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Moral panic and porn in South Africa: a critical discourse analysis of top TV's application to broadcast adult-content channels

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Moral panic and porn in South Africa:

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Abstract

On the 14th March 2013 the Independent Communications Authority of South Africa (ICASA) held a hearing to consider an application by Top TV and their parent company ODM to broadcast three adult-content channels. This application and hearing have again brought the debate surrounding pornography to the fore in South Africa. While research in the field of pornography studies has historically been centred around whether pornography is harmful to women specifically and society in general, the current research aims to move away from this framework and examine issues of subjectivity, discourse, and power within the debate. This will be achieved through the use of moral panic theory, and Foucauldian critical discourse analysis (FCDA) to analyse the transcript of the hearing held at ICASA as well as newspaper reports regarding the hearing and its outcome.

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Declaration

I hereby declare that this research is my own unsupported work that is being submitted to the degree of Master of Arts at The University of the Witwatersrand, Johannesburg. It has not been previously submitted, whole or in part, for any degree or examination at any other university.

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(Signature of Candidate)

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Chapter One: Introduction

Introduction

On 14th March 2013 a hearing was held by the Independent Communications Authority of South Africa (ICASA) to consider an application by Top TV to broadcast three adult-content channels. Top TV was, at the time, a relatively new satellite TV pay-channel on South African television. At the hearing, Top TV was granted permission to air the extra channels but, due to financial difficulties, has since been taken over by StarTimes and re-launched as StarSat. Top TV's application has brought the debate surrounding pornography to the fore in South Africa.

Pornography and obscenity in general have long been issues of contention in South African history, most especially during the apartheid regime. Under this regime, purity and conformity were valued above individual rights to freedom of thought, speech and expression (Stemmet, 2005), with the government even going so far as to ban works of fiction such as *Lady Chatterley's Lover* by D.H. Lawrence because it was considered to be a threat to public morals and "a Christian view of life" (McDonald, 2004, pg. 35). Strict laws were implemented not only to segregate the population but also to control how they interacted, especially in intimate relationships. This meant that the individual living under the apartheid government could not always choose for themselves where to live, who to have relationships with or even what to read, watch or listen to (pg. 202). However, people did also challenge these restrictions through practices of micro-resistance such as music, dancing, and art. These ideals were the result of

strong religious beliefs held by the Afrikaaner[1] people that they were the chosen people of the Old Testament and related attempts to keep them at once pure and superior to other social groups. This reasoning is also expressed in the reasons given to ban Lawrence's work which states that "the South African community respects the privacy of the individual, the human body and the privacy of sexual relations. This respect is based on the Christian and other religious views of life in the South African community" (McDonald, 2004, pg. 38).

Using this reasoning, pornography was seen as the ultimate evil, with the South African government stating that investigations into obscene materials were "necessary as the country was in the throws (sic) of a "spirit of permissiveness and degeneracy" which could be directly linked to a Communist plot that used pornography to break down Western resolve" (Stemmet, 2005, pg. 203). This led to the creation of various laws and regulatory bodies to regulate media publications and prevent porn from being circulated among the South African population. Among these were The Cape of Good Hope Obscene Publication Act, 31 of 1892 which criminalised the selling of "lewd" books or material; the 1931 Entertainments (Censorship) Act which led to the creation of a Board of Censors; and the 1963 Publications and Entertainment act which gave a "Publications Control Board" power over all undesirable publications and films (Stemmet, 2005, pg. 203). At the height of apartheid South Africa "everything that was remotely connected with sexuality was viewed as potentially dangerous to public morality. So, for example, the censors, for a short period in 1971, banned see-through pantyhose wrappers" (Stemmet, 2005, pg. 204). The apartheid government felt that its adult citizens did not have the "maturity of mind or aesthetic judgement" (pg. 204) necessary to decide for themselves whether something was obscene or not. However, this regulation of obscene materials and pornography

[1] While it is common practice to associate the creation and maintenance of the apartheid system in South Africa with predominantly white Afrikaans citizens, it is also true that white, English speaking citizens also contributed in material as well as symbolic ways.

