United Nations Special Rapporteur on Torture

REPORT: The Gender-Based Torture Found in the Pornography Industry

The National Center on Sexual Exploitation

By Haley Halverson, Director of Communications

Introduction

The National Center on Sexual Exploitation reports that the pornography industry—and for the purposes of this report specifically hardcore or obscene Internet pornography— intentionally causes severe physical and mental suffering to the women filmed or photographed, and that it should therefore be recognized as torture. The treatment experienced by mainstream female pornography performers is often identical to the treatment of women who are recognized as torture victims, with the one exception that a camera is present to record the abuse. We are asking that you consider pornography as a form of torture in the forthcoming thematic report on the gender perspectives of torture in order to facilitate a significant step toward the end of gender-based torture and violence.

Definition of Terms:

Torture is defined in Article 1 of *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* as the following:

> ...the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an

> official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.[1]

A Non-State Torturer is a broad term that covers a wide spectrum of actors. Most commonly, de facto regimes, armed opposition groups, and other groups close to the state are considered non-state actors. However, other actors such as multinational companies, familial relations, human traffickers, and other groups have been reported for human rights violations.

Victim is defined in paragraph 3 of The Committee against Torture General Comment No. 3 as the following:

> Victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute violations of the Convention. A person should be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted or convicted, and regardless of any familial or other relationship between the perpetrator and the victim. The term "victim" also includes affected immediate family or dependents of the victim as well as persons who have suffered harm in intervening to assist victims or to prevent victimization. The term "survivors" may, in some cases, be preferred by persons who have suffered harm. The Committee uses the legal term "victims" without prejudice to other terms which may be preferable in specific contexts.[2]

Pornography is a generic, not a legal term. As noted by the U.S. Supreme Court in the landmark 1973 obscenity case, Miller v. California, 413 U.S. 15, 20, n.2, the term "pornography" derives from the Greek (harlot, and *graphos*, writing). The word now means "1: a description of prostitutes or prostitution 2. a depiction (as in a writing or painting) of licentiousness or lewdness: a portrayal of erotic behavior designed to cause sexual excitement."[3]

---

[1] UN General Assembly, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment : resolution / adopted by the General Assembly., 10 December 1984, A/RES/39/46, available at: http://www.refworld.org/docid/3b00f2224.html [accessed 23 January 2016]

[2] Decisions of the Committee Against Torture under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (2005). International Journal of Refugee Law,17(2), 416-426. Retrieved from http://www2.ohchr.org/english/bodies/cat/docs/GC/CAT-C-GC-3_en.pdf

[3] Webster's Third New International Dictionary [Unabridged 1969]

The Culpability of States to Respond to the Non-State Torture in Pornography

The long tradition of international human rights law recognizes that States do not merely have the negative responsibility to refrain from imposing on human rights; this in and of itself would be an insufficient approach. Therefore, States also have a positive obligation to exercise "due diligence" to protect human rights against any actions by non-state actors. The decision in a case before the Inter-American Court of Human Rights reads as follows:

> "An illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention." [4]

In addition to this, the Committee Against Torture's, General Comment 2, Implementation of article 2 by States Parties, notes the practice of addressing circumstances "where State authorities or others […] know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish […]".[5] This inaction, according to General Comment 2, can become a "form of encouragement and/or de facto permission".[6] The intentional reference to due diligence opens the Committee to the examination of private violence, or torture, and the commensurate response.

Further, torture committed in a pervasive or systematic manner meets the definition of a crime against humanity so long as it is underpinned by an organizational policy,[7] whether or not the torture is conducted in the course of an armed conflict. The International Criminal Court Elements of Crime specify that "it is understood that 'policy to commit such attack' requires that the State or *organization* [italics added]

---

[4] Inter-American Court of Human Rights in *Velasquez Rodriguez v Honduras*, Judgment of 29 July 1988, Inter-Am. Ct. H.R, (Ser. C) No. 4 (1988)

[5] Committee Against Torture, General Comment 2, Implementation of article 2 by States Parties, U.N. Doc. CAT/C/GC/2/CRP. 1/Rev.4 (2007), https://www1.umn.edu/humanrts/cat/general_comments/cat-gencom2.html

[6] ibid.

