

Anti-Pornography Act (2012) and the Current Behavior, Knowledge Status and Opinion Poll: A Study on the Students of University of Dhaka

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Abstract

Anti-pornography act(2012) has been enacted by the government of Bangladesh to make a restriction in the sharing and making pornography by the individuals as it brings a devastated result not only for the individual involved in it but also for the greater society. The present study aims to reveal the current behavioral practices regarding pornography, Knowledge status and attitude towards anti-pornography among the educated youth of University of Dhaka. Durkheim's attitudes towards law represented in different stages of society have been used in this study to make a rational of the law enacted by the government of Bangladesh. The reviewed literatures were taken from different regions of the world regarding the pornography law enacted by the respective countries. Information was collected using structured questionnaire from the samples selected through cluster sampling methods in the residential halls of university of Dhaka. Present study reveals 57% of the respondents agree that currently they are possessing pornography; 57% of the respondents know about Anti Pornography Law; 36%, students contend Anti Pornography Law as good. Among them 46% contend that the impact of Anti Pornography Law on society will be good and About 79% students agree to oblige the Anti Pornography Law, whereas 61% of the respondents state that they will inform the authority whenever the violation of the law taken place. However, it can be said that there is always a controversy regarding the law enacted by the authority but it is always enacted for the greater good of the society.

Introduction

Anti-pornography law is enacted by the government of Bangladesh to protect the youth from the curse of moral degradation. In this study, it is actually attempted to view the law from a theoretical vantage point on the pornography law in Bangladesh. The theory of Emile Durkheim on Social Facts has picked to prove anti-pornography law as a social fact. To do this, at first it is focused on the characteristics of social facts and forms of solidarity as postulated by Durkheim and matched them with the definition, nature and measures of anti-pornography law in the context of Bangladesh. Thus in the theoretical part of this research paper, the law has been explained as a social fact after Durkheim's theory. In addition, we have elucidated our research methodology, analyzed collected data, interpreted our findings, and included our systematic discussion. Our empirical work incorporated perception, knowledge and attitude of the young students of the University of Dhaka towards pornography and anti-pornography law in Bangladesh. After the law was passed in the parliament, there was no empirical work on this and it is a new phenomenon that requires proper attention from the academicians and researchers in context of Bangladesh.

Objectives and research questions

The main aim of this research is to find out the current behavior pattern regarding pornography with respect to possession, sharing, offering and capturing obscene. Furthermore, this study aims at revealing students' status of knowledge and opinion on the topic of Anti-Pornography Law, enacted in the parliament in the year 2012.

The research questions regarding this study are as follows -

- a) How the students of the University of Dhaka are exposed to pornography or obscene?
- b) What is the current knowledge status of the students regarding anti-pornography act?
- c) What are the student's attitudes towards anti-pornography act?

Study Variables

The study variables includes anti-Pornography act as **independent variable**, and opinion and knowledge towards Anti-Pornography Law as **dependent variable**.

Methodology and Research Design

In this research, quantitative research methodology is used to find out the knowledge and perception towards anti pornography act among the students of University of Dhaka. Survey method has been used to collect data and Statistical package for Social Science (SPSS), version 16.00 is applied on data entry, coding and analysis. Here

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researchers have used Cluster sampling to conduct this study. The study used four steps of cluster sampling method to draw the perfect sample design. In step one, researchers have selected 5 residential halls of Dhaka University out of 21. Then, each hall was divided into 3 blocks by the following way, 1st floor as block-1, second and third floor as block-2, and fourth and fifth floor as block-3. In the third step, four rooms have been randomly selected. In the last step, one member has been selected randomly from those four rooms in each block. The sample of 232 students of graduation programs of the University of Dhaka including both male and female sex has been taken for the collection of data. The study has been conducted encompassing the 14 Resident halls of University of Dhaka. After the formulation of questionnaire, we conducted a pre-test in some dormitories of Bangladesh University of Engineering and Technology (BUET). Finally, data collection has been carried out on 15 working days on the pre-selected areas. The respondents were given an enveloped questionnaire to maintain confidentiality and each respondent was given a day to fill up the questionnaire. The name and address of respondents were not included in the questionnaire.

