

# Proposed Amendment to Part 5 of CJA 2008

## POSSESSION OF PORNOGRAPHIC IMAGES OF RAPE AND ASSAULT BY PENETRATION [J8300]

### The Existing Law on Extreme Pornography (Sections 63-67 of the Criminal Justice and Immigration Act 2008 (CJA))

*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*

It is proposed for the legislation to be amended to include pornographic depictions of non-consensual sexual penetration of the vagina, anus or mouth. This amendment will thus cover pornographic depictions of rape.

## FREQUENTLY ASKED QUESTIONS

### 1. What do you mean by pornographic depictions of rape?

In our own research into the freely available content on 'rape porn' websites, we found many of the videos' themes to be endorsing and promoting various criminal acts including kidnapping, additional physical violence and child sexual abuse. Our research found video descriptions like 'young schoolgirls abducted and cruelly raped. Hear her screams.'; 'little schoolgirl raped by teacher' and 'little girls cruelly raped at home'; 'tiny girl sleep rape'. The websites hosting the content included words like brutal rape, real rape, savage rape, only rape, in their web address. In the top 50 Google results for "rape porn", 78% hosted content specifically about girls, under 18's particularly). Of the top ten Google search results for 'free porn', half the websites host free rape pornography. 100% of the top 50 rape porn sites we looked at were about the rape of women and girls (actually 78% were about girls, under 18's particularly). This is the eroticization of women's non consent.

### 2. Are you saying watching pornography depicting rape makes men go out and rape?

**No.** Attempting to construct such a relationship absolves perpetrators of violence of accountability and oversimplifies how individuals absorb and make sense of text and imagery and then act in accordance with multiple social and personal influences and pressures (Cameron & Frazer, 1992; Boyle, 2000). There is however an association between exposure to pornography and attitudes that support violence against women in

both experimental and non-experimental settings (Hald et al, 2010). Research with sex offenders similarly notes how pornography serves an important role in normalising abusive fantasies and behaviors (Wyre, 1992; Jensen, 1998; Mancini et al, 2012). Recent research on pornography, using a nationally representative sample from the US, found a correlation between higher levels of pornographic consumption and attitudes supporting sexual violence against women (Malamuth et al, 2011). Men who were at higher risk of sexual aggression were more likely to choose to view pornography.

### 3. Isn't this censoring people's private sexual fantasies because you don't like them?

**No.** This isn't a moral argument nor is the legislation based on distaste. Pornographic images of rape and other sexual violence glorify and sexualise violence against women. That the current law fails to encompass such images exemplifies society's failure to take sexual violence seriously, as seen in the continued prevalence of rape myths and the low conviction rate for rape. Legislative action against pornographic images of rape, and extreme pornography generally, is justified because of the 'cultural harm' of such material. The existence and use of extreme pornography contributes to the cultural context within which society fails to take sexual violence against women seriously ((McGlynn & Rackley, 2012). In addition the amendment does not censor private sexual fantasies, rather it legislates against the consumption of materials produced by the pornography industry. The amendment will include an expansion of the defense of consensual participation for images where the consumer was also a participant in the acts being recorded.

### 4. What about free speech?

The principles of free speech are not inviolable. Evidence of harm is sufficient grounds not to defend free speech. In addition corporate speech is not protected by the principles of free speech. This is about legislation to create the kind of society we want to live in, a world free from sexual violence, and also about regulating an industry. As a society we want to do everything we can to prevent rape, we owe it to everyone, male and female, who have ever experienced any form of sexual violence, to locate rape as a crime, not as a masturbatory aid. Rape pornography restricts sexual freedom. It creates as desirable a sexual life for men where they are seen as being violent, dominant and sexually aroused by the pain and humiliation of another human being. This is not sexual freedom, this is rape propaganda.

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