[7] The organisational policy can be upheld by either state or non-state actors, as recognised by the ICTR in The Prosecutor v. Kayishema, ICTR-95-1 (21 May 1999) paras.125, 126.

actively promote or encourage such an attack against a civilian population."[8] Multiple organizations created for the purpose of creating and distributing pornography pervasively and systematically film the torture of women for profit.

The United Nations has a historic tradition of addressing pornography as exploitation to which the governments must respond.

The United Nations has long recognized that violence against women is often a manifestation of unequal power relations between the sexes. At the Fourth World Conference on Women, it was affirmed that "Images in the media of violence against women, in particular those that depict rape or sexual slavery as well as the use of women and girls as sex objects, including pornography, are factors contributing to the continued prevalence of such violence, adversely influencing the community at large, in particular children and young people."[9] The same conference stated that it is the responsibility of governments to take action to combat and eliminate all forms of violence against women, whether those acts are committed or tolerated by the State or by private persons.[10]

Further, at the International Conference on Population and Development in 1994, it was stated that, "Countries should take effective steps to address the neglect, as well as all types of exploitation and abuse, of children, adolescents and youth, such as abduction, rape and incest, pornography, trafficking, abandonment and prostitution."[11] Given the positions of previous United Nations documents, it is clear that pornography is a form of sexual exploitation that must be addressed by governments in order to foster a more equal and safe world.

Pornography's Status As Commercial-Based Classic Torture of Women

Physical, sexual, verbal, and psychological abuse are the hallmarks of pornography.

Unlike theatrical movies, where punches are faked and sexual penetration is merely implied, the pornography industry is built upon explicit and real violence. Women are not "acting" as though they are being punched, choked, spit on, electrically shocked, or violated sexually in a multitude of painful and degrading ways, they *are* actually experiencing these abuses.

---

[8] International Criminal Court, Elements of Crimes, Article 7, Introduction, 3.
[9] Fourth World Conference on Women, Beijing 1995. (1995). 118. Retrieved February 02, 2016, from http://www.un.org/womenwatch/daw/beijing/platform/violence.htm
[10] Fourth World Conference on Women, Beijing 1995. (1995). 224. Retrieved February 02, 2016, from http://www.un.org/womenwatch/daw/beijing/platform/violence.htm
[11] International Conference on Population and Development (ICPD). (1994). 5.9. Retrieved February 02, 2016, from http://www.un.org/popin/icpd2.htm

One former porn performer, Clayra Beau, explained the reality behind the facade of "acting" on a pornography set. She explained her ordeal of being gagged to the point of choking on the male performer's member, to the point that she was clawing and slapping at his legs. She was pulled up by her hair and smacked so hard she got a bloody nose.[12]

Clayra's experience is not an isolated incident. In a 2010 study, a team of researchers looked at the porn films that were bought and rented most often. From this group, they randomly selected and analyzed 50 of the films, which contained a sum of 304 scenes. 88% of these scenes contained physical violence, and 49% contained verbal aggression, and 94% of the time the violence and aggression was directed toward the woman. The typical scene averaged 12 physical or verbal attacks. [13]

While some pro-porn advocates claim that pornography is empowering for women, this argument is quickly nullified when the average content of pornography is examined in the stark light of day.

Professor and author, Dr. Gail Dines, has researched and synthesized the most common themes in mainstream Internet pornography:

- Vaginal, anal, and oral penetration of a woman by three or more men at the same time.
- Double anal in which a woman is penetrated anally by two men at the same time.
- Double vaginal in which a woman is penetrated vaginally by two men at the same time.
- Gagging in which a woman has a penis thrust so far down her throat, she gags (or in the more extreme cases, vomits).
- Ass-to-mouth in which a penis goes from a woman's anus to her mouth without washing.[14]

