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PORNOGRAPHY

Pornography has existed for millennia. But the sheer amount of content, increase in violent content, and ease of access via the internet are unique to modern society. Pornography is addictive and exploitative, and new regulations need to be introduced to properly limit pornography production, distribution, and consumption in order to protect society from its harmful effects.

Pornography is not new to modern society. However, with ease of access through the internet, pornography production and consumption have exploded in both quantity and type of content.¹ In 2020, Pornhub averaged over 4 million unique user sessions per day in Canada – more than 10% of the Canadian population used this single pornography site on a daily basis.²

In December 2020, a *New York Times* column exposed problems with the business model of Pornhub and its Canadian parent corporation, Mindgeek. Pornhub and other similar sites allow third parties to upload, share, and profit from pornography, without prior verification that the content is not illegal (e.g. child pornography) or illegally produced or shared (e.g. without consent).³ Investigations revealed that the platform included many videos featuring minors, rape, and various other forms of violence.

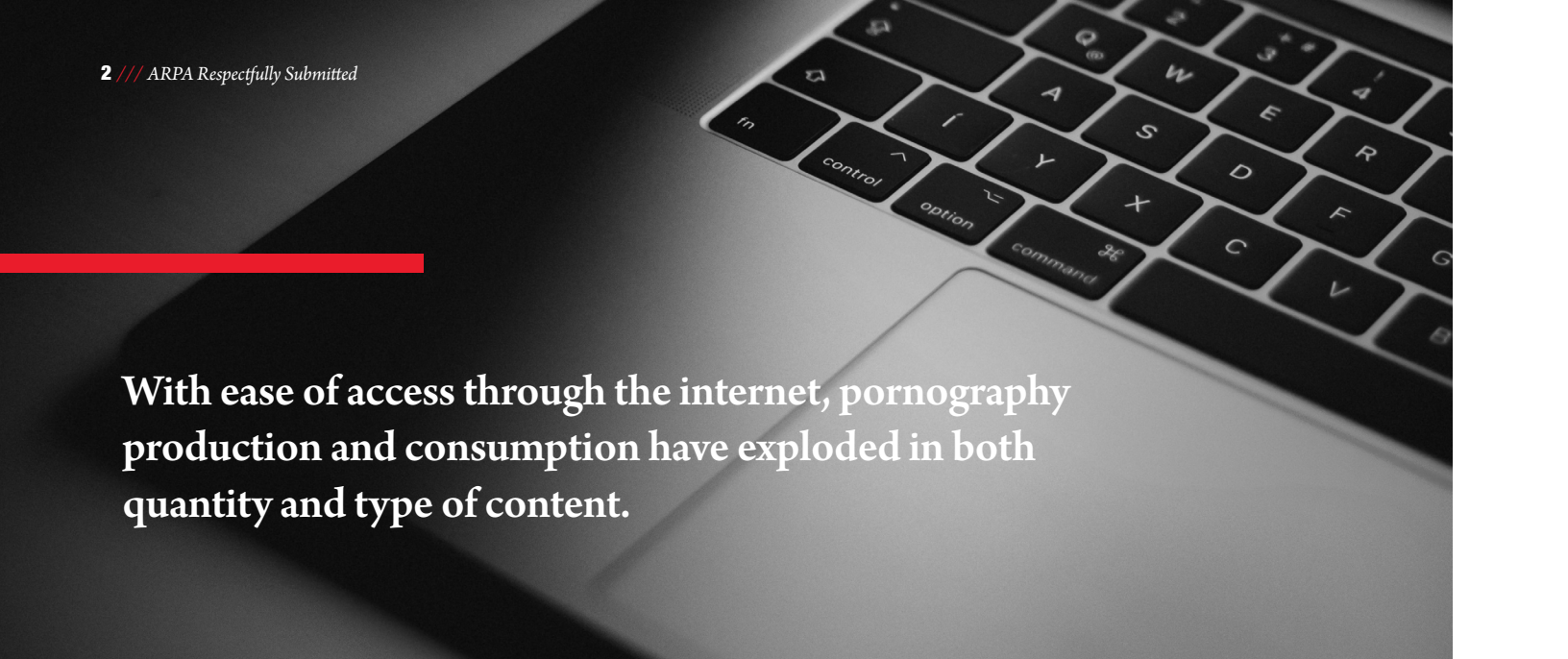
Parliament's investigation into Pornhub in 2021 invited those affected by the website's practices to share their experiences.⁴ This investigation revealed not just the failings of

one porn company, but problems that plague the entire industry. Victims have had their lives destroyed by videos that were uploaded or created without their consent. It is nearly impossible to permanently remove such content from the internet. Even when it can be removed, much damage is already done.

