

March 11th, 2021

GLOBAL SOUTH & MIGRANT WOMEN BRIEF

On the Case:

Protection of Privacy and Reputation on Platforms such as Pornhub

<https://www.ourcommons.ca/Committees/en/ETHI/StudyActivity?studyActivityId=11088039>

Standing Committee on Access to Information, Privacy and Ethics (ETHI)

House of Commons

Parliament of Canada

Members of Parliament of Canada,

We are advocates, activists, survivors of prostitution and trafficking for sexual exploitation located in the “Global South” countries of the planet. We also represent displaced, migrant, dispossessed and trafficked women who live in the “Global North”.

We thank Serena Fleites for her brave, generous and courageous testimony as a survivor of sexual exploitation against the largest pornography company in the world. She is not alone. On the contrary, she speaks for the millions of vulnerable women and girls who are abused, exploited, or destroyed by the sex industry on a daily basis. These women’s voices are silenced in part because they do not speak the language nor do they have the means or the community support to sue MindGeek.

We congratulate members of the Parliament of Canada for investigating MindGeek and urge you to bring to light a better understanding of this elusive criminal enterprise, while you at the same time find structural solutions in line with Canada’s longstanding commitment to women’s rights and international human rights law¹.

I. MindGeek normalizes violence against women and girls

Far from “celebrating freedom of expression, empowering adults, valuing privacy and working for safety and security”, MindGeek’s Pornhub has used the camouflage “adult entertainment” to normalize and promote male domination of women, coercive control of women by men, to enforce patriarchal gender roles. MindGeek promotes the idea that men are entitled to buy women for sexual exploitation. MindGeek has acquiesced with crimes against women, girls, and

¹ Canada ratified conventions such as 1979 *UN Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW)* and the 2000 *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, and approved demand based laws on sexual exploitation such as Bill C-36, *the Protection of Communities and Exploited Persons Act* https://www.justice.gc.ca/eng/rp-pr/other-autre/c36fs_fi/

boys, including sexual harassment, sexual assault, rape, torture, and trafficking for sexual exploitation.

MindGeek's actions have promoted and maintained the criminal content of pimped or trafficked children via its practices of: search engine optimization, tags, texts, comment sections, uploads of alleged "verified users, individual content creators and third party streamers", algorithms, download functions, remixes, anonymity protections for pornography viewers, prostitution viewers, sex buyers, and uploaders as well as the company's insistence on human moderation of each video uploaded on their platforms. These actions have ultimately caused exploitation in prostitution, mental and physical illness including posttraumatic disorder, suicide attempts, disappearances, and murders of women (femicide).

Human rights laws² acknowledge that trafficking for the purpose of prostitution is a grave human rights violation, as is sex-based discrimination, violence against women and girls and trafficking itself. These human rights laws recognize what survivors, feminists, researchers, activists and human rights defenders have documented and denounced for decades. Research evidence such as that presented in the brief by Melissa Farley and Meghan Donovan, are key to evaluating the harms of MindGeek's pornography regardless of age, on both consenting as well as non-consenting persons.

II. Pornography as a goal of trafficking

International law regarding trafficking has focused on the criminal conduct of perpetrators and pornography has been defined as a form of sexual exploitation in some of these statutes.³ More importantly, *consent was declared to be irrelevant* in the Palermo Protocol, which recognized the abuse of power and conditions of vulnerability of victims. No child and no adult woman should find it necessary to consent to her own sexual exploitation in order to survive, since dignity is the basis of all human rights.

MindGeek profits from a business model in which it blames others while failing to hold itself accountable for distribution of criminal content. It is not surprising that Pornhub was created by a person who grew up in a country that removed criminal penalties against pimps and traffickers

² The 1949 *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*, the 1979 *Convention on the Elimination of All Forms of Discrimination against Women (art 6)*, the 2000 *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*, the 2000 *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*.

