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# South Asia

Feb 5, 2005

## India at war with Internet porn

By Siddharth Srivastava

NEW DELHI - It is a sad commentary that the Internet, the platform on which so much business (including software) and communication is being conducted with the rest of the world, has turned into a dirty word in India. The country is at war with Internet pornography, except that many authorities do not know how to wage it.

In Uttar Pradesh, the state police have been raiding Internet cafes, hauling up young boys and girls and throwing them in jail. The police hold that the small cubicles at the cafes, with lock-in facilities, are being used by boys and girls to indulge in sexual acts and access pornographic material. Such raids have been happening across India's biggest state, in the capital Lucknow, in Agra (the city of the Taj Mahal), as well as in smaller towns such as Etawah. This is not to deny that cyber-cafes are not being used for such practices, but it is the brazenness of the police that has come in for criticism.

Predictably, there are innocents who are also caught, with one girl saying that she was surfing for information about admissions to a university when the police arrested her. "They don't have any idea about the Internet," she said. "They don't know that it can be put to such useful purposes." Another girl said: "I was typing my resume, which I had to submit to my school, when a policeman walked in and said I was watching porn. They called up the media, who clicked our photos as if we were criminals. No policeman listened to our pleas."

Unlike in the cities, computer penetration in Indian towns is less than 12%, because of which cyber-cafes have done brisk business over the past few years and are far more popular than they are in the West, where people generally prefer to surf from the comfort of their homes or offices. A senior police officer who led the raids has been quoted as saying: "Besides watching porn websites, couples also had sex inside the small cabins of these cafes. The cabins have high walls and can be bolted from inside. Also, the entire first floor of these cafes was only meant for couples, with single girls or boys not allowed there. We found condoms strewn all over an empty plot [of land] near the cafes."

Viewing pornography in the privacy of one's home doesn't come under the ambit of the law, but to do so in a cafe, which is legally defined as "public space", is illegal. Using the same clause of public indecency, the police as well as politicians (heading what are known as "culture brigades") in the past have swooped down on couples in parks, buses, trains and movie halls, more with the intention of harassing to make a fast buck or gain political mileage, rather than over any fault of the boy and girl, who in many cases may not be doing any of the stuff they are hauled up for. The Internet has opened a new vista. Indeed, India is at a

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## GLSEN

crossroads on how to handle porn uploaded on servers located anywhere in the world that can be accessed by young, impressionable minds. The police in Uttar Pradesh are just one brutal ramification of an issue that requires more sensitive handling and which many parents are deeply worried about.

In keeping with the fear of technology polluting young minds, this week the Delhi government banned mobile phones from all schools run and aided by it and advised private schools to follow the example. This was in response to the case of the widely circulated sexually explicit video clip of two students of a prominent private school shot on a mobile phone. The MMS case (referring to multimedia messaging service, the mobile technology used to transmit the clip) was being auctioned on popular website eBay-baazee.com and recording brisk sales. A country head of the website and a student of the prestigious Indian Institute of Technology who had posted the clip for sale on the site had been arrested in this connection. According to Section 67 of the Information Technology Act, transmission of obscene material through electronic media can invite a jail term of up to five years, though the arrest of the India head of eBay has been compared to jailing the minister (rail, for instance) for an accident that can happen anywhere in the country (see [India's porn police bring their quarry to eBay](#), December 22, '04).

In the state of Maharashtra a special committee set up by the Mumbai High Court has recommended that it should be made obligatory for proprietors of cyber-cafes to protect young people and minors from "unsuitable Internet material" and cyber-stalkers, with several cases of pedophilia having been reported in Mumbai, the state capital. The committee wants a mandatory record of photo-identity cards, personal details, logs of all the sites the users have visited, and wants to restrict minors to machines that do not have cubicles. "This will prevent easy access of pornography to minors and help police trace those who e-mail inappropriate material to minors from cafes," said one committee member, Gautam Patel. It is believed that once this statute is in place, other states are likely to follow.

The recommendation has angered many cafe owners, who say the *diktat* would be expensive to implement and detrimental to business. One cafe owner in an upscale area in Mumbai said, "about 50% of my customers come to access pornography." Another said: "Visiting a cafe is an impulsive decision. What if you don't have an identity card on you? I lose a customer? And maintaining IP [Internet protocol] logs is a drain on my resources. I have to invest a lot of time, or buy software that will do the job. Keeping track of the sites a user has visited is the same as monitoring his activities, which will put him off. Also, I have to invest in tearing off the cubicles to accommodate special seats for minors. The whole thing is very unfair."

According to cyber-law expert Pawan Duggal, the Information Technology Act 2000 lacks the necessary teeth to deal with the growing number of cyber-crimes. "I believe that 2005 is going to be the year of broadband in India. We will see a rise in broadband services and connectivity, just like the cable-TV industry boomed in the earlier '90s," Duggal said. "However, there might be some major legal challenges in this area too," he added. "The law needs to specify and amend its position on liability and culpability issues relating to content, violation of intellectual property rights, etc, in the converged broadband environment."

The Indian government has set up a panel to review the IT Act and also study the culpability of cyber-cafes in allowing access to pornography, as well as the liability on a website for promoting such material. The panel will also study appropriate legislation for data protection and privacy to protect the country's software and data-processing industry, and provisions to enhance information

and communication technology, e-commerce and e-governance, and regulate cyber-crimes and forensics.

Until the new framework is in place, nobody can justify masses of young people being bundled into cramped police stations for surfing the 'Net, even if there are some who indulge in other stuff.

***Siddharth Srivastava is a New Delhi-based journalist.***

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