Canadian governments and law enforcement must do more to ensure that the pornography industry stops exploiting vulnerable people. Pornography objectifies human bodies, sexualizes children, exploits vulnerable people, and causes familial, social, and community harm. The federal government should follow the lead of nations such as the United Kingdom, France, and Australia to combat the destructive effects of pornography in Canada.

Pornography is Pervasive and Addictive

Pornography – materials that describe or show sexual acts or naked people for the purpose of eliciting sexual arousal – has existed for millennia.⁵ However, the



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pervasiveness and effects of pornography today are unprecedented because of its form (video), affordability (mostly free),⁶ accessibility, and anonymity.⁷ People can view pornography on computers, tablets, and smartphones at no cost and without anyone else knowing. Many porn sites do not have age restrictions and those that do can be easily bypassed.⁸ Pornography's impact has further increased with AI and virtual reality technologies.⁹

Children are increasingly exposed to pornography at younger ages. A recent survey commissioned by the United Kingdom's Age-verification Regulator revealed that 51% of 11- to 13-year-olds reported that they had seen pornography, with over 60% of these saying it was unintentional. Some children had seen pornography as early as age seven or eight.¹⁰

A 2020 survey asked participants which big tech companies they think have the biggest impact on society. Pornhub ranked third on the list, behind only Facebook and Google. A majority (56%) also voted Pornhub the company with the most negative impact on society.¹¹

Pornography consumption can lead to compulsive behaviour and addiction, with measurable physiological and neurological harms. Research by Dr. Norman Doidge shows that sexual preferences are very malleable. When pornographic images

connect unrelated things, such as torture and sexual arousal, that visual connection "can cause previously unrelated neurons within the brain to learn to 'fire' in tandem so that the next time around, physical torture actually does trigger sexual arousal in the brain ... [Pornography] literally changes the physical matter within the brain so that new neurological pathways require pornographic material in order to trigger the desired reward sensation."¹² As another researcher put it, "[N]eurological research has revealed that the effect of internet pornography on the human brain is just as potent—if not more so—than addictive chemical substances such as cocaine or heroin."¹³

Pornography triggers the release of dopamine. Dopamine is a natural neurotransmitter that serves important biological functions. Dopamine is part of the brain's reward system, creating a sense of pleasure. The human brain seeks experiences that release dopamine. However, repeated exposure to pornography, with the associated release of dopamine, alters the brain's dopamine system so that it requires more input to achieve the same level of pleasure.

This desensitization, well documented in relation to other substances such as alcohol and narcotics, makes a person more susceptible to addiction. The brain eventually becomes habituated and desensitized to the experience, and craves the pleasure derived from previous experiences. With

pornography, as with alcohol or narcotics, this can lead to addiction and increased craving, even if a person does not like the experience.¹⁴ This can lead to a need for increased stimulation through, for example, consumption of more violent and sadomasochistic pornography or pornography depicting illegal acts like incest or pedophilia.¹⁵

Pornography Promotes Harmful Views about Sex

Habitual pornography users become less excited by the same type of images and often need more extreme images or narratives to continue to satisfy their desires.¹⁶ Pornography is now increasingly dominated by violent, degrading, and deviant themes.¹⁷ Empirical evidence demonstrates that pornography:

- generates greater acceptance of violence in sex and leniency towards rapists;¹⁸
- distorts perceptions about sexuality;¹⁹
- precipitates sexual callousness;²⁰ and
- causes many men to become aggressive and anti-social.²¹

This contributes to negative views and objectification of women.²² Pornography mainstreams sexual violence by making it both common and "consensual" and so changes the way men and women interact.²³ Researchers note that "increasing numbers

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of men are being found guilty of violence against women where pornography consumption was implicated. Literature linking pornography use to sexual offending, sexual aggression and abuse is now strong.²⁴ Nearly 24% of adult American women report feeling fear during intimacy due to porn-inspired choking.²⁵

Pornography teaches its consumers that people can be treated as objects or toys. While both sexes are objectified and dehumanized through pornography,²⁶ the degradation of women and girls in pornography is more prevalent. It is an affront to human dignity and a scourge on society.