³ "Sexual exploitation" shall mean the obtaining of financial or other benefits through the involvement of another person in prostitution, sexual servitude or other kinds of sexual services, including pornographic acts or the production of pornographic materials, Model Law Against Trafficking in Persons, UNODC, 2009. https://www.unodc.org/documents/human-trafficking/UNODC_Model_Law_on_Trafficking_in_Persons.pdf

20 years ago. Today, Germany profits from the prostitution of thousands of vulnerable female migrants via taxing the sex trade⁴.

MindGeek and other pimps know that the internet allows for fake or stolen IDs, fake age and sex profiles. MindGeek profits from now-documented phenomenon of screen and porn addiction. Viewers have become desensitized to rape, torture, violence against women and children. Paid views of these extremely violent and sexualized videos are the main revenue of these platforms⁵. Videos will be uploaded not only on to MindGeek/Pornhub platforms but the videos will be copied and disseminated by many others in the future, making it impossible to track or remove them. An analysis on the vague site restrictions and word bans on porn pages, does little to know if any content will actually get removed from it⁶.

It is extremely stressful to monitor 8 or 10 hours of videos of women performing sex acts and being subjected to humiliation and violent abuse. The task of visually verifying age of performers is impossible to know if a person is 15 or 18. It is impossible to determine whether or not a pornography “performer” has been drugged, pimped, trafficked, is being filmed while being raped, or whether she is even aware that she is being filmed. We cannot know whether or not she was threatened with death in order to coerce the film, what country she is located in, whether the film itself is a photograph of a crime, or whether the victim was killed after the production.

CEDAWs recent General Recommendation No. 38 on Trafficking of Women and Girls in Contexts of Global Migration⁷ (2020) describes the structural causes of trafficking for the purpose of sexual exploitation of women and girls, among other purposes. Two of them are especially relevant to the Standing Committee of Parliament: *the demand that fosters exploitation and leads to trafficking* and the *use of digital technology in trafficking*.

This use of digital technologies to profit from filmed rapes is now recognized and opposed worldwide. Legal challenges to the abuse of women and children via digital technologies are proliferating. Survivors of these abusive practices are providing testimony to governments and to civil society. The methods of coercive control used by the porn businessmen such as the MindGeek CEOs are the same ones used by trafficking networks: grooming via love-bombing or Romeo-pimping, coerced subordination through the use of verbal and physical threats and abuse, degradation, physical coercion, and rape.

⁴ <https://www.infomigrants.net/en/post/21117/germany-the-brothel-of-europe-for-trafficked-nigerian-women>

⁵ For a detailed analysis of the Porn Industry read Pornland: How Porn Has Hijacked our sexuality, Gail Dines, 2010.

⁶ See <https://www.xbiz.com/news/252329/everything-you-wanted-to-know-about-platforms-restricted-content-in-spreadsheet-form>

⁷ Find CEDAWs General Recommendation No. 38 here: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/38&Lang=en

Examples in some of our countries, include:

- a. LEBANON/USA: Mia Khalifa was on MindGeek's Pornhub platform for 3 months and produced 11 videos. In one video, she was asked to use a hijab which resulted in death threats from religious fundamentalists. She unsuccessfully attempted to have her videos removed from many other websites who remix, duplicate, remix and retag videos and compilations that started in the Pornhub platform⁸. Since escaping pornography production, Mia Khalifa has spoken about the harms of the industry, including destruction of her self-esteem, shame, loss of privacy, posttraumatic stress, lifelong stigma, loss of job opportunities and meaningful relationships, among many others⁹. Other sex trade survivors have experienced the impossibility of tracing or removing videos that are globally distributed.¹⁰
- b. SPAIN: A Spanish woman was gang-raped by 5 men during the Pamplona bull runs in 2016. The men named themselves La Manada (Wolf Pack). Because the victim was declared not to have demonstrated resistance, the case was initially treated as sexual abuse.¹¹ Analysis of the case¹² indicates that gang rapes or gang bangs - among other violence against women promoted as sexually arousing on pornography websites- were the origin of the rape that the 5 men committed. After the case was publicized, "La Manada" was the most popular search word on pornography websites¹³. The Spanish Prosecutor has investigated 350 filmed gang rapes in the last three years. These rapes are directly connected to porn consumption¹⁴.