was not only about regulating the moral fibre of the nation, but also "increasingly about state security and the suppression of political dissent" (McDonald, 2004, pg. 41). Indeed, this self-appointed duty to protect public morals was more accurately a reflection of the white government's efforts to prevent the "degeneration of the European, not merely the Afrikaaner" (pg. 44). This sentiment is reflected in the 1956 *Report on the Commission of Enquiry in Regard to Undesirable Publications,* which later became the basis for the 1963 Publications and Entertainment Act:

> As the torch-bearer in the vanguard of Western civilization in South Africa, the European *must be* and *remain* the leader, the guiding light, in the spiritual and cultural field, otherwise he will inevitably *go* under. The undesirable book can and must be drastically combatted because it is obviously a spiritual poison (cited in McDonald, 2004, pg. 44, emphasis original).

In essence, the threat posed by "undesirable books" and obscenity to the apartheid government was not only about public morals and the "privacy" of sex. This reasoning was ultimately strategically deployed in order to maintain a system of power which benefitted the white minority. As we will see in more detail below, this line of argument is also present to an extent in the current debate about pornography analysed in this thesis. While the arguments regarding allowing porn on TV centre around upholding public morals and attempts to maintain a perceived level of decency, other arguments go beyond the perceived morality of a nation and question the Constitutional code upon which South African democracy is based.

Eventually the 1974 Publications Act was created to replace the previous bodies responsible for controlling obscene publications and was tasked with censorious control over all publications in

South Africa, ultimately deciding which of these were to be classed as obscene, resulting in two main types of material being banned: communist propaganda and pornography. However, as the apartheid society and government changed and developed, it became clear that the censors themselves did not agree on the definition of obscenity. This meant that in the 1980s South Africa's censorship laws became more relaxed until finally censorship laws (and the 1974 act) were deemed to "intrude upon the freedom of choice of adults in an unreasonable manner by making bannings widely possible" by an 11 member task force set up in 1994 (Stemmet, 2005, pg. 207). This ultimately led to policies of regulation instead of censorship being enacted with the Films and Publications Act, 65 of 1996.

As is evident in the above summary, social understandings of and debates regarding pornography have historically been defined by its potential to cause harm, and its negative effects on the individual, and on society. This focus on the potential harms resulting from pornography is also reflected in legislative concerns and has contributed to creating a framework within which discussions about pornography and sexual representation usually take place.

> While there is clearly a great deal of value in the […] examination of misogynistic sexual representations, this approach is both limited and limiting […] It assumes a simple link between words/images and behaviour. Moreover the 'either/or', 'pro/anti' structure implied by this approach serves to limit and circumscribe what can be said and how in a particularly rigid way (Attwood, 2002, pg. 91-92).

This pro/anti structure is also somewhat reflected in the debate regarding the broadcast of pornography in South Africa, and has been taken up by organisations and persons opposing Top TV's application as well as in media reports regarding the hearing. However, many additional

aspects of the debates around pornography, such as concerns around power and discourse, which do not necessarily address whether pornography is harmful or not, have not been engaged with in the media or in the hearings that were held to consider Top TV's application possibly because this pro/anti framework has made it difficult to examine pornography and sexual representation from different perspectives (pg. 92). Since a large portion of the debate regarding Top TV's application, and pornography in general, centres on the potential harm that porn may cause to women and children in particular, and to society in general, it is important to understand how these dominant discourses create and regulate object and subject positions through the mobilisation of power relations, and also how resistant discourses function and what constitutive power they may have. Debates regarding sex in general, and pornography specifically, reveal cultural understandings and attitudes towards sex, sexuality, and gender; so understanding these discourses is crucial for insights into the social and political understandings of pornography in South Africa.