The Anti-Pornography Act: Worldwide Scenario

Throughout the world, anti-pornography act has been enacted by the individual states to take control over the making, sharing, offering and capturing pornography. In the case of United Kingdom, The possession of pornographic images for private use has never been an offence. Adult pornography that falls under the Government's classification of "extreme pornography" is illegal to possess as of January 26, 2009, carrying a three-year prison sentence (BBC'2015). The situation of pornography act in Hong Kong is that, Pursuant to the Control of Obscene and Indecent Articles Ordinance (Cap 390), it is an offence to publish an obscene article. Publication covers distribution, circulation, selling, hiring, giving, or lending the obscene article. The definition of article includes "anything consisting of or containing material to be read or looked at or both read and looked at, any sound recording, and any film, video-tape, disc or other record of a picture or pictures." The article will be considered obscene if, by reason of its obscenity, "it is not suitable to be published by any person." The penalty for this offence is up to three years imprisonment and a fine of up to HK\$1,000,000 (Gabriela Kennedy, Karen H. F. Lee ;2012) The Bill against Pornography and Porno-Action was a bill proposed by the Indonesian legislative assembly, Dewan Perwakilan Rakyat on February 14, 2006. The 2005-06 bill attracted extensive opposition and was dropped, only to be reintroduced in 2008 as the Bill on Pornography. The bill states that anyone engaging in pornography and porno action is punishable by law, porno action being a self-invented word that means, "actions deemed indecent." Violators face up to 12 years in prison and hefty fines. The bill was passed into an Act on 30 October 2008 as Law No. 44 of 2008 on Pornography. In the case of India, legislations regarding pornographies are: The Indian Penal Code, 1860 ('IPC') and The Information Technology Act, 2000 ('IT Act'). These legislations explain 'obscenity' to mean anything which is lascivious or appeals to the prurient interest or if its effect is to deprave and corrupt persons.

In Australia, the maximum penalty is 10 years jail and/or a \$120,000 fine. People have been successfully prosecuted after describing acts of abuse via SMS. Operation Auxin in September 2004 led to the arrest of almost 200 people on charges of child pornography, and "sting" operations are common (*AFP 17.07.2007*). The law against simple possession of child pornography in Canada was declared void in British Columbia by a 1998 provincial court ruling but the Canadian Supreme Court overturned this decision two years later. The high court further concluded that a "person" under the law could be either real or fictional and that the prohibition of written texts was potentially acceptable (*Anime News Network June 23, 2008*). Child pornography is statutorily criminalized in the Portuguese Criminal Code (Código Penal Português). The age of sexual content in Portugal is, in principle, 16 years of age. The participation of underage persons in pornographic scenes is subject to stricter standards however because they are subject to the general regime of adulthood, which was set by the Civil Code at the age of 18. Federal Sentencing Guidelines regarding child pornography differentiate between production, distribution and purchasing/receiving, and also include variations in severity based on the age of the child involved in the materials, with significant increases in penalties when the offense involves a prepubescent child or a child under the age of 12 (*United States Sentencing Commission: June 1996*). Child pornography is illegal in Japan since the establishment of the Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children in 1999 (*Ankush;2004*). The Philippines passed Republic Act No. 9775 named "Anti Child Pornography Act" in November 2009. The Act outlaws the production, creation, distribution and possession of child pornography. It also places obligations on mall operators and owners of commercial property to ensure that violations of child pornography are not being committed on their premises.

Pornography Control Law 2012 as a Social Fact:

The Bangladesh government has approved a rigid new anti-pornography law. It is believed to be Bangladesh's first law specifically controlling the spread of pornography. Parliament has passed the Pornography Control Bill-2011 into law on February 28, 2012. The law bans production, preservation, transportation and marketing of any kind of pornographic materials. Home minister Shahara Khatun on Jan. 29 placed the bill, aimed at curbing degradation of moral and social values, proposing strong punishment for the offenders. The bill was passed after

deputy speaker Shawkat Ali had put it to voice vote.

As per the bill, such crimes will be handled under Criminal Procedure Code and the offenders could be taken under a special court or tribunal. Earlier, the cabinet approved the "Pornography Control Act-2011" on Jan 2, 2012. On placing of the bill in parliament, it was sent to the parliamentary standing committee of the home ministry to report back within three weeks after scrutiny.

Aim of Pornography Control Law 2012:

Pornography Control Law 2012 was going to be formulated to prevent the youth from moral degradation. The Pornography Control Law-2012 is to be enacted upon those who produce pornography using a child, man or women, taking their still pictures, video or film with or without their consent and print, distribute and publish such materials or sell, supply or exhibit child pornography. The proposed act bans storing and marketing pornographic material. The highest sentence will be 7 to 10 year-imprisonment and the highest fine will be BDT. 500,000. Pornography had spilled over the society like a contagious disease through satellite and mobile phone technologies. The move seems to have come about after a string of sex tape scandals involving female celebrities in the country. Victims alleged their videos were doctored or filmed secretly to tarnish their reputation. The crime could not be controlled since there was no specific law on this. Therefore, however, the government is going to formulate the law to eradicate the menace.

Law as a social fact:

Law is an exemplary social fact. Social facts are characterized by their ability to resist change. They have a coercive quality and their violation is met with some type of sanction or at least some type of resistance.