Spain is one of the largest prostitution consumers in Europe.¹⁵ Spanish academics¹⁶ and researchers¹⁷ have denounced pornography as filmed prostitution, where women are required to be constantly sexually available to men reproducing men's desires to control and commit violence against them. Advocates and researchers have also documented how the sex trade consistently exploits vulnerable migrant women in Europe. Many of these migrant women have been killed while in the sex trade¹⁸.

⁸ <https://fightthenewdrug.org/mia-khalifas-porn-experience-is-further-proof/>

⁹ <https://daraj.com/en/42829/> and <https://www.youtube.com/watch?v=VjO4JgGCl6s>

¹⁰ Jeanette Westbrook, Diane Post and Teresa Forliti have given testimony in different instances in USA and at the United Nations System.

¹¹ <https://www.theguardian.com/commentisfree/2019/jun/25/wolf-pack-case-spanish-women-overturning-verdict-rape-trial>

¹² Physical pain produced to gangbangs, bukkakes, rapes, humiliation and a NO from women, are all promoted as sexually arousing: <https://geovienciasexual.com/manada-en-el-porno/>

¹³ https://www.elespanol.com/reportajes/20180504/grandes-porno-advierte-cientos-espanoles-buscan-manada/304719560_o.html

¹⁴ https://elpais.com/sociedad/2019/09/09/actualidad/1568020726_784009.html

¹⁵ <https://www.theguardian.com/global-development/2019/may/11/prostitution-tackling-spain-sex-traffickers>

¹⁶ <https://doi.org/10.1177/1524838021999378>, <https://www.cuartopoder.es/cultura/2020/12/19/rosa-cobo-quien-vea-la-pornografia-y-la-prostitucion-fuera-del-capitalismo-no-ha-entendido-nada/>, <https://revistascientificas.us.es/index.php/anduli/article/view/3618>

¹⁷ <https://www.efeminista.com/mabel-lozano-porno-plotacion-libro-pornografia/>

¹⁸ https://elpais.com/elpais/2021/02/01/mujeres/1612164077_849883.html

- c. FRANCE: Amelie is a young woman of Moroccan origin who agreed to produce intimate videos for exclusive content platforms in Canada such as PornHub. Under the contractual direction of pornography producers/pimps, Amelie was raped by a group of men, and subjected to “bukake” where several men ejaculated on her face. She was subsequently recognized in public, felt extremely vulnerable because she had no personal privacy and eventually recognized that she had been raped and sought help¹⁹.

Three women’s rights organizations in France filed a complaint against Jacquie et Michel, a pornography platform connected to Pornhub. In September 2020, a preliminary investigation against Jacquie et Michel was opened by the Paris Prosecutor's Office. In October, in a parallel investigation, four French pornographers were indicted for rape, pimping and human trafficking²⁰.

- d. MEXICO: Civil society organizations²¹ have denounced cases of child sexual exploitation on Pornhub for many years, and have not received any answer from MindGeek. In a case involving adult women, the escort service Zona Divas²² was prosecuted for trafficking at least 2000 women from Venezuela, Colombia, Argentina, Costa Rica and Paraguay. Deceived with the offer of “modeling jobs,” the women were coerced to produce videos which were uploaded on Pornhub and elsewhere. Many of these women were tortured and killed²³. An Argentinian victim called Karen was drugged and filmed by a porn user, and she is now dead²⁴: her video is still on XVideos owned by MindGeek.
- e. IRELAND: Nicole Fox committed suicide at 21, after years of online bullying using her videos and images on social media. In December 2020 Ireland approved a Bill called Coco’s Law (affectionate name her family used for her) to protect women who are too often the targets of online abuse, harassment and revenge porn, by creating a new criminal offence. This law made irrelevant that a person may have consented to the taking of an image if it is subsequently published or distributed without their consent and included an aggravating factor for the purposes of sentencing if the perpetrator of the offence is or was in an intimate relationship with the victim of the offence²⁵.
- f. COLOMBIA: Seven-year-old Yuliana Samboni from the indigenous Yanacona group, was forcefully displaced due to armed conflict. Yuliana was kidnapped from a marginal neighborhood, subsequently raped, tortured and killed by pornography/prostitution user Rafael Noguera²⁶, whose mobile, social media and computer pornography consumption was