At this juncture it seems appropriate to add the caveat that while I am interested in how discourses regarding pornography operate to position different people as well as cultural understandings of porn in relation to sex, sexuality, and gender, I am by no means suggesting that South Africa is a context which shares a monolithic and singular culture. Indeed, it is not possible to present a balanced and well-considered argument in a study such as this without an analysis of differing cultural subjectivities; it is the proliferation of varied cultural understandings which makes the study all the more interesting. While this focus on differing cultural beliefs may seem to reflect a multicultural view, one that espouses "cultures" independent of one another, this is not the case. I wish to acknowledge that while South Africans form part of one national community, it would be disingenuous to assume that this results in exactly the same beliefs and values across the board.

This study conceptualises the organisations of ICASA and the media institutions which produce newspaper reports, along with their respective associated discursive practices, as "disciplinary institutions" in Foucault's (1975) formulation. These institutions regulate the ways people act and think in relation to specific bodies of knowledge, such as human sexuality or the concept of criminality. Through the use of critical discourse analysis, the transcript of the hearing and related newspaper reports are analysed in order to understand the different ways in which power, discourse and subjectivity are realised through each disciplinary institution and how this relates to cultural knowledges about sex, sexuality, and gender as well as how individual South Africans may embody different subject positions in relation to these knowledges.

Aim

The study aims to move beyond the pre-established binary framework for debates about pornography by analysing the production of subject and object positions through the mobilisation of power relations, discourse, and discursive practices inherent in disciplinary institutions such as ICASA and the news media. This is achieved through a close analysis of the language used in each set of data using the tools provided by critical discourse analysis (CDA) and moral panic theory.

The following research questions will guide the data analysis and overall direction of the research:

1. What subject positions are evident in the hearing transcript and how do these relate to discourses around porn, sex, sexuality, and gender.

2. What subject positions are represented in newspaper reports about the hearing and how do these relate to discourses around porn, sex, sexuality, and gender?

3. What are the similarities and differences between these two sets of data in relation to the above subject positions and discourses? How do these possibly relate to moral panic theory?

Data

The study makes use of the transcript of the hearing held at ICASA on 14th March 2013. This hearing was preceded in September 2011 by Top TV's first application for adult content channels. Two months later, in November 2011, ICASA had not responded to the application and as a consequence of this and of provisions within ICASA's broadcasting regulations, which state that an application is approved if no response is received within 60 days, Top TV began broadcasting the three additional channels. This resulted in ICASA seeking an interdict in the high court to prevent the broadcast of these channels. Finally, the high court ruled that Top TV may not broadcast adult content channels without the direct authorisation of ICASA. Thus, the hearing to consider representations on Top TV's application was held at ICASA.

The transcript for the hearings is 202 pages long and contains representations from various interested parties on both sides of the debate. Top TV[2] was represented by their CEO, Mr Eddie Mbalo; their CFO, Mr Simon Woodland; the legal representative of Playboy South Africa[3], Ms Joanne Katz; clinical sexologist, Dr Marlene Wasserman; and executive manager at On Digital

[2] At the time of the hearing Top TV was the second pay TV channel in South Africa, offering "affordable satellite TV".

[3] Playboy South Africa encompasses the South African digital edition of Playboy Magazine which is locally produced as well as playboy TV.

Media[4], Ms Sonti Lurayi. Representatives of Top TV argued for the viability of these channels on the basis of the constitutional right to freedom of speech, business imperatives, legal issues, and research-based evidence regarding the effects of pornography. Representations at the hearing were also made by the following interested parties: Ms Hettie Brittz speaking for Pastor Errol Naidoo of the Family Policy Institute[5]; Ms Pasela Linda Yates representing the African Christian Democratic Party[6]; Mr Jacques Rousseau representing the Free Society Institute[7]; Dr Albu van Eeden representing Doctors for Life[8]; Ms Kupe[9] representing African Christian Action[10]; Pastor Anton Myburgh representing Shofar Christian Church[11]; Mr Kent Solomons representing the Free Society Institute; Mr Rudie van Heerden representing Active for Jesus[12] and finally, Ms Hettie Brittz, representing her own organisation, Evergreen Parenting[13].

In addition to analysing the transcript of the hearing, the study also examines newspaper reports regarding the application and hearing at ICASA as well as those considering the eventual outcome of the hearings. These reports cover dates from January 2013 to November 2013.

