

Why Criminalise the Possession of Rape Pornography?

Professor Clare McGlynn and Professor Erika Rackley

Pornographic images of rape glorify and normalise sexual violence. Yet the current law on extreme pornography does not cover this material. Section 16 of the Criminal Justice and Courts Bill 2014 addresses this gap. It will criminalise the possession of rape pornography as well as images of non-consensual sexual penetration.

The proposed reform follows a successful campaign to

#banrapeporn by Rape Crisis South London and the End Violence Against Women Coalition in 2013, including an online petition which acquired 72,000 signatures within a month.

Clare McGlynn and Erika Rackley are long-term critics of the current extreme pornography law. Their 2009 research argued that the failure of the law to include rape porn represented a 'missed opportunity' to take strong action

against the normalisation of sexual violence.

The proposed reform will send a clear message that rape is not a form of sexual entertainment.

While those who view extreme pornography will not necessarily go on to commit sexual offences, their use of such material sustains a culture in which a 'no' to sexual activity is not taken seriously; in which equality and dignity are not protected.

Criminal Justice and Courts Bill

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What is the current law?

It is a criminal offence in England & Wales to possess 'extreme pornography'. This includes any pornographic material which is grossly offensive, disgusting or otherwise obscene and that explicitly and realistically depicts:

- a) Life threatening injury
- b) Serious injury to a person's anus, breasts or genitals
- c) Bestiality or
- d) Necrophilia

How will the law change?

In addition to the current law, it will be a criminal offence to possess pornographic material which is grossly offensive, disgusting or otherwise obscene and that explicitly and realistically depicts:

- e) rape
- f) non consensual sexual penetration

Rape pornography provides the cultural context in which sexual violence is not taken seriously

Why the extreme pornography law should include images of rape

Rape pornography is culturally harmful

Legislative action against rape pornography, and extreme pornography generally, is justified because of the 'cultural harm' caused by such material. 'Cultural harm' refers to the fact that the existence and use of rape pornography contributes to a cultural context within which society fails to take sexual violence seriously.

Rape pornography eroticises violence

Rape pornography, and images of other forms of sexual violence, glorify and sexualise violence. A person who

views rape pornography will not necessarily go on to commit rape. Such arguments of direct, causal links between pornography and violence are over-simplistic. However, the proliferation and tolerance of such images, and the messages they convey, contribute to a climate in which sexual violence is condoned, and seen as a form of entertainment.

Pornography impacts on the behaviour of young people

The 2013 Children's Commissioner's *Basically ... Porn is Everywhere* research suggests that young people are turning to pornography for guidance on sex which is leading to risky behaviours, uncertainty as to what consent means and harmful attitudes towards women and girls.

Rape Pornography Online

Research conducted by Rape Crisis South London in 2011 found that of the top 50 freely accessible 'rape porn' websites:

- 78% advertise rape content of under-18 year olds (e.g. "schoolgirl rape")
- 44% advertise rape content involving incest
- 44% advertise rape content where the woman is unconscious / semi-conscious / drugged
- 100% of those being assaulted are female
- 82% of perpetrators use restraint by force
- 71% of women show signs of visible distress
- 65% of women express pain

Improving the proposed reform

We welcome the current proposals but suggest that the following amendments are crucial to ensure the new law is effective and that it targets culturally harmful material.

Identifying 'rape porn': Recognising the context - description, sounds, narrative - of the extreme image, as they do in Scotland, would make clearer which images fall within the remit of the legislation, while safeguarding against over-inclusion of consensual BDSM imagery.

Extending the defences: Extending the defence of 'participation in consensual acts' would be a further signal that the target of the legislation is not - and should not be - private depictions of consensual BDSM activity.

Protecting the public good : Inserting a public good defence, as in the Obscene Publications Act 1959, would alleviate ongoing concerns that the extreme pornography provisions extend to works of art.

Rape pornography is a form of cultural harm

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