In addition to these common acts, one popular pornography producer, Max Hardcore, bragged in a 2005 interview about a number of moves he brought into the pornography mainstream. He stated, "I [*sic*] created the technique of cumming in a girl's ass, having her squeeze it out into a glass, and then chuck the load down… [I] developed many other unique maneuvers, most notably, vigorous throat fucking, creating gallons of throat slime over a girl's upside down face, and even causing them to puke. A little later, I started pissing down their throats several times during a scene, often causing them to vomit uncontrollably

[12] Pornstars. (2013). Retrieved January 24, 2016, from https://www.shelleylubben.com/pornstars

[13] Bridges, A. J., Wosnitzer, R., Scharrer, E., Chyng, S., and Liberman, R. (2010). Aggression and Sexual Behavior in Best Selling Pornography Videos: A Content Analysis Update. Violence Against Women 16, 10: 1065–1085.

[14] Gail Dines | So you think you know what porn is? | Gail Dines. (2009, September 10). Retrieved January 24, 2016, from http://gaildines.com/2009/09/so-you-think-you-know-what-porn-is/

while still reaming their throats."[15] These acts, and many others that are regularly featured in pornography, demonstrate not only physical and sexual harm but also severe mental dehumanization where women are rendered powerless.

One example of powerlessness in the face of sexualized torture on a porn set occurred during filming at Kink.com, a major porn company. The performer, Lily LaBeau, recounted how she expressly wrote a list of acts to which she would not consent, and yet she was continually pushed and pressured into a grey area of "consent". At one point, LeBeau had a foot thrust into her mouth during filming and was slapped so hard that it resulted in a case of lockjaw. "I'm still dealing with trauma from it. Even talking about it right now, little tears come to my eyes." LaBeau later stated, "Even to this day, certain people holding my head a certain way will bring up a lot of trauma and cause me to start crying."[16]

Max Hardcore, expressed his contempt for any boundaries in pornography in an interview where he said he liked to use "brand new girls" in his films because they haven't "learned the fatal word that you never want to hear on a set, and that is "no." No doesn't exist on a Max Hardcore set."[17]

During another filming, where LaBeau was "performing" as a sex slave, one male actor pulled out a cattle prod with full knowledge that it was on her "No List." LaBeau stated later that, "The cattle prod makes me go into complete panic. When you pull it out, I'm done, I'm scared, I'm crying, I can't think."[18] The male performer was eventually convinced to put the cattle prod away, but then returned with another device that used electric shock. "You know I don't like electricity, sir," LaBeau said at the time, but after being continually pressured, she "consented" to being shocked on her breasts and tongue during sex acts[19]

The psychological, along with the physical, harms of these scenarios reveal the way female porn performers are often terrorized into allegedly "consenting," even though one cannot rightly consent to torture in the first place. The plights of women in war-torn countries who are sexually abused, dehumanized, and verbally degraded are rightly recognized as torture. Yet, the same acts are occurring around the world to other women who are overlooked because they signed a contract and/or are

[15] "Interview with Legendary Adult Director Max Hardcore," *Foundry Music*, July 20, 2005, http://www.foundrymusic.com/bands/displayinterview.cfm?id=130. (accessed 2009).
[16] Clary-Flory, T. (2015, December 3). "Help Me": More Porn Performers Speak Out Against James Deen. Retrieved January 24, 2016, from http://www.vocativ.com/news/256579/james-deen-new-allegations/
[17] Slowdive626. (2011, October 27). Max Hardcore & Leyla Rivera Speak Out - Interesting Interview. Retrieved January 24, 2016, from https://www.youtube.com/watch?v=He7sBq5ScIk

[18] Ibid.
[19] Ibid.

being video-taped throughout their abuse. Because there is no valid consent to sexual exploitation, all of the acts in pornography ought to be considered torture.

The Porn Industry is Intentionally and Systematically Torturing Women for the Purpose of Degradation and Profit.

It does not require imagination to detect the motives of the porn industry, since the intention to perpetuate violent and humiliating acts has been literally expressed by many in the industry.