[4] On Digital Media was the parent company of Top TV

[5] The Family Policy Institute is a Christian, non-profit and educational organisation with the objective of making the restoration of marriage and the family the cornerstone of South African social policy. They provide policy research and analysis for legislative, executive and judicial branches of government.

[6] The ACDP is a South African political party that stands for Christian democratic principles and also promotes the family unit as the building blocks of society.

[7] The Free Society Institute is a secular, humanist organisation which promotes individual and social freedoms through education, advocacy, consumer protection, and creating community. They aim to encourage intellectually honest debate on topics which are vulnerable to influence or suppression by pre-scientific traditional dogmatism.

[8] Doctors for Life is a non-governmental and non-profit organisation which is based on the principles of sanctity of life from conception until death, sound science in the medical profession, and a basic Judeo-Christian ethic in the medical profession.

[9] First names were not provided for all representatives in the hearing transcript. Although research into each representative was conducted, I could not find a first name for Ms Kupe

[10] African Christian Action is part of the umbrella network Christian Action Network which works for reformation and revival by providing information to and mobilising Christians throughout Africa.

[11] Shofar Christian Church is a South African church based in Stellenbosch whose stated purpose is to reach nations and generations through disciple-making, leadership development, and church planting.

[12] Active for Jesus Media Mission is a Christian organisation founded in 1995 in South Africa with the purpose of proclaiming the gospel of the Lord Jesus Christ through radio production and in association with WoomaNet Radio.

[13] Evergreen Parenting is a Christian organisation founded by Hettie Brittz which provides parenting courses and facilitation to teachers and parents in South Africa and internationally.

Reports have been selected from seven of the newspapers with the highest circulation in South Africa, namely *The Sunday Times, City Press, The Star, The Times, The Citizen, Mail and Guardian and The Sunday Independent,* and *The Sowetan*.

These two sources of data may seem disparate but the study aims to reconcile them through examining how each institution (ICASA and the news media) mobilises power relations and discourse to map specific subject positions in relation to accepted knowledges regarding pornography and sex; and then examining any similarities or differences. As such, the transcript from the hearing and the newspaper reports are analysed using CDA and put into conversation with each other. In this way, the study investigates how the media has constructed the ICASA hearings and how this meaning making relates to the discursive power of both organisations and the discourses they (re)produce.

This paper is structured as follows: Chapter 2 will deal with a comprehensive literature review of both moral panic theory and academic work on pornography. Chapter 3 describes the methodology and theory that was operationalised in the analysis. Chapter 4 and chapter 5 cover the analysis of the hearing transcript and newspaper articles, respectively. Finally, chapter 6 concludes the study with a discussion of the data and conclusion.

Chapter 2: Literature Review

This chapter will examine the overarching Foucauldian theoretical assumptions which will be used in the analysis of the hearing transcript and related newspaper articles. Relevant literature related to the fields of moral panic and pornography will be reviewed and the current research positioned in relation to these studies.

Theoretical Considerations

The overarching theoretical and methodological stance of this dissertation draws from the work of Michel Foucault in addressing issues of power, discourse and subjectivity. Foucault does not explicitly provide a methodological outline for conducting discourse analysis and states that the specific methodologies and theories used in any analysis must be subordinate to the tactical needs of the researcher and the analysis at hand (Gutting, 1994). Thus, certain concepts developed in the progression of Foucault's work are not applicable to the tactical needs of the analysis being undertaken in the current study. This paper focusses predominantly on the concepts of power, discourse, institutions, and discursive practices and formations as well as the creation of subject and object positions through discourse.

Moving away from Marxist understandings of power as an entity operating in a top-down manner from a fixed superstructure, Foucault conceptualises power as relations built into the flows and practices of everyday life (McHoul & Grace, 1993). These are individual relations of domination and control (Gutting, 1994) which produce material effects in the world. Additionally, these flows of power produce subjects which then act as both a representation of

and a vehicle for these power relations (McHoul & Grace, 1993). Importantly, Foucault notes that power is constituted through accepted forms of knowledge, scientific understanding, and "truth".

