the ground is not acceptable on your plate (dirt). The role of such an emotion in evolution is not that obvious or clear, and it seems to operate more as socially learnt behaviour– it is in fact not so clear to a child that certain habits like playing with one’s own bodily secretions (mucous and shit) or things (dirt) are disgusting or unacceptable.

In obscenity law however, the notions of disgust get even murkier – it seems that emotions of disgust and arousal are on the same sliding scale as far as determining whether something is obscene. Possibly a reason for collapsing emotions of disgust and arousal is the time-honoured view that ‘sex itself has something disgusting about it (bodily secretions, smells, etc.), something furtive and self contaminating’ particularly the female body that inspires desire, onto which disgust is projected. Thus, the legal definition of obscenity actively colludes with misogyny, as that which appeals to prurient interest, is that which disgusts, and that which disgusts (at least in the area of sex) is that which (by displaying female sexuality) causes sexual excitement<sup>58</sup>. Hence, Nussbaum argues that disgust is in fact an unreliable indicator for the categorization of objects as obscene.

Nussbaum acknowledges that disgust has differing standards, cognitive content and referents in different cultures she does not specifically acknowledge that cultural difference or other cultures/races as contaminants might itself be the source of disgust, especially in obscenity law. It is obvious that aside from disgust gesturing towards mortality and animality of humans, there is also a certain idea of contamination from other cultures and races. Repeatedly in the Indian context, western culture and sometimes modernity itself (or certain strands of sleazy modernity – cabarets, homosexual behaviour etc.), is seen as alien or contaminating the ‘purity’ of certain ideas of Indian culture,

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<sup>56</sup> Nussbaum’s contention is that the emotion of disgust gestures towards a problematic relation that we have with our own animality; that it is essential for humans to think or see ourselves as non-animal and hence to not touch or take in our own animal secretions. She points out that what we are anxious about is a type of vulnerability that we share with animals – a propensity to decay and becoming waste products ourselves. Martha C. Nussbaum, *Hiding From Humanity: Disgust, Shame, and the Law*. Princeton, NJ: Princeton University Press, 2004

<sup>57</sup> Ibid

<sup>58</sup> Nussbaum’s analysis on obscenity law on pornography relies on the work of radical feminists, Andrea Dworkin and Catherine Mckinnon’s. As far as obscenity law and pornography are concerned. Nussbaum’s analysis is that the emotion of disgust obfuscates and doesn’t allow us to fully register that harm has taken place. Reasoning based on the emotion of disgust (and about keeping away contaminants and bodily secretions) is typically a confusion and distraction from more serious moral issues that ought to be considered. A society that is committed to equality for women should not object to porn on grounds of obscenity, but on grounds of how it is humiliating and degrading to women.

which is an interesting added facet to the notion of disgust and how it operates in the law and public discourse.

## Misfortune and Obscenity

Another possible origin of the word **obscene** is from the Latin word *scæuus* which means left, left-handed, unlucky, inauspicious, from which comes the word *obscenus* which means ill-boding, inauspicious. Perhaps this conjunction of misfortune and filth is how obscenity should be understood today. This makes sense when looking at the objects that are declared as obscene by the courts but especially when looking at the connotations of filth or dirty in the Indian and even British colonial context which is spread over lower classes or working class, specific castes, certain kinds of work like manual scavenging and even categories of people such as prostitutes, sexual deviants, beggars and others<sup>59</sup>.

McClintok too points out how certain fetishistic ideas of cleanliness and dirt operate in the law, especially in relation to women and chastity, especially prostitutes. In Victorian iconography, dirt was compulsively drawn on to police the boundaries between normal sexuality and normal market relations<sup>60</sup>. In her work, fetish is to be understood not merely in psychoanalytical terms as linked to the scene of castration, but as an object heaped with excess meanings; a fetish marks a crisis in social meaning. A bodily relation to dirt thus expressed a social relation to labour. She says – “Smearred on the clothes, hands and faces, dirt was the memory trace of human labour, the evidence that the production of industrial wealth, and the creation of liberal rationality, lay in the hands and bodies of the working class and the colonized. For this reason, Victorian dirt entered the symbolic realm of fetishism with great force...”

McClintok links her understanding of fetish of dirt to categories of race and imperialism, domestic work and women’s labour, sadomasochism and reversals of power, the trials of prostitutes and the fetishization by the legal system. Here, we can draw a link with Nussbaum’s work on the role of dirt and disgust, to understand how obscenity spreads like a stain, contaminating not just objects, but practices, spaces – perhaps even subjectivities and modes of being.

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<sup>59</sup> Certain practices which have connotations of caste and sometimes religion, such as meat consumption and slaughter, women dancing in public spaces (*lavani*) are also often produced as disgusting and laws are enacted to prohibit or atleast regulate and contain these practices.

<sup>60</sup> Ibid n.36. McClintok’s work on fetish in ‘Screwing the system’ and in ‘Imperial Leather’, explores the possibilities of combining the Marxist and Freudian notions of fetish, linking both commodity and sexual fetish. She explains fetish both in historical and psychoanalytical terms as an object/aspect with an excess of meanings. This excess of meanings however is not just in relation to sexuality or even capitalism or commodities, but about racial, class, gendered and other hierarchies. As she explains it – “Fetishism involves the displacement onto an object, contradictions that the individual cannot resolve at a personal level. These contradictions could indeed be social, though lived with profound intensity in the imagination and flesh of the person. The fetish – rather than being a merely an insignificant sexual or personal practice – inhabits both personal and historical memory. It marks a crisis in social meaning – the embodiment of an impossible resolution.”

In the Indian context, it is not the law for obscenity that seems directly linked to ideas of dirt and filth, as much as the regulations (constitutional, prevention of atrocities i.e., criminal) in relation to caste. The understanding of dirt is visual, rather than related to smell or even touch – dirt is visually defined as matter out of place. Shiv Visvanathan in a moving piece about dalit discourse and changing imperatives of academic work and sociology, states – “What I wish to suggest is that the Constitution looks at rights and violations in visual, spatial metaphors. Sight dominates the Constitution. As a result, untouchability which evokes touch or smell is something the Constitution forbids but does not fully understand. A dalit view of the Constitution should refigure the relation between the senses.”

This lack of sensory perception of the law (constitution) is evident for Visvanathan in the ways in which dalits are addressed in the constitution in terms of life and literacy, rather than a coming together where health or work are talked about and understood as ‘worldviews’. He says – “The current constitution is a visual one. It emphasises life and the requirement of literacy. A dalit constitution would need to look at how the five senses are represented in the constitution. A constitution based on sight only wants people to look equal. Even oppression is visual. One talks of social distancing, contamination and violation. What would happen if instead of a constitution based on sight and hearing, we had a constitution based on smell and touch? The body of the body politic would change. Sexuality could be rescued from the repressiveness of dominant caste models. Violence would be understood differently. A constitution that understands smell and touch, understands scavenging and dirt better.”

Perhaps here we return to the notion of the word of law as violence, and the ways in which the law in the early modern period was becoming increasingly presented in language and images were becoming scarcer or more restrained. The courts when reading texts for traces of obscenity and pornographic by courts, flattens them, depriving them of context (social, political meanings), authorial investment, labour (especially for a film, where labour and investment is often spectacular), imagination and fantasy. There is a loss of whose experiential reality and imaginative scapes do these texts come from. Even visuality is allowed a limited role within the law, and it is then deprived of particularity and only allowed for the general application of standard norms; perhaps this particularity is possible only when the pungent odours of desire and filth can drift through the legal edifice.

The repeated emphasis of the court, the law (legislation and guidelines) on “clean and healthy entertainment” again points towards this mode in which the neutral (antiseptic) law somehow removed from the excess and tumult can dispense judgment. Perhaps this is what is compelling about the ‘scandals’ when illicit material leaks into the public or even amateur pornography, and hooking up and soliciting desire/sex in online social spaces such as guys4men and orkut. Desire that falls outside or rather is in excess of the heteronormative familiar and familiar is treated like dirt that must be fastidiously cleaned away or separated and hidden. It is difficult to grasp, except through good films such as Dev.d (Anurag Kashyap), Love Sex aur Dhoka (Dibakar Bannerjee) and Mysore Mallige (Bharath Murthy), the humanness and desperate desire, indeed the vulnerability that is

exposed in instances such as the DPS MMS clip or even the guys4men incident. In the latter instance, four men were trapped by the police through messages on a gay dating website. The law deals with these vulnerabilities by sidestepping without looking, smelling or touching; in a few instances when the law has to confront such objects/instances, it does so violently as if it is a singular and unique instance/object in an array of objects that are “clean and healthy” and some that are only mildly distasteful and obscene; as if it is a flattened visual text with no human aspect and can be dealt with under the general norm of removing/expelling the filth.



## Chapter 3

# Family Jewels and Public Secrets

*“I had a blackout and regained consciousness after sometime. I found a man sleeping in my bed. He was turned away from me. On closer inspection I realized it was not Govinda but a drunkard. I asked loudly, “Who are you?” the man did not answer. Instead he sat up suddenly and began to laugh. It was not Govinda nor was it a stranger. Raimoni, it was none other than my own brother, Birchandra. I was ashamed and cried out, “What have you done brother?”...*

Guptokatha or excerpt from anonymous late nineteenth century pornography scandal digest<sup>61</sup>

Of all the pleasures that the law deems legal/legitimate, perhaps the most obvious is conjugal – pleasures within the marital relationship, or broadly speaking in the family or the private sphere. Feminist understandings of how the law protects these pleasures in Indian feminist legal scholarship is around domestic violence, marital rape, specificities of personal law, historical accounts of law and custom, reproductive health related issues, female foeticide and sex determination and related issues. Of interest to us here is rather how law protects these pleasures, in contrast to those pleasures that are deemed illegitimate and perhaps to tease out a connection and unravel what makes certain pleasures illegitimate.

Perhaps what is most intriguing is the preponderance of incest related text porn of which there is also a history in the Indian context (as pointed out by Sibaji Bandhopadhyay) which reveals how the mappings of legal and illegal pleasures around divides of familial/non-familial, public/private, stable/temporal have a schism within – the erotic fantasies of incest. Here the cultural taboo is broken within the sanctity of the private sphere where Indian cultural values are to be upheld. This perhaps finds its reflections in the contemporary in the figure of Savita Bhabhi. The eroticized Bhabhi or sister-in-law is seemingly unmoored by liberalization and mobility, technology (specifically digital media and the Internet) to have sexual encounters with those outside the family – the *bhabhi* goes public, so-to-speak.

The work done by postcolonial feminist legal scholarship on marriage by Ratna Kapur in *Erotic Justice* looks at the legal regulation of sexuality in India, drawing from post colonial theory and subaltern studies project<sup>62</sup>. Feminist scholars map the dividing line between the legal and illegal pleasures, along public and private – public sex and obscene acts falling into the illegal and anything in the private sphere like abuse, domestic violence and rape becoming a domain where the law cannot intervene. Obscenity law

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<sup>61</sup> Taken from Hardik Brata Biswas’s work on Bangla print pornography this is an excerpt from serialized novel written in a periodical that was published from the Sovabazar Royal family from North of Calcutta.

<sup>62</sup> Ratna Kapur, *Erotic Justice: Law and the New Politics of Postcolonialism*, Routledge, 2005.

falls within the realm of the public since it deals with pleasures of obscene and pornographic texts, images, videos that are distributed or transmitted in the public domain.

Here the attempt is rather than to be drawn into the older debates about pornography within feminism, to map out the terrain of legal and illegal pleasures – to look at pleasures that hitherto have not been juxtaposed with each other, to attempt to see if any perspective can be achieved on pleasure itself and its regulation by law. Whether this can give an insight into the specific need of the law to attempt to regulate pleasures such as obscenity, turn a blind eye to pornographic and explicit pleasures and approve, maintain and sometimes enforce conjugal pleasures.

## Radical Feminism and Pornography

*“I like reading radical feminist texts, not because I agree with them but for their conviction.”*

Poorva Rajaram

The radical feminist stance taken by Andrea Dworkin and Catherine McKinnon on pornography, attempts to pull pornography out of the domain of speech into act<sup>63</sup> – Dworkin’s diatribe ‘against the male flood’ begins with how a censor, historically in ancient Rome was a magistrate who took the census – “his power over conduct came from his power to tax”. Her argument is that even historically censorship did not have to do with striking down ideas or speech (which is a modern version of censorship) but to do with acts. For Dworkin, even as she talks about great writers and their ideas, states that they are concrete, specific, real not insubstantial blather on a dead page. “Censorship goes after the act and the actor: the book and the writer.” Dworkin pins down that censorship has consequences for the writer (who is hunted down) and the book (which is destroyed, burnt, etc.) She berates American habits (and in other parts of the global North) that have seemingly divested writing of its power as act; she says that the only time law treats writing as an act is when it is obscene. She says that the obscene quality of writing turns it from idea into act – “changes it from internal wind somewhere in the elevated mind into a genuinely offensive and utterly real fart, rude, occasioning pinched fingers on the nose?”

From her perspective, what changes writing from speech to act is erection, and “whatever writing produces erection is seen to be obscene – act, not idea – because of what it makes happen (i.e., erection)”. Dworkin too has linked obscenity to what is concealed and to filth, excrement. Dworkin makes a valuable connection between the functioning of obscenity law and the lack of women’s presence until recently in any judicial process. If obscenity is to be determined in terms of male arousal or the erection alone, then perhaps it is not surprising that obscenity law has not been used to a large extent against pleasures seen as male or only can be accessed by men, such as pornography but more against other

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<sup>63</sup> Butler – illuclionary and perlocutionary.

kinds of more public pleasures that could be accessed by women, children, homosexuals, lower class and caste people and not only (elite) men.

“What is at stake in obscenity law is always erection: under what conditions, in what circumstances, how, by whom, by what materials men want it produced in themselves.”<sup>64</sup>

Pornography for Dworkin is the insult offered to sex and it accomplishes (as an act only can do) the active subordination of women i.e., the creation of a sexual dynamic in which the putting-down of women, the suppression of women and ultimately the brutalization of women, is what sex is taken to be. Meanwhile regarding obscenity, she says – “Obscenity in law and in what it does socially, is erection. Law recognizes the act in this.” Pornography, Dworkin insists, is “broader, more comprehensive and crushes a whole class of people”. The unstated in Indian law i.e., is the judge turned on by the obscene material, is precisely the one that Dworkin also exposes. For her, the judicial test for pornography should not be the penis/erection but it has to the status of women. And pornography, according to Dworkin, is a discrete, identifiable system of sexual exploitation that hurts women as a class by creating inequality and abuse.

The structural inequality that Dworkin refers to (hierarchy, objectification, submission, violence) has in various ways been part of feminist writings and activism. Dworkin and Mckinnon are perhaps most convincing when they say that women have the right to be effective – to change and form laws, to create public opinion, to get to public office, to be part of institutions and their critiques. However, there are many underlying assumptions to Dworkin’s analysis – such as that there is “a sameness across time and cultures to women’s oppression, expressed in rape, battery, incest and prostitution”. Here the varied narratives of women themselves in relation to incest or prostitution are not taken into account and the experience of women who are not white or living in the global North is possibly subsumed or conveniently ignored. The link drawn between pornography and sexual exploitation is too buried in passionate rhetoric, which in itself should not obscure the argument but to make the mechanisms of domination clearer. That however, does not take place – instead a further obscuring of women and their subjectivity, their pleasures and experiences takes place, as we are continuously confronted in Dworkin’s texts with the woman who is a victim, who is silenced, who is oppressed and who is objectified and depersonalized.

There is a necessity perhaps to avoid being drawn into the feminist debate about pornography between the radical feminist stance (Andrea Dworkin and Catherine McKinnon) and the pro-sex or sex positive feminism and anti-censorship lobby (Wendy Brown, Camile Paglia, Susie Bright and others) and that is not so much about whether

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<sup>64</sup> With regard to works of literature such as those by D. H. Lawrence and Nabokov, Dworkin says that they both distinguish their works from pornography – which is crasser, more clichéd, commercial and other varied attributes. Dworkin says that they are unable to pin down the distinction because writing was indeed real to them (as act, rather than speech) but women were not and hence they were unable to see that what pornography does is harm to women.

Dworkin's arguments are convincing or not about pornography as an act that accomplishes sexual subordination of women; or whether this can be responded to at the level of women's narratives, about the harmful impact of censorship itself as a tool of law against women's voices (indeed the censorship of Dworkin's own book). The anti-pornography feminist position has also formed uncomfortable alliances with a morally conservative position in America, and in the Indian context this feminist position that opposes beauty pageants and is anti pornography has been aligned with the Hindu right and cultural revivalist position. This perhaps has been adequately and at length explored elsewhere by work done by Nivedita Menon and Shohini Ghosh<sup>65</sup>.

## Law as a Torch, rather than Blindfolded

Dworkin and Mckinnon were the drafters of a law that gave women civil rights to sue those who hurt them through pornography.

“In the amendment to the Human Rights Ordinance of the City of Minneapolis written by Catherine A. MacKinnon and myself, pornography is defined as the graphic, sexually explicit subordination of women, whether in pictures or in words that also includes one or more of the following: women are presented dehumanized as sexual objects, things or commodities; or women are presented as sexual objects who enjoy pain or humiliation; or women are presented as sexual objects who experience sexual pleasure in being raped, or women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt or women are presented in postures of sexual submission; or women's body parts are exhibited such that women are reduced to those parts; or women are presented being penetrated by objects or animals; or women are presented in scenarios of degradation, injury, abasement, torture shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual.”

Dworkin says that what this law achieves is that it does not force pornography back underground, unlike obscenity law, which does that. For her it is the criminal or penal force of obscenity law backed by police power and prior restraint that result in a revived black market. A civil law as this respects the freedom of speech and keeps pornography from becoming sexier – “hidden, forbidden, dirty, happily back in the land of the obscene, sexy slime oozing on great books.” In a telling observation, Dworkin says that “if pornography is hidden, it is still accessible to men as a male right of access to women; its injuries to the status of women are safe and secure in those hidden rooms, behind those opaque covers; the abuses of women are sustained as private right supported by public policy.” This perhaps is the easiest explanation for why pornography continues to exist in spite of the reach of obscenity law into the most obscure of regional magazines (Bengali magazine *Prajapati*<sup>66</sup>) and most populist of art (M.F. Hussain's paintings<sup>67</sup>).

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<sup>65</sup> Shohini Ghosh, “The troubled existence of sex and sexuality: feminists engage with censorship”, *Gender and Censorship* (Ed. Brinda Bose), 2006, p.255.

<sup>66</sup> *Samaresh Bose v Amal Mitra* AIR 1986 SC 967.

Dworkin understands the blind spot of the law as gendered inequality – perhaps it is more complex than that, but nonetheless that dimension of the law as ensuring gendered hierarchies and heteronormativity is undeniable.

Her observation that the civil rights law proposed by her and MacKinnon puts “a flood of light on the pornography, what it is, how it is used, what it does, those who are hurt by it” is telling in its use of metaphor of light that will reveal the hidden corners of the pornographic. At the same time however, the actual reach of the law is much debated, since it largely impacted lesbian and queer feminist expression, including radical texts such as Dworkin’s herself in the Little Sister’s case<sup>68</sup> in Canada.

Though not in agreement with Dworkin’s position on pornography as gendered and sexually explicit violence, it perhaps is obvious that her legal activism was frustrated by how the law relates to image and the blind spot with regard to explicit pornography in the law. In the previous chapter we examine how this blind spot is about the law and its complicated relationship to the image – dimensions of Protestant and Catholic Christianity, Law and its link to Justice, which is necessarily blind. Here we can see that the blind spot might indeed be linked to gendered inequality and the labours of the law for the maintainance of the heteronormative; and the links from there to legal and illegal pleasures.

## Legal/Illegal: Public/Private

Legal and illegal pleasures seem mapped around other divides, though not very neatly – public and private, speech and act, criminal and civil (in terms of how the law deals), stable/familial (continuous) and transient/non-familial (temporal).

Kapur’s critique of contemporary legal engagements with sexuality is primarily that it carries within it the legacy of the colonial encounter, particularly in carrying forward the public-private divide. The remainder of her critique is to point towards how this engagement with the law has had mixed results for those who should allegedly benefit – namely women, and that there is a troubling confluence between the strategies of the feminists and the Hindu Right.

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<sup>67</sup> Maqbool Fida Husain vs Raj Kumar Pandey CRL. REVISION PETITION No. 114/2007. Decided on 08-05-2008.

<sup>68</sup> The irony of course is that Dworkin’s own works were detained by the customs authorities on the suspicion that they constituted hate literature, in the case of Little Sisters Book and Art Emporium v. Canada (Minister of Justice), [2000] 2 S.C.R. The case also reveals that the anxiety is not the existence of “obscene” material that was detained, as these could be found in any other mainstream bookstore, but the existence of queer spaces where such material could be circulated. The Canadian Supreme Court eventually held that the actions of the customs authorities were justified, but also stated that sexuality minority groups are obviously more vulnerable to restrictions of freedom of speech and expression. See Namita A Malhotra, The world wide web of desire: content regulation on the Internet, Association for Progressive Communication Position Papers. Available online at <http://www.genderit.org/en/index.shtml?apc=---e--1&x=95478>.

Reformers and reform movements since the nineteenth century have tried to extend legal intervention, particularly criminal law (since it has immediate impact and deterrent fines and punishments built in) – “an incremental approach of the public – state sanctioned criminal law – into the ‘private’ sphere of the family”. The public/private divide represents the ideological marker that shifts in relation to the role of the state in different historical moments, in particular contexts and relation to particular issues. Early reformers were agitating around issues of early child marriage, widow remarriage. Political nationalists and cultural revivalists saw this as an undue intervention in the private sphere of the family, which constituted the sacred “space of Indian cultural values – a space that needed to be secured from colonial intervention” (Kapur: 29).

Kapur also says that “indeed the conjugal space became a central site of nationalist struggle in the late nineteenth century” taking from the work of historians like Sumit Sarkar and others. She also says – “The realm of legitimate sexuality was to be determined by the colonial subject and not the colonial power, and the resistance to law reform served as a symbol of Indian resistance to colonial rule and a challenge to subjugation. The native woman became the symbol of the incipient Indian nation” (Kapur: 29). With regard to various legal and social reform issues such as age of consent, the contests taking place between the nationalists and the reformers were not based on any argument about the equal rights for women – they were purely protectionist measures and articulated against a broader contest over the definition of nation state.

The various legal reforms around age of consent and the Hindu Marriage Act were triggered by tragic incidents of early marriage and death. The two figures of Rukmabhai (1886) and Phulmonnee (1891), both young girls who were married off is overcast over reforms in marriage law in the colonial period. While Rukmabhai objected to returning to her husband and following the court’s decree for restitution of conjugal rights, it is Phulmonnee’s story that tugged hearts and finally led to the raising of age of consent. Phulmonnee was 11 years old and raped by her 35 year old husband and died as a result of injuries.

Kapur’s argument is that in spite of the final raising of age of consent in the law, the political nationalists were very effective and successful in their efforts to “re-articulate the domestic sphere as beyond the reach of colonial intervention.” The family was to be cordoned off as the “site for the production of Indian cultural values.” (Kapur: 31) Here no argument is discernible in Kapur’s discourse about the family being the only site allowed for pleasure as per the law, but that is possible to glean from the judgments around restitution for conjugal rights – a little explored provision for ensuring that women and men whose marriages are near collapse can be made to cohabit i.e., live together, possibly to have conjugal relations.

Kapur says that the family was reconstituted as a ‘pure space’ of Hindu culture and tradition and women who occupied this space came to represent all that was pure and untouched by colonialism. “Indian womanhood became the embodiment of nationalism as the nation came to be constructed as the divine mother, and women in general became the mothers of the nation.” (Kapur: 69) This glorification of course was also centred on

the chastity and purity of women, and this came to infuse the very discourse around nationalism.