One former male porn actor turned producer, Bill Margold, explained why the degrading act of ejaculation on the face or body of a woman is so popular in porn. He stated, "I'd like to really show what I believe the men want to see: violence against women. I firmly believe that we serve a purpose by showing that. The most violent we can get is the cumshot in the face."[20] The introductory text for one easily accessible porn site stated: "We take gorgeous young bitches and do what every man would REALLY like to do. We make them gag till their makeup starts running, and then they get all other holes sore - vaginal, anal, double penetrations, anything brutal involving a cock and an orifice."[21]

Professor Robert Jensen said it well when he argued that pornographers "offer men sexual gymnastics and circus acts that are saturated with cruelty toward women; they sexualize the degradation of women."[22]

Dehumanizing language about women is an integral aspect of pornography's advertising. Titles like *Anally Ripped Whores, Teen Dirty Slut,*[23] *Horny Black Pussy,*[24] *White Sluts on Black Snakes*[25] are so common they are to be expected. Women are consistently referred to as whores, sluts, hoes, and far worse, across essentially all pornography platforms and companies. Women become an "other," an item to be used, abused, and broken for pleasure. This apparent strategy of dehumanization through the propaganda of vile name calling and name substitution within the industry at large is disturbing in its ubiquity.

Torture in the Porn Industry is a Global Problem

[20] Robert J. Stroller and I.S. Levine, *Coming Attractions: The Making of an X-Rated Video* (New Haven, CT: Yale University Press),quoted in Robert Jensen, *Getting Off: Pornography and the End of Masculinity* (Boston: South End, 2007), 69.
[21] http://www.gagmethenfuckme.com/index.htm?id=leonxm (accessed June 12, 2007).
[22] Robert Jensen, "The Cruel Boredom of Pornography," Last Exist, September 24, 2008, http://uts.cc.utexas.edu/~rjensen/freelance/boredom.htm

[23] Dines, G. (2010). *Pornland: How porn has hijacked our sexuality*. Pg xxi. Boston: Beacon Press.
[24] Dines, G. (2010). *Pornland: How porn has hijacked our sexuality*. Pg 126. Boston: Beacon Press
[25] Dines, G. (2010). *Pornland: How porn has hijacked our sexuality*. Pg 122. Boston: Beacon Press

Due to the advent of the Internet, the problem of pornography is not relegated to any one country. An individual in Africa can watch the torture of an American woman, while someone in Germany can be downloading the digital evidence of sexual abuse that occurred in the Middle East.

The world's largest pornographic website, Pornhub, released an annual review that revealed statistics on porn consumption by country. By percentage of traffic, the United States was the primary consumer of Pornhub's videos, followed by the U.K., India, Canada, Germany, France, Australia, Italy, Brazil, and Mexico.[26] The violent and sexualized torture that is inherently part of the nature of pornography must be recognized on a global level.

A Sample of Titles and Categories from the Pornography Industry:

The pervasive degrading and brutalized language used in pornography titles and categories across various producers and companies, in addition to the actual acts contained within the videos, crystalize the systematic exploitation of women in pornography.

- Turning the Tables: Device bondage, corporal punishment, extreme bastinado, flogging, caning, nipple clamps, squirting orgasms.[27]
- Annihilation of Elise Graves: Extreme caning, full body zipper, sybian orgasm, blindfolds, ass-fucking, pussy-fucking, bastinado, flogging, electrical shock.[28]
- Fragile Captive - a Device Bondage Feature. Hot slut gets tormented in devise bondage by sadistic capture.[29]
- Depraved Domination. Sensory deprivation, flogging, spanking, nipple clamps, pegs, breath control, fear-play, and made to cum.[30]
- Holding Her Down and Spanking Her Before Forcing Her to Have Sex[31]
- Brunette Slave Tied Gagged and Anal Trained[32]
- Busty German Slave Melanie Moons: Tongue Tied, Tit Torture and Rough[33]
- BBW, Amateur Slave, Extreme Needle, BDSM, and Caged Cattle Prod[34]

[26] Pornhub's 2015 Year in Review. (2016, January 6). Retrieved January 24, 2016, from http://www.pornhub.com/insights/pornhub-2015-year-in-review
[27] http://kink.com
[28] http://kink.com
[29] http://kink.com
[30] http://kink.com
[31] http://pornhub.com
[32] http://pornhub.com
[33] http://pornhub.com

Entire categories worth of videos fall under the categories of Gagging, Gaping, and Puking on some pornographic websites.[35] Unfortunately, it is possible to find titles and categories like the above on virtually any major pornography website, to the point of banality.