> Truth isn't outside power. […] Truth is a thing of this world: it is produced only by virtue of multiple forms of constraint. And it induces regular effects of power. Each society has its regime of truth, its "general politics" of truth: that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true (Foucault, 1980, pg. 131).

In other words, the knowledges which a particular society takes to be true are created and enforced through power relations and the truth-producing apparatuses (schools, professions, laws etc.) within that society, so that some forms of knowledge are given preference and accepted as "true", while others are marginalised and seen as "false" or deviant. These knowledges, whether marginalised or dominant, as well as the power relations which inform them are realised through discourse, thus reproducing a specific "regime of truth". One of the effects of discourse is the mapping of subject positions, allowing people to constitute themselves as subjects in and of a discourse. Foucault allows for the presence of resistance in this model of power relations, stating that as soon as there are power relations there is also resistance (Gutting, 1994) although they do not equate to an ontological opposites. Rather, this system is characterised by changing conflicts over time and in different contexts. This means that while dominant discourses map out possible subject positions, the same is also true for marginalised knowledges and discourses. These are referred to by Foucault as discourses of the "madman" or "pervert" since in the same way as

some knowledges become marginalised, so too do those people who, "in their respective times, held knowledges of *themselves* which diverged from the established categories" (McHoul & Grace, 1993, pg. 16). Put another way these people have constituted themselves as subjects of marginalised forms of knowledge, in resistance to dominant, accepted "truths". In this way these preferred and marginalised forms of knowledge, and discourse, come to be the means through which subjects are constituted. These different subject positions are important to consider since these modes of discursive hegemony and resistance, embodied in different subjects, are prevalent in the way that people discuss pornography in general, and more specifically in the hearing transcript from ICASA, which provides an example of this conception of resistance as a process of conflict rather than an opposition between two ontologically opposed ideas or discourses.

In addition to the creation of subject positions, Foucault also relates the concepts of discourse and discursive formations to this power/knowledge dyad. Hall (1997) provides a Foucauldian definition of discourse as a group of statements which provide a language for talking about a particular topic at a particular historical moment and which at the same time construct the topic by defining and producing objects and areas of knowledge. In this way discourse governs the way that a topic can be meaningfully spoken about. Discursive formations are created by the regularity and similarity of at first seemingly unconnected objects, discourses, and ideas as well as the rules governing these; if "between objects, types of statement, concepts, or thematic choices one can define a regularity […] we will say […] that we are dealing with a discursive formation" (Foucault, 1972, pg. 38). Discursive formations then include all statements, discourses, and practices, and the rules governing these that relate to a specific area of knowledge; this implies that statements or concepts within a discursive formation may be contradictory; however, because they address the same area of knowledge they form part of the same discursive formation. In this sense, then, the area of knowledge referring to human

sexuality, as well as that referring to freedom of speech, can be considered discursive formations since there are a variety of statements, discourses, practices, concepts, and objects which address these specific domains.

The importance of discursive formations is that they function to control what can be spoken about and how, and through this control, create subject and object positions in discourse. They "define what is and is not appropriate in our formulation of, and our practices in relation to, a particular subject or site of social activity" (Hall, 1997, pg. 6). Inherent in this process is the notion that these groups of statements have "institutional force" (Mills, 1997, pg. 62) and thus exert a profound influence on how people think and behave. As such, these preferred knowledges and discursive formations come to be tools of normalisation, deployed through discursive practices. In this way, discursive formations connect the text to the social by connecting statements and discourses with broader social values and beliefs (Smythe, 2006) thus allowing for the analysis of a text to reveal these broader connections.