This legacy of ensuring that there is minimal intervention in the private sphere, is what Kapur points out in the laws made post independence, the new personal laws in the 1980s and subsequently as well. Kapur says of the present – “ Few aspects of sexuality are exempt from some form of regulation whether is laws governing sexual speech, determining who is the subject of legitimate sexual relations, which sexual acts constitute assault or violence, and what constitutes public sex, and is hence, subject to criminal or other legal sanctions.” (Kapur: 32)

That marital rape is not recognized points to the idea that there are “certain forms of sexuality that are private, culturally accepted and exercised legitimately within the family. The family and marital relationship are legitimate areas for containing women’s sexuality in the name of protecting it, and thereby defending Indian cultural values.” (forced incest is okay, child abuse is okay, marital rape is okay because it is within the family). The law even constructs certain forms ‘private sexuality’ such as homosexuality as public and thus it is open to intervention. Perverse sexuality which is against the ‘order of nature’ and ‘Indian cultural values’ is a legitimate subject for state intervention. Private sex is thus only immunized if it is legitimate private sex – that is sex within marriage, familiar and cultural grounded. The decriminalization of consensual homosexual relations, is also about extending and enveloping into the private sphere (which is described as zonal and decisional in the judgment)<sup>69</sup>, rather than acknowledging the existence of sexual or what could be seen as private acts that take place in public.

This distinction between public/private that sustains the logic of legal interventions is “informed by dominant sexual ideology, which is pure, chaste, reproductive, non-commercial, heterosexual (in fact marital), and held sacred.” This is what informs the distinction between good sex and bad sex. Thus if the woman strays from this and has consensual sex outside the marriage, same-sex relations, commercial sex then the law considers her sexuality to have become public, to have transgressed cultural norms and thus not to within the purview of protection of criminal law. This is precisely the logic as to why a prostitute is not entitled to right to privacy (against searches by police) since her relations are not personal or intimate in the manner in which the court understands, and hence those relations and by extension the prostitute’s life cannot be admitted into the ‘inner sanctum of privacy rights’<sup>70</sup>. However, the court can cross the line into the family and order for the restitution of conjugal rights (that has been upheld as constitutional). What is also interesting is that the notion of privacy discussed here was one of marital privacy (of the couple) rather than individual privacy<sup>71</sup>.

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<sup>69</sup> Naz Foundation v. Government of NCT (2009) 160 DLT 277; W.P. (C) No. 7455/ 2001 of 2009 (Delhi HC).

<sup>70</sup> Sahyog Mahila Mandal and Anr. v. State of Gujarat and Ors (2004) 2 GUJ. L. REP. 1764; MANU/GJ/0110/2004.

<sup>71</sup> For more on the constitutionality of the restitution of conjugal rights and privacy law as understood in the Naz judgment that decriminalizes consensual homosexual activity, see Saptarshi Mandal, ‘Right To Privacy’ In *Naz Foundation: A Counter-Heteronormative*

Most of the feminist scholarship done on how law protects the conjugal pleasures is primarily based on criminal law, rather than civil, though civil law is the terrain in which most of the battles are fought on an everyday basis. One such example of this would be the restitution of conjugal rights (Section 9 of the Hindu Marriage Act, S.22 of the Special Marriage Act) which allows either party access back to conjugal relations if decreed by the court. Usually it is the husband who petitions for restitution of conjugal rights especially as legal strategy to not be made to pay maintenance. The constitutionality of this provision has been contested often in court which has heard arguments that the petitioner's intentions are insincere, that the provision is in violation of right to life and privacy, that the provision is discriminatory on grounds of gender and almost tantamount to legal cruelty. The defence has been that the law does not force conjugal relations, merely "cohabitation and consortium" (*Smt. Harvinder Kaur v. Harmander Singh Choudhry* AIR 1984 Delhi 66). In the Supreme Court Judgment that upheld the decree for the restitution of conjugal relations in a specific case and also upheld the provision as constitutional said that – "In India conjugal rights i.e., right of the husband or the wife to the society of the other spouse is not merely creature of the statute. Such a right is inherent in the very institution of marriage itself." (*Saroj Rani v. Sudarshan Kumar Chaddha* 1984 AIR 1562).<sup>72</sup>

In an Andhra Pradesh High Court judgment (*T. Sareetha v. Venkata Subbaiah*<sup>73</sup>) the judge said – "a decree for restitution of conjugal rights constituted the grossest form of violation of any individual right to privacy. According to the learned judge, it denied the woman her free choice whether, when and how her body was to become the vehicle for the procreation of another human being, of choice regarding her own body and loss of control over her most intimate decisions. Though in other judgments this notion of restitution being the "grossest form of governmental invasion into marital privacy" is rebutted by the notion that the court must protect marriage as an institution and must prevent its break down, even if it is to force the husband and wife to cohabit.

The public/private distinction is a shifting and contradictory one – sometimes the criminal law has constructed the family and marital space as public and in need of protection, say in the case of criminal provision for adultery or the civil provision for restitution of conjugal rights. At other times, it is beyond the reach of the state, say in the case of marital rape. Yet the notion that marital relationship is legitimate sexuality is the

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Critique", NUJS Law Review, July-September 2009, p.525.

<sup>72</sup> If the order for restitution is not followed, then the properties of the party not obeying can be attached – this is, in the opinion of the court, to offer inducement for the husband or the wife to live together – "serves a social purpose, as an aid to the prevention of a break-up." In the particular case, the wife made certain allegations of ill treatment against her husband and his family; the husband denied these and said that he would take the wife back. On this basis a decree for the restitution of conjugal rights was passed. Though this may or may not be the usual course of most cases that deal with restitution of conjugal rights, what is of interest to us here is how the court deals with the notion that this provision is unconstitutional – that it goes against the right to life, right to privacy.

<sup>73</sup> *T. Sareetha V. T. Venkatasubbaiah* AIR 1983 AP 356



cornerstone of Indian cultural values and must be protected by the law is fairly well established, especially within the law itself.

Other sites where the primacy of familial and conjugal relationality is affirmed is in popular fiction such as *Women's Era* and other such self help text and women's pulp fiction. The thesis here is that the woman is reconciled not to her mother-in-law or other such impediment thrown up by the conventional narrative, but to her loss of autonomy, individuality and selfhood in relation to her husband<sup>74</sup>. Another important work is on the ways in which varied customs and practices of sexuality and of being together for men and women or being apart – polygamy, bigamy, temporary arrangements, devdasis, *baisya-vaishya*-prostitute were subsumed and made to conform to the colonial and the reformist (Brahmanical) agenda of marriage i.e., legal pleasure. In the interim period when such regulations were being introduced in the 1815 to 1890, categories such as temporary marriage were recognized in the law. But eventually the colonial law's "response was to define marriage more rigidly in accord with high caste norms and to increase men's control over their wife's(sic) labour and sexuality".<sup>75</sup> The Secretary of Bengal Municipal Department admitted that an accurate but effective definition of the 'common prostitute' would continue to elude the government unless they were able to define 'marriage' (June, 1888)<sup>76</sup>.

Perhaps the juxtaposition of the illegal pleasure vis-à-vis marriage should be prostitution then or even adultery (by the wife). For the juxtaposition of marriage and pornography as legal and illegal pleasures is unwieldy; it does not make sense if mapped along divides that separate the legal from the illegal such as public and private, familial and non-familial. However, what makes the juxtaposition particularly interesting and playful even, is the preponderance of incest pornography not just in the contemporary (a sanitized version of this would be *Savita Bhabhi*) but also historically as traced by the work of Hardik Brata Biswas on print pornography in Bengal. The fantasy of incest is a disruption of the cultural norm, an unfathomable schism in the legal norm. Here marriage and pornography or family and pornography become inter-related in a way where family that is the site of repression and control (especially of women's sexuality) is also the site of pleasure and/or the erotic and/or desire.

## The House of Leaves: Nation and Family

*"And if one day you find yourself passing by that house, don't stop, don't slow down, just keep going."*

The House of Leaves, Mark Z. Danielewski

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<sup>74</sup> Amita Tyagi Singh and Patricia Uberoi, *Learning to 'Adjust': conjugal relations in Indian popular fiction*, *Women's Studies in India: A reader* (Ed. Mary John), Penguin Books India, 2008.

<sup>75</sup> Samita Sen, *Offences against marriage: negotiating custom in colonial Bengal*, *A question of silence : the sexual economies of modern India* (Eds. Mary E. John and Janaki Nair), Kali for Women, 2000.

<sup>76</sup> *Ibid*

The schism in the house or the private that is meant to uphold the sanctity of Indian cultural values in colonial and postcolonial India is the circulation of incest pornography, the history of which is explored by Sibaji Bandhopadhyay and Hardik Brata Biswas. This cultural phenomena reveals that a variety of pleasures were imagined within the private, and not only those that were conjugal and legal, but those that were familial and illegal. However, as Bandhopadhyay points out, this print pornography does not afford radical readings of the text, for the liberatory potential of the fantasies of either men or women in private.

Sibaji Bandhopadhyay's article explains the incest pornography as being about the taming of the Bhadrakok shrew in various ways by different members of the family – hence, this porn is still a controlling of women's sexuality<sup>77</sup>. Bandyopadhyay's article on pornography in Bengal, including incest pornography argues that we all live in pornotopia. What pornography achieves by policing sexuality, especially of women, by establishing firmly the confines of the home within which the man is the ultimate. Hardik Brata Biswas further takes up this analysis in his reading of narratives in incest Bangla pornography. He traces the history of this print pornography to pre-colonial sexual traditions where the erotic was part of religious texts, mythologies and performance and not considered out of place<sup>78</sup>. The importing of Victorian conscience calls for a complex understanding according to Brata Biswas, and the repression as a result of it erupts in vivid pornographic literature where the Hindu household is at the centre. The pushing for the formation of heterosexual and conjugal nation, with new professions, urbanizations and family formations according to Brata Biswas was causing ruptures that were then resolved through stories of incest pornography.

As analysed by Ratna Kapur, in this context the role of the woman was to maintain the sanctity of home and cultural identity, especially against the interventions of the colonial state. The bourgeoisie self in the European context gets split into the private and public selves, and all that doesn't align with what is acceptable in the public domain falls within the private sphere. This includes the affects that surround new kinship and familial structures, the transformations of modernity and urbanism and the anxieties around it and in all these narratives in contrast with the woman, who protects the sanctity of family, was a woman with a voracious and unbelievable sexual appetite. This vulgar past was then confronted by legal reformation that included anti-obscenity law in India by 1856.

Bandhopadhyay observes in relation to this pornographic material, the woman snaps back from a lusty seductress to the dutiful daughter, wife and daughter-in-law with an elastic ease, and invariably she is the initiator for sexual action in the stories. Both Bandhopadhyay and Brata Biswas say that these stories target the body of the middle class/educated woman and in narratives of incest between mother-son, brother-sister, wife-husband's friends, uncle-niece, etc. Seemingly such a text is meant solely for male

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<sup>77</sup> Sibaji Bandhopadhyay, *The Discreet Charm of the Bhadrakoks: An excursion into Pornotopia*, Margins, Calcutta, 1999 and *Jadavpur Journal of Comparative Literature*, Jadavpur University, Calcutta.

<sup>78</sup> Presented by Hardik Brata Biswas at *Renegotiating Intimacies: Marriage, Sexualities, Living Practice*, School of Women's Studies, Jadavpur University, Kolkata, December 21-23, 2008.

consumption, which should not foreclose and often doesn't, pleasure for women but this is then obviously not the focus of the economy that produces the stories.

What is also of interest is how the story remains within the family and no outsiders, prostitutes or public women figure in these narratives, except maybe the good woman who is also the neighbour next door. Part of this incest imagery is distilled in the form of Savita Bhabhi (in terms of how she is called, the older, more experienced woman that she plays) but Savita Bhabhi is also placed within the post colonial, contemporary familial structure of a couple and her sexual encounters are often random and public (with the visiting salesman, the boys who play next door). In fact it is possible to link many of the stories of Savita Bhabhi to aspirations and desires of middle class people and consumption of globalization and globality<sup>79</sup>, which are perhaps very different phantoms from those that haunt Bangla pornography of the 1930s and 1950-60s.

With Bangla pornography, it is clear that the family is the site of repression and transgression, the site for control over subjectivities (especially during the period when the modern nation is being formed) and the exploration of desire in this as one of the private spaces that was allowed. Does this plethora of incest pornography merely play into the family where the male figure has authority and power and does it perhaps reflect the ways in which kinship relations are complicated within the interior, private worlds of family? It of course becomes clearer that pornography has no radical agenda in relation to sexuality and gender roles, and yet the excess that seems implied and tucked away because of pornography allows a glimpse into radical possibilities of affects that surround images.

If perhaps a lens other than gender, sexuality were used then other dimensions of the circulation of pornography could become evidence. That pornography is a public secret, and especially incest pornography is a publicly held secret is perhaps more evident today, where there is a tacit knowledge of the ways and means with which explicit material can be accessed, especially online. Many people within the country through daily email digests, sites that mirrored and using web proxy software, accessed Savita Bhabhi, even when it was banned.

## Public Secrets: Mass Consumption of Pornography

*"Curiously this particular word for spy - the tira - also means throwing, and it's opposite - pulling. And as if that isn't strange enough, tira is also used to mean fucking. All this makes for a curious network of associations, granting us some rare insight into the erotics not only of spying but of the terror-machine of the state as well, with its obscure medley of oppositions, seductions, and violence."*

The Nervous System, Michael Taussig<sup>80</sup>

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<sup>79</sup> Itty Abraham, Sex in the Neo-liberal City: On Savita Bhabhi, Available at The Fish Pond at <http://thefishpond.in/itty/2009/on-savita-bhabhi/#comments>.

<sup>80</sup> Michael Taussig, The Nervous System, Routledge, 1991.

Perhaps the investigation of the blind spot of pornography can be illuminated by looking at Michael Taussig's scholarship on the notion of the public secret. Though his idea of the public secret seems located (or at least initially thought about) in the violent realities of Colombia and other parts of Latin America, Taussig says, "for are not shared secrets the basis of our social institutions, the workplace, the market, the family and the state."<sup>81</sup>

Perhaps that is the notion of public secret that is relevant for an investigation into how pornography falls between the cracks of legal regulation of obscenity, and how even in public discourse it is the innocuous acts that are targeted for their obscenity and pornographic nature, rather than those material that seem far more obviously pornographic or even heinous in their violation of privacy, law and cultural taboos.

Taussig's work on public secret is in the context of defacement, and the surplus of strange negative energy released now by the defaced object. Taussig's enquiry into the public secret is to determine what defacement does to it – does it reveal the truth further, as per Benjamin's idea that exposure does not destroy the secret as much as it is a revelation that does justice to it. Taussig further comments on the notion of a public secret saying that – "is not such public secrecy the most interesting, the most powerful, the most mischievous and ubiquitous form of socially active knowledge there is? What we call doctrine, ideology, consciousness, beliefs, values and even discourse pale into sociological insignificance and philosophical banality by comparison: for it is the task and the life force of the public secret to maintain the verge where the secret is not destroyed through exposure, but subject to a different sort of revelation that does justice to it." For Taussig it is the cut of defacement that "makes the energy in the system both visible and active." (Taussig: 3)

Taussig's exploration of the public secret began in the 1980s in Colombia, where there were so many situations in which people dare not state the obvious, when people are missing, violated, dead bodies that appear on roadsides and the unstated fact of who is the perpetrator of crimes – the police, military or ordinary people. He says – "We all "knew" this, and they "knew" we "knew" but there was no way it could be easily articulated, certainly not on the ground, face-to-face". He says that such smoke screens are long known to mankind, and this long knownness is itself an intrinsic component of knowing what not to know. This is what he refers to as the labour of the negative – something may be obvious but needs stating in order to be obvious.

Taussig however, warns that it is in fact banality of such a secret that is important, and that the examples of brutal violence that he gives should not overshadow and that this "negativity of knowing what not to know lies at the heart of a vast range of social powers and knowledges intertwined with those powers, such that the clumsy hybrid of power/knowledge comes at last into meaningful focus, it being not that knowledge is power but rather that active not-knowing makes it so. So we fall silent when faced with such massive sociological phenomenon, aghast at such complicities and ours with it, for

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<sup>81</sup> Michael Taussig, *Public Secret and the labor of the negative*, Stanford University Press, 1999.

without such shared secrets any and all social institutions – workplace, marketplace, state and family – would founder.” (Taussig: 7)

Taussig talks about public secrets as the most complex type of social knowledge, of knowing what not to know, and not just what not to say and what to say. The covert guilt ridden mass consumption of pornography can be acknowledged with some people (other men perhaps) and not in others and this complicated idea for each person of where and when, if at all, it can be shared is indeed complex. “Ideology, discourse, and habitus pale into insignificance compared with this social art of knowing what not to know-and knowing when and how to reveal it.” (Taussig: 3)

Taussig’s other contribution to thinking of how states govern citizens is the idea of the Nervous System – “if we are to take the full measure of Benjamin’s point, that the state of siege is not the exception but the rule, then we are required to rethink our notions of order, of center and base, and of certainty too – all of which now appear as state of sieged dream-images, hopelessly hopeful illusions of the intellect searching for peace in a world whose tensed mobility allows of no rest in the nervousness of the nervous system’s system, for our very forms and means of representation are under siege. How could it be otherwise?” (Taussig, *The Nervous System*: 10) Taussig’s writing is meant to emulate the systematic nervousness of the Nervous System itself and he sees Benjamin’s statement about the constancy of state emergency as encouraging to look at the social world in a tensed, yet highly mobile way – “this understanding requires knowing how to standing in an atmosphere whipping back and forth between clarity and opacity, seeing both ways at once. This is what I call the optics of the Nervous System..”

Perhaps this notion of the public secret or public secrecy that Taussig explores in relation to terror, violence by the State, may not seem very relevant to our investigation here, were it not for Taussig’s insistence on the banality of such public secrets. Pornography falls precisely into this category of a public secret, because the rampant circulation and consumption of pornography that is evident in posters put up across cities, availability in piracy markets and online. Yet at the same time, there is a disjuncture with the moral discourse around obscenity and while material and practices themselves leak from these categories into each other, the discourse is sustained carefully by averting eyes from the existence of the other. Even the news article carried by Times of India that exclaimed that no longer can pornography be banned under the newly amended Information Technology Act of 2008<sup>82</sup> fail to mention or take note of the fact that the procedure requiring the judiciary to intervene with regard to obscenity on television and Internet, has long been the practice. In fact legislation rarely has dealt with pornography directly, not even offering to describe the category and its contours. It is scandals aided by technology that have pulled pornography out of its hidden places.

The fable of the emperor’s new clothes that Slavoj Zizek analyses in *Looking Awry* and *Enjoy your symptom*, is also an interesting way of understanding the notion of a public secret. Zizek says – “In Hans Christian Andersen’s *Emperor’s New Clothes*, all the world

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<sup>82</sup> Manoj Mitta, Babus can’t ban porn websites citing obscenity: Amendment To IT Act Allows Only Courts To Block Them, Times of India, 12<sup>th</sup> February, 2010.

knows that the emperor has no clothes, and everybody knows that all the world knows it-why, then, does a simple public statement that “the emperor has no clothes” blow up the entire established network of inter-subjective relations? In other words: if everybody knew it, who did not know it? The Lacanian answer is, of course: the big Other (in the sense of the field of socially recognized knowledge).

Zizek uses many examples to talk about the big Other – the field of etiquette, social rules and manners – where truth is determined and the “game is run”.<sup>83</sup> He uses the film *Saboteur* where a couple is desperately trying to escape the Nazi forces and the scene is taking place at a formal society party. The hero has to invite the heroine to a dance and walk away with her along with other couples, thus escaping. If he achieves this “doubly inscribed act”, then the Nazi agents watching cannot stop him, as this would expose them to the others at the party. Zizek points to a third element beyond the couple and their adversaries – the guests at this party, or (the ignorance of) the big Other – the rules of the social game, from which we must hide our true designs (Zizek, 46). The fundamental pact that unites everyone is that the Other must not know at all, and this allows for various actions to take place – for those who deal a blow simply by following the rules of the game, the adversary who has to watch impotently and the innocent third who sees all but fails to grasp the significance of it.

However, this narrative crumbles in the story of the emperor’s new clothes, when the child unwittingly exclaims that the emperor is in fact naked – something that was known to all the people in his kingdom, but yet had not been stated. This public secret of the emperor’s nakedness being revealed is the catastrophe that takes place when the Other can no longer ignore our secret games – the social bond dissolves itself. As Zizek says – “The Other must not know at all: this is an appropriate definition of the nontotalitarian social field.” (Zizek, 47)

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<sup>83</sup> Zizek, *Looking Awry*, MIT Press, 1992, p.45 and p.71.

## Chapter 4

# Film, Video and Body

*s: I was (very simply) in charge of seeing for the world after all seeing is just a substance.*

*I: How do you know that*

*s: I saw it*

*I: Where*

*s: Wherever I looked it poured out my eyes I was responsible for everyone's visibility it was a great pleasure it increased daily.*

*I: A pleasure you say*

*s: Of course it had its disagreeable side I could not blink or the world went blind*

### *Anne Carson, Autobiography of Red*

(This is Anne Carson's imaginary interview with Stesichoros, a Greek poet, who was blinded briefly for slandering Helen of Troy. Not much of his work survives, but what does, reveal a poet who literally invented adjectives and unique ways of describing.)

*" eff.o, eff.o"*

song from Love, Sex Aur Dhoka

*"The intimacy established between the film and viewer contains the possibility of a sexual aspect: the film invites our fascination with the borderline between movement and stillness, between life and death, in a way that evokes sexual desire and le petit mort."*

Jennifer Marilyn Barker, *The Tactile Eye*

While the law struggles to keep the supremacy of doctrines based on the banishment of the image or visual, film studies or media studies too in the last two decades is also engaged in a move beyond the visual. Linda Williams' work that addresses hardcore pornography charts out the study of what can be called body genres (the weepie, the comedy, the horror, pornography) and how the importance of such genres was recognized later in film studies in comparison to others. Other strands of analysis of cinema also seek to move beyond the representation paradigm (perhaps best understood in terms of Laura Mulvey's important work) into exploring the affective relation to film, and perhaps what is most important in relation to an investigation about pornography, a bodily/embodied relation to film as opposed to analysis that concentrates only on the visual.

This chapter is about the ways in which film studies has interacted or can with pornography, but more conceptually with modes of analysis that are outside the visual alone. In terms of its analysis it relies largely on Bharath Murthy's films about the pornographic video Mysore Mallige – Murthy's film has the same title<sup>84</sup>. Quixotically,

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<sup>84</sup> Bharath Murthy (director), *Mysore Mallige*, 2007.

the most effective form of understanding, unearthing and discussing the ways in which pornography is experienced (as a video or filmic object) are perhaps best captured by the affective modes of this documentary film, rather than a scholarly work. Work by scholars such as Jennifer Barker, Elena Del Rio, Linda Williams form the basis of exploration in this chapter on affective and embodied modes of relating to pornography. In the end, the porosity of video, film and body allows us to move forward to terrains of technology and new media studies where interactivity and simulation became pornographic and pleasurable practices in themselves.

## Being Moved

In her book “The Tactile Eye: Touch and the Cinematic Experience”, Jennifer Marilyn Barker states that when we say that cinema touches us, it moves us viscerally, we (actually) do mean it in a more than metaphorical sense<sup>85</sup>. An understanding of the relationship of tactile contact and reciprocity between viewer and film is indebted to existential phenomenology’s description of subjectivity and perception as well as descriptions of the senses that have emerged in disciplines such as philosophy, anthropology, psychology and art criticism. Barker relies on contemporary phenomenology which she says dwells on historical and cultural specificity and the relation between the subject (viewer) and object (film) but on its interrelation.

Barker analyses the over play of the visual in the study of cinema and as such how Western philosophy associates vision with clarity, objectivity, truth, authority, power, racial or gendered superiority, transcendentalism and secular enlightenment. These notions of the superiority of visual as opposed to other senses, is often supported by scientific studies that give evidence for sight as “the most reliable, complex and universal sense, as well as the most mature since it is the last to develop in infancy”.

Barker’s work on cinema emphasizes on touch, rather than smell or taste – since touch involves a mutual, reciprocal relationship that also involves direct contact – “the act of touching undermines the clear division between the perceiver and the perceived, myself and the other”. This allows for **moving away from a passive mode of examining the ‘affect’ produced by the film, towards a more sensual and embodied phenomena**. The actual meaning of the word affect is more complex than merely response – it is an inward disposition and natural tendency towards something. As a verb, Barker says, affect means “to inhabit something, to display a natural tendency towards something, to assume the character of something”. Cinematic affect could then mean – “filmgoers feel and express sympathy and an inward disposition not just toward onscreen characters, but towards the film itself. Perhaps we gravitate towards the film, inhabit it and assume its characteristics in some way.” It would be easy then to separate and respectively attribute excess and affect to film and viewer, respectively but the challenge is to understand the affect of the film. This direction towards examining the sensual aspect of the film experience was initiated by Linda Williams who has done foundational and important

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<sup>85</sup> Jennifer Marilyn Barker, *The Tactile Eye: Touch and the Cinematic Experience*, University of California Press, 2009.



work on pornography. William's work also points towards how the analysis of the sensuality of the film experience can and should be historical.