Pornography and Sexual Exploitation

Pornography is closely linked to prostitution and sex trafficking.²⁷ The U.S. National Human Trafficking Hotline reports that at least 11% (and possibly many more) of sex trafficking cases are tied to the pornography industry, the highest of any industry or venue.²⁸

Minors made up 28% of sex trafficking victims. Women and girls made up 84%.²⁹ Advocates and survivors have shared stories of people around the world who have been exploited by the pornography industry. In some cases, women agreed to produce pornography, but the content went beyond what they were willing to do. In other cases, women were trafficked for the purpose of pornography.³⁰ Unlike prostitution or other forms of offline sexual exploitation, pornography is easily shared on profit-generating platforms, making it easier to profit from this form of sexual exploitation.³¹

Defend Dignity supports victims and survivors of sexual exploitation in Canada. Defend Dignity testifies that one third of the women it has served were shown pornography in order to groom them – to teach them what was expected of them as prostituted women and as women depicted in pornography.³²

Is there such a thing as ‘non-exploitative’ or even ‘empowering’ pornography? Some might point to OnlyFans, a social media site with over 130 million users and a burgeoning pornography platform.³³ OnlyFans allows users to subscribe to specific content creators for a subscription fee, of which OnlyFans keeps 20%.³⁴ OnlyFans is commonly used as a platform for distributing pornographic content, making it available only to paid subscribers. However, even a site that supposedly allows content creators to decide what to post and how much to charge for it creates risks of exploitation. Some content creators are trafficked and their accounts are controlled by their trafficker.³⁵ OnlyFans has also failed to prevent minors from creating accounts and appearing in explicit sexual content.³⁶

Harvard law professor Catharine MacKinnon calls OnlyFans a pimp, explaining, “OnlyFans has been to conventional pornography what stripping has been to prostitution: a gateway activity, sexual display with seeming insulation from skin-on-skin exploitation, temporary employment for those with their financial backs against the wall and few if any alternatives.”³⁷ Content creators on OnlyFans and similar fan-based pornography platforms remain susceptible to abuse and exploitation.

Canada's Empty Obscenity Laws

Canada's *Criminal Code* only mentions the word “pornography” in Section 163.1, where it defines child pornography. Section 163 regulates “obscenity” by making it an offence to fabricate, distribute, or possess for distribution obscene publications. That means that if pornography is not child pornography or not considered obscene, it is legal to make, buy, or sell.

The definition of obscenity is important. Section 163(8) of the *Criminal Code* states that “any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely, crime, horror, cruelty and violence, shall be deemed to be obscene.”

In its *R. v. Butler* ruling in 1992, the Supreme Court of Canada unanimously upheld the obscenity provisions in the *Criminal Code*. The Court concluded there is sufficient evidence that “exposure to images bears a causal relationship to changes in attitudes and beliefs.”³⁸ The Court also found “a sufficiently rational link between the criminal sanction, which demonstrates our community’s disapproval of the dissemination of materials which potentially victimize women and which restricts the negative influence which such materials have on changes in attitudes and behaviour, and the objective [of preventing such harm].”³⁹

In its 2005 *R. v. Labaye* decision (known as “the swingers’ club case”), the Supreme Court articulated a harms-based test for obscenity that still governs. Under this standard, the Crown must prove beyond

HARM-BASED TEST FOR INDECENCY

R. v. Labaye Supreme Court of Canada Decision

"[B]y its nature the conduct at issue causes harm or presents a significant risk of harm to individuals or society in a way that undermines or threatens to undermine a value reflected in and thus formally endorsed through the Constitution or similar fundamental laws by, for example:

confronting members of the public with conduct that significantly interferes with their autonomy and liberty; or

predisposing others to anti-social behaviour; or

physically or psychologically harming persons involved in the conduct."

Furthermore, "the harm or risk of harm is of a degree that is incompatible with the proper functioning of society."

a reasonable doubt that the conduct being prosecuted violates the standard set out in *Labaye* (reproduced in the sidebar).⁴⁰ Such a standard is difficult to meet. Even so, much of the violent and degrading pornography created and circulating in Canada should be prosecuted but is not.

Janine Benedet, a law professor at the University of B.C., calls Canada's obscenity law a 'paper tigress.' Benedet contends that "adult pornography that depicts or presents sexual violence against women is clearly not an enforcement priority for police in Canada today."⁴¹ The main reason for this is the astounding prevalence of pornography and its normalization of sexual violence. Benedet notes that violence against women seems to become invisible when it is sexualized.⁴²

Thankfully, Canada has recently improved its efforts to enforce the law against child pornography. Similar efforts should be made against obscene adult content, for the sake of exploited adults and children.⁴³ Consuming obscene adult content can even lead to consuming child pornography. As a former chief of the Child Exploitation division of the United States Department of Justice insists, enforcing obscenity laws in relation to content featuring adults would help to curb consumption of child pornography.⁴⁴