Discursive formations are not only linked with hierarchical forms of knowledge but also with specific practices, which create these forms of knowledge. Foucault refers to non-discursive domains as "institutions, political events, economic practices and processes" (1972, pg. 162) and as such, practices associated with these domains form non-discursive practices. Since the current study deals with language use, the focus will predominantly be on discursive practices. Discursive practices are the point of linkage between the statements and discourses within a discursive formation and real world physical actions. Discursive practices provide the background for statements and actions by creating the conditions for existence for other practices and forms of knowledge. This is achieved through their dual nature which is at once judicative (having the ability to establish and apply norms, controls, and exclusions) and veridicative

(having the ability to create true and false discourse): "the practice of something entails a code which regulates ways of acting and generates a true discourse which legitimates these ways of acting" (Gutting, 1994). For example, the discursive practice of sexual classification (i.e. identifying certain practices and identities as within the norm or outside of the norm and classifying each accordingly within the discursive formation of human sexuality) generates a code which regulates acceptable ways of talking about, understanding, and engaging in sexual activities (for example, the diagnostic categories of the Diagnostic and Statistical Manual of Mental Disorders, used by psychologists and psychiatrists to diagnose psychological illness in relation to standardised criteria, which refer specifically to sexual activity). At the same time a discourse is (re)produced which legitimates these ways of acting (i.e. heteronormativity, the ideal of the nuclear family). In this way, discursive practices allow for the creation and reproduction of discourse.

One of the effects of discourse and discursive formations is the creation of subject positions, through the process of subjectification. These refer to the means by which subjects are constructed in and as a collection of flows of power running through a social body (McHoul & Grace, 1993). Subjectification occurs in two different senses. In one sense people constitute themselves as subjects in specific subject-positions through locating themselves in the position from which a particular discourse makes the most sense, thus becoming its "subjects" by subjecting themselves to its meanings, power and regulation (Wetherell, Taylor, & Yates, 2001). Here, the subject becomes the bearer of the kinds of knowledge produced by power relations and truth-producing apparatuses, and which are carried in discourse. In this way subjects of dominant as well as marginalised discourses may be constructed within the same discursive formation, thus allowing for the presence of deviancy and resistance. In another sense, discourses and discursive formations create historically and socially situated subjects as figures who exemplify the

particular forms of knowledge which the discourse (re)produces and "have the attributes we would expect as these are defined by the discourse: the madman, the hysterical women, the homosexual […] and so on" (Wetherell, Taylor, & Yates, 2001, pg. 80). In this conception, the subject does not occupy a privileged position in relation to knowledge and meaning, but rather is produced within discourse so that it cannot exist outside of this relationship between power/knowledge and discourse. This conception of the production of subject positions is important as it allows the researcher to analyse how different people may understand the same body of knowledge from different perspectives as well as how that body of knowledge, and the power relations which inform it, allow for certain vantage points to be taken. Since the subject is produced in and thus embodies discourse, it is possible, through discourse analysis, to investigate different subject positions regarding a specific area of knowledge as well as how these relate to disciplinary institutions and other individuals.

Moral Panic

The concepts discussed above provide the theoretical scaffolding for the analysis undertaken in this study and as such need to be related to the two main concepts employed in this analysis, namely pornography and moral panic, beginning with moral panic and how it relates to Foucauldian understandings of power and discourse. Thompson (1998) comments on the connection between Foucauldian theory and moral panic around sex and sexuality while providing a link to the discursive practices associated with media reporting on such events and controversies:

> The relevance of Foucault's comments about discourses of sexuality and power, is that it alerts us to the fact that moral panics about sexuality, and other issues, represent power

> struggles over moral regulation. Contemporary society is characterised by a profusion of discourses about sexuality and the regulation of bodies, each with different moral implications, and these are frequently in conflict. Not surprisingly therefore, the mass media reflect those concepts and amplify them giving rise to a spiral effect that results in what we have termed 'moral panic'. This is more likely to be the case where several examples of deviant behaviour can be linked to some more general risk from moral degeneracy, such as a threat to children from child abusers, pornography, video nasties, homosexuality, violence on television, etc. (pg. 25).

As such, moral panics can be seen as instances where the interplay and conflict between dominant and resistant forms of knowledge and power are highlighted. During this process the media, according to specific discursive practices, report on these conflicts, inflating and distorting events and thus creating the conditions of existence for moral panic.