The importance of the embodied experience has been made evident in the works of those ranging from Taussig, Merleau Ponty and others, what is of import here is an understanding of the relation between the film and the viewer, and how the film mimics and occupies the world in much the same way – “the film and the viewer's acts of perception and expression share similar forms and structures”. The basic idea is that the film has a body that feels, cries, moves as ours does.

Barker also examines the work of Sobchack on embodied perception and cinematic experience, where viewing is not generic and ahistorical, not merely a matter of cognitive understanding, but is bound up with our experience of living as a human body. “In so far as the embodied structures and modes of a film are like those of a filmmaker and spectator, **the film has the capacity... to not only have sense but also to make sense...**”. Barker examines the work of other academics that have analysed the sensual aspect of the filmic experience and especially its mutual, reciprocal relation that doesn't necessarily separate into two autonomous entities of the viewer and the film. Yet even as this examination talks of how the viewer or the film assault, caress, envelop each other, what seems to be left out is the sense of distaste, violation, revulsion and even violence that could take place in this encounter. Perhaps this is because it would steer us too close to debates that fall outside the liberal anti-censorship framework and towards discussions on problematic images and arbitrary lines drawn in the sand by the law, but also through custom, culture, public discourse, etc.

Barker sets up an admirable task for herself, to examine the cinematic experience for the body (without scare quotes, as she says) as something more than an abstract exploration of the “the body” that has been undertaken in several disciplines, ranging from the queer, feminist to cyberculture studies. For this she relies on Merleau Ponty's work on phenomenology and his examples, the basic premise of which is, “we don't experience things or others outside of our bodies, and our perception of them is made specific and meaningful by our fleshy, corporeal and historical situation in the world.”

This is explained further by Sobchack, in a manner that moves away from providing anthropomorphic or an abstract metaphorical idea of the film's body to show how this can be meant very literally. “The mechanisms and technological instrumentation of the cinema can be understood as the *film's body*, functioning as its sensible being at and in the world.” In other words, “by virtue of its perceptual and its expressive behaviour, which it demonstrates via its body, the film is both a viewing subject and a viewed object.” This way of seeing of the film however, should not be collapsed into an extension of the filmmaker's way of seeing/making of the film (director's intention), neither can it be only understood in representational terms as per the viewer's experience.

### **Surface**

The sites at which film and body interact are skin, musculature and viscera – this perhaps is of interest to an analysis of pornography that functions more obviously than film.

About the film, Barker quotes Siegfried Kracauer —that cinema “communicates less as a whole with consciousness than in a fragmentary manner with the corporeal material layers.” She further takes from Merleau-Ponty’s definition of skin – as denoting a general style of being in the world, and skin not as a material or biological entity but also a mode of perception and expression that comprises the surface of a body. With that definition, even a film can be said to have a skin. Thus, interaction is what makes tangible meanings, experiences and even the allegedly concrete objects such as film or viewer, possible.

This synchronicity of film and body is in terms of the ways in which both occupy the world – “The viewer caresses by moving eyes along an image softly and fondly, without a particular destination, but the film might perform the same caressing touch through a smoothly tracking camera movement, slow motion, soft-focus cinematography or an editing style, dominated by lap dissolves, for example.” (Barker)

Skin is that layer that marks some kind of border but also where there is leakage and on which disease, discomfort, embarrassment are all visible in some way even as it conceals the murkiness (of emotions) below. Skin allows for “a fleeting, incomplete kind of access to the other, which is pleasurable in its impermanence and incompleteness” (Barker). Though Barker’s work is predicated on an imagination of a conventional length film (indeed most of her examples are from Hollywood and world cinema) and an engaged viewer always in relation to each other, but perhaps what comes to mind by the analogy of contact through skin is precisely the tantalizing quality of material that is short in length, small in size (thumbnail videos, low resolution, small size) and that often stands in for pornography. The notion of a contact that is fleeting and incomplete brings to mind the hazy quality of MMS clips and hidden camera footage that obscures, more than reveals explicit sexual acts. Here technology (low bandwidth, cheap cameras) are in a sense playing the role of blurring and obscuring explicitness, that either censorship or even perhaps narrative in soft core porn previously did. This role of technology in ‘creating’ that blurry spot through which things cannot be entirely perceived is paradoxical as well, because at the same time new forms of technology (mobile phone messaging and Internet, etc.) as seen from the previous chapter on law, is what is forcing the law and the state to look into dark corners that hitherto it had ignored.

At the surface or the skin, is perhaps where affects related to pornography are most evident. Pornography is often accused of lacking narrative, of being only at the surface, of displaying/presenting the obvious and for obvious reasons of arousal and its quick culmination – before the next click or clip that is uploaded. Looking at pornography online is often about haste and judging from the surface layer or what is apparent. If Chat Roulette is an example of the semi pornographic exercise of flipping through people, perhaps a large part of the thrill comes from clicking Next on (yet another) displayed penis<sup>86</sup>.

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<sup>86</sup> A hilariously accurate account of Chat Roulette and Facebook can be found in South Park, Episode – You have 0 friends, Season 14, Episode 4. More details can be found at [http://en.wikipedia.org/wiki/You\\_Have\\_0\\_Friends](http://en.wikipedia.org/wiki/You_Have_0_Friends).

Laura Marks' work on the notion of haptic visuality also provides an understanding of the inherent eroticism of the relation between film and viewer – “a kind of looking that lingers on the surface of the image rather than delving into depth and is more concerned with texture than with deep space.” It is in the discussion of Hiroshima, Mon Amour that the difference between haptic and optic visuality is played out – the images that are shocking and appalling that are being talked about by the female character and behind a glass, are kept at a distance from us – to see them is emotionally moving but it is safely kept in the domain of optic visuality (which Marks and Barker both understand as to see things from enough distance, to perceive them as distinct objects in deep space).

### **Movement**

Barker's work on the **musculature of the film**, and the manner in which the film's body through long tracking shots, surreptitious movements occupies the universe in a certain way, seems particularly relevant when looking at the new phenomenon of mobile phone based pornography. Some of these clips in a manner similar to the notion of playback in Katherine Bigelow's film *Strange Days*<sup>87</sup> or the *Eyeborg* documentary (where an eye is replaced with a camera)<sup>88</sup> are entirely from the perspective of one person, usually the man who holds the mobile|camera. An example of this is the DPS MMS clip which literally bought technology and pornography out of its closet in the Indian closet. This clip, while betraying a sly knowledge of the ways in which pornographic material is created and how a mobile phone can be used, is at the same time jerky, tentative and scared. The rushed nature of the clip doesn't even reveal the completion of a sexual act – it is a brief glimpse into nervousness, anxiety and also the thrill of the moment engineered by technology in the form of hand-held devices that can record pubescent sexuality<sup>89</sup>. The overwhelming presence of the disciplinary structure of the school in the film, in the unbuttoned shirt of the girl and in the events that followed the event (expulsion, legal cases, furore in media) overshadow the actual clip and its relatively non-scandalous content.

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<sup>87</sup> The story of *Strange Days* revolves around a new technological device that is invented just before the turn of the millennium, that allows people to record their experiences, in a full bodied way and to play them back for themselves (This is not like "TV-only-better"... this is life). Ralph Fiennes' character Lenny uses it to relive his previous ecstatic relationship with a crazy, sexy rock star played by Juliette Lewis (Faith), but others use it to access other people's experiences as well. There is a subculture of selling and buying playbacks that Lenny as a dealer in playbacks has a key role in, which leads to the discovery of playbacks of a killing of a black man, and playbacks circulated of women getting raped and murdered. More details at <http://www.imdb.com/title/tt0114558/>.

<sup>88</sup> Rob Spence, a filmmaker in Canada, lost an eye and replaced it with a prosthetic eye. He then made this eye into a wireless video camera as well and plans to make a documentary using this footage. About the planned film he says – “You will see blinking, glancing around, perhaps sometimes where I'm not supposed to be.” The *eyeborg* technology has been used to address issues for visually challenged people (including colour blindness).

<sup>89</sup> For an account of the DPS MMS clip, see also Nishant Shah, ‘Subject to technology: internet pornography, cyber-terrorism and the Indian state’, *Inter-Asia Cultural Studies*, 8:3, 2007, p.349 – 366.

## Being in two places

*“ We are invited and encouraged to commit ourselves to the film’s space as well as our own, caught up “here” and “there” at the same time. We hitch ourselves to the film’s body because we can, because it seems so easy, because the film’s body moves in ways similar to ours.”*

*Jennifer Marilyn Barker, The Tactile Eye*

The empathy between the film and the viewer’s body can be so deep that we live vicariously through the film. Along with this, the digital age allows for an easy simulation and switching roles of consumer to producer. Amateur pornography sites in India invite images and videos from their fans<sup>90</sup>. Cheap video technology in mobile phones and cameras allow for a density of that empathy between viewer and video, for various reasons including the perspective of how it is shot (from the man’s point of view) that follows and tracks the innocuous and sexual movements of the woman. Part of the argument in this chapter is also the quality (image, resolution and haziness) and urgency of such pornographic material that marks the contemporary is also what allows for greater porosity and empathy between viewer and material. However, the caveat is that this pornography is likely to change in the future and is very different from the soft porn of the 90s in India or the high production value and porn that had relatively more narrative and artistic content from the 70s in USA. Perhaps in content it is similar to cybersex using webcams and a lot of the content would possibly also be the same, but there are also variations of interactive sex that seem to be replacing the thrill of visual or video pornography through simulation, via spaces like Second Life and role playing games such as World of Warcraft as well. Thus, the texture of what gives pornographic and visceral pleasure is likely to keep changing, with technological devices and innovations but also societal mores and legal limits among other factors.

However, Barker’s arguments about spaces that the body occupies and that which is occupied by the film might be relevant even to other spaces such as video games, social networking sites, etc. While watching a film, the body exists and is aware of the space that it occupies (whether a theater, a bed or a couch), at the same time it is affected and feeling the tumult provoked by the film as well. Video pornography since it comes with the promise of sexual gratification, indeed pushes the viewer to be intensely aware of their own corporeality and the movements and thrusts of the film as well. Some take the effort to synchronize their arousal and climax to that of the film. Barker talking about the phenomena of the muscular relation to film, says that we are “passionately invested in the spectacle of the film and its muscular objects, we are “beside ourselves”, existing in two places at once.”

Yet the question remains as to how this is possible and why is it not comparable entirely to watching someone else, for instance, have an accident. And yet an accident, or a chase scene, or a sexual climax in a film has a certain visceral impact on the viewer, akin to the reaction of those who first watched Lumiere’s ‘Arrival of a Train at a station’ (1895) and

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<sup>90</sup> An intriguing call by a blog was for images that contain the name of the blog in the images written with lipstick, pen etc. and visible on the naked body.

leaped back when the train arrived. The simple answer given by the work on phenomenology done by Merleau-Ponty is that **“my body is wherever there is something to be done”**. Drawing an interesting correlation between this notion of spatial perception and cinematic perception, Barker takes this idea further – “we can enter into a situation carved out by the film and lived by the film’s body because that situation asks of us certain behaviours of which we are capable.” This notion seems also the predecessor of much more immersive forms online, like multi-user role playing games and also possibly the motivation behind three dimensional films.

Barker talks also about the disruption that suddenly breaks the ways in which the body occupies the film’s action space – in a manner similar to the a cartoon character that realizes the limitations of their own body and has to spring back to their original form (they cannot possibly jump that high, walk off a cliff and continue to walk on air, be as elastic to be wrapped around a pole and must spring back to their original shape). On rare occasions, this moment of disruption is perhaps even welcomed by viewers though largely absorption in the narrative or immersion in the film-space is what marks what is generally understood as a ‘good film’. One such rare moment for me, was while watching *The Ring*. The first horrifying sequence that jolts the audience out of its ennui (of watching yet another horror film with cheap special effects) is when a victim drained of blood and life is shown on screen for a split second. Several people in the audience in Plaza theatre, Bangalore gasped and many looked away from the screen while others stared horrified. As if desperate for a release from the film’s clutches, the stranger sitting next to me asked if the scene was over even though I was clearly not looking. It is perhaps these rare moments during horror and documentary films that suddenly become overwhelming that the awareness of other spectators is a relief, rather than a disruption. Even spectatorial frenzy like throwing coins at the screen in appreciation doesn’t break the experience of the film in the same way.

Such a moment provides the stark clarity of how the body is usually intertwined and even absorbed into the film, until startled it hurls itself out or is shaken off by the film. However, pornography is different from cinema in this respect because its attempt is to ensure that the viewer is conscious not only of inter-relation with the film, but eventually can separate and attend to his or her own corporeality (arousal or masturbation). Indeed the purpose of pornography is to gratify these immediate bodily needs and hence such material attempts to occupy the liminal space between the body and its immersion in the film’s body or the film’s space. Pornography is similar to other bodily genres such as horror, suspense, comedy where the aim is to elicit bodily reactions or to absorb the body of the viewer entirely into the filmic space. It is thus also different because it has to allow for the existence of the viewer in two spaces simultaneously and thus has to exist in that liminal space in between film and body, itself. In fact this is what makes pornography a financially viable (either in terms of direct profit to producers or bandwidth consumption). There is an instrumentality in pornography to the engagement with the viewer that has led to the inclusion of specific acts, clichéd moments that speak directly to the body (such as money shots, blow jobs, ejaculation outside of the body). Amateur pornography however, exists more easily between the two spaces of the film and body, and is marked by its directness, almost urgency in the material. Such material is also not

self contained like cinema which comes with the sheen of a finished product, but seems to leak into the real life of both the viewer and of those in the video.

Bharat Murthy remarks on the **directness of images** in the pornographic film Mysore Mallige and also points to a certain separation from cinema, per se – “I was immediately struck by the directness of the images. For the first time I saw an Indian couple having sex in that kind of detail and reality. A new image appeared that had not been there.”<sup>91</sup> For Murthy this directness was relatively superior in terms of seeing a reflection of oneself in the world of images, in contrast to what cinema does. His response perhaps is not entirely about representation, simplistically understood, but in terms of affect of intimacy and tactility of (some) such images.

In certain ways the markers of the unfinished (here finish also means the technical sheen that is almost a by-product of a film industry, not just that this material rarely captures either a completed act or achieves feature length duration) also begin to become the markers of pornography itself – the pixilated quality of a mobile phone video, the static far away shots from a CCTV camera, the cheap blurring tricks on amateur pornographic videos.

## Pre-cinematic Forms and Pornography

*“Cinema gives us a feel for our own deep rhythms, reminding us what we’re made of.”*  
Jennifer Marilyn Barker

Linda Williams’s analysis of pornography links it to early cinema by showing how all forms of amusement and spectacle prior to cinema (kinetoscopes and mutoscopes or even shows in the morgue, magic shows and other spectacles, etc.) essentially related to the body. She also speaks of Edward Muybridge’s work that through the medium of photography reveals an intense fascination with the human body and movement, as being the first thing that the new invented camera attempts to capture. Tom Gunning’s work also shows how initially cinema was less about narrative, and more about spectacle and that spectacle was human beings and their bodies. Here acts like cranking the mutoscope to show a series of flip cards move (in a manner to resemble film or capture the idea of motion) is a kind of kinetic interrelation between human and machine in the realm of musculature, which evoked in a subtle way, “a deeper, temporal connection between the film’s body and the human body in the realm of the visceral” (Barker).

Much of these earlier forms of cinema or pre-cinema involved titillation and sexual imagery and interaction was an essential aspect of that titillation. The hand cranking that controls the speed of the film, also allows the viewer to slow the film down to literally look up the skirt or to move fingers to simulate naked legs. Williams’ article on the carnal density of visions is about such interactive devices, at a moment when the realism of photography was taking hold of the world. She begins by asking for a different model of

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<sup>91</sup> Interview with Bharath Murthy on 10<sup>th</sup> August, 2009. Available online at <http://pad.ma>.

vision, one that “can encompass all forms of visual pleasure”.<sup>92</sup> These devices that contained or presented erotic and pornographic images included picture puzzles, flip books, mutoscopes, postcards through which fingers can be inserted (to make legs), photographs, stereographs and motion pictures or silent stag films.

The psychoanalytically derived models of vision that dominate film theory have definitely enabled the breakdown and analysis of certain kinds of power – for instance the voyeuristic, phallic power of the ‘male gaze’. Williams uses as an example stag film – a 16mm, American, black and white, silent, thirteen minute film titled *Arcade E*, where the action begins with a lesbian sequence followed by a blow job given by the woman to what seems like an anonymous penis. In spite of what seem like obvious misogynist and skewed gendered dimensions of the film (several women, a disembodied penis), Williams says that the film is not about a distanced, powerful ‘male gaze’ that is interested in possessing the image because the penis belonged to the cameraman, as revealed by the downward angle of many shots. She says – “For while everything occurs in this film for the pleasure of the disembodied phallic organ, this organ is too palpably caught up in the “carnal density” of the film’s vision to be conflated with the symbolic phallus.” As an only example of silent moving-image pornography where the body of the observer is also (at least partially) the body of the observed, *Arcade E* seems like a precursor for pleasures that would be discovered later – where the senses of the observer/viewer are not disembodied, distanced and centred but **decentred, fragmented, vulnerable to sensation, and directly engaged.** (Williams)

As pornographic pleasures of such kind became absorbed into more passive formats such as film and video, it perhaps lost on these aspects of interacting directly with the viewer. At the same time, the aesthetics of pornography (that mark it as a genre) – the lack of convincing narrative (allowing the viewer’s body to shift between the film’s space and their own arousal and climax), the manner in which shots are framed, the close-ups of genitalia – perhaps were meant to retain the intimate, or rather sexual aspect of such material. The digital of course adds an entirely different layer to interactivity and reciprocity but also perhaps brings into play different corpo-realities and embodied experiences in simulated environments, or even through devices and possibilities like teledildonics and other sex-toys and devices that can record and send sensations of touch. But it is actually in the simpler ways that the digital is interactive – in the ways in which the viewer moves of his or her own volition through different material or how cheap digital modes of production, especially mobile phones, allow for creating and putting up of their own videos.

### **Touch this screen**

*The gift for producing similarities (for example, in dances whose oldest function this is), and therefore, also the gift of recognizing them, have changed in the course of history.*

On the mimetic faculty, Walter Benjamin

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<sup>92</sup> Linda Williams, “Corporealized Observers: Visual Pornographies and the “Carnal density of Vision”, *Fugitive Images* (ed. Patrice Petro), Indiana University Press, 1995.

Looking at forms of early cinema and how the body played an essential role in the way the film was seen, projected, experienced – Barker says that cinema is a technological metaphor for the body. Or to put it in more ironical and religious terms, that **man created cinema in his own image**. Barker suggests, in relation to early cinema, that the flatness and graininess of the image appeals to the haptic visuality – it “addresses itself first and foremost to the fingertips”, arousing the need to touch.

Much of the material that circulates as pornography and especially amateur pornography is grainy and unclear – the surface of such an image evokes a sensation of touch, rendering the material erotic and intimate. It is not just that the image possibly is that of real people recording themselves or unknowingly taped having sex, but that the image itself evokes tactility. The anxieties that such tactility might produce are best suggested in the horror film *The Ring*<sup>93</sup>. It is through a blurry, shifting, tactile surface of greys, blacks, and whites on a television screen that the ghostly figure of the girl steps out. There is perhaps a belief that something will step out of this porous screen (that looks like one can walk in and out of easily) and that this ‘something’ may not be entirely desirable or wanted is what the film *The Ring* is all about.

The girl or scary child-woman that emerges from the porous screen of crackling static to attack the world could almost be a figure of the cyborg that haunts our anxieties regarding the digital. The child-woman starved of attention and love, perhaps coming from a small town, exposing herself or unwillingly stripped and exposed on pornographic websites and spreading like an addiction or a virus through networks. Perhaps she is crawling through the wires and bursting into the (laptop and computer) screens of the well-fed and the whole in big cities, in their padded offices and conservative households. The porosity of the screen from where she emerges would suck us in, expose our desires to be watched, to be taped and consumed as (someone’s) pornography. Contact with her would render us into a traveling virus like her – a child-woman made of digital and video static that can infect you and suck you into a parallel surreal universe. This figure is subsumed in the anxious retellings of urban legends around pornographic clips that circulated in the early 2000s. These urban legends (of how the girl or the couple committed suicide once the clip was circulation, have fled the country or have been locked away by parents, forcibly married off by their families) are about the anxieties around sexuality, culture, pressures of heteronormativity, safety, family and rejection or being outcast from society.

Another indication that the tactile nature of the image plays an essential role in the ways in which contemporary pornography circulates, is in the case of *Mysore Mallige*. The film that is entirely in night shot<sup>94</sup> evoked and involved many viewers who had a range of relations to it. This is best documented in the series of films done by Bharath Murthy on *Mysore Mallige*. In his film on *Mysore Mallige*, the viewers argue over whether the girl

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<sup>93</sup> Gore Verbinski, *The Ring*, 2002. More details at <http://www.imdb.com/title/tt0298130/>.

<sup>94</sup> Night shot or night mode (low lux) or option now available on most digital cheap cameras, that allow for recording in low light and night conditions – it renders the visual slightly green and best used for close-ups. As a visual technique it has been used in films like the *Blair Witch Project*.



is for real or she is a porn actress (as if one cancels the other) and how they are attracted to what is seemingly genuine about her and also the film (extending this notion of realness to their emotions – they are a couple in love, as if again sex without love is unreal). In an interesting moment, one of the viewers says that he saw the same film with the night shot corrected and the colours restored to normal. In his rather vehemently stated opinion in the documentary, the film corrected was not the same thing. As he said – “it didn’t have the same impact”. Bharat Murthy’s film tracks down a particular moment in the original film as well – a moment when a curtain is moved to reveal an old fort in Mysore nearby, but also light falls on the girl revealing it is daylight outside and also the colour of her skin, clothes and hair. That brief revelation that startles carries a certain charge – as if an intimate detail is suddenly and abruptly revealed; and this charge would be lost by the whole film being colour-corrected. The night shot on camera also allows for a certain ghostly quality to the image, which goes intensely close to the eyes and face of the girl, inviting the viewer into the film and the moment.

### **Intensity and Performance**

Barker’s neat division of the body into zones (skin, musculature, viscera) to explain the ways in which film and body relate to each other, though apparently logical seems to defeat the notion of an affective engagement with the film. But these are zones that serve as a site of analysis for the complicated ways in which film and body relate to each other or what Barker calls engorgement – a mutual feeding off the energy of each other. **“We are drawn to film because it is like us but not quite: it is faster, stronger, more supple, more mobile, more immense and more intimate than we are.”** Barker’s arguments are tinged with a strong sense of cinephilia, which may at times seem to overwhelm the rationale of her argument and hence make it difficult to discern, except when she engages with particular films and material, how to make these descriptions of the immensity, plenitude and exactitude of the sensations evoked by cinema relevant to how we understand how cinema or for that matter any image, and for our interest, how does pornographic moving image relate to the body of the viewer.

Elena Del Rio’s work on the affective-performative and cinema, begins with the idea, borrowed from Agamben, that it is the **moving gesture rather than the static image that is the cinematic element**. About the inadequacy of analyzing a film’s aesthetics, narratives and other aspects in terms of representation, she says – “The imposition of a totalizing picture of reality as structured meaning carried out by the representational approach left little, if anything, to the unstructured sensations that are like-wise set in motion in the film-viewing experience.”<sup>95</sup> Of the various scholars that examine the film in terms of affect, rather than representation, both Barker and del Rio rely on Vivian Sobchack and Laura Marks. While Barker and Sobchack rely on phenomenology (specifically Merleau-Ponty), Marks and Del Rio work with furthering aspects of Deleuze’s work on the body. Del Rio says – “Deleuze’s understanding of the body as an assemblage of forces or affects that enter into composition with a multiplicity of other forces or affects restores to the body the dimension of intensity lost in the representational paradigm.”

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<sup>95</sup> Elena Del Rio, “Deleuze and the Cinemas of Performance: Powers of Affection”, Edinburgh University Press, 2008.