To Durkheim-

'law is also a "visible symbol", an "external" index that reflects the nature of social solidarity. Since many sociological phenomena and a person's state of mind are inaccessible to an outsider, the best way to study society, according to Durkheim, by studying law, which is the "objective" indicator of solidarity.'(Ref)

Pornography Control Law (2012) as a Social Fact:

The visibility, externality, coercive quality, measures of sanction and reflection of solidarity of 'Pornography Control Law 2012' can be regarded as a social fact. According to the law, pornography means any vulgar dialogue, acting, body gesture, nude or half-nude dance which creates sexual urge and that could be contained in film, video, audiovisual film, still picture, graphics or in any other means that has no artistic or educational value. The definition of pornography also covers sex stimulating obscene books, periodicals, sculptures, imaginary structures, cartoons or leaflets. The law will not be applicable to books, writings, drawings or pictures reserved or used for religious purposes. According to the law, a police sub-inspector or officer of same status will investigate any offence falling under the law and complete his investigation within 30 working days. If the investigation cannot be completed within this time on valid grounds, additional 15 working days will be extended with the permission of the superintendent of police or officer of the same status and on approval from the court.

According to the law, if a person tries to blackmail anyone or damages anyone's social or individual reputation through pornography, the offender will be sentenced to maximum five years' rigorous imprisonment and fined BDT. 200,000.

Durkheim's forms of Solidarity:

To examine 'Pornography Control Law 2012' as a restitutive law, it is needed to understand at first the preliminary ideas about the forms of solidarity proposed by Durkheim. Durkheim talks about two forms of solidarity produced in the society. They are namely Mechanical solidarity (Primitive form) and thereby repressive law is a primitive form of law; Organic solidarity (Higher form) and restitutive law is a higher form of law existing in the higher level of societies. Therefore, Pornography Control act of 2012 in Bangladesh resembles restitutive law. According to Milovanovic (2003),

"repressive law is characterized by punishment, by suffering, by some loss applied to the individual. This loss could include liberty, life, honor or fortune.(ref)

It is characterized by mechanical solidarity, which was found in primitive society and it is rooted in conscience collective. It is punitive that incorporated loss of the offender

Pornography Control Law (2012) as a restitutive law:

Now we will move on to discuss the characteristics of restitutive law and their implications to the 'Pornography Control Law' to justify it as a social fact. Restitutive law is characterized by organic solidarity that is found in advanced and highly specialized society. 'Pornography Control Law' is a special type of legislation of the modern society influenced by the mechanisms of globalization. Restitutive law can be characterized as 'the return of things as they were, in the re-establishment of troubled reactions to their normal state...' (1964b:69). Therefore, restitutive law is non-punitive which focuses on the system to return to the previous state. Pornography Control Law is characterized by punishment devoid of any loss of the individual unlike the repressive law to bring about a normal state. According to Pornography Control Law 2012', crimes with

pornography will be handled under Criminal Procedure Code and the offenders could be tried in a special court or tribunal. Legislators codify restitutive laws. They must be concerned about the entailment of the obligations of these laws. The ‘*Pornography Control Law 2012*’ was passed by the parliament which bans making or selling of any kind of *pornographic material* with the entailment of obligations. The two major obligatory punishments are—Offenders are jailed for up to 10 years and those found guilty could also be fined up to \$6,000 (£3877). Restitutive laws require a central state and formal machinery for law making and law enforcement. The formal machinery of making ‘*Pornography Control Law 2012*’ is the parliamentary sanction of a criminal procedure code. The formal machinery to enforce the law empowers a police sub-inspector or officer of same status to investigate any offence falling under the law within 30 working days or the superintendent of police or officer of the same status and on approval from the court with additional 15 working days if the first investigation fails its target. ‘*Pornography Control Law 2012*’ sanctions punishment against the violation of moral values of the society.

Anti pornography act and attitudes of students towards the law:

Socio-demographic status of the respondents:

The study shows that the average age of the students is 23. Among the respondents, 45% of them are female and the rest 55% is male. About 64% of the respondents completed their primary schooling in the rural areas, whereas 36% respondents have their primary schooling in the urban areas. In this study, 77% of the respondents are muslim, 19% are of Hinduism, 2% from Christianity and the rest of the 2% are from other religions. Among the respondents, 38% are now studying in 4th year and another 32% are now in 3rd year, 21% of them are in 2nd year and the rest of them are in 1st year.