¹⁹ <https://www.mediapart.fr/journal/france/171220/amelia-veut-reveler-l-envers-du-porno-en-france>

²⁰ <https://www.mediapart.fr/journal/fil-dactualites/191020/france-une-figure-du-milieu-porno-mise-en-examen-pour-viol-proxenetisme-et-traite-d-etre-humain?onglet=full>

²¹ <https://cuestionone.com/nacional/pornhub-pornografia-infantil-recibio-denuncias-desde-mexico-ignoro/>

²² <https://www.zonadivas.info/timeline.html>

²³ <https://insightcrime.org/news/analysis/trafficking-venezuelan-women-mexico/>

²⁴ <https://piedepagina.mx/zona-divas-en-pornhub/>

²⁵ <https://www.rte.ie/news/politics/2020/1218/1185356-cocos-law-passes/>

²⁶ <https://www.elespectador.com/noticias/bogota/rafael-uribe-noguera-acepto-ante-la-fiscalia-que-mato-a-yuliana-samboni/>

erased -possibly by family members who were also being investigated. The case could involve other high-profile pedophiles in government positions²⁷. In another case, 15 women were secretly taped by their “boyfriend” Félix García Chabur²⁸ who uploaded their videos on Pornhub. He is currently being prosecuted for crimes against privacy and child sexual exploitation but his profile and videos are still found on Pornhub.

- g. INDIA: Although Pornhub has been banned by the government of India, during the COVID 19 pandemic, Pornhub’s offer of free videos drastically increased pornography consumption (one estimate was 95% increase). In 2019, India had 87 *reported* rapes per day, many perpetrated by adolescents who plan rapes and revenge porn in group chats based on pornography use²⁹. In another case, two men coerced and raped a young woman for a year because she feared that they would release the video to her community. Videos of this type are uploaded on pornography platforms like MindGeek’s Pornhub, and widely distributed on social media³⁰. Millions of these women and girls end up tortured, drugged, trafficked and exploited in the sex trade as the only means to survive³¹.
- h. MALAWI/UGANDA: A study of “revenge porn”³² found that while there are no consequences for perpetrators who upload sexual videos without consent (often with victims’ names and employment details), women in the videos are branded as “sluts” and are shamed, vilified and denigrated, with irreparable damage to their professional and personal lives. Victim-blaming often hides the intimate partner abuse and violence. In Malawi and Uganda, the cyberviolence of revenge porn compromises women’s privacy and safety.

III. *Canada’s Responsibility*

Canada has a responsibility to ***effectively discourage men’s demand*** for images of sexual abuse ***which foster further exploitation and lead to trafficking***. MindGeek’s monopoly in the digital technology used by the sex trade, promotes grave human rights violations and compromises the well-being of Canadians and other women and girls in the world.

Our countries in the Global South, or our subordinate position in the Global North is associated with vast inequality between women and men (sexual, social, economic, political), sex-based discrimination against women and girls, a lack of opportunities and overwhelming harms that result from civil and regional conflicts and humanitarian emergencies. Sex trade exploiters such

²⁷ <https://www.lanuevaprensa.com.co/component/k2/uribe-noguera-y-sus-amigos-pedofilos>

²⁸ <https://www.eltiempo.com/justicia/investigacion/felix-garcia-senalado-de-subir-videos-intimos-de-sus-parejas-a-internet-338428>

²⁹ <https://www.newindianexpress.com/nation/2020/may/09/man-held-for-raping-blackmailing-17-year-old-in-rajasthans-jhalawar-2141279.html>

³⁰ <https://indianexpress.com/article/cities/delhi/bois-locker-room-scandal-fir-against-south-delhi-teens-for-obscene-instagram-chatter-6393840/>

³¹ <https://originals.storiesasia.org/Let-the-Brothels-Remain-Shut-After-COVID-19-Lockdown/index.html>

³² <https://www.nature.com/articles/palcomms201669.pdf#page=1&zoom=auto,-213,782>

as MindGeek profit from women's vulnerability. MindGeek's uploads are themselves evidence of grave crimes against women and girls.