Del Rio's work is to move away from established forms of looking at both representation and performance – namely, Mulvey's analysis on representation of the female body as spectacle and Judith Butler's work on identity as a performative, imitative process. For Del Rio, **the body provides 'a line of flight' – affective intensity allows for an escape from conforming always to cultural, linguistic or ideological requirements.** Taking further Deleuze and Guattari's line that thought lags behind nature, Del Rio states – "In other words, as part of an intractable and wild nature, the body thinks without thinking. It goes about the business of advancing its life-preserving goals with an exactitude and complexity that defies the egological systematicity of representational thought."

Performance and gestures destabilizes this mode of understanding the (stationary) female body in cinema limited by the roles it plays and positions it has to occupy in the film. This movement away from constricting modes of analysis is possible because of an understanding of the body – that it "is never just a formed and given neither entity nor a totally chaotic play of forces, but a constant interplay, movement, and passage between form and non-form". Bodies, in a Deleuzian sense, are not primarily construed as **"isolated, unified individuals (functioning at the molar level of organization), but rather as relations of speed and movement, degrees of intensity (taking place at the molecular level of composition)".** Affectivity is transmitted beyond individuation and cognition – thus allowing for the idea of the body of the film and the viewer's bodies and their fleshy relations to each other, making space to acknowledge that we experience film as if it were "a collective, expansive, and permeable body".

Del Rio examines David Lynch's films for the affective and sensational, rather than a psychoanalytical perspective even though these films are ideal for the latter. For instance, the scene of the performance by Rebekkah Del Rio in Mulholland Drive reveals "lending and borrowing of affects and the lack of subjective ownership over their flows" between the performer, the two women watching her and finally at the moment when the singer-performer collapses on stage, while the voice continues (evidently she was lip syncing and not singing). This moment instead of rendering the affects produced till then false, render them surreal and even more powerful as the voice continues to fill the stage, the film and the viewer's experience of the film.

Del Rio makes the argument that performance in cinema has an affective and sensational draw for the viewer and often affect carried by such a performance seems to escape the film itself. In the context of pornography, the notion of performance (gender, sexual, labour) is seemingly quite relevant. However, pornography is actually most popularly described in terms of lack of affect or engagement. Williams too points towards this prevalent idea that pornography is described as banal, repetitive and boring – but nonetheless it is seemingly a genre that is successful in its objectives of begetting arousal and masturbation from the viewer. But perhaps intensity and performance as what produces affect in pornography, are less relevant than other aspects about it – it is self conscious mode and awareness of not merely the gaze of the viewer but the (urgent) corporeality of the viewer, its texture especially in the case of amateur pornography that is not the sealed off effect of a finished vision of a film but that of graininess and realness

that invites touch and entry into the space of the video or clip. Del Rio' analysis also points to how pornography is experienced not in terms of representation or identification with those in the material, but as a body in itself – a collective, expansive and permeable body whose climax and desires coincide with ours. We exhale, breathe and climax with the video. And in the imagined aftermath of consequences for those whose private videos have been circulated (as in the case of the DPS MMS clip and Mysore Mallige), we participate in their stories, we make them up and we make them believable for ourselves.

## Chapter 5

# Amateur Video Pornography

(o) that from Close up Look like their Outlines are Missing<sup>96</sup>

*The visual is essentially pornographic, which is to say that it has its end in rapt, mindless fascination; thinking about its attributes becomes an adjunct to that, if it is unwilling to betray its object; while the most austere films draw their energy from the attempt to repress their own excess (rather than from the more thankless effort to discipline the viewer). Pornographic films are thus the potentiation of all films in general, which ask us to stare at the world as though it were a naked body.*

Fredric Jameson, *Signatures of the Visible*<sup>97</sup>

Jonathan James McCreddie Lillie in his article “Cyberporn, Sexuality and the Net Apparatus” while talking about academic engagement with pornography says that it must analyse “pornography within the various cultural constructs and social spaces in which it appears, and in which people encounter it”. He says that a new agenda for cyberporn research has to acknowledge that “people have produced pornography in many different forms for many different purposes, and the reasons why people use it or do not use it, and what meanings they make of it, are equally diverse”. Lillie points towards cyberporn reception studies – the home/office terminal as a site of cyberporn reception – as a possible starting point of further work on cyberporn.<sup>98</sup>

Linda Williams begins the volume on Porn Studies by stating that there has been a movement from the deadlock of pro-censorship and sex positive feminist discourse on pornography, to a stage where there is a veritable explosion of sexual material that is

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<sup>96</sup> Perhaps a slightly pretentious addition to Borges list of animals that figures also in Foucault’s ‘The order of things’. Borges cites a Chinese encyclopedia (Heavenly Emporium of Benevolent Knowledge) in which it is written that:

Animals are divided into:

- (a) belonging to the Emperor,
- (b) embalmed,
- (c) tame,
- (d) sucking pigs,
- (e) sirens,
- (f) fabulous,
- (g) stray dogs,
- (h) included in the present classification,
- (i) frenzied,
- (j) innumerable,
- (k) drawn with a very fine camelhair brush,
- (l) et cetera,
- (m) having just broken the water pitcher,
- (n) that from a long way off look like flies

<sup>97</sup> Fredric Jameson, *Signatures of the Visible*, Introduction, Routledge, 1992.

<sup>98</sup> Jonathan James McCreddie Lillie, “Cyberporn, Sexuality, and the Net Apparatus”, *Convergence* 2004; 10; 43.

crying out for analysis, and that sexually explicit imagery is a fixture in popular culture today (obviously referring to America but to some extent true for other contexts as well). In some ways there is an attempt amongst academics, intellectuals, journalists and other writers in India to make sense of the pornographic material that has crept into our media saturated cities (articles on Savita Bhabhi<sup>99</sup> for instance, are plenty and a few on amateur pornography<sup>100</sup> too have appeared, along with films like Dev.d and LSD), and this desire to understand or to at least show realities extends to commercial cinema and sometimes documentary film as well.

To return to Lillie's call for a cyberporn reception studies perhaps it is time in relation to looking at such material that we step away, even if briefly, from these debates on feminism, vulgarity and obscenity in Indian culture and others. In an interview dated 5 September 2009, Ratheesh Radhakrishnan<sup>101</sup> says that what needs to be looked at when studying pornography, is not the questions of Indian culture, religion, roles of women and gender (as for questions related to obscenity) but the aesthetics of pornography. In his own work Radhakrishnan deals precisely with this question in relation to the category of 'soft porn' and how Shakeela becomes a star through soft porn cinema – a star not entirely governed by the narrative of the film but seemingly existing beyond the limit of the film itself.<sup>102</sup> By doing this, his work deals with the question of how desire works in such films, which perhaps is one of the more important questions to ask about pornography. In the same interview, he states that there is “something that takes place between the text and the person watching”, rather than something that can be understood only through a textual analysis of the film.

## Anti-porn

Radhakrishnan's position is interesting in relation to this project as it opens up questions that are beyond the feminist deadlock on pornography and also goes beyond rhetoric of the liberating potential of the explosion of the polymorphous perverse online. The latter is where a lot of porn studies undertaken in the global North seem to get lost. The breathless recounting of the pornographic in the everyday does not help since it becomes very obvious that any analysis would not be relevant to a vastly different context in India. An example of this is – “Bloomingdale's now sells Tom of Finland shirts and trousers, housewives celebrate their birthdays by piercing their genitals, college students dance naked instead of waiting tables to pay their tuition, and middle-level managers schedule a session with a dominatrix in their favorite dungeon after a game of racquetball at their regular health club.”<sup>103</sup>

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<sup>99</sup> Shohini Ghosh, *The Politics of Porn*, Himal South Asian Magazine, September 2009, Vol 22, No. 9.; Itty Abraham, *Sex in the Neo-liberal City: On Savita Bhabhi*, Available at The Fish Pond at <http://thefishpond.in/itty/2009/on-savita-bhabhi/#comments>.

<sup>100</sup> Ruchir Joshi, *The Eye of the Beholder*, Outlook, December 14, 2009. Available online at <http://www.outlookindia.com/article.aspx?263155>.

<sup>101</sup> Interview with Ratheesh Radhakrishnan on 5<sup>th</sup> September, 2009. Available at <http://pad.ma>.

<sup>102</sup> Ratheesh Radhakrishnan, “‘The Mis-en-scene of desire’: Stardom and the case of soft porn cinema in Kerala!” Unpublished work. Contact author for copy.

<sup>103</sup> From Joseph W. Slade, *Pornography and Sexual Representation: A Reference Guide*, Greenwood Publishing Group, 2001.

Some of the work done however, is interesting for the ways in which it has moved beyond the feminist deadlock on anti and pro pornography positions, and also because of an increasing range of shared practices in relation to technology and conceptual ideas around new media, pornography, video, simulation and digital cultures that are often relevant to the context and reality in India, but sometimes in vastly different ways that those that speak to a video gaming, high bandwidth universe. The “normalization of porn” or the ways in which the culture of the porn industry is slowly but surely going mainstream in the American context, is effectively captured by Mark Dery’s essay in *C’lick Me (Netporn studies reader)*<sup>104</sup>. The mainstreaming of pornography is confronted on the other side by self appointed moral watchdogs, Christian fundamentalist groups and Republicans. Dery says we’re living in the Golden Age of the Golden Shower, and perhaps in certain parts of the world we probably are. His descriptions of the varied nature of pornography available from bukkake to pornography that escapes realism and is about alien bodies.

Regarding these celebratory accounts of pornography, in relation to queerness or the imagination of sexuality beyond conservative morality, Walter Metz raises the question as to whether there are significant reasons to put the brakes on a rabid, radical celebration of the liberating potential of pornography. Metz talks about the need, within porn studies, to look at the positive and negative impact of pornography<sup>105</sup>. He acknowledges that pornography is more a symptom rather than a cause of anti-social behaviours that it is often linked to (violent rape, aggressive behaviour, sexism, etc.). Metz too talks about anti pornography, where here is not taking a political position but is speaking about pornography as a “reading frame” rather than a genre, that then allows for looking at films such as *Open Water*, that seem to play with the identifiable characteristics and expectations of the audience. “If one keeps thinking about pornography while watching a non-pornographic film, what is the resulting interpretation?” Metz describes the frustration depicted in the film *Open Water* between the audience expectations for a reasonably good looking, tanned, blonde couple to get-it-on and what happens to their bodies instead in the open water of the sea and prey to sharks. This is similar to the disjuncture that takes place in one of the films part of the *Destricted* project.

*Destricted*<sup>106</sup> is an interesting artistic|intellectual|new media|film experiments in the global North around pornography. It is a series of short films that resulted from an invitation to seven well known artists and filmmakers to try to respond to sex and especially the phenomenon of pornography in the contemporary. One of the films *Death Valley* by Sam Taylor-Wood borrows from the Biblical tale of Onan and places a man masturbating in the heaving, throbbing landscape of the Death Valley (the hottest place in

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<sup>104</sup> Mark Dery, *Paradise Lust: Pornotopia meets the Culture Wars*, *C’lick me: A Netporn Studies Reader* (Eds: Katrien Jacobs, Marijje Janssen, Matteo Pasquinelli), Institute of Network Cultures, 2008, p.125.

<sup>105</sup> Walter Metz, “Shark Porn: Film Genre, Reception Studies, and Chris Kentis’ *Open Water*” *Film Criticism*, March 22, 2007.

<sup>106</sup> *Destricted: explicit films*, Marina Abramovic, Matthew Barney, Marco Brambilla, Larry Clark, Gaspar Noé, Richard Prince, Sam Taylor Wood (directors), 2006.

the Western hemisphere where the earth's crust is constantly changing and shifting). For precisely 7 minutes and 58 seconds, the protagonist of the film masturbates uncomfortably without reaching ejaculation and/or release. The painful un-release of this film is perhaps meant to be juxtaposed with the assumed ease of pornography's answer to desire. However, peculiarly it actually is probably an accurate description of the experiential account of pornography – of looking, searching, finding, downloading on painfully low speeds, watching short clips that are blurred, shot only from one angle, badly drawn comics or looking at largely uninspiring material which is not acquired or found easily.

In some ways the experience of watching either of these films sounds similar to watching certain kinds of MMS video porn. For instance, one video was of a couple doing oral sex in a toilet cubicle. The angle of the camera was from the top and perhaps the intention behind this was to obscure the faces of the two persons, since only the top of their heads are visible. It did not seem like the couple were unaware of the video camera, as much as performing for it almost unwillingly and only if the anonymity was preserved. The video was low quality and highly blurred, to the point of any features being indistinct beyond blackness of hair (maybe) and generic skin tone which could be Indian, Iranian or generic South Asian. The resemblance to the Destricted video is because again of the time it takes to reach ejaculation – there is a painfully long uninspiring blowjob sequence. The video remains scary and leaves one with a feeling of claustrophobia, discomfort and peculiarly boredom or distance from what is happening. Perhaps the question that lingers is whether there is an affect produced by the video is because there are certain gestures of the woman that seem recognizable, identifiable or because she occupies similar spaces, sexual tropes and ideas and has familiar behaviour and gestures. After having accomplished the task of coaxing semen out of the uninspiring penis she is faced with, she folds her legs and speaks indistinctly. In that moment she seems uncomfortably familiar, like watching a friend having sex.

The 'realness' of certain kinds of images raises certain dilemmas – the anxiety is not as severe and troubled as it was when Mysore Mallige became popular (2001-02) and it was haunted by urban legends of the couples or only the woman committing suicide, forced marriage at a police station, etc. Nonetheless to encounter the MMS video, when the woman is looking directly at the camera often so it does not seem like a hidden camera or non-consensual video, is to acknowledge the taking of pleasure at the expense of someone else which may or may not bother you, but does render the activity far more illicit and scary. A feeling of fear|anxiety|secrecy|aleness sometimes pervades the act of surfing pornography, whether in the office, home or anywhere. It is an added layer to the experience even if the various aspects of violation of privacy, vulnerability of the woman in the video or the existence of a pornography industry are not uppermost in the mind when actually viewing the clips.

It is perhaps interesting that it is amateur pornography these days that seems to inspire the most complicated set of affects (unlike the schooled|disciplined and predictable response to cinema) – shocked recognition of yourself and desire to see it again, titillation, boredom but yet unwilling to look away, love for celebrities, pleasure of viewing a body

like yours and even sometimes a recognition that this is what you look like during sex, fear about your own privacy, disgust for what seems unacceptable and provokes the moral|visual|auditory sensibilities and contempt for the material and the people who possibly are genuinely engaged with it. The article on Pam and Tommy's video in *Porn Studies* in fact displays these varied affects and underlines William's assertion that this bracket of material, behaviour and practices that get termed pornography/pornographic does indeed deserve analysis as a potentially unique and interesting way of understanding the contemporary.

## Home Video, Private Video, Porn Video, Digital Video, Online Video...

Pam and Tommy's leaked home video of their sexual peccadilloes and holiday on yacht probably marked a moment in American history of image-making (image-losing and image-stealing as well). There are many aspects of it that seem relevant only to the American contexts – the notoriety of both the stars, the pre-existence and glorification of home videos in most families and the acknowledgement of making sex videos as a healthy practice, perhaps suggested for couples with flagging sex lives. In India, it was in fact unknown people who were catapulted into the public eye, with the circulation of the Mysore Mallige video online and offline; not just the private spaces, holidays and fucking habits of already-celebrities like Pam and Tommy.

Minette Hillyer's analysis<sup>107</sup> reveals the pre-occupation with the realness of amateur pornography, which marks consumption of pornography in the Indian subcontinent quite strongly. The desire is evidently for the real or at least what seems like it is real. Hillyer's contention is that ever since the advent of video, pornography is rendered less cinematic and more concerned with the presentational act (of sex) than its representation. Even though in professional pornography as well the actors/stars can achieve a degree of absorption in their own (bodily) pleasure that liberates them from the alienating effects of representation.

The article follows the travels of the Pam and Tommy home video between different categories/genres, depending on different aspects of its realness. The video as such, contains scenes from the normal domestic lives of the stars and an eight minute sequence of sex in an almost 50 minute length video. So the questions of realness are answered not by the sex in the video, but the mundane recording of their lives, holidays, house and other details. This question of what exactly it is – home video or pornography (domestic/private or pornographic/public) is relevant to questions of legality (for damages upto 90 million dollars), how it circulates (a pornographic video of Pam and Tommy without the domestic padding perhaps would not be considered real and saleable) and genre which relates to some aspects of how people respond to the work.

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<sup>107</sup> Minnette Hillyer, "Sex in the suburban: Porn, Home movies and the Live Action Performance of Love in Pam and Tommy: Hardcore and uncensored", *Porn Studies*, Duke University Press, London and Durham, 2004, p.50.



Hillyer's article deals with the question of how pornography allows us "to get closer to 'real action' than real life allows" ( in the same way that home movies attempt to erase the passing of time, death of a member of the family – pornography attempts to eliminate space in between bodies). This generic idealization of what recording technology (such as video) is capable of doing basically means that a reality principle of some kind is at work in such videos, but this principle depends on the promise that these generic and filmic technologies themselves could be erased. However, this does not mean that such material escapes the cinematic, and indeed what kind of so-called cinematic doesn't rely on the erasure of space, time or distance.

Coming as this video did, after the advent of cheap, portable video technology, it allows Hillyer to reach the conclusion that such (amateur, video) pornography is more concerned with the presentational rather than representational – "What amounts to an apparent deprofessionalization of the image also renders the image less cinematic, less subject to artistic conventions, and, by association, apparently concerned with the presentational act than its representation." Her eventual analysis is that regardless of the extent or even completion of sex acts in the video the tape is performed as pornography (and this performance arises out of the embarrassment and reactions of the stars caught the manner in which it is packaged and promoted by the company that finally got hold of it). What Hillyer calls the porning of the home-video of Pam and Tommy or the "creation of porn both turns the tape back on itself, and sends it outward, into the world" (like a virus – and this rapid, relentless circulation too marks it as porn).

Here there is a similarity to Mysore Mallige that was a private video of a couple that leaked, perhaps through the video store where it was given for conversion. It was edited, corrected and put online and circulated as a CD – a process that could be called porning, which is how Hillyer describes the ways in which Pam and Tommy's home video was rendered into pornography. This production of material as pornography doesn't seem a radical change of meaning in the context of explicit recorded sexual acts, but is made more evident in the instance of the circulation of Choker Bali in Kerala. Ratheesh Radhakrishnan (in an article to be published by Orient Black Swan) talks about how Choker Bali – an average art house film with minimum explicit scenes – was shifted (by tactics of posters and advertisements) across the category/genre of alternative cinema and period cinema to dirty cinema and soft porn. Posters in Kerala advertised – "Aishwariya Rai goes topless" (Rai perhaps doesn't wear a blouse but in spite of that is rather decorously covered through the film). Here it becomes apparent that what is important are the ways in which something is named pornography or the 'porning'.

## A Motion Study of Porn: Artistic and Intellectual Enquiries into Porn

Motion studies, especially those by Edward Muybridge, were one of the first few uses of photography and also seemed like a precognition of cinema that was yet to happen. The photographs capture the body in motion frame-by-frame. At the root, there seems to be a fascination with the body – what it can do, how it does it – how it hurls a disc, walks down stairs, plays, smokes a cigarette and many other activities.

Motion studies were about the fascination with the body and also to attain a kind of mastery over it, which links them to pornography. Laura Marks makes this link explicit by stating that pornography is about the gaze that possesses – that it provokes desire by promising to reveal the truth of bodies. Pornography falls within *scientia sexualis* (Williams, Foucault) or the modern compulsion to speak incessantly about sex. The work done by Foucault on the history of sexuality reveals that this modern compulsion was part of the repression around sex and sexuality in the Victorian era – “of policing of statements and setting up of rules about where, to whom and in the context of what kind of social relations sex could be talked about”. At the same time, however, there was simultaneously a veritable discursive explosion around sex and sexuality, not necessarily only in illicit discourses (of gossip, ribaldry, etc.) but in fact “a multiplication of discourses concerning sex in a field of power itself; an institutional incitement to speak about it and to do it more and more; a determination on the part of agencies of power (in medicine, psychiatry, law) to hear it spoken about and to cause *it* to speak through explicit articulation and endlessly accumulated detail”.<sup>108</sup>

William’s contention is that this compulsion is nowhere more evident than in hardcore pornography, where **pornography becomes a means of organising knowledge around sexuality** and is hardly meant for arousal and pleasure. In other words, pornography, contrary to what the state might believe, does do ideological work. “The power that took charge of sexuality itself became sensualised and pleasure thus discovered fed back into the power, leading to the solidifying of sexualities within discourses of law, psychoanalysis, medicine and of course pornography.”<sup>109</sup>

Here we tangentially take off at this point, away from motion-studies, pre-cinematic apparatuses and pornography as a discourse of power around sexuality, to look at how these elements can be thrown together in ways to disrupt the discourse or ways in which knowledge around sexuality is organized. A motion study of pornography itself (slowing it down, making it fast, juxtaposing it) reveals interesting aspects about the ways in which this material works and what kind of affects, while watching or before and after, are produced by pornography.

In the edited collection on Porn Studies, the article by Michael Sicinski titled ‘Unbracketing Motion Study’ has an interesting account of two art|film projects

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<sup>108</sup> Foucault, M. (1978) *History of Sexuality: Volume One*. Penguin Books (Reprint: 1990).

<sup>109</sup> Williams, L. (1989). *Hard Core: Power, Pleasure and the Frenzy of the Visible*. Berkeley: University of California Press. Williams recounts Foucault’s analysis of the interplay of prohibitions that referred back to one another that were part of the repression around sexuality in the Victorian era. This period is characterized by a policing of statements and setting up of rules about where, to whom and in the context of what kind of social relations sex could be talked about. The contradiction is that at the same time, however, there was simultaneously a veritable discursive explosion around sex and sexuality – “not necessarily only in illicit discourses (of gossip, ribaldry, etc.) but in fact a multiplication of discourses concerning sex in a field of power itself; an institutional incitement to speak about it and to do it more and more; a determination on the part of agencies of power (in medicine, psychiatry, law) to hear it spoken about and to cause *it* to speak through explicit articulation and endlessly accumulated detail.”

XCXHXEXIIXRXIXBXSX or Cherries and NOEMA. NOEMA is like a motion study of images rather than directly looking at bodies – exploring sequences in pornographic films, and often stumbling on the banal, unerotic or perhaps what is ‘real’. There is no denying that pornography production requires a certain kind of labour or sexual labour, and possibly a lot of what is characterized as amateur porn today is a far more disorganized and spread out mode of exacting this labour. Sicinski while describing Stark’s film NOEMA says – “In the first movement of NOEMA, we see an actress scratch her head as she waits for the other two performers to get into position. We see a bored looking woman rub her eye in the interval before penetration.” The film seems to be looking for the breakdown of the discipline of the body in a genre that is acutely about disciplined bodies engaged in coitus. Here the art film “locates and presents a counter-narrative that interrupts the bounds of genre.”

“The strange texture of a gold eagle lamp, a glass of bourbon on an end table, and other fleeting handheld images are all the more assertive in their non-narrative aestheticism because we know that, just over the boundary of the frame, explicit sex is occurring, or just finishing up. In fact, these abstract moments seem to be proffered as ‘money shots’. Stark accompanies them on the soundtrack with bursting fireworks – a possible Deep Throat reference – as well as the sounds of cheering crowds.”

Sicinski’s analysis is that **we tend to overlook these moments in favour of the sexy footage that does not show these disruptions** – “the logic of the suture induces us to blot out, or bracket, those very moments that could jeopardize our pleasure.” And yet affect that leaks or happens because of such pornographic films and cannot be contained by it – is of uncanniness, disruption, the non-sexy ‘realness’ of these images. About NOEMA, Sicinski says that “by bringing motion study to bear on video pornography, NOEMA brackets those seconds in which bodily needs and visual desires of porn’s producers are **no longer contained by the logic of manufactured entertainment.**” Or in other words, NOEMA isolates these moments, brackets them in Stark’s own motion study of pornography and brings them back “as emissaries of the real world of production back from the oblivion of psychic expurgation”. Rather than seeing this experimental film as making fun of the professional sex body that sometimes does get tired, needs to shift etc. it perhaps should be seen as a film where our affect and empathy is engaged by these moments also.

Bharath Murthy in an interview<sup>110</sup>, talks about the varied nature of amateur pornographic clips that are available via the Internet, and about how these images gave him a sense of the missing reality of other kinds of images found on television, commercial cinema. He describes this feeling as a strange revelation – “that the pornographic image gave a sense of – an understanding – of what we really are, in sort of an obtuse way.” He also talks about the odd details that mark the ‘misc-en-scene’ of amateur pornography – a kurkure (snack) packet, a blaring television set and it extends to other details that are sometimes familiar – bedspreads, furniture, mosquito nets, etc.