The Limits of Freedom of Expression

In *R. v. Butler*, the Supreme Court of Canada found that even obscene pornographic content is "expression" within the meaning of the *Charter of Rights and Freedoms*. Thus, section 163 of the *Criminal Code* prohibits certain types of "expressive activity" and therefore limits freedom of expression. However, the Court also found (under section 1 of the *Charter*) that the limit on free expression imposed by section 163 is reasonable and justified in a free and democratic society. The objective of Canada's obscenity law, the Court found, is not simply moral disapproval, but also to prevent harm to society. Justices L'Heureux-Dubé and Gonthier agreed with the majority decision:

"Obscene materials ... convey a distorted image of human sexuality, by making public and open elements of human nature which are usually hidden behind a veil of modesty

and privacy ... Not only are these materials often evidence of the commission of reprehensible actions in the making, but their representation conjures the possibility of behavioural influences [that] may lead to abuse and harm."⁴⁵

Catharine MacKinnon argues that "nothing else does what pornography does ... What pornography does, it does in the real world, not only in the mind."⁴⁶ Pornography publicizes actual sex acts, many of them degrading or violent. Creating pornography causes direct harm to the people involved. Consuming pornography changes consumers' perceptions and attitudes.⁴⁷ Through its creation and consumption, no matter the circumstances, pornography sexualizes and degrades people, especially women.⁴⁸

This report focuses on the most egregious harms caused by pornography, but a strong case can be made that pornography in all its forms is harmful to society. Pornography destroys relationships and marriages. A longitudinal study on marital stability in America found that pornography use doubled (for men) or tripled (for women) the likelihood of divorce.⁴⁹ Another study found that, "consistent with a social learning perspective on media, prior pornography consumption was correlated with more positive subsequent extramarital sex attitudes ... even after controlling for earlier extramarital sex attitudes and nine additional potential confounds."⁵⁰ Those with positive attitudes towards extramarital sex are also more likely to engage in it – one of the most commonly cited reasons for divorce.⁵¹ Affection and sexual intimacy decrease in relationships where one partner views pornography.⁵²

Pornography that does not feature violent content still reduces sexual intimacy to a product to be sold for profit and consumed for entertainment. This cheapening of sex hinders people's ability to form and maintain meaningful monogamous relationships, which are the foundation for a healthy society. Therefore, governments would be justified not only in prohibiting more degrading forms of pornography, but also enacting policies to restrict access to and curb consumption of all forms of pornography.

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Exposure to pornography harms the sexual and psycho-social development of children and youth.

Protecting Children and Youth from Pornography

Exposure to pornography harms the sexual and psycho-social development of children and youth. Several jurisdictions have taken significant steps towards preventing minors from having easy access to sexually explicit content online. In 2013, British Prime Minister David Cameron addressed the issue of online pornography, stating, “I feel profoundly as a politician, and as a father, that the time for action has come. This is, quite simply, about how we protect our children and their innocence.”⁵³ Plans to pass legislation were initially dropped in favour of regulation.⁵⁴ However, the U.K. recently took steps to improve protection of children and adults online through its Online Safety Bill (2023), which made social media companies more responsible for users’ safety, particularly pertaining to removing illegal content, and preventing children from accessing age-inappropriate content.⁵⁵ Further, the U.K. government recently launched an investigation into barriers to enforcement and gaps that allow exploitation to take place online.⁵⁶

Australia, too, has taken steps towards combatting online pornography in line with its parliamentary report entitled, “Protecting the age of innocence” (2020).⁵⁷ This report recognizes the need for age-verification processes and “a multifaceted approach that includes parental engagement and education ... to reduce negative effects of online pornography and other harmful content.”⁵⁸

The Australian government is considering ways to implement age-verification processes for accessing online pornography.⁵⁹

France’s Minister for Digital Affairs says, “2023 is the end of access to pornographic sites for our children.”⁶⁰ The government is planning to mandate age-verification through a digital certificate where users prove their age through a trusted third party and are provided with a token that confirms their age and can be used anonymously.⁶¹ Germany has also implemented age-verification measures, recently seeking to block access to Canadian pornography sites for failure to comply.⁶² Other European countries are also working towards implementing age-verification.⁶³

The Council of Europe recognizes the harm of childhood exposure to pornography and has recommended that member states support age verification tools.⁶⁴ The Council notes a variety of options for age-verification, but emphasizes that “enforcement must ‘have teeth’ and be very swiftly implemented.”⁶⁵ The report concludes by saying that combatting childhood exposure to pornography “needs to become a priority for society as a whole, with media acting responsibly, and with governments being held accountable for what they do to address this concern.”⁶⁶

Several U.S. states have implemented age verification, and still more have recently introduced age-verification legislation. Since Louisiana passed age-verification legislation in 2023, traffic to Pornhub dropped by 80 percent. In response to legislation in some states, Pornhub chose to stop operating in



those areas.⁶⁷ While age-verification measures are relatively new, early reports indicate some effectiveness in curbing online pornography consumption.