Although the term was coined by criminologist Jock Young (1971, pg. 37), writing on state responses to drug use, Stanley Cohen (1973) published the first comprehensive study of moral panic, with his analysis of the events surrounding the mods and rockers, two conflicting subcultures, in the UK during the 1960's. These events saw a series of supposedly violent clashes between the two groups in the UK at various holiday resorts. Cohen noted that the press reporting on the events was distorted and exaggerated resulting in reports of violence which did not necessarily occur. It was these reporting practices which led Cohen to conduct his research on moral panics with an emphasis on the role of news media in the creation and amplification of deviance.

Cohen focusses on a transactional approach to the social construction of deviance (defined by Cohen as rule-breaking) and the labelling of specific groups of people as deviant, with the emphasis on the discursive construction of deviant actions and people through reports in the news media and the audience which consumes them. In this way, he highlights the societal reaction to deviance and how this relates to moral panic (pg. 12-16). Further, he notes the important role of the media in the progression of moral panics through the processes of exaggeration, distortion, prediction and symbolisation. The media is crucial in the labelling and stereotyping process which is integral to the development of moral panics: "the media have long operated as agents of moral indignation in their own right: even if they are not self-consciously engaged in crusading or muck-raking, their very reporting of certain 'facts' can be sufficient to generate concern, anxiety, indignation or panic" (pg. 16).

Considering the news media as a discursive formation that addresses the area of knowledge relating to news production along with the statements and discourses that inform it, and the rules for their application, allows for an explanation of the practices that Cohen describes. As Foucault has noted, every discursive formation is also informed by discursive and non-discursive practices; in this case the processes whereby news reports exaggerate and distort events can be conceptualised as discursive practices which are related to the production of news. These practices result in the production of specific kinds of knowledge about the object of moral panic which are then (re)produced in discourse.

Cohen details these processes in reporting events that form part of a possible moral panic. The first practice Cohen calls "exaggeration and distortion". This entails the media's use of emotive language to exaggerate aspects of the event or phenomena. Within this process he also notes the use of misleading headlines, generic plurals and false reports. The process of prediction entails

the creation of media reports detailing the possibility of similar events in the future, the likelihood of which is overplayed based on previous exaggerated reporting of the event. Finally, the media make use of symbolisation through language in which certain words or symbols come to stand for and represent a group of people or an event. Thus, any people or events which may be even slightly similar are automatically labelled, further adding to the increasing moral panic. In these examples we can see the link between language use and the real effects of discursive formations; the consequence of the use of emotive language, distortion, and prediction is the production of a new exemplary subject-position, embodied in Cohen's example of the mods and rockers. The creation of this new subject-position feeds back into the power/knowledge system and creates the conditions for existence of even more extreme societal reaction.

Cohen's work on the mods and rockers phenomenon developed and launched moral panic theory and provided a vocabulary through which we began to understand the media's role in the amplification of deviance (McRobbie & Thornton, 1995). However, while this model acknowledges the uneven role of social control, it does not address the concepts of hegemony within society as well as in the media. The media is conceptualised as monolithic; sharing a singular response to deviance. Essentially, moral panic is conceptualised by Cohen as a "means of orchestrating consent by actively intervening in the space of public opinion and social consciousness through the use of highly emotive and rhetorical language which has the effect of requiring that 'something be done about it'" (McRobbie & Thornton, 1995, pg. 562). The inclusion of theories of power provides a way to fully understand the media's role in moral panic as not just defining or distorting the truth in the stages of inventory and deviance amplification, but as part of a large and connected network of relations which come together to create meaning across many platforms and types of media (McRobbie & Thornton, 1995).