As a genre, pornography is predicated and built around these bodily responses to the

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<sup>110</sup> Ibid Interview with Bharath Murthy, 10<sup>th</sup> August, 2009 Available at <http://pad.ma>.

erotic and sensual, but often the affect that does leak and cannot be contained within pornography is that of the lack of any affect – perhaps experienced as boredom, distance, or even affects that are not predicted or predictable by the material itself – a sense of unease, fear, disgust and displeasure.

When looking at material like Mysore Mallige and DPS MMS clip, the affective relation that predominates is indeed that of its ‘realness’; for some this produces a sense of fear, paradoxically a ghostly quality to the image and unease. For Murthy it was a revelation of reality and for myself it was about the uncanniness of the familiar body, which occupies a similar world to yours that is somehow trapped in a video. Perhaps it is these varied affects that leak beyond the arousal that pornographic material is (allegedly) structured around, that gets translated into strange myths and urban legends that surround this material.

These urban legends are about how the couple were taken to a police station, forced to get married, or that the girl committed suicide, the couple hanged themselves, stories of their humiliation by the family or the school and even them running away to America and being happily married with children there in a suburb. Other stories take on a more banal turn – the girl is working in Bangalore, the boy is a software engineer. Bharat Murthy when talking about why he chose to make almost three different versions of a film that followed Mysore Mallige, says that what differentiates Mysore Mallige from other pornographic films, is the desire to know who these people are – because they are clearly real and as one protagonist in his film claims – they are so obviously (really) in love.

This ‘realness’ is chased by Bharath Murthy in one of his films, made with his co-director Alka Singh, literally down to the hotel room in which the sex in the pornographic film takes place. One uncanny moment in the pornographic film, where the view outside the window of the hotel room comes to our sight – a normal sunlit outside in contrast to the night shot of the film, is when the camera peers out from behind to the curtain to look, oddly enough, at an old fort somewhere in Mysore. This glimpse is the clue that allows them to unravel the location of the shooting of the original pornographic film.

In his first film on Mysore Mallige, Murthy’s exploration is more personal and perhaps about what it means to be revealed so blatantly and nakedly by the camera. He places his body and that of his girlfriend in front of the camera – moments of them kissing, talking and occupying the normal spaces of their relationship form part of the film. This film is far more effective in how it manages to explore and capture aspects of the love, tragedy, fear that form a part of the experience of watching the original pornographic film. It also reveals the porosity of the material that allowed people to occupy the film’s space and to walk in and out of it. Murthy when talking about his films on Mysore Mallige talks about different characters in his own film (including himself, his girlfriend, another girl who was interviewed at length for one of his films) – “that characters of the original film (Mysore Mallige) were replicating – sort of mutating into these other people.”

This porosity of the material – the ways in which the grainy image allow people to occupy different characters and become these people, literally to be absorbed into this

material and rendered/changed into a night-shot version of themselves (crackling, familiar yet unfamiliar) is perhaps where the urban legends come from. Stories have to be produced, to account for people who seem embedded within that video itself<sup>111</sup>, to make them human – in a way to make ourselves human, because a part of us is also left in there.

Both Dev.D and Love, Sex, Dhoka also attempt to bring into their narratives the urban legends that pornographic clips and videos like Mysore Mallige and the DPS MMS clip were surrounded with. These films reveal that the affective resonance of the pornography videos is that of uncanny familiarity, fear and this strange space in which one's body is implicated while pulling away frantically from the thrall of the video. What Barker talks about in terms of the body of the viewer and how it mimics, chases and attempts to intertwine with the body of the film, then has to be shifted the other way – of the body frantically trying to escape, or the body held briefly but in a violent denial of itself pushes away the video object. Many practices around such pornographic or even violent material, involves the desire to immediately delete and un-sully the space of such material – whether this is a particularly disturbing image of a woman who is clearly unaware, unwilling to be in front of the camera, a brutal moment of a jihadi beheading or just distasteful sexual practices involving shit and piss (2 girls and a cup)<sup>112</sup>. Our boundaries between erotics, horror, displeasure, disgust begin to blur, and then have to be re-established precisely because we were so close or into the pornographic video itself. This could be understood as being within the space of the video, but also in terms of two bodies relating and intertwining, which then has to be rejected or erased.

## The Medium is the Message

Franklin Melendez in his article for the collection on Porn Studies (ed. Linda Williams) on “Video pornography, visual pleasure and the return of the sublime” talks about the shift from film to video, for pornography and how this has changed the language of moving image pornography<sup>113</sup>. Baudrillard's notion that the currency of the product,

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<sup>111</sup> For a detailed argument around how the girl and boy in the DPS MMS clip seem to be found and embedded within a state of technology, specifically that video clip only and seemingly do not have other lives, histories, habits is explained by Nishant Shah in his article.

<sup>112</sup> In an interesting and offbeat take on images, the writer Jalal Toufic talks about how we “should not go to hell for the sake of finishing the film”. Embedded in psychoanalysis, jouissance and perhaps healthy self-regard, Toufic recommends staying away from such images that disturb our psyche, perhaps irremediably. A strange form of self censorship is perhaps interesting for many of us to contemplate, who are located in possibly liberal and sometimes radical relation to images. There are films, moments, images, books that we force ourselves to read because of the complicated and disturbing affects that they might produce. There is perhaps even a wider rush for such images that is taken advantage of by commercial enterprise and cinema as well – whether amateur pornography or the biggest horror film.

<sup>113</sup> Melendez in his analysis of two pornographic films (Naked Highway – Walsh West, 2000) and Shock (Michael Nin, 1996) undertakes a conceptual enquiry into the experience of video pornography and that it is a “mediated image of undeniable *immediacy*”. Franklin Melendez, Video pornography, visual pleasure and the return of the sublime”, Porn Studies (ed. Linda Williams), Duke University Press, 2004.

depends as much on the format and Cavell pointing to changes in aesthetics and modes of addressing to viewers or what he sums as the “material basis of the medium” form the basis for Melendez’s analysis.

For Baudrillard, the pornographic is an allegory for the effacement of the real, or the repetition/duplication is the locus of visual pleasure, which would perhaps explain the repeated tropes in pornography as a genre. The genre is marked by the offering up of female bodies that enthralls the looker, and yet it is this very structure that reduces the viewer’s engagement to “**an abstracted, almost subjectless activity: looking**”. Melendez seeks to contend that this type of disembodied gazing, accounts for why reproduction or repetition is an integral component of pleasure in visual pornography, though such a disembodied gaze would in fact work against the ambitions of pornography as a genre that is so “**deeply invested in moving a viewer’s body**”. Perhaps this is also an explanation for the shifts away from filmic pornography to other forms that transmit, multiply and mutate more easily<sup>114</sup>.

For Baudrillard, the meeting of the viewer and video technology is the moment when vision is seduced by the indistinguishability of mass produced images. What is required of video porn is that it should encompass **two types of pleasure – possessing the image and being moved by the image, which are seemingly if not contradictory then at least quite separate**. The disembodied gaze that such pornography necessitates (because of the ‘flatness’ of the material) is indeed predicated on a logic of consumption or visual possession, and it also has to work for a vision that is located firmly within corporeality or a haptic visuality. This tactile encounter, according to Melendez, takes place when vision’s corporeality touches the very modes of (re)production – and this tactility of the image reveals the materiality of reproduction that is being passed off as a sign of physical pleasure, by the genre (of video pornography) as a whole.

Melendez, in contrast to Barker and Del Rio (the latter speaking more broadly about cinema and not specifically pornography), locates the corporeal pleasure in video pornography in its modes of reproducibility and the materiality of the form (and what pleasures that brings), rather than in what it triggers in terms of haptic visuality, performance and body in/of film and how that relates to an embodied experience. Nonetheless it is important to bring together at this point of understanding pornography **all the various elements that constitute its tactility whether it is the materiality of its form (video, online, interactive), elements of performance and body in the material itself and ways in which the aesthetics of such a genre relate the body of the material to the body of the viewer**.

In 2010, Dibakar Bannerjee made a film – Love, Sex, Dhoka – about these different modes of image making that are available to us now and to capture their tactility. LSD has no SRKs and Katrina Kaifs, but has a cast of little known actors – the stars literally

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<sup>114</sup> but also as the work by Ratheesh Radhakrishnan reveals about soft porn in Kerala and practices around pornography the aspect of public viewing of pornography that complicate and reveal fissures in the disembodied gaze, which is simultaneously attempting to be private in a public space, with the erotic knowledge of its own publicness.

are Digital Video Camera, Surveillance Camera and Hidden Camera. The three different stories in LSD capture different aspects of these technologies – the ease that they allow for production, the graininess of the image that makes it porous and touchable and the ways in which such technology travels into spaces that were previously inaccessible to us.

The first story about two lovers, who find and fall in love with each other because the boy is making a film for his college project, also ends with the lovers being beaten up and killed on the very same cheap digital camera. These gestures towards the horrors that are probably captured on these technologies such as *jihadi* killings and beheadings, perhaps rape and sexual abuse as well. The second story is through the surveillance cameras in a super market and images that are captured through such a medium. This story is premised around the desperation of the boy to make quick money, and one scheme that is suggested to him is to capture a sex act on video and to sell it for 20,000-30,000 INR. This part of the film is flawed since the surveillance camera also seems to capture the sound of the protagonists, but nonetheless the images on the surveillance camera shown in this film, are often uncannily familiar – a swivel of the head in a supermarket or on the street, would reveal such an image of oneself<sup>115</sup>.

The third story in LSD is that of using hidden cameras for a sting operation which was first made famous by the Tehelka sting operation on officials in the army, who were doing underhand deals for arms and equipment for large amounts of money<sup>116</sup>. Sting operations since then have however, been used for exposing small actors and their sexual peccadilloes and the casting couch in the film industry as well. One such story is what LSD captures – here the hidden camera travels in clothes and bags into trailer rooms and other spaces occupied by the star that the ordinary mortal has no access to. The thrall of the hidden camera, as is evident from countless videos on amateur porn sites and youtube, is as much about the hidden spaces of the ordinary public – the dressing rooms and toilets in hostels, but also about the dark spaces of the highly public figures (sex

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<sup>115</sup> Surveillance cameras became popular with the advent of video cassette technology, which made it relatively economical and easy to do, especially for the state, businesses like banks and insurance companies. Coupled with basic microchip technology (motion sensing, recording off several cameras) surveillance cameras took off in a big way by the 1990s. By the late 1990s the advent of the digital replaced video recording making surveillance more effective and smaller; one of the uses included in-home surveillance through nanny cams (in the United States mostly). The events of 9/11 of course changed and accelerated the course of surveillance cameras and new aspects of the digital technology were developed, including facial recognition. The Internet too has speeded up the possibilities of surveillance, especially with streaming technology. In fact the newest platform for ordinary and sexual encounters between strangers – Chatroulette – is precisely that combination of web cameras, surveillance technology and streaming video.

<sup>116</sup> As a result of state persecution, Tehelka had to almost shut down and close its website, though it sprang back up as a hugely successful and almost the only political publication and magazine in India. Since the sting, many other small and big channels including Tehelka have continued to use this mode of a sting operation – the logic of responsible journalists in Tehelka, including Shoma Chowdhary is that in the context of lack of transparency about state practices and corruption, there often is no other mode to acquire information.

videos of godmen and politicians for instance) and high level transactions between officials and fake arms dealers as captured by Tehelka in the first sting operation.

LSD is the first commercial and well known movie in India, to explore the tactility and familiarity of these images in the lives of ordinary people. When we see myriad versions of ourselves peeking back at us, refracted through hidden cameras, surveillance cameras mounted on ceilings on streets, malls and within even familiar spaces such as offices and homes, web cameras on computers or built in streaming video on sites like Chat Roulette, it is perhaps no wonder that the mind is easily able to conjure up a blurry, grainy image of the self caught stealing or having sex on the office table. Especially since what one feels when looking at such a pixilated, blurry image of someone else is – it could have been me.

Sex, Lies and Videotape<sup>117</sup> was one of the first few films about a person whose sexual journey is marked/mired/immersed in technology and is also captured in technology. Subsequent 'stars' would be Jennycam, the Secret Diary of the prostitute-blogger in London (later made into Belle de Jour – the television series), numerous chick blogs in India like the compulsive confessor and the rest of the world or even Paro in Dev.D who successfully seduces Dev.D to return home across oceans by sending a nude photograph of herself.

The starring role in Sex, Lies and Videotape, unlike LSD, is not the technology in spite of videotape figuring in the title, but the film follows the mysterious character of Graham played by James Spader as he interacts with other characters. Graham's curious obsession and guilt around sex, allows the film to fluctuate between the blue texture of the video where women confess, feel and come to terms with their desire and the muted, warm colours of sunny California and suburban homes. Perhaps this also is indicative of a time when different realities of the virtual (referring also to spaces within videos and films) and the real could be more separated. In a reversal however, it is Graham whom we finally touch in the normal light of the day, in spite of the tantalizing glimpses of all the blue-tinted women securely kept away in his tapes. Graham however, is unlike many other cyborgs whose sexuality is often a topic of ridicule, disdain and in the Indian context of urban legend of eventual suicide and destruction. He refuses to be condensed to only his sexuality or perversity – of being able to narrate how he reached this place in his life point-by-point as if it would make coherent sense. Here we get a glimpse of the complexities of wants, impotent longings for intimacy and un-nameable feelings that overwhelm **all** of human experience, which doesn't leave out the torrid, shameful and

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<sup>117</sup> Steven Soderbergh, Sex, Lies and Videotape, 1989. This film is about a conventional marriage falling apart slowly – the wife is bored and slowly giving into her own stupidity and inanity, the husband is having an affair with her sister, her sister is replacing sex for any thrill or intimacy. Into this, walks in Graham – painfully aware of himself and intimate with a hand gesture and simply by looking. Graham perhaps tapes people, especially women to stay at a distance rather than to get closer – physical intimacy, because of his past is not something that he feels much desire for or feels uncomfortable about. Graham is quixotic, unconventional, a little scary and yet perhaps the most touchable that a character can be in mainstream cinema.

<http://www.imdb.com/title/tt0098724/>



sometimes exuberant explorations of pornography or exposing oneself online through webcams to strangers.

In the video porn tape that Melendez analyses, the story revolves around the making of a pornographic video. He analyses the ways in which the close ups of a television screen showing video porn and of the actor watching this, eroticizes the **textures of the technology of mediation**. The process of insertion of the video cassette is also captured here, which according to Melendez points to pleasures of the technology itself – specifically its reproducibility. However, Melendez’s analysis of the pornographic video talks about the swift editing and what he calls a “frenzied temporality of simultaneities” as being the organization principle of video – “producing an almost tactile immediacy by creating a sequence of images, each of which occupy an urgent Now. This Now and its implicit mode of address – the thing offering itself for visual consumption – can be seen as striving to mold a particular type of viewing subject, one who becomes an extension of the material basis of the medium, a receptor interpolated via his or her own pleasure into the flattened temporality of video”.

This idea of a receptor that is interpolated and perhaps can be extended to logic of simulation offered by the digital age, where the receptor becomes a node in a network, a consumer and producer and so on. For Melendez, this visual aesthetic, points towards the collapse of the digital and tactile into a single experience – which seem to confirm Baudrillard’s prognosis of the post-modern. “It is in effect the medium – the very style of montage, of decoupage, of interpellation, solicitation, summation by the medium – which controls the process of meaning.”

Here too, the notions of tactility between body and video, film or what is termed as machine, is seen by Baudrillard and Frederic Jameson as the succumbing of the body to simulations, and so the simulacrum can pass itself off as real. Barker’s notions that look at the interactions of the body of the film and the body of the viewer, is replaced by another paradigm of the **interactions of the “machine on both sides”**. As Melendez says, though Baudrillard and Jameson provide critical and historical insight into role of technology and subjectivity, they provide very few clues to understanding how the body is moved by certain modes of technology and privilege the visual sense as well in relation to other senses and corporeal experience. Hence, what could be read as a collapse of the digital and tactile into a single experience, of how the medium controls the process of meaning – can also be understood as Melendez says – “a negotiation between different pleasures and different modes of viewing not necessarily locked into a static subject/object relationship – which may at least transcend, or at least destabilize this opposition.”

Melendez’s proposition is that the viewer makes sense of the effects in a film one at a time, in a kind of beat. This can also be drawn from the experience of pre cinema devices and the pleasures from them, such as the zoetrope or mutoscope. Melendez points to how the television, VCR, remote control all function as the zoetrope does – and even more so with newer technologies like the computer, laptop, ipad, mobile phone and other such devices that increase control of the viewer and their ability to control the beat. Such an

analysis may account for how pornography is able to allow the two pleasures to co-exist (of actively possessing the image and being a passive viewer that is moved/possessed by it), at least in fractured and polymorphous ways. In Barker's terms this pleasure could be understood as being in between the two corpo-realities of the film and of the viewer's body and of pornography's objective (as a genre) being to be able to occupy that liminal space in between.

Here Melendez suggests that the video or film disrupts the gaze of the viewer that is predicated on there being a distance between subject and object i.e., the viewer and the video/film, and the moment of convulsion (arousal, climax) eclipses the object. As Williams points out the paradox is that pornography succeeds in its objective (of bodily reaction in terms of masturbation and climax) more often than not, in spite of the much repeated adage about the repetitive and boring nature of pornography. One possible explanation for this is that the oscillation between the two pleasures of being possessed and possessing the image, leads to a moment when the object is obscured by the bodily reaction to it. This Melendez says is possible because of the "material basis" of these videos that are wrapped around or simulations of bodily pleasure – "they simultaneously create and deconstruct an optical effect, for the simulacrum is only acknowledged as a sign of pleasure in the instant the body's involuntary reaction eclipses it."

What Melendez characterizes as this material basis of pornography ranges from the ways in which the videos are edited (close-ups, fast, to a beat, towards a climax) to the use of porous and different textures of formats that allow for a certain kind of, what he terms, 'sublime' relationship between the viewer and the pornographic material. About the closing sequence of a pornographic video, Melendez says this – "Here, the spectacle of the bodies collapses into the very palpability of the media; its sumptuousness: the pixelation of the video, the fluttering of the super-8, the shakiness of the camera, and their collective emulation of bodily pleasure. The occurrence of the medium here, its urgency, its shameless display of its sutures and seams, constitutes the very revelation of its limits, a turning onto itself in a moment of simulated carnal ecstasy. And yet, *my* surrender despite this display, or maybe because of it, is a mutual transcendence that is not a merging of body and machine, but a brushing of their tactile membranes."

Melendez thus moves away from a Baudrillard and Jameson model that would understand this as machines on both sides and not as tactility but a disruption of the visual (and the distance between viewer and viewed, subject and object), to a theoretical enquiry that takes a similar turn as Barker and Del Rio, about the bodily relation to moving image – and in this instance video pornography, specifically. Melendez ends with the question – "And yet, **what allows a viewer to surrender to a pixilated image on the screen?** What allows those pixels to transcend their own material boundaries to move as well as be moved? Only the transcendence of experience can account for this, and it is this, which lies at the heart of the sublime. By this I do not mean to posit pornography as a transcendent genre (as some artists might suggest): rather, I want to acknowledge its uncanny ability to move, to convulse along with the viewer. It is in this ability to render itself almost physical in the meeting with the viewer that that video pornography provides a new model for relating to the mass-produced, one in which the body's susceptibility

constitutes both a yielding *and* a resistance to the hypnotic seduction of the image.”

This effectively moves video pornography away from the realm merely of an explicit image, to that of a body that moves and convulses along with the human body and does so (or attempts to) more than other forms of media or cinema, since it is and has to be responsive and aware of the human body’s desires upto the point where it allows itself to be eclipsed by it (it has to disappear at the moment when the human body is caught up in its own desires or climax)<sup>118</sup>. The relation of the human body to pornography thus is more symbiotic and the exchange of libidinal energies between the two implies a reciprocity that renders video pornography more body than machine, image or screen.

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<sup>118</sup> Certain aspects of the description of pornography as responsive, aware, tactile would seem to be that of a lover, but a lover too is a symbiotic organism that is engaged in an exchange of energies. In relation to digital networks and economy, Matteo Pasquinelli describes pornography as a libidinal parasite and this description also fits the intimate relation of the viewer with the pornographic material. Pasquenelli’s work is explored in detail in the last chapter.

## Chapter 6

# Downloading the State —Porn, Tech, Law

*“An affective approach to images requires a close understanding of the different layers through which a body operates as an image among other images.”*

Luciana Parisi and Tiziana Terranova, *A Matter of Affect*<sup>119</sup>

*“Censorship has a lot to do with malnutrition.”*

Jack Smith<sup>120</sup>, Radio interview used in experimental film by **Ross McLaren** titled *Dance of the Sacred Foundation Application*

Often the problem with studies around technology, and in this project this monograph is implicated as well, is that the practices and/or objects that such research attempts to address or understand, rapidly change in the flux of technology and desires. Dual SIMs on mobile phones, flash mobs, viral videos, Internet poems and collaborative authorship, national identity cards and various other practices or schemes appear and disappear allowing for a faint glimmer into what are the ways in which it is possible to theorize embodiment, affect and technology. Pornography itself is now referred to with nostalgia, particularly soft porn in cinema theatres, video parlours and lending libraries but also the practices around watching pornography online as if other kinds of embodied interactions online can and already are beginning to replace it.

Could it well be that the future of pornography is the disappearance of this category, as separated in terms of genre from other kinds of moving images (romantic, soft porn, violent etc.) – that it becomes instead about practices, communication, devices and spaces. For the purpose of this monograph, pornography includes cyber sex, web cam chat rooms for sex, alternative gaming universes that include sexual interactions (like *Second Life*, etc.), websites that are used for hooking up and sexual displays, conversations, etc. This inclusion beyond video and image pornography is because such interactive practices are subsumed into the category of pornography, especially as far as the law and public discourse are concerned. But this shift towards more interactive forms, opens up an interesting question – whether visceral thrills of embodied interactions online (through Facebook, for instance) are beginning to replace the more obvious thrills of video and image pornography; is the definition, experience and affect of pornographic pleasure changing and being transformed by digital embodiment.

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<sup>119</sup> *A Matter of Affect : Digital Images and the Cybernetic Rewiring of Vision*, parallax, 2001 , vol. 7, no. 4, 122–127.

<sup>120</sup> Jack Smith’s films (especially *Flaming Creatures* and *Normal Love*) are filled with writhing campy bodies occupying the entire screen in chaotic rebellion of various (filmic, societal, legal) norms. Apart from being lauded as the cornerstone of experimental film and performance art, they are perhaps emblematic of what originally was censored from the garden of Eden i.e. what is censored in the Western world.

Parisi and Terranova raise valid questions of our affective response to digital images and opening up arenas for research – “When looking at digital images, we could ask not merely: Where is the other? but What is their speed? Which parts of a body are they affecting? Which circuits of a body are they opening up and which ones are they closing down? What kind of connections are they establishing? What do you become when you play these games or watch these images? How persistent is their duration? What is their position in the cybernetic loops of the networked society?”<sup>121</sup>

In this section, we deal with affective dimension of the law when dealing with images or ‘excessive images’<sup>122</sup> such as pornography. In legal terms, the category of pornography doesn’t have separate existence from that of obscenity. The question that is raised in different ways and for different objects and practices is what makes an image obscene or even pornographic (on the rare occasion that the court uses the latter term) – what attributes of it and around it and even of the context in which it is seen. This relates to a broader question about excess in images, law and affect that perhaps is not only related to sex, sexuality and pornography, but to understanding affect that flows between the body of pornography and the human body. This is further either unraveled or complicated by new technologies (of seeing, feeling and being), which is why this monograph follows three strands when dealing with pornography – the law, film and video, technology and new media, even as these influence and mutate each other.