RECOMMENDATIONS

ARPA Canada believes that God created every human being in his image.⁶⁸ As such, every person possesses inherent and inalienable dignity. Pornography and sexual exploitation violate human dignity, harm vulnerable people, and reduce beautiful and unique persons to sexual objects.

A wide variety of Canadians from across the political spectrum recognize the harm caused by pornography – harms to those depicted in pornography, to consumers of pornography and their intimate partners, and to society. Canada has legislation prohibiting obscene material. Yet the lack of enforcement and the vagueness of the law permits all forms of pornography to proliferate. The following recommendations outline additional ways the Canadian government can tackle pornography.

Recommendation #1:

Federal and provincial governments should direct law enforcement agencies to strictly enforce Canada's obscenity prohibition in section 163 of the *Criminal Code* and to create special task forces to prosecute obscenity. Parliament should also amend section 163(8) of the *Criminal Code* to clarify the obscenity provisions so that violent and degrading pornography is clearly illegal to produce, distribute, and possess.

Recommendation #2:

Parliament should amend the *Criminal Code* to make it an offence to create or distribute pornographic material without first verifying the age and consent of those depicted. The onus of proof must be placed on the pornography creator and content host rather than those depicted in pornography.⁶⁹ Parliament should also set a higher age of consent for being depicted in pornography, given the profound impact this decision can

have on a person's life and the astounding reach and virtual permanence of digitized content.⁷⁰

Parliament should pass Bill C-270 or similar legislation. Introduced in 2022, Bill C-270, the *Stopping Internet Sexual Exploitation Act*, would prohibit creating pornography for a commercial purpose without verifying the age and consent of the people depicted.⁷¹ It would also make it an offence to not remove videos or images for which consent has been withdrawn. As of December 2023, this bill continues to await further debate in the House of Commons.

Recommendation #3:

Parliament must require websites hosting pornographic content to incorporate effective age-verification methods for viewers. The CRTC should be tasked with researching effective strategies to ensure pornography companies cannot capture Canadian children as consumers.

In 2021, Senator Julie Miville-Dechéne introduced Bill S-210 to prevent making sexually explicit material available to young people on the internet. As of December 2023, Bill S-210 had passed in the Senate and has not yet proceeded through the House of Commons. If passed, Bill S-210 would require pornography companies to verify the age of potential purchasers or users to limit access to pornography to those over 18 years of age. The bill recognizes that "the harmful effects of the increasing accessibility of sexually explicit material online for young persons are an important public health and public safety concern."⁷² The government should pass this bill or similar legislation and create robust enforcement mechanisms.

Recommendation #4:

Parliament should prohibit websites from allowing the downloading and re-uploading of pornographic content in a manner that erases the identity of the source material, thereby preventing authorities from accessing those accountable for the material.

Recommendation #5:

Governments should create public education campaigns about the harms caused by pornography and the means to protect individuals and families from that harm. Governments should also require pornography sites to display warning labels about the negative effects of pornography.⁷³

Recommendation #6:

Parliament's Standing Committee on Justice and Human Rights should examine the relationship between online pornography and human trafficking and between pornography and other sexual crimes.

The committee should also examine the technological means that exist or can be created to effectively restrict sexually exploitative activity online. Further, the committee should examine legal means for victims of sexual exploitation to have pornographic content removed from the internet.

Endnotes

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- ⁷¹ [Bill C-270](#) (44-1), *An Act to amend the Criminal Code (pornographic material)*.
- ⁷² [Bill S-210](#) (44-1), *An Act to restrict young persons' online access to sexually explicit material*, Preamble.
- ⁷³ For example, the State of Texas passed [House Bill 1181](#) in 2023, which requires pornography sites to incorporate health warnings on their sites. See also Kelsey Thompson, "[U.S. circuit court upholds Texas pornography age verification law](#)," *KXAN*, November 19, 2023.



We hope this report was helpful and informative.

We know that championing our policy recommendations will take courage, dedication, and hard work. We at ARPA Canada strongly believe that doing so would be consistent with God's calling for you in a position of civil authority (Romans 13), and for promoting the well-being of our neighbours, in line with Canada's constitution and legal history. We are grateful for your service and we remember you in our prayers.

RESPECTFULLY SUBMITTED

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