Personal Accounts: Victims of the Pornography Industry

According to the definition of victim found in Comment No. 3 of the Committee against Torture[36], it is clear that women who have experienced pornography are true victims of physical, mental, and emotional harm.

Rachel's Story:

I got a job with "Facial Abuse". The producer told me everything would be fine, and that it would just be like rough sex. They might want me to vomit a little, but it would be easy money. When I was finished with the scene, my throat was bleeding, I had bruises all over my body, my vagina was torn in two places, and I ended up with pink eye. I felt so weak, used, and honestly I felt like I had been raped all over again. I swore I would never do porn again.

Corina's Story:

When I arrived to the set I expected to do a vaginal girl boy scene. But during the scene with male porn star Eric Everhard, he forced himself anally into me and would not stop. I yelled at him to stop and screamed no over and over but he would not stop. The pain became too much and I was in shock and my body went limp. I couldn't fight him off anymore.

Victoria's Story:

I had been working as a stripper when Ted approached some of us about doing porn. I would get paid more and was promised that I wouldn't have to do anything that I didn't want to do. They had me fill out a paper listing things that I was not comfortable with. Top of my list was that I didn't want to have sex with more than one man during the shoot. When I arrived on the set of my first shoot, after being given drugs and alcohol by my Ted to celebrate my first film, I found that I was the only woman in a group of many men. They told me that I would have to have sex with all

[34] http://pornhub.com
[35] http://max-hardcore.com
[36] Decisions of the Committee against Torture under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (2005). International Journal of Refugee Law,17(2), 416-426. Retrieved from http://www2.ohchr.org/english/bodies/cat/docs/GC/CAT-C-GC-3_en.pdf

of them – when I refused, they told me I was in breach of my contract and that they would take legal action against me. After the 3rd man, I insisted I couldn't go any further, I was then gang-raped and told nobody would ever believe me.

Jersey's Story:

[The porn industry] treat[s] you as though we are just a piece of meat...Guys punching you in the face. You have semen from many guys all over your face, in your eyes. You get ripped. Your insides can come out of you. It's never ending. You're viewed as an object and not as a human with a spirit. People don't care. People do drugs because they can't deal with the way they are being treated.

Elizabeth's Story:

You have to submit to others (producers, agents, etc.) no matter how important you think you are, you're not in control… Having men do disgusting things to me and even if it hurt, I had to make it seem like I was enjoying every minute of it. I hated it.

Genevieve's Story:

The abuse and degradation was rough. I sweated and was in deep pain. On top of the horrifying experience, my whole body ached, and I was irritable the whole day. The director didn't really care how I felt; he only wanted to finish the video. I thought my agents were there for me, but in actuality, they didn't care about me at all. After I said I wasn't going to do anything anymore, they began to threaten me and make me feel like I was just a money making machine. Every time I made a video they would get 15% of my money.[37]

Conclusion:

It is clear that the plight of those victimized by pornography must be addressed and denounced on the basis of the gender-based torture that characterizes the industry. Producers and companies systematically and intentionally cause severe physical and mental suffering to women in order to profit and to degrade the female gender. The National Center on Sexual Exploitation offers itself as a resource for any

[37] Stories from http://stoptraffickingdemand.com/.

statements on these facts in the United Nations Special Rapporteur on Torture's forthcoming thematic report on gender perspectives on torture, and for any work that seeks to address the harms of pornography.

About the National Center on Sexual Exploitation

Founded in 1962, the National Center on Sexual Exploitation (NCOSE) is the leading U.S. national organization addressing the public health crisis of pornography and exposing the links between all forms of sexual exploitation. As a 501(c)3 non-profit, NCOSE embraces a mission to defend human dignity and to advocate for the universal right of sexual justice, which is freedom from sexual exploitation, objectification, and violence.