There is a disjunct between the analysis and understanding of how the law polices technology and how the law polices the senses<sup>123</sup> – or specifically, what is pornographic and sensual. Here the policing of senses borrows from Ranciere’s notion of the distribution of the senses or the distribution (or organization) of the sensible – “I call the distribution of the sensible the system of self-evident facts of sense perception that simultaneously discloses the existence of something in common and the delimitations that define the respective parts and positions within it. This apportionment of parts and positions is based on a distribution of spaces, times, and forms of activity that determines the very manner in which something common lends itself to participation and in what way various individuals have a part in this distribution. A distribution of the sensible ... is a delimitation of spaces and times, of the visible and the invisible, speech and noise that simultaneously determines the places and the stakes of politics as a form of experience.” Ranciere’s concerns around this distribution of the sensible are not directly connected to the question of pornography here, except that the manner in which this distribution is

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<sup>121</sup> Ibid n. 1

<sup>122</sup> In *Camera Lucida*, Roland Barthes talks about the studium and punctum of an image, specifically a photograph, studium being the obvious symbolic meaning of the image, what viewers generally agree upon since these meanings are cultural coded, where as punctum is the accidental bruise or prick left by an image which could also be because of the ‘having been there’ of such an image or of no longer being. As Barthes says – “What I can name, cannot really prick me”.

<sup>123</sup> Politics revolves around what is seen and what can be said about it, around who has the ability to see and the talent to speak, around the properties of spaces and the possibilities of time.”

described allows for a different way of looking at how the law plays a role in policing the senses and maintaining order. This connects to two other concerns that the monograph addresses – the manner in which the law operates largely in a visual field, ignoring the other senses and willfully blind to its own and other’s affective dimensions in the name of justice and impartiality, and secondly how technology (film, video, cars, Internet, etc.) has transformed the ways in which pleasure or other affects are experienced, how it disrupts state’s agenda for technology and perhaps that of big business as well, and how it raises questions around embodiment.

The relationship of technology to the senses and to citizenship and the state are often examined separately from each other. In this chapter, we look at how in fact these two relationships are connected and related. The ways in which technology has been understood and even considered an aspect of the (good) citizen of the nation, are in fact specifically located in the practices of this citizen – in what he or she does with the senses or experiences through the senses. Though it is obvious that the state is interested in policing these practices as well, often the field of analysis of technology and state, is not in these practices around pornography but in mega technological projects that cover everyone and are overarching (or so is the imagination of these projects) such as the Information Technology Corridor being built in cities, the Unique Identification Number for all citizens, etc. Here the attempt is to unpack state and technology through the state’s interest in the senses – in what is considered pornographic and/or sensual, and relating that to the state’s imagination of the good (technologically enabled) citizen.

## Pornography as Accused

Many scandals around illicit content and especially private videos have slipped into the public eye – ranging from the godman Nityananda’s video<sup>124</sup> to politician N. D. Tiwari’s<sup>125</sup> video with prostitutes where he looks comatose rather than sexually active. Nityananda’s video on Youtube is layered with a mix of Tamil songs track, perhaps with some coy reference to the actress in the video itself. Largely neither of these videos have remarkably explicit content and most copies that are floating around are re-cut and edited, where genitalia (especially male and blow job sequences) are blurred.

Some of these scandals are followed by sporadic legal action, where the court is called upon to look into these matters, often as a messiah for public outrage rather than to deal with specific legal issues or violated rights. Most often such legal action seems to taper off without any farsighted consequences or fade out from public attention, though the public role of such people unfortunately caught is often over. For instance, Nityananda was charged with S.376 (rape), S.377 (unnatural sexual offences) and S. 295(a)

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<sup>124</sup> Hindu holy man Paramhansa Nityananda in hiding after 'sex film', Jeremy Page, Delhi, Times Online. Available at <http://www.timesonline.co.uk/tol/news/world/asia/article7049232.ece> Nityananda in his defence also claimed that he was not a man and is willing to be tested for his potency. However the series of cases and allegations against him have been increasing, including attacks on his ashram.

<sup>125</sup> I apologize but I’ve done no wrong, 28<sup>th</sup> Dec 2009, Times of India. Available online at <http://timesofindia.indiatimes.com/india/N-D-Tiwari-on-sex-tapes-I-apologise-but-Ive-done-no-wrong/articleshow/5389005.cms>

(outraging religious sentiments specifically bringing disrepute to the saffron robes which he was wearing in the video<sup>126</sup>) on the basis of the video that was circulated of his relations with an actress. This led to an investigation by CID (Criminal Investigation Department) that filed a lengthy chargesheet against Nityananda and uncovered other activities of the godman. The chargesheet is filed not on the basis of the video but the testimonies of 110 witnesses and documents including the non-disclosure agreement between ashram and the devotees over tantric sex.<sup>127</sup>

Such videos are often the result of sting operations by magazines, journalists or other interested parties and yet in the public furore of morals that are caused by a holy man and a respectable politician caught in the frame of such a video, there is little discussion of basic questions of violation of privacy and consent of parties. If there was such a deliberation in public or in courts, then at least to some extent such considerations would also be relevant to ordinary people who have been captured in surveillance and hidden cameras and such videos too have been leaked into circulation.

Perhaps correctly, the court always seems to imagine a deluge of pornographic content that exists beyond the exposure of this one (any) scandal that does find its way into the legal system. In a judgment that predates the digital deluge of pornographic and sex videos online, but seems to imagine this kalyug approaching (*Dharmendra Dhirajlal Soneji vs State of Gujarat*<sup>128</sup>) the court is actually called upon to decide whether a sentence of seven years imprisonment is too harsh for a case of rape of a minor girl (13 and a half years old) by a 20 year old, especially in the context of the flooding of the pornographic and obscene in society. The appeal is also assisted by the affidavit of the victim, who is now much older and married, and has ‘gracefully stated’ that she has “condoned the act of the accused as it happened in spur of moment because of the tender age and immaturity.” Further, she says that the accused is now a happily married man, and if he serves a sentence of seven years, it would have an adverse and debilitating impact on his wife and children.

The counsel for both the accused and public prosecutor stressed on the availability of adult material easily via television including pornographic content. One of the final questions raised was that the court decide on if the State which is “oblivious to its duties to the problem of mental health of the people and in particular to that of unwary youth continuously being influenced, victimized and obsessed by obscene film and pornographic literature perennially streamed through some of the T.V. channels, polluting their clean consciousness, has it indeed any right to urge and press for the

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<sup>126</sup> “A saffron twist to Swami Nityananda’s case”, D.Ram Raj, 14<sup>th</sup> March, 2010, DNA. Available online at [http://www.dnaindia.com/bangalore/report\\_a-saffron-twist-to-swami-nityananda-s-case\\_1358886](http://www.dnaindia.com/bangalore/report_a-saffron-twist-to-swami-nityananda-s-case_1358886)

Nityananda has also been accused of other charges including cheating and threatening to kill, many of which are pending in the Karnataka High Court.

<sup>127</sup> For more details see ‘Nityananda faces rape charges’, The Times of India, Bangalore Edition, 30<sup>th</sup> November, 2010.

<sup>128</sup> (1997) 1 GLR 198.

enhancement of sentence!!”<sup>129</sup>

In an often repeated argument where the infantilised public must be protected from the pervasive sleaze, this judgment of the Gujarat High Court ends with calling upon the government to protect “women, girls and generations of tender ages from psychic pollution and vulgarism” by setting up Ministry of psychic and physical health, moral values and the personality development with three wings - (1) the preventive cell, (2) the moral values development cell (3) and the liaison cell. The case is complicated by the affidavit of the woman asking that the accused be pardoned because his actions can be excused on grounds of his age at the time of committing the offence. The court does not conjecture about the possibility of consensual sexual activity and whether that would or should make a difference in the case of a minor (in most countries including India the consent of a minor is irrelevant as it is statutory rape); if the court had then that would disturb the clear categories of legality and acceptability, fixed notions of childhood and innocence, of familial, familiar heteronormativity and cultural norms that are set up here in the reasoning of the judgment.

Disregarding the contentious nature of the claim, even in feminist analysis, that pornography and rape are necessarily connected, the court further states that “this spreading of the most contagious, insatiable (barring few exception) quite an explosive sex desire appear to be now turning into chronic psychic epidemic in the society (sic)”. The judgment takes this hypothesis further – desire is fanned by obscene magazines and movies and society is characterized as “volcanic tell tale eruptible circumstances”. The rhetoric of the judgment draws on an uninterrupted take on the ‘sleaze of modernity’ (especially Hindu right wing discourse on culture) that Rajyadhyaksha also talks about in his article “Is realism pornographic?”. Rajyadhyaksha looks at the writings of Pramod Nawalkar who was the Minister of Culture for Maharashtra, and points out how it is not some specific object (or even practice) that is considered pornographic but a whole range of practices that are associated with the phenomenon of modernity. When talking about how the ubiquitous morning show of the sleazy movie is never the target for right wing rhetoric around the pornographic, he says – “in a clear shift of subject matter, what we are now seeing is an explicitly politicized moral censor looking at all this—looking not so much at the sex industry as at society-in-general, at society itself now theatricalised into a morbid stage of sleaze.”<sup>130</sup> The censorious look emanates from benevolent patriarchal familial modern towards the malevolent depraved modern (typified by dance bars, sex, traffic in obscene images, modern art, live bands, discotheques, etc.)

Rajyadhyaksha lists the ways in which the pornographic has again taken its proper center stage in politics, but also how incidents such as the Tuff ads and the Hussain painting that depicted Sarasvati nude, were unlikely to cause any real harm or rather are not explicit at all. The moral right’s ire seems misdirected towards something lesser but with inflamed rhetoric and anxiety. The claim that the moral right makes is a complex one – firstly, it foregrounds society over the individuals who live in it and secondly, the explicitly

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<sup>129</sup> Ibid.

<sup>130</sup> Ashish Rajyadhyaksha, “Is realism pornographic?”, *Re-figuring culture : history, theory, and the aesthetic in contemporary India*, Satish Poduval (Editor), Sahitya Akademi, 2005 p.180.



pornographic is in any case discredited along with all those who covertly participate or enjoy it. Thus, what is pornographic is precisely that which modern society has ‘blindly’ considered acceptable up to this point when it can be pointed out. Nawalkar seems particularly adept at this suggestible pointing, where he shows empty houses and speculates what could be happening within. There is, as Rajyadhyaksha states, ‘a production of a morally superior position from which to view the decadence of the contemporary’.

Nawalkar’s writings allows for a split between participant and viewer “over a chasm of culture that is unambiguously modernity itself, its experience rendered pornographic to the viewer”. When the entire experience of modernity is represented as sleaze (in public and to some extent legal discourse) then the viewer as represented by Nawalkar becomes the citizen as opposed to those who participate in the sleaze.

In another judgment – *Kanhaiya v. State of Uttar Pradesh*<sup>131</sup> where a minor child (of nine years old) was raped and murdered, the judgment also peculiarly focuses on the finding of hardcore pornography with the accused. The case is complicated by the presence of local leaders and caste politics and it is hard to ascertain from the distance of reading the text of the judgment whether the accused is guilty of non-consensual relations with a minor, and this constraint is part of reading all legal precedent. It is only possible to analyse the reasoning of the court and how they reached the final judgment. In this horrifying case where a nine year old girl went to the pond after her meal and her dead body was found the next day, showing signs of having been raped, the judgment of the court turns on very peculiar factors. The extra judicial confession of the accused is to be considered reliable or not on the basis of the pornographic material that was seized from his house. This confession was allegedly made to a local leader, with whom the accused had no friendly relations and later the court finds this local leader’s testimony unreliable because of criminal complaints against him. The court deliberates on whether the pornographic material was planted on the accused, whether it could be viewed on his TV set, whether he indeed knew the difference between cassette and CD and when admitting to having cassettes in his house with pornographic material, did that include CDs (as they are admittedly two different mediums or technologies). The underlying assumption of the court (and presumably most of the other actors in this particular case) is that the presence of pornography necessarily establishes the guilt of the accused of the rape and murder of the nine year old girl.

In this judgment, the court has restricted itself to the facts and evidence at hand and does not make grandiose statements on the state of Indian Society and the spread of the psychic pollution, but the one thing that connects both judgments is the tendency to hold pornography responsible for violent sexual behaviour and rape, despite the non-establishment of this connection in studies in social sciences, feminism or behavioral and natural sciences. In both cases, pornography is made to stand alongside the accused – as an accused pornography does not have to be defined (where as an offence it would have to be). The questions that arises – if pornography is not the offence, then what is it? Is this what the avoidance of pornography in its explicitness allows the court to do – to

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<sup>131</sup> Criminal (Capital) Appeal No. 6632 of 2008.

repeatedly point fingers at the ‘sleaze of modernity’ or pornography-at-large, and allows it to ignore burgeoning issues around technology, privacy, consent that have to be tackled in increasingly complex ways. As an object, material or even practice that the court is faced with, whose specificities have to be debated (in terms of narrative, misc-en-scene, need for nudity in the story line, documentary nature, privacy, consent, etc. or various other issues that can be brought up in the context of determining the pornographic) pornography-as-object doesn’t provide the easy resolutions, while narratives and tropes around pornography-as-accused do.

The use of terms ‘psychic pollution’ and ‘virus of rape’ all characterize it as a force that is outside the control of individuals or society that is indeed then somehow held blameless for its actions. The Baze judgment cannot be easily dismissed as pedantic moralizing as in this above judgment, but it also doesn’t step out of a safe zone around pornography and related practices, unable to look directly at the pornographic object. This doesn’t allow for seeing in the nature of such practices the humanness, aesthetics and choices that they also signify, which further doesn’t allow for the privileging of legal issues around privacy and consent, rather than obscenity. This side stepping of questions around pornography by the court definitely allows for a circulation of such material, and considering the harm that censorship does in clamping down on sex and related material<sup>132</sup>, this is most definitely a blessing. However, here the question is not to address the legality of pornography, but what is it that happens as a result of attempts of regulation, under the category of obscenity. What is of interest to us here, is how does this sleight of hand (and eye) around obscenity and pornography that either holds society, technology, State responsible in specific cases of obscenity and even rape (and/or murder) say about the relation of the State and citizen, especially in fields where technology and related practices are coming to play an important role.

#### **Item 27877408 - DPS Girls having Fun**

The video clip that was at the centre of the DPS MMS scandal was listed on an auction (peer-to-peer) website as an e-book and as “Item 27877408 - DPS Girls having fun!!! full video + Baazee points” for Rs.125. If this auction had not taken place or had gone undetected, it would have been difficult for the State to address the circulation of the video that was largely taking place in private circuits and peer- to- peer networks. While newspapers and TV channels were creating and participating in a frenzy, there would have been no effective way in which the State could have intervened, without the slip of this object away from nether spaces of p2p networks and covert exchanges on mobile phones into a public space like Baze.

Bazee is a fairly unorthodox way in which to share pornography, and a clear case of hidden practices around sexuality (which might even be in public space but are not public) slipping into the mainstream. The assumption behind using a space like Bazee

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<sup>132</sup> The slippery slope of censorship from the perspective of either feminism, women’s movement or even other human rights struggles, definitely points towards the harm that state led censorship does. The case of Little Sisters in Canada or of the multiple cases against M.F. Hussain in India, point towards the ways in which censorship related to obscenity often has a detrimental impact on women or the existence of spaces for alternative sexualities.

seems to be that the Internet is truly an open space where certain acts such as blatantly auctioning pornography (which is impossible in an actual auction or market space offline) can possibly go undetected. The answer was most definitely that such slipping of pornographic practices into public spaces, even online, would be detected and prosecuted (the question remains open as to who would be prosecuted).

To place this act of using Baze in context, it has to be noted that at that point there were fewer modes of video sharing (aside from pornographic sites that indexed video and allowed for downloading of files directly) and no Youtube yet. In narrow bandwidth countries like India, a rather small public accessed video and film through torrents but perhaps a larger public was accustomed to downloading and viewing video and image pornography.<sup>133</sup> Perhaps the break of protocol by auctioning through Baze, can be better understood if one imagines an auction taking place offline, in a physical space, where a pornographic clip is auctioned for 128 INR alongside old washing machines, books, laptops and other sundry, ordinary objects. Though the real and the virtual don't map onto each other literally in terms of how public and private spaces are experienced and constructed, the act of auctioning on Baze is a stepping over of invisible boundaries of customs, rules, space, interactions – of “who shall speak of sex, and how it shall be spoken off” (Williams, Foucault)

The IIT student who circulated the clip was arrested and kept in police custody for at least three days and so was the boy who made the clip made to go through proceedings in juvenile court (though he was the last to be arrested, probably because he was absconding). Both the girl and boy in the video were suspended from school after the incident. Eventually the most high profile arrest and follow up from the DPS MMS incident was the arrest of the CEO of Baze.com – Avnish Bajaj. This seemed to be a satisfactory response to the public furore because (finally) there was someone to pin it on who was sufficiently high profile so a downfall of some kind, other than that of Indian culture and values, could be effected. Also Baze was soon bought over by Ebay and the CEO, Avnish Bajaj was a respectable, foreign-educated man who had been touched by the spread of such sleaze.

In the public eye, blame is fixed for a brief period, before it slipped towards the next and more likely target. This perhaps is not surprising in the context of the public furore that almost became a witch-hunt that sought to hold the boy who made the video clip responsible, the student of IIT who attempted to circulate the clip and eventually the CEO

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<sup>133</sup> Currently (and this is current is used with the knowledge of how this idea of practices is very likely to change) soft porn, clips from hostel rooms, racy clips from movies and everything except the explicitly pornographic is shared through youtube and mobile phones, and there are websites for more explicit content. Stories from Indonesia and India about how girls are troubled by the spread of photographs that they have voluntarily uploaded also point to that grey area when users themselves upload material, expecting it to remain within a liminal space online where it is not exactly public.

of Bazeem. The string of failed prosecutions seems to indicate that pornography-as-object was slipping through the cracks of the legal system.

It is perhaps interesting that in this particular clip neither was there complete nudity and a completed sexual act. If it is possible to say this, the intentions, gestures and suggestions in the clip are explicit, but not the clip itself. The only description for Item No. includes – “This video is of a girl of DPS RK PURAM which has been filmed by his (sic) boyfriend in very sexual explicit conditions.” It seems like the calculations of the court might rest on whether this pithy description itself can satisfy the requirement of obscenity (under S.294 of the Indian Penal Code), because the case is not against the person selling the video clip, but against the CEO of the corporation for hosting (providing the space for listing) the said clip.

The court held that this description indicates that the said obscene object is just a click away and such a “listing which informed the potential buyer that such a video clip that is pornographic can be procured for a price.” Nishant Shah in his article<sup>134</sup> which also deals with cyber pornography (aside from terrorism and piracy) contends that in the particular case of the DPS MMS clip – in public discourse when there was nobody that could be fixed with the blame, it was technology that was held responsible. On examining the judgment it is a little less clear whether the court either managed to or sought to do the same, though in other judgments pornography is definitely to be held responsible.

The court holds that the safeguard and filtering procedures of Bazeem were inadequate and therefore, it can be held liable as a corporate body, and so can Avnish Bajaj only in his capacity as Managing Director but not in his individual capacity. However, the case was filed against Avnish Bajaj and not Bazeem, and hence no charge criminal offence of obscenity is concerned (Section 292, Indian Penal Code: Sale, etc., of obscene books, etc.) can be made against Avnish Bajaj. With regard to the similar offence in the Information Technology Act (Section 67: Publishing of information which is obscene in electronic form) Avnish Bajaj himself and not just in the role of MD of Bazeem can be held responsible. Section 67 covers all those who “publishes or transmits or causes to be published in the electronic form”. The court held that considering the registration, listing procedures on Bazeem the website is definitely responsible for ‘causing to be published’ obscene material of the DPS MMS clip (eight transactions took place in a short period of 38 hours that it was available via Bazeem). Though not under the penal code, but under provisions of the Information Technology Act (Section 85, IT Act) the court held that a prima facie case can be made against Avnish Bajaj himself for causing to be published obscene material and the trial court has now to look into the matter to determine if he can be held liable, in an individual capacity. The case now disappears in the morass of court procedures and delays and so far no further development has taken place.

Aside from pronouncement(s) on matters related to pornography and sexual practices online, the intertwining of law and technology is more marked in other domains. These

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<sup>134</sup> Nishant Shah, ‘Subject to Technology: Internet Pornography, Cyber-terrorism and the Indian State’, *Inter-Asia Cultural Studies*, 8:3, 2007, pp.349 – 366.

include projects of e-governance, setting up kiosks, e-literacy initiatives, large nationwide projects such as unique identification numbers and participation of government and public sector in the information technology sector (including land, tax and other benefits or grants by State). Thus, the shifting terrain of rapidly changing technology and discourses around it is placed in relation to the law, which is relatively less flexible but has to accommodate even as it progressively intertwines with technology (in its own functioning). It is in this context complicated by contradictory factors and perceptions of technology, that the relation of the State and the citizen must be examined. Shah undertakes this in his article about how citizens are not just subject to the State, but also the technologies of the State, by looking at the three intriguing figures who have gained currency as the faces of cyberspace – “the pervert in his cubicle, the terrorist wielding a cell phone and the pirate in the network.” As Shah states, some of the more popular imaginations and detrimental legal action have taken place around these three figures, whether targeting individuals, enacting and amending laws to create offences and conducting raids and checks for materials. Though nowhere as comprehensive and effectively deterrent as perhaps parts of the global north in terms of reach and surveillance, the Indian State has effectively managed to change from a technologically incompetent gateway to a fairly effective and widespread surveillance and censorship mechanism over the course of 3-4 years (from 2006 to 2010).

The three figures of Shah’s article remain the ‘other’ that haunts process of judicial and legislative deliberation on all matters cyber, with perhaps a changing idea of how much control the State has over proliferating networks. What Shah does rather effectively is to show how the State’s initial and continued participation and enthusiasm in the project around technology which was ushered in with globalization and the State’s imagination of the legal and good citizen, was repeatedly undercut and transformed by the imagination of and (legal, social) discourses around these three other figures – the pervert, the terrorist and the pirate.

Shah relies on Foucault’s notion of governmentality and states “the Subject is not born but created through different processes of disciplining and punishment that etch the Subject into the State’s narrative.” In relation to the DPS MMS case and the digital pornographic, Shah says that it would be simplistic to reduce it (and possibly similar practices around amateur video pornography) to voyeurism or scopophilia, as this would overlook the channels of production and distribution of such material, and the fantasy of “containment and disciplining” that it evokes. Shah’s proposition is that the pornographic is not in the clip itself, but in the process of distribution and interaction that it evoked. This anxiety around a pornographic of distribution and interaction is strangely mirrored in the case of the arrest of four men in Lucknow, who used the popular gay website (guys4men.com) to set up a meeting. The police used the Internet as a site of surveillance and entrapment to clamp down on what they perceived was illegal homosexual activity, which in the Indian context has rarely been directly prosecuted<sup>135</sup>. The pornographic in the DPS MMS resided in the circuitries of distribution of an erotic and private video, and

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<sup>135</sup> The charge in the Lucknow incident was of conspiracy to commit sodomy and charges of obscenity as well – an unlikely cocktail of offences that was formulated to prosecute four men for posting to meet up on the bulletin board of a popular gay hook-up and online dating website.

two years later the State clamped precisely down on those practices around sexualized spaces online in the Lucknow incident. With regard to DPS MMS clip and the public discourse around it, the blame was shifted to technology, as is evident from the attempt to ban mobile phones in schools and other such debates on televisions with parents, teenagers and teachers. In this specific instance, the two actors in the video were beyond blame – the girl’s subjectivity does not figure in public discourse and with regard to the boy it is as if he was in a “state of psychesthesia, where the guilt of his actions is no longer his own but belongs to the entire space that he is embedded in”. And here the space is that of the video taken by a mobile phone, and hence a technologised space.

Shah’s contention that the State’s legislative and judicial initiatives in the past 10 years have however, centred around the three figures of the pirate<sup>136</sup>, the pervert and the terrorist, are also supported by how the Information Technology Act, 2000 came to be. As Ajit Balakrishnan (CEO, Rediff) states in an interview – “The Information Technology Act is bookended on the one end by the Delhi Public School caper and on the other by the attack on Parliament.”<sup>137</sup> Though the shift in blaming technology in public discourse as pointed out by Shah is evident, as far as the courts are concerned it is not sufficient to hold technology to blame, and definitely does not produce the same frisson and anxiety as pornography as the accused. This could relate to the larger project of the nation with regard to the benefits of technology and the development and its potential for growth.

The ways in which public discourse can accuse, blame and literally hang, technology seems to diverge from how the court attempts to pin down an offence or crime and prosecute by constructing an individual as the pervert, while also accusing pornography as a phenomenon. The court is unable to hold technology to blame but the accused is pornography-at-large and modernity, which subsumes practices around technology and separates out the good and ethical ways in which a citizen should use technology.