A direct consequence of this inequality is increased exploitation and trafficking of women and children from the Global South, whose abuse in pornography provides profits to Northern sex trade businessmen such as MindGeek.

We ask you to go beyond the protection of children, and think of Serena today. She is a woman whose victimization started as a child. She does not suffer less because she is over the age of 18, nor does her mother suffer less for what her daughter has gone through. *We need to protect women, if we want to protect their children.* Consent, age verification, and awareness do not get us to the root of the problem of normalized violence against women and their children.

We respectfully recommend that Members of the Standing Committee urge the Parliament of Canada to:

1. Create a legal presumption of trafficking for pornography materials and content emanating from jurisdictions where record-keeping, certification and accreditation cannot ensure Canadian-approved minimum standards regarding safety and non-exploitation in pornography production;
2. Sanction platforms, applications and other digital technology which carry content from jurisdictions where certification and accreditation cannot reverse said presumption of trafficking;
3. Minimum standards must include record-keeping, clear identification and criminal records of production companies, owners, intermediaries, uploaders and users;
4. Prepare legislation in line with Canada's prostitution law which sanctions the demand for pornography which leads to trafficking and prostitution;
5. Fund public campaigns against objectification, hyper sexualization, and stereotyped roles of women and girls, while at the same time promoting healthy relationships and sexuality based on equality, mutual desire, respect and empathy;
6. Refer for criminal investigation all instances MindGeek's conduct, omissions or willful blindness which has yielded the production, distribution and publication of criminally produced or sanctionable pornography;
7. Require that MindGeek immediately contribute to a compensation fund for rehabilitation and support of victims in Canada and abroad who bring forward their cases regarding content received, hosted, distributed and published by MindGeek;
8. Highlight trauma-based services and support to victims of the pornography industry through any new compensation fund.

Thank you for your interest in our petition and recommendations.

Sincerely,

1	Lobby Europeo de Mujeres en España	Spain
2	European Network of Migrant Women	Europe
3	Alika Kinan Fundación	Argentina
4	Solwodi	Germany
5	Embrace Dignity	South Africa
6	Womens Human Rights Campaign Brasil	Brazil
7	Fondation Scelles	France
8	Corporacion Anne Frank	Colombia
9	Culture Reframed	United States
10	Kafa (enough) Violence & Exploitation	Lebanon
11	Coletiva Time	Brazil
12	Comisión para la Investigación de Malos Tratos a Mujeres	Spain
13	Persons Against Non-State Torture	Canada
14	Coalition Against Trafficking in Women Latin America	México
15	Women's Human Rights Campaign	India
16	Klaipeda Social and Psychological Support Center	Lithuania
17	Lavendar Patch	United States
18	Breaking Free	United States
19	Abriendo Caminos	Colombia
20	InMujeres México	México
21	Foundation 1000 Opportunities/1000 Möjligheter	Sweden
22	Associazione Iroko Onlus	Italy
23	Iroko Charity, Nigeria	Nigeria
24	Back Home	México
25	Feminicidio.net/Asociación La Sur	Spain
26	Feminism Pakistan	Pakistan
27	Fin de la Esclavitud	México
28	Apne Aap	US & India
29	Rescue Freedom International	United States
30	Women's Human Rights Campaign	Argentina
31	Ehuleak-CIMTM Navarra	Spain
32	SISTERS - for the exit from prostitution!	Germany
33	Plataforma Navarra por la Abolicion	Spain
34	Pinay	Canada