Possession and distribution of pornography

It has been evident that 57% of the respondents agree that currently they are possessing pornography. On the other hand, 43% contends that they do not have any sort of pornography right now. The research reveals that 36% respondents receive pornography or obscene from their friends. 14% of the respondents collect pornography from multiple sources. However, the noticeable fact is that 34% of the respondents did not answer that question or they skip that question. 16% of the respondents collect pornography in form of mobile phone, 23.25% gather these from multiple sources. The survey shows that 41% students offer pornography to others. But 33% of the respondents reject to offer these to anyone. It is viewed that, 25% of the respondents offer pornography to their friends, 5.4% offer these to someone else. The key thing is that 3.6% of the respondents agree that they offer these to their boy or girl friend. The study finds that 45% of the respondents share pornography with someone. The research contends that both 13% of the respondents share the pornography through pen drive and Bluetooth. Only 2% of the respondents share these by hands. Interestingly, only 2% of the students capture image or produce obscene of someone’s without the concern of the person.

Anti-Pornography Act; status of knowledge

The study reveals that 57% of the respondents know about Anti Pornography Law. About 39% students opine Anti Pornography Law as not adequate whereas, 25% students prefer law with adequacy.

Establishment of Anti Pornography Law

Among the respondents 36%, students contend Anti Pornography Law as good while 14% indicated this law as bad. About 30% respondents provide their view that the implementation of the law will be good. Another 22% think that the implementation of this will be regarded as bad.

Anti-Pornography Law; impact on the society

The study shows that on the opinion of the respondents the impact of Anti Pornography Law on society will be good in 46% of the cases and 18% of the cases its impact on the society will be bad. It is also seen that About 79% students agree to oblige the Anti Pornography Law.

Informing to authority against the violation of Law and the role of individual:

It is highly appreciated that almost 61% of the respondents state that they will inform the authority whenever the violation of the law taken place. Another 64.3% of the respondents opine that the role of individual will be discouraged whereas only 7% opined the encouraging role of the individuals regarding Anti Pornography Law.

Discussion

In this part of the paper, researchers have attempted to establish Pornography Control Law 2012 as a social fact. Researchers aim at to establish this as a social fact in the ways mentioned in the theoretical part. According to the law, pornography means any vulgar dialogue, acting, body gesture, nude or half-nude dance which creates sexual urge and that could be contained in film, video, audiovisual film, still picture, graphics or in any other means that has no artistic or educational value. The definition of pornography also covers sex stimulating obscene books, periodicals, sculptures, imaginary structures, cartoons or leaflets. Here, the study has found that 57% students currently studying in graduation programs of University of Dhaka possess Pornography according to the definition of the law. From the table of correlation it has been revealed that there is a positively weak correlation between primary year of schooling and possession of pornography that is .26 in Pearson’s r

Coefficient of Correlation at the level of Significance $\alpha=0.05$. A positively strong correlation exists between having pornography and sharing these to others ($r=0.89$; $\alpha=0.01$).

Modern society and Pornography Control Law

Durkheim views that organic solidarity has its existence in modern society. 16% students gather pornography through using mobile phone. 10% of the respondents collect pornography from computer and laptop. Again 24% of the respondents share pornography through using Bluetooth and pen drive. There a strong positive correlation exists between having pornography and forms of collecting those pornography whose most of the amenities are the inventions of modern society ($r=0.97$; $\alpha=0.01$).

Individualism: Durkheim contends, in organic solidarity there is a widely prevalence of individualism. 36% of the respondent reveals that establishment of Anti Pornography Law 2012 is bad for the society. 9% of the students opine very bad and other 18% view bad in the opinion to the impact.

Weak conscience collective

Durkheim contends conscience collective is weakening in organic solidarity. About 39% of the students think that the Law is not adequate. Another 25% respondent's state that they will not inform to the authority if they noticed anyone to violate the Law.

Lack of degree of freedom and Pornography Control Law

Organic solidarity is characterized by lack of degree of freedom in form of punishment instead of exile or banishment of mechanical solidarity. He argues, Restitutive law can be characterized as 'the return of things as they were, in the re-establishment of troubled reactions to their normal state...' (1964b:69). In Anti Pornography Law 2012 the highest sentence will be 7 to 10 year-imprisonment and the highest fine will be Tk. 500,000.

Pornography Control Law 2012 as a Social Fact

The research reveals that 79% of the respondents will follow this Law as it is "any way of acting, thinking and feeling external to individual and endowed with power of coercion, by reason of which they control him" (Jackson 2003:6).

Concluding remarks

Anti-pornography law is a form of restitutive law, a symbol of organic solidarity. Since forms of solidarity is a major indicator of social fact. Pornography Control law, as an organic form is a social fact. Following this theoretical framework the study reveals that most of the respondent is aware of pornography. However, a large proportion of the students do not know about the law that has recently been passed by the People's Republic of Bangladesh. It is evident that the female respondents are mostly reluctant to express their attitude and knowledge on the fact. Those who know the law are agreed to follow the law and willing to inform the concern authority about the violation of the law.

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