## Of Ghosts, Pornography and Other Fictions

The concept of panoptic as elaborated by Foucault and Bentham, is examined by Miran Bozovic in the context of gaze and body in early modern philosophy<sup>138</sup>. The panoptic in an era of increasing surveillance has a particular resonance. Bozovic locates the power of the panoptic in the utterly dark spot from which the gaze on all the subjects (prisoners) emanates. Though the panoptic is about prison and the deterrence of the criminal system, it is the opacity of the utterly dark spot where the inspector of the prison and blindfolded figure of Justice in court meet each other. The inspector of the prison is omnipresent and yet not seeable – his gaze works as a deterrent and is also simultaneously a fiction (the

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<sup>136</sup> Time Warner, Columbia Enterprises, Disney Entertainment, Paramount, Tristar Pictures, MGM etc. v. Arun Kumar Gupta, Proprietor of Lamhe Music Shop. Ordinary Original Jurisdiction Suit. No. 262 of 2003.

<sup>137</sup> Interview with Ajit Balakrishnan on 10<sup>th</sup> August, 2009. See <http://pad.ma>.

<sup>138</sup> Miran Bozovic, *An Utterly Dark Spot: Gaze and Body in Early Modern Philosophy (The Body, In Theory: Histories of Cultural Materialism)*, University of Michigan Press, 2000.

inspector is an unmoving shadow cast by the lantern in the inspection tower, a trick, a ghost or possibly as omniscient as God). In the context of legality, the blind spot explored in the first chapter in relation to pornography (the law's embarrassed looking away from explicitness) can become this utterly dark spot from which judgment is made. Perhaps in Bozovic's analysis the likening of this utterly dark spot to ghosts is what particularly makes sense in the context of a discussion around legality and judicial reasoning here.

Bozovic, while talking about Bentham's conception of panoptic and his fear of ghosts, says that our fear of ghosts is not because we believe in their existence or non-existence, but that we do not know. It is the fear of the something radically other, unknown and strange into our world. However, if we knew for sure that ghosts existed, then we would "deal with ghosts in the same way that we deal with all other real entities; they would simply be phenomena comparable with all the others." Bozovic further says that "the fear of ghosts is perhaps the purest example of how an imaginary non-entity owes its real effects to its ontological status as a fiction." This function of the fiction of ghosts has a metaphorical relation to the ways in which pornography as accused operates too as a fiction – as a defined offence, pornography would be a category of material whose characteristics can be listed and examined carefully and then pushed away (much like obscenity). But as an undefined force it is capable of immense 'psychic pollution' – it is the familiar (bodies) made strange by deceit and desire and it is a force that disrupts and continuously undercuts the existence of the familiar and familial and ruptures the private and public; as the accused it allows for the foretelling of the decline of civilization and the decay of morals. It perhaps is a haunting inside the circuitries, ghost in the shell or the body possessed with inexplicable wants.

## Chapter 7

# The Technology Beast

“You are my woofer, I’m your amplifier”  
Amplifier (song), Imran Khan

The entry of information technology in the global north and south has followed different paths. In the developed world, the State is not seen as a player in the construction of the Cyborg Citizen but as an “outsider who tries to contain these new forms of practices that seem to have irrupted outside of the knowledge or the practices of the State.”<sup>139</sup> In the Indian context however, technology entered through the aegis of the State and this establishes the State as an important player in the construction of the idealized, fetishized Cyborg Citizen. However, it is the non-legal potentials of the same technology that can be used for development that cause anxiety for the State and especially through these three erratic ungovernable figures those Shah points to – “the pervert in his cubicle, the terrorist wielding a cell phone and the pirate in the network”.<sup>140</sup>

Shah’s laying out of the field of the state and citizen in relation to technology, opens up new research questions and arenas, including the historicizing of the perception for technology in the Indian context. Asha Achuthan’s work on the debates of Gandhi and Tagore<sup>141</sup> could be one of those points of insight into how earlier discourses around nationhood and the making of the idealized Indian citizen also revolved around complicated questions about such a citizen’s relation to technology – was it merely instrumental or could it be incorporated into ideas of being, selfhood and dignity. Was it a tool or an extension of the body, and also when does it become part of politics and poetics of being. These philosophical debates between Gandhi and Tagore may seem to have had very little practical impact on the Nehruvian agenda of modernity and growth by development, big dams and power plants, but perhaps here are some of the notions that later become part of the idealized good citizen enabled by technology.

Achuthan recounts the debates around specifically the *charkha* or the spinning wheel, which played an important role in imagining the resistance of India against colonialism. Both Gandhi and Tagore were against heavy technology, wanted to implement rural programmes for self sufficiency and opposed state education. Yet there was a nuanced difference in how they looked at the symbol of charkha. Tagore directly attacks what seems like rhetoric that collapses *swaraj* and *charkha* into each other – he criticizes the assumption that “large scale production of home spun thread and cloth will result in the alleviation of the country’s poverty” not on whether it is possible or not, but because “the raising of the *charkha* to a higher place than is its due, thereby distracting attention from other more important factors in our task of the all round reconstruction.”

Tagore’s statements here resonate because they seem to refer to a similar reality – where

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<sup>139</sup> Ibid Shah

<sup>140</sup> Ibid

<sup>141</sup> Rewiring Bodies, Asha Achuthan, CIS-RAW Draft circulated, 2010.



technology (be it big dams, computers, and Internet, etc.) is summoned to solve the problems of the nation and then programmes and initiatives around it seem to distract from the essential problem of providing water, education, information, services. Of course Tagore speaks with reference not to the colonizing government's implementation of technology, but the ways in which it is imagined perhaps by the rebellious public against the colonial government and especially by Gandhi in relation to the *charkha* as a symbol of this struggle.

Gandhi's take however, is far more nuanced – here productive manual work is a means of intellectual training, but also it is a spiritual and physical movement. Achuthan looks at these debates and strong, differing opinions on the *charkha* to unpack the notion of technology itself. Tagore might be seen as occupying a position that sees technology as lacking soul, ruthless or the anti-humanness of technology, while Gandhi's position is to see the *charkha* as a symbol of human labour (rather than machine) challenging modern and even Marxist definitions of technology as means of production alone. As Achuthan says about Gandhi's position – “The spinning of the *charkha*, then, might well signify a potential re-cognition of the individual.”

Perhaps more importantly, these debates, Achuthan's work on gender and science and Shah's work on technology point towards a possible understanding of how embodied experience can form a basis from which to begin to understand how we relate to technology and the nexus of State, technology and citizenship in the contemporary. As we become subjects to the technologies of the State, what are our practices and spaces that we occupy, leave behind and negotiate say about our relation to the State's notion of the idealized good technological subject. As said earlier, often this question is raised in relation to far larger projects of the State, but here the attempt is to look at that fragile space of our subjectivity, sexual practices and desire.

### **Imaginary technotopias**

*“Synchronize your watches. The future's coming back...”*

Back to the Future II<sup>142</sup>

Gandhi and Tagore's position on technology has to be seen in the context of how colonization and industrialization were connected and how the colonizers were engaged in a race of heavy machinery and technology that also symbolized the extent of their dominion over the world. In two dramatic expositions in 1891 and 1934 (Paris and New York) of technology and machinery, different countries were attempting to establish the image of a super power through technology. This endeavour became even more obvious in the expo in New York in 1964 which was largely about the Cold War and military technologies, unlike the previous expos that concentrated also on how technology might transform ordinary lives. The 1934 expo predicted that cars would become a daily and widespread necessity and mode of travel, where as the 1964 expo imagined a future of artificial intelligence and cybernetics, which is yet to be. Richard Barbrook undertakes an interesting, comparative survey of the expos around technology in New York and other

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<sup>142</sup> Robert Zemekis, *Back to the Future – II*, 1989. This quote is a tagline on the poster. More details at <http://www.imdb.com/title/tt0096874/>.

cities like Paris and London (cities in the most powerful and wealthy countries in the era of colonization) since the late 1800s. Barbrook's description of the 1964 expo in New York is that it is the beginning of the meme of sentient machines and says that this prophecy of artificial intelligence is deeply rooted in time and space. The World's Fair in 1964 in New York was meant to show how "America was the leader in everything – consumer goods, democratic politics, show business, modernist architecture, fine art, religious tolerance, domestic living and, above all else, new technology. A millennium of progress had culminated in the American century."<sup>143</sup>

IBM in particular at this show demonstrated their prowess in computing with an eye catching exhibition structure and the System/360 machines. This exhibition too concentrated on how all this computing power was merely a predecessor to artificial intelligence, which was sure to arrive in the future i.e., "the present was the future in an embryo". All these events were a harking back to the hugely successful 1851 exhibition by the British in London (The Great Exhibition of the Works of Industry of All Nations) where the machine that was showcased was the loom, telegraph, farm equipment, rotary presses and the steam engine. It was the beginning of hiding of labour and colonial exploitation by the lavishly public display of the product and the machine itself – the symbolic role of industrial products took centre stage and as Barbrook says, the use and exchange value was momentarily eclipsed by exhibition value. "Separated twice from its origins in human labour, first through market and then through exposition, machinery was materialized ideology."

The motivations behind the grand exhibitions were clearly because "defining the symbolism of machinery meant owning the future". Barbrook's point however, is to show that the unfulfilled prophecy about artificial intelligence (unlike the prophecy about the widespread use of cars) was to avoid imagining a future where computers would become part of daily use or a more personal technology and the likely social consequences of that. The future imagined perhaps was of a fully automated workplace where more clerical tasks are done by computers – in other words, the corporation and computer become one.

The focus on the remote possibility of cybernetics rather than the more immediate possibility of cyborgs (or Cyborg Citizens) avoided the anxieties around the widespread, quotidian and individual use of technology and what that would mean for how the State controls its citizens. After all the large mainframe (called Big Brother mainframe by Barbrook) belonged to big government and big businesses and "the 'feedback' was knowledge of the ruled monopolized by the rulers." The focus of IBM at the exposition was not in fact making computing technologies available to everyone, but to pack in capacities into computers to preserve their monopoly in military and corporate market. For them, promoting cybernetics would preserve the social order that could be disturbed by increasing ownership of computers and hence the imagination was not of computers that become laptops that can be condensed to mobile phones, but the opposite – large, bulky mainframes.

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<sup>143</sup> Richard Barbrook, "New York Prophecies", *The Book of Imaginary Media: Excavating the Dream of the Ultimate Communication Medium* (Edited by Eric Kluitenberg, Siegfried Zielinski, Bruce Sterling), NAI Publishers, 2007, p.234.

The skepticism about artificial intelligence now is not because of the failure or non radical growth of computing, but the opposite – an increased likelihood of people having personal experience with and through computers. This movement in the development of technology relates to some aspect of the personal connection that Gandhi had in mind, in relation to the *charkha*. Gandhi's relation to the *charkha* and perhaps that can be extrapolated to technology is one of relation and emotional resonance, and this combined with the failed project of artificial intelligence, means that such a relation (symbiotic or prosthetic) is imaginable for the different forms that technology takes even today.

In the Mahabharata, the weapons of gods are seen as having an intimate connection with the body of the god; of having special powers but also that they were earned through penance or were rewards from higher powers. There is a symbiotic relationship that is imagined between god and technology in the ancient text that perhaps is also part of our practices, perceptions and intertwining with technology. A prosthetic replacement is perhaps one way of viewing technology, but a symbiotic connection allows for the addition of a wondrous object with multiple abilities to oneself and also for a more dynamic flow of affect and co-relation between technology and self. Latour's contention is that technology possibly predates language, and that could imply that our connection with technology are hardly new and also about ancient understandings and myths. As the form technologies adopt rapidly changes, these symbiotic connections are strained and developed, challenged and nurtured and the present moment is also marked by how the senses (desire, affect) are being transformed and also transform technology.

The description of the gods with their weapons in the Mahabharata is particularly intriguing for how it sets up this symbiotic relationship for each god with each weapon, as if the special powers of each complement and are meant for each other.

“Beholding the fierce thunderbolt about to be hurled by their chief, the celestials all took up their respective weapons. Yama, O king, took up the death-dealing mace, and Kuvera his spiked club, and Varuna his noose and beautiful missile. And Skanda (Kartikeya) took up his long lance and stood motionless like the mountain of Meru. The Aswins stood there with resplendent plants in their hands. Dhatri stood, bow in hand, and Jaya with a thick club. Tvashtri of great strength took up in wrath, a huge mountain and Surya stood with a bright dart, and Mrityu with a battle-axe. Aryaman stalked about with a terrible bludgeon furnished with sharp spikes, and Mitra stood there with a discus sharp as a razor.”<sup>144</sup>

There is a match here, seemingly of equals and hence a symbiotic and mutual relationship can be imagined, rather than one of instrumentality. It is by virtue of a special relationship, of embodiment in the weapon itself that the relationship between the god and the weapon is imagined. Even when descriptions of technology or in the case of the Mahabharata weapons that far outstrip ordinary human capabilities, they are understood and related to by humans through embodiment. This perhaps leaves out the question of technologies such as heavy machinery and non-personal machinery, but those questions

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<sup>144</sup> The Mahabharata of Krishna-Dwaipayana Vyasa, Translated by Kisari Mohan Ganguli.

have to be explored via the experience of those who are in more direct contact and relation with them.

## Returning to the Present: Mobile Phones and Other Devices we Know

A. Srivathsan in his article on mobile phones says that it is not insightful to set out to understand and order the world from a viewpoint that we understand as human and separated from the non-human i.e., technology especially. He points out that traditional mythology always had “animals and tools as an integral part in the defining of human beings and their gods” and these were not merely vehicles, tools or weapons<sup>145</sup>. The idea of body, self and image is conceived and includes non-human and inanimate entities. This perspective is also echoed by Lata Mani’s ideas about the inter-connectedness or wholeness that can be felt at a spiritual level. She says that it is not essential or even possible to be cognizant or aware of inter-connectedness all the time, but that it exists between humans and other species, with the trees, grass and sky and also with the non-animate. In this perception, everything has sentience and the human is thus displaced from their centrality in the universe, which opens up different ways of thinking and being.<sup>146</sup>

A.Srivasthan also mentions how Vishnu’s weapon – the disc, is mentioned as a person in texts and poems and also worshipped as an extension of the god. For him, this signifies how tool and man work into one other. Srivasthan acknowledges that the interaction between human and non-human in the making of the body and self seems to be lost recently. One such way in which to perhaps re-invent or re-engage with this connection is through the idea of the cyborg, where joint kinship and ties with animals and machines is possible and we are “not afraid of permanently partial identities and contradictory standpoints.” (Haraway)

In relation to mobile phones or other technological and media devices such as computers, laptops, players however the notion of cyborg doesn’t extend too easily, as these devices are perceived as outside of the human body. Srivasthan talks about aura computing of mobile phones – an invisible halo of information and computing services that persists around an individual (or phone) regardless of location. This large information field around the users, acts on behalf of them, for them and surrounds each one of them – it works as an aura that is two ways (unlike the mystical aura that merely surrounds a person) – it is externally linked and internally connected. The expanse and vastness of community can be felt now, because of such devices – “we have been virtually performing or creatively imagining this all along”. For Srivasthan technology in fact overcomes the alienation of modernity, where as for Lata Mani, certain forms of technology add to the disaggregation and chip away at the relatedness of each human being to everything else in the world.

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<sup>145</sup> A.Srivathsan, “What Mobile Phones Make of Us”, Digital Culture Unplugged (Ed. Nalini Rajan), Routledge, 2007, p.69.

<sup>146</sup> Talk by Lata Mani titled ‘Once upon a time in the present’ on 3<sup>rd</sup> December, 2010 at 1 Shanthi Road, Shanthi Road, Bangalore.

Technology as alterity or the otherness of technology<sup>147</sup> or (mediation of) technology which experiments with being-as-another<sup>148</sup> has been one of the interesting ways to break out of the bind of viewing technology as either merely instrumental or to be mastered. As R.Radhakrishnan poses when talking about human nature and technology – “Is technology the radical ‘other’ that has brought into existence the post-humanist subject?” and “Does the radical alterity of the artificial disrupt the history of human intellectuality.” For R.Radhakrishnan the question he ends with, while looking at technology in security procedures and mobile phone dependency, is whether the ‘seamless’ relationship of human and technology is optional or mandatory on both sides, but also whether “Does not this very alterity of the machine constitute a prosthesis of the human? Where in this play of simulation does accountability reside?”

The question of accountability is perhaps relevant particularly in the ways in which the law operates in relation to pornography and technology, seeking out a culprit and also unable to fix on any. The culprits seem alternately phenomena such as technology or pornography itself, whereas the offence or its content remain unclear. The notion of technology as prosthesis or extension of the human, returns accountability to humanity and yet as pointed out by Shah, often it is technology that is held responsible, for what it makes possible.

The ways in which technology is understood in society and law are often complicated by notions of where has this technology come from, the separation of organic and inanimate, the sentience of inanimate matter and its symbiotic relation to humans, but perhaps not prosthetic relation alone. Bruno Latour says “the question of the emergence of technologies and that of humanity has been mixed up for about two and a half million years” and that technical ability may have preceded human language by a few thousand years in some parts of the world. This is Latour’s beginning point to look at the mingling of technology and morality, since they are both questions of means and ends.

For Latour, technology is about folds and detours. What is folded in any technological action, whether of turning on a computer or using a hammer, is time, space and types of actants (which means what provides agents with their actions, subjectivity, intentionality, morality). With regard to this, Latour says that by having a simple device like a hammer, so much more is permitted and possible that “thanks to the hammer, I become literally another man .. pass through alterity, the alteration of folding”. As Latour says evocatively – “all technologies incite around them that whirlwind of new worlds. Far from primarily fulfilling a purpose, they start by exploring heterogenous universes that nothing, up to that point, could have foreseen and behind which trail new functions.” Technology displaces, translates, modifies and inflects original intentions or goals – it is a detour that betrays imperious desires of instrumentality, and hence it remains odd that we still speak

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<sup>147</sup> R. Radhakrishnan, *Alterity, Technology and Human Nature*, Digital Culture Unplugged (Ed. Nalini Rajan), Routledge, 2007, p.55.

<sup>148</sup> Bruno Latour, “Morality and Technology: The End of the Means”. See <http://www.bruno-latour.fr/articles/article/080-en.html>.

of technology in terms of the possibility of mastery either over the means or the end. It has not been functional or neutral ever, but always introduced enfoldings, detours, drifts, openings, translations.

For Latour, morality is a similar system which is an interruption that prevents too ready an access to ends that it poses questions of by what means this end is achieved. Both morality and technology are ontological categories (of knowing) from which the human comes out, and not as if the human is the origin of morality or technology. “The two modes of existence (morality and technology) ceaselessly dislocate the dispositions of things, multiply anxieties, incite a profusion of agents, forbid the straight path trace a labyrinth generating possibilities for the one, and scruples and impossibilities for the other.”

To return to Latour’s idea of technology as mediation, but not in the sense where there is only an instrumental use of technology is but to acknowledge that any form of technology puts into play a “whirlwind of new worlds”. Technologies can’t be tamed, not because there are no powerful masters, or that they become autonomous and function according to their own desires. Latour says that “the mediation of technology experiments with what must be called being-as-another” and this alterity of technology leads us not directly to the ends but through folds and detours that perhaps even alter the end.

From here we move to Matteo Pasquinelli’s perception of this alterity that is not entirely autonomous and thus he casts certain forms of media as libidinal parasites that are a structural part of the digital network.

### **Animal desires: pornography as a hybrid creature of media and technology**

“We have passed from one animal to the other, from the mole to the serpent, in the system under which we live, but also in our manner of living and in our relations with others.”

Gilles Deleuze, Postscript on The Societies of Control<sup>149</sup>

Sherry Turkle’s work in *Life on the Screen* is an interesting and chronological account of the ways in which technology has entered and transformed lives of people, and also the aesthetics and structure of technology and the way that has led to specific kinds of interactions. She speaks of how the computer’s windows have become a potent metaphor for thinking about the self as a multiple and distributed system and of how the dynamic layered display on the screen gives the sense of an enlarged thinking space<sup>150</sup>. In what is now a historical account of how the Macintosh computer was first introduced as a system that had to be explored and learnt – that was a world onto its own, a friend you could talk to, rather than the car you could control. This competing ideas of how to relate to technology oscillate back and forth between operating systems that were introduced such as Windows, Linux at a later point as well, and also the ease of people with how to and whether they wanted to get behind the machines and know how it works, or function with

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<sup>149</sup> Gilles Deleuze, "Postscript on the Societies of Control", *OCTOBER*, No.59, 1992, MIT Press, Cambridge, MA, pp. 3-7.

<sup>150</sup> Sherry Turkle, *Life on the Screen*, Simon and Schuster, 1997.

it through an interface. Increasingly, Turkle's thesis is that the simulation aesthetic has overtaken any aesthetic of transparency or wanting to know how things work.

This chronological account of Turkle however, is quite different in non Western contexts, as the ways in which technology reached into and became part of the lives of people, varies considerably and is mediated also by people from different walks of life who have a grasp on different aspects of technology – the junction box outside your home where the Internet wiring needs to be connected, the cable network that you might be using, the personal computer or laptop in the house with its relatively new or antiquated operating system, the pirated software market in Nehru Place or National Market where the software usually comes from, the digital networks that you move in and out of whether social networks, peer to peer communities or local networks in the office.

The work by Ravi Sundaram on pirate modernity that defies and bypasses legal technological infrastructure effectively captures the complexity of this picture of how technology is interwoven in the lives of people. Sundaram talks about the city of Delhi and how the end of state monopoly on technology “opened up a dynamic space where the existing networks of “political society” and expanding informal media production quickly moved from a model of parasitic attachment to a vitalistic transformation of the urban fabric. Most of this was outside legal structures, an urban bypass.” He also says – “The pirate media city mixed debris, recycled structures, and hyper-modern technologies in its appropriation of media infrastructures, refusing the progressive determination of its actions. It reproduced itself less through representational models of alterity (resistance), but offered the greatest of challenges to capital, insubordination, and a refusal of the legal regime pushed by the globalizing elites.”<sup>151</sup>

This account of technology, pirate modernity (or parasitic modernity) and the transforming city by Sundaram seems a chaotic counter point to Turkle's much neater account of the shifts between modernist technological aesthetics to postmodern aesthetics to a simulation aesthetic. She says – “In simulation, identity can be fluid and multiple, a signifier no longer clearly points to a thing that is signified and understanding is less likely to proceed through analysis than by navigation through virtual space.” This spatial understanding of technology or what technology does to us, is an interesting counter point to the ways in which technology is either understood as code or network, or Matteo Pasquinelli's understanding of media as bestial and animal spirits (see below), or of a notion of technology as prostheses. Yet perhaps these notions are somehow connected and overlapping, as each mode of thinking maps out different ways to understand embodiment and technology and especially when looking at which model the law operates on, differing consequences will be played out through judgments and legislation.

Matteo Pasquinelli in his work on the bestiary of the commons looks at the conflicts and clashes in the commons and unmasks the animal spirits of new media cultures. His book brings together an astounding range of theoretical, art and new media related references drawing connections between disparate worlds of code and networks, Francis Bacon's

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<sup>151</sup> Ravi Sundaram, “Pirate Modernity: Delhi's media urbanism”, Routledge, London and New York, 2010.

imagery and war pornography. Pasquinelli also allows for a return from a more abstract idea of relation to technology to how media operates in digital cultures. He focuses specifically on pornography on the Internet, and also examines how pornography has been examined by other theoreticians such as Žižek<sup>152</sup>. In Žižek's paradigm, according to Pasquinelli "any act of resistance reinforces the code of the dominant regime" and the image, even of pornography in its utmost explicit variation, is literally a phantom fulfilling a phantasmatic need. Such a perception renders the image itself irrelevant and the objective here as well as claimed by Pasquinelli is to look at the bestial forces behind the image itself.

Pasquinelli points to how the postmodern cultural theory responds to developments in video technology and cyberspace, by not talking about the image anymore, but about code and networks and disconnecting from prior histories of how images were received and looked at. He looks at work that traces how the image, especially religious iconography, from where much of modern art comes, has political, cultural, social aspects; that these images have an organic relation to power and are not mere accidents. The questions to ask then are also what do images want, and viewing them as forms of life or spirits themselves, can then change the ways in which something like pornography is understood. As was indicated in the first chapter, the power of the image (in the 1600s to late 1800s) in England, especially that of the mental image or that which is evoked was well understood and there was an attempt to harness this power through law and the development of obscenity jurisprudence that was later transplanted in the Indian context.

What does it however, mean to speak of the will, desires and wants of images themselves, rather than that of people who see them? And what kind of life forms are we talking about in relation to images. If one looks at the origin, evolution, mutation, extinction of images then they are co-evolutionary beings or quasi life forms "(like viruses) that depend on a host organism (ourselves), and cannot reproduce themselves without human participation."<sup>153</sup> Images are parasites or viruses, but not merely – they also are a social collective and have a social life as well<sup>154</sup>.

Pasquinelli's retracing of the force of the image (mirrored here in the tracing back of law's fear of the image) leads him to also contemplate medieval Christian tradition and its negative perceptions of images and mental images. This medieval problem is also understood as a problem of separation of body and mind that led to common perceptions today of the human body as dissected into separate layers (that relate to different disciplines from genetics to anatomy, psychology to neurology). The only affect that

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<sup>152</sup> Of Žižek's examination of pornography, Pasquinelli says – "It is interesting to note how Žižek frames pornography: the meaning of which is not to excite the viewer and to engage in masturbatory practices, but to watch how others experience enjoyment instead of me, in my place." (Pasquinelli: 177)

<sup>153</sup> Pasquinelli depends on the work of Mitchell and Belting to reach this conclusion, and their work respectively deals with religious iconography (Pasquinelli: 180)

<sup>154</sup> Such an argument dismantles notions of the romantic genius of the author and provides an insight into cultural production as well, according to Pasquinelli.



seemed to work against this separation into layers, was (and possibly is) that of love. What Pasquinelli (and Agamben) refers to as profanation is then desirable, where there is a pollution or movement across the various layers that is made possible.

## Law and Rhizome

The law in the Indian context till the early 2000s, was willfully blind to the covert circulation of pornography and this indicates that its relatively non-threatening circulation in specific spaces like small cinema halls and some video stores to a male public, did not upset the social and cultural mores of society or the interests of the state in public order and morality. This rather neat separation of spaces, spheres and publics was disrupted by the use of technology in the Indian context that led to a flooding of sexually explicit and real images of people into the public realm. It is this upsetting of neat separations that the law is now trying to harness and bring under control with various attempts to police technology and the image. Deleuze talks about how we are moving from disciplinary societies (family, school, work, prison) to societies of control where these forms of control are more free-floating. In the former we moved from one form of incarceration to the next (from school to work, etc.), whereas in the other we are never quite done with anything – for instance, school becomes perpetual training and continuous control (through mechanisms like identity cards, etc.) replace examination and persecution of those considered suspicious. Deleuze says that these are two very different modes of juridical life – “if our law is hesitant, itself in crisis, it's because we are leaving one in order to enter the other”.<sup>155</sup>

This confusion in the law is apparent, as there was a mode of dealing with pornography in the prior context that has to be changed as a result of technology. Thus in spite of various efforts to put into place structural controls (laws that regulate cybercafes, ISPs, third party or intermediary liability, laws against encryption and open wireless networks, etc.) the law still harks back to older modes of exerting control over circulation and in fact over extends itself in the attempt to stop circulation beyond circuits where it was okay for pornography to exist within. As in the case of both the Baze case and guys4men incident, the law attempts to fill the positions of the accused or offender by various people connected in the network with each other. This accusation necessarily shifts further along (from the creator of the porn clip, to the person in it, to the person who put it online, to the one who distributed it via a p2p website, to someone who tried to auction it, to those running the auction website) till the link to the original offence becomes weaker and a sense of legal or even ethical responsibility is too disattenuated by the remote links in the network.

It is this image evoked in the law of the digital network that causes anxiety and becomes the image that must be banished and made illegal, rather than just the image that is obscene or pornographic. The rhizome which Deleuze calls “an image of thought” is the new image or aesthetic (if aesthetic is defined as new ways of seeing and perceiving the world) that the law is attempting to govern by new methods of continuous control (such as surveillance, identity cards) rather than examination (prosecution of individuals).

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<sup>155</sup> Ibid Deleuze

Delueze talks about the rhizome in *A Thousand Plateaus*, and while describing its various characteristics (of connection, heterogeneity, multiplicity, etc.) says that – a rhizome broken or shattered at any spot will start up again on old lines or new lines, the lines always tie back to one another. “That is why one can never posit a dualism or dichotomy, even in the rudimentary form of good and bad.”<sup>156</sup> The culpability for producing pornography that used to be relatively clear is now shifting towards the network that distributes it and those who consume it as well, and so are the efforts of law and public discourse to fix the blame (the school, the parents, the children, technology itself, etc.) The fact that consumption or watching pornography was not considered an offence is also now shifting to the network that can claim to be watching, not distributing or to the ‘producer’ who is also watching (through the mobile phone camera) but not making. While the law shifts to adjust to a society of control, the rhizome/network will make possible offences and scandals that have to be responded to by the law.

Pasqueneilli too talks about the connective imagery or networked imagery, that is shaped by asynchronous and interactive ways of relating to the Internet and personal media, as opposed to the collective imagery which is achieved through media proliferation and television – “a becoming-video of the collective brain and collective narration” (Pasqueneilli: 192) But it is the networked or connective imaginary that produces most anxiety for the state, rather than visuals (produced by media empires and television) that can be read only in accordance with a procedure of power (technological, political, advertising, media empires or military power)<sup>157</sup>.

The connective imagery is popularly that of the videopoesis of autonomous journalists, bloggers who fight in a politically correct battle against restrictions on journalism and for free speech, but it also has a dark side – the many categories of pornography and sexual practices that are possible on or through technology. The sadistic images of torture from Abu Ghraib prompted Donald Rumsfeld to ban the use of videophones and cameras by American soldiers in Iraq (Pasqueneilli: 193)<sup>158</sup> and the slipping of an innocuous pornographic clip into public circulation led to the formulation of the Information Technology Act in India. The thesis proposed here is that what produces anxiety for the state is less the content of a pornographic image itself, but the uncanny reflection in it of the networked or connective imagery – at a practical level, this plays out in the law’s concern with the circulation and distribution of the image itself.

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<sup>156</sup> Giles Deleuze, Felix Guattari, Brian Massumi, *A Thousand Plateaus*, Continuum International Publishing Group, 2004.

<sup>157</sup> Serge Daney, *Before and After the Image* (translation by Melissa McMahon) *Discourse: Journal for Theoretical Studies in Media and Culture*, 20.1, 1998. Also available online at [\*\*\*AQ PLEASE PROVIDE THE REFERENCE\*\*\*]

<sup>158</sup> Pasqueneilli characterizes Rumsfeld’s reaction to the Abu Ghraib images as grotesque: “We’re functioning . . . with peacetime constraints, with legal requirements, in a wartime situation, in the Information Age, where people are running around with digital cameras and taking these unbelievable photographs and then passing them off, against the law, to the media, to our surprise, when they had – they had not even arrived in the Pentagon?”

With the circulation of troubling images of torture of prisoners in Abu Ghraib by American soldiers who looked gleeful and unaffected, this anxiety was brought onto the global screen and in a different way Wikileaks also plays into that very same anxiety. At a national level, the Radia tapes also expose a similar underbelly (which is political rather than pornographic) and what Pasquinelli when speaking about the Abu Ghraib pictures calls the “obscene base of animal energy that lie beneath the usual democratic make-up.”

## Bestiality

*“i've been addicted to masturbation and video porn. feel this is bad. i am 15 years old and have been like this for 2 years now. i was always happy but now i just think about masturbation. please help me ive tried giving up for years now any help would be appreciated! :)”*

Anonymous letter to a forum for answers<sup>159</sup>

In the last decade, video pornography has become mass culture, but definitely not popular culture – its signs and symbols are more implicitly understood than shared amongst its publics. Pasquinelli points to how as such pornography is what constitutes a large portion of bandwidth traffic beneath the surface of an allegedly disembodied technology like the Internet – personal media is filled with the desperate libido that they originally alienated.

In a doomsday prediction, Ballard says that a growing taste for pornography and the libidinal breakdown that implies the coming extinction of a race. Pornography could even be understood as an affective product for an exhausted technological age – where increasingly our pathologies are being explored in a deep, dark cave with ourselves, online rather than through activities that possibly could be considered more social and tactile though tactility can be understood as a changing experiential quality that loses some aspects and gains others in the digital networked age.

About this dark side of the networked or connective imaginary, Pasquinelli says – “Porn images are quite peculiar, they speak to our animal scopophilia – a sort of ancestral cinema for our reptilian nervous system. It is impossible to judge a pornographic image according to a moral register simply because each one has a completely different quality (and quantity) of libidinal desire. Both pansexuality and asexuality should be tolerated, along with high and low degrees of libidinal excitement.” (Pasquinelli: 203)

Pasquinelli’s interests are in the energies and forces of pornography in the contemporary. If humans consume and dissipate energies, machines are able to consume and dissipate energies as well which makes them seemingly a form of life, but also machines are able to store and accumulate energy. Pasquinelli’s suggestion is to view media as libidinal organisms, or to put it accurately as libidinal parasites. As examined earlier, technology

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<sup>159</sup> Many such forums exist online which are an extension of the Agony Aunt column in papers, and answers are given by any other user who chooses to respond. Answers include Yahoo! Answers and more specific forums that deal with sex include Teen Advice, Ehealth Forum etc.

in its various forms has been understood as information channels, mimetic devices and most importantly for us in an enquiry that is largely about body and affect, as bodily prostheses and even autonomous (beings). These various paradigms often hint at the symbiotic relation to the human body, and perhaps this is where Pasquinelli's idea of media as a libidinal parasite also resonates.

What does this imply in relation to law's attempt to control pornography? Does the law too view it as errant organisms and parasites governed by a connective libidinal imaginary, and hence its positing of pornography itself as the accused is far more intuitively correct than any attempt to govern those who produce or consume<sup>160</sup> pornography. Here however, what is achieved by the law when it blames pornography, or indeed even technology is to separate it away from humans and their subjectivity, practices and actions, and ignoring the symbiotic relation between technology (here, media) and human and how they move into one another.

Here Pasquinelli makes clear that parasites are not meant in a negative sense, but in the sense that they are able to condense and store libidinal energy and then re-direct them<sup>161</sup>. In relation to pornography, he describes them as "symbiotic organisms that are a structural part of digital networks." (Pasquinelli: 207) The tactile nature of video pornography has been explored here or the attempt to understand them as bodies that our bodies relate to, and this idea has some resonance with Pasquinelli's notion of the libidinal parasite-organism. He also speaks of how video technologies produce and accumulate time, in the same way as memory and imagination. This aspect also makes clearer that technology cannot be understood only as prostheses i.e., the video does not merely replace or extend the human eye or even internal vision (of dreams, imagination) but does more in its ability to crystallize time, which makes it in some aspects, autonomous of human beings.

These technologies also autonomously produce images that are strictly speaking not shared with human beings but seen by them later (and often in the case of the surplus footage that is generated by surveillance cameras and hidden cameras, perhaps not seen by human beings at all). Time and desire are crystallized here into a form that is then accessed by us when we desire to encounter a particular moment, and this is true in relation to pornography. Even if the video is of yourself (as in the case of youporn videos) they are framed by another or placed to form a frame from outside and the technology that does it is more autonomous rather than a prosthetic.

Pasquinelli further takes this thesis to show how these parasites are never immaterial and they transform our fluxes into something material – "Netporn converts libidinal flows

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<sup>160</sup> The consumption of pornography in the Indian context is not considered an offence, if it takes place in private. Those prosecuted are the producers of pornography or those who distribute or screen it. A recent Mumbai High Court judgment that declared that pornography consumed in private (in a lodge) is not an offence, is not in fact making a step forward in terms of restrictions around pornography, but is merely clarifying this point.

<sup>161</sup> A useful example that Pasquinelli gives is how media stars condense and store our energy, to redirect them as attention and fetishism towards brands, technology and commodities.

into money and daily siphons a huge bandwidth on a global scale. Netporn transforms libido into pure electricity: exactly as file-sharing networks are reincarnated as an army of MP3 players, Free Software helps to sell more IBM hardware and Second Life avatars consume as much electricity as the average Brazilian.” (Pasquinelli: 209) This conversion of libidinal surplus into money, attention, visibility, spectacle, material and immaterial commodities is quite evident at the level of benefit of net pornography to infrastructural providers in the Indian context (i.e., electricity, bandwidth, etc.) and perhaps extends to the semi-stardom status of celebrities that too feeds into the same economy of attention, visibility, brands and capitalism.

Pasquinelli describes the entire mediascape as a parasitic chain and there are different beasts that exist here, ranging from ancestral instinctual beasts to nihilist, expressivist and others. Perhaps the beast that this monograph tries to examine is that hybrid form of amateur pornography that is formed of technology and media, where each has mutated the other in aesthetics and form (grainy texture of amateur pornographic video is a product of its carrier technology) and what the monograph focuses on is what is our relation to this two-faced organism. That this hybrid creature is an autonomous, parasitical being is one way of understanding it – an understanding of it as separate and yet in symbiotic relation to us, is perhaps also what is indicated in the passage from the Mahabharata and other ancient understandings of technology-human relations. But Pasquinelli also takes it further in terms of an examination of its parasitical abilities and how it extracts libidinal surplus value from us. That the examination of pornography has not much that is interesting to say about desire or sexuality is perhaps not that surprising a discovery, but it is a quixotic revelation that such an exploration opens up ways of understanding how technology (media) and humans feel, relate and experience each other.

## Chapter 8

# Vignettes for the ‘Next’

*Complex is better than complicated*  
*Simple is better than complex*

Tim Peters, The Zen of Python<sup>162</sup>

In a camera print/bootleg copy of Love Sex Dhoka, we can hear the conversations, reactions, boos and silences of the audience throughout the film like a dense layer of audio annotation, which works as the opposite of director’s commentary. It is hard to say where this camera print was made, since the camera remains focused on the screen throughout but it is a cinema hall and the audience is largely male. One story heard is that this version of the film screening was shot in an engineering college somewhere near Delhi. All one can reliably say, is that the public is watching.

The second story in LSD is about surveillance cameras and how they are used as hidden cameras to capture people in intimate positions. In the story however, the boy starts to fall for the girl and is in a dilemma as to whether he should have sex with the girl, while the surveillance cameras are on. If he does, he can sell this video clip to pay off a debt. There is a conversation between them, just before they have sex where his reluctance, greed and desire are evident. In the camera print, the conversation however spills outside of the film and is also amongst those watching and between the audience and the film as they heckle, push, cheer and withdraw from the film. This fragmented conversation, where everyone knows who the words are directed to and when they are directed away from the film and to each other, is reproduced below.

(This is the scene where the boy (Adarsh) and girl (Rashmi) have sex in the room where surveillance cameras, via which the audience of this fiction film is watching. Rashmi’s friend has just died in the first segment of the film – she was killed by her brothers and family for running away with her lover and that is why Rashmi is crying in this scene.)

Rashmi: (about her friend, speaking to Adarsh) She was the one who told me you liked me and cared about me

Adarsh: (silence)

Rashmi: (pulls Adarsh towards herself, while she is seated on a chair)

Audience: (starts chanting) Total purpose! Total purpose! Total purpose!

Rashmi: (obviously frustrated by Adarsh’s unresponsive body) What do I have to say? What do you want me to do?

Person in audience: Tell her you want her to suck you.

Person in audience: (as Adarsh starts responding to Rashmi and they start kissing, to the others in the audience) Keep quiet, keep quiet.

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<sup>162</sup> Long time Pythoneer Tim Peters succinctly channels guiding principles for Python's design into aphorisms. See <http://www.python.org/dev/peps/pep-0020/>

Person in audience: Everyone take out their (penis)  
Person in audience: Put it in the hand of the guy next to you.  
(laughter)

Person in audience: (to Rashmi in the film) Remove the t-shirt  
Person in audience: One, two, three – take it off  
Person in audience: (when t-shirt comes off the girl) 50,000 rupees full!

(Adarsh then goes in front of the surveillance cameras, ostensibly to turn them off)  
Person in audience: Sisterfucker, motherfucker don't put it off.  
(Applause when he doesn't)  
Adarsh: (to Rashmi, lying) I put it off.  
(Applause continues loudly)

Person in audience: (as more clothes come off and they are making out) 70,000 rupees now  
Person in audience: 80,000 rupees  
Person in audience: (Rashmi and Adarsh are now having sex on the floor of the room)  
162,000

Person in audience: (as the scene ends) Its over  
Person in audience: No, no. Its bufferring...  
Person in audience: Put on your bluetooth - you'll get it.

LSD also has a scene where Adarsh is setting up the room where he will seduce the girl so he can sell a pornographic clip. In this scene he is alone and simulates sex for the surveillance camera to see what it would look like. As he does, the audience yells out – Bharat Mata ki jai (hail Mother India) for no apparent reason other than that is some kind of collective cry or call for action.

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*“We have sought out the subjective computer. Computers don't just do things for us, they do things to us, including our ways of thinking about ourselves and other people. A decade ago, such subjective effects of the computer presence were secondary in the sense that they were not the ones being sought. Today things are often the other way around. People explicitly turn to computers for experiences that they hope will change their way of thinking or will affect their social and emotional lives.”*

Sherry Turkle<sup>163</sup>

Chat Roulette is an interesting space that opens up possibilities of understanding contemporary practices around pleasure, technology, video and the intertwining of the three. Created by a bored Russian teenager who wanted to connect and talk to people in

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<sup>163</sup> Ibid, n. 138, p.26.

other parts of the world, Chatroulette soon became a phenomenon that was used for conversation, exhibitionism and sexual interaction or sex. Its simple interface has two video feeds (one from yourself and the other from anybody else also on Chatroulette) and the rest of the page is a text-based chat box. On top there is a simple button that allows you to 'next' to move on from your current partner. Obviously one encounters a myriad penises, but there are also a few unique moments – a turtle staring back at you, a piano player performing different requests, a German and South American teenager attempting to communicate with others in the world without any English, a man lying in a bathtub whose face is not visible, but his fingers and penis emerge alternately out of the soapy bubble filled bath tub to entertain everyone who passes by.

In a telling insight into the possibilities of ChatRoulette, Nishant Shah says – “The State now believes that the people will now watch and police each other, except that this is exactly what people will do – (just) watch each other.”<sup>164</sup> This is an interesting parallel to the idea that the future of video surveillance is in the mobile or the hand phone – from where images will be sent for instant checking by the police, but also what is unstated is the idea that people will watch each other for just that scopophilic pleasure.

This perhaps is also the sinister aspect of spaces such as Chat Roulette – what will we watch each other do? If we have seen images of sadistic torture, brutal beheadings, forced stripping of women in the guise of private videos of couples then the ultimate thing left to see, or as a logical progression would be a snuff video, or a video of a killing. On Chatroulette, artists Eva and Frances Mattes staged a suicide online<sup>165</sup> in May, 2010. In November in the same year, a Japanese man committed suicide online on Ustream, saying that he was frustrated with work. He was both encouraged and asked to stop by viewers. Similar such incidents have taken place before that include overdosing on pills and hangings in America and Europe.

In the movie, *Downloading Nancy*, some of this bleakness and desperation is explored. The movie tries to portray a realistic picture of how human emotions are stretched and morphed in the digital contemporary. It is based on a true story from 1996 – the writers of the script describe about how they heard the story and “it was the first time someone had used the Internet to do something dark and horrible”<sup>166</sup>. The stark images of a cold, minimal landscape are the backdrop to a woman who has decided to kill herself and wants to find someone who would do it, either in the throes of passion or a deliberate murder. She doesn't really care who or how, as long as it happens. Though the movie could collapse into a narrative of a victim of sexual abuse, some part of it that is beyond the narrative and motivations of the characters touches on emotions that are far deeper

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<sup>164</sup> Interview with Nishant Shah, on 1<sup>st</sup> August, 2010. Available online at <http://pad.ma>

<sup>165</sup> The video made titled No Fun is available online on vimeo. More details at <http://gigaom.com/video/what-would-you-do-if-you-saw-a-suicide-on-chatroulette/>

<sup>166</sup> *The Write Way: An Interview with Pamela Cuming and Lee Ross of “Downloading Nancy”*, *The Independent*, June 2009. Available online at <http://www.independent-magazine.org/magazine/06/2009/dlnancyinterview>.



and more profound and inexplicable than what is ordinarily expected of online and/or sexual interactions<sup>167</sup>.

A reductive reading of the film (and perhaps that was the director's vision as well) would be to understand the woman's motivations as a result of sexual abuse, desperation to escape from a boring and stifling marriage or even clinical depression. All (or none) of these culminate in the movie as the last journey towards a thrill, and perhaps the easiest way to find something like that thrill, or someone who would fulfill such an anticipation, is online. Except paradoxically unlike most virtual and online thrills (that we recover from easily – get shot or killed while playing games to emerge largely unhurt) Nancy's game has a fatal end.

Somewhere between Nancy's painful yearning towards the end of what has become an unbearable life, the staged and real suicides on Chatroulette and the urban legend of the alleged suicide attempt of the girl from a small town in India whose private erotic video with her boyfriend leaked onto the Internet is a contradictory, yet tenuously shared conception of what technology does for us and what it does to us.

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Capitalism has led to the separated sphere of the image as spectacle and for the image to be made profane again, these separations have to be abolished or changed. Pornography is the ultimate example of this capitalist partition and the philosophical response that Pasquinelli and Agamben choose is to talk of love, as that which cuts across the dissections of the human being into layers.

Agamben and Pasquinelli talk about the separation of body and mind as a medieval problem, that led to common perceptions in the contemporary of the human body as dissected into separate layers (that relate to different disciplines from genetics to anatomy, psychology to neurology). Agamben harks back to an understanding of love that gives some glimmers as to how these separated layers could overlap and interplay, instead of being assiduously separated. Love is immoderate contemplation of internal phantasm, where phantasm is about love and animal spirits of the body. Love is also described as a "phantasmatic process, involving both imagination and memory in an assiduous, tormented circling around an image painted or reflected in the deepest self".

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<sup>167</sup> In one scene that escapes from the narrative gridlock of the movie itself, Nancy is in a hardware store where she and her new lover have gone to buy the necessary material for engineering her death. She is playful and light in the scene, unlike at any other point in the movie – her desired end is near enough to allow this. She puts her hand in and out of a box of nails in the hardware store and soon her wrists are punctured and she is bleeding. There is a premonition of death that is planned but she and her lover soon rush out of the store (while others in the store and audience watch a little horrified) to a hospital to stop her bleeding. There is a desire to die in a certain way, and an accident evidently does not fulfil that desire.

Pasquinelli says –

“Capitalism, like religion, is meant to bring each aspect of life (body, sexuality, language) into a separated sphere. The political gesture opposed to this separation is what Agamben calls profanation: not simply the gesture that abolishes and erases the separations, but the gesture that knows how to re-deploy and ‘play’ with their constitution in a positive manner.” (Pasquinelli: 185)

Anne Carson however speaks of separations of a different kind within eros – of pleasure and pain, of bitterness and sweetness, of love and hate, of that which splits the mind in two. For Carson eros is complex, temporal, bounded and physical. Carson says – “Desire then, is neither inhabitant nor ally of the desirer. Foreign to her will, it forces itself irresistibly upon her from without. Eros is an enemy. Its bitterness must be the taste of enmity. That would be hate.”<sup>169</sup> Both love and hate mingle in eros, and as Carson describes, different genres and poetry, from the Greeks to Anna Karenina, capture this paradox.

While cutting through the separations that dissect human experience, would perhaps allow something like pornography to not work merely for capitalism (a new collective use of sexuality would be possible), there is a schism in erotic desire itself and the way it is experienced that is split. This contrast may seem not relevant to the vile energies of pornography in the contemporary, but perhaps this is a result of perceived separation of human experience into work, family, love, marriage, sex and even online and offline. But these affects and experiences are not so separated and especially come to bear on the hidden, private corners in which pornography and sexual interaction takes place. There is a curious overlap because of opposition to global capitalism – a synchronicity between the interconnectedness of the tantric universe that Lata Mani talks about and the profanation across separations that Pasquinelli calls for. Perhaps such and other insights that are human, animal, divine and prosaic are possible if we listen and engage in complex and philosophical accounts even of that which we perceive as base and irrelevant, such as pornography.

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<sup>168</sup> See Pasquinelli’s account of love and this particular definition is taken from Andreas Cappallanus. *Bestiary*, Pasquinelli (2009: 183)

<sup>169</sup> Anne Carson, *Eros the bittersweet*, Dalkey Archive, 1998.