In this vein, *Policing the Crisis* (Hall, Crichter, Jefferson, Clarke, and Roberts, 1978) introduces the concept of Gramscian hegemony into moral panic theory. The authors analysed how moral panic with regards to youth criminal behaviour, such as mugging, contributed to the social conditions of consent, what Foucault may refer to as necessary conditions for existence (1972) needed to potentially create a society less focused on the liberalism and permissiveness of the previous decade and more on law and order (McRobbie & Thornton, 1995). With this argument, Hall et al. (1978) exemplify Thompson's (1998) earlier description of moral panic as a site of resistance between power relations with regards to moral regulation. In this sense, discursively produced moral panics are no longer seen as isolated phenomena, but rather as vehicles for the reproduction and maintenance of hegemonic power relations which contribute to a Gramscian notion of civil society. This conception of moral panic places it within the wider sphere of the influence of hegemony and power and acknowledges that these are continuous and pervasive forces mobilised in moral panics through the language of common sense and consent found in the media. In this account moral panics become the means by which a specific type of knowledge about the nature of society and social relations is sanctioned as true and subsequently reproduced through discourses that inform every day as well as institutional practices. Additionally, the conception of moral panic as a vehicle for maintaining dominant discourses and power relations fits well with Foucault's explanation of the processes by which objects are formed and their real world effects are felt. Moral panic is generated in part by the news media and people in positions of power. Thus, it is a product of the discursive formations and practices relating to law, media, government etc. In this case, moral panics can be understood as a real effect of the constitutive power of discourses and discursive practices related to these institutions.

Hall et al also emphasise the crucial role of the news media in the creation and maintenance of moral panics and detail how conventions of news production delimit and circumscribe the nature and content of news reports on the subjects of moral panics. In much the same way as in Cohen's conception, the news media can be thought of as a discursive formation with associated conventional discursive practices that produce objects of knowledge and consequently related discourses and subject positions.

The authors focus on the practices and values that inform the production of news starting with the assumption of societal consensus "within a common system of values, goals and beliefs" and assert that "we exist as members of one society *because* – it is assumed – we share a common stock of cultural knowledge […] we have access to the same 'maps of meanings'" (Hall et al, 1978, pg. 55). This description of "consensus in a system of values" mirrors the accepted definition provided by critical discourse analysis, as well as Foucault's understanding, of dominant discourses and knowledges which are generally accepted as the truth and which provide ways of understanding objects while at the same time constituting those objects. As such, this consensus can be thought of as a (re)production of dominant forms of knowledge and in this sense provides an interpretive framework through which the media may contextualise and make sense out of news stories using already established cultural knowledge. Here, the authors do not account for the fact that although a specific type of knowledge or a specific discourse may be considered to be true, this does not mean there is no resistance to this dominance.

Hall et al also focus quite strongly on the media as representing this single viewpoint, assumed to be applicable to society as a whole, and they emphasise how "the media are among the institutions whose practices are most widely and consistently predicated upon the assumption of a 'national consensus'" (Hall et al., 1978, pg. 55). In this assumption the authors do not take into

account counter discourses and alternate viewpoints which may exist within the media and focus solely on the dominant discourses which can be found in news media.

In accounting for the over-representation of these dominant discourses, Hall et al (1978) explicate how discursive practices, such as the imperative for objectivity in news stories, lead journalists to rely on those members of the elite who usually provide official information regarding a specific event falling within their field of expertise. These "accredited sources" are often people who hold positions of power such as cabinet ministers, trade union leaders, or business owners, effectively, people who are in control of apparatuses of truth production in a society. The authors argue that "such institutional representatives are 'accredited' because of their institutional power and position, but also because of their 'representative' status" (Hall et al., 1978, pg. 58). The combination of tight time constraints and the imperative for objectivity produces "a systematically structured *over-accessing* to the media of those in powerful and privileged institutional positions. The media thus tend, faithfully and impartially, to reproduce symbolically the existing structure of power in society's institutional order" (Hall et al., 1978, pg. 58, emphasis original). In this way, the structured relationship between media and what the authors refer to as "primary definers" allows for those people in positions of power to define the "truth" of a social problem or event which then sets the terms of reference for further discussion of the issue. In this conception the media can be understood as secondary definers, in that they are merely seen as reproducing the viewpoint of those in power. In this conception of the over-reliance of the media on those in positions of power and authority, Hall et al fail to recognise the importance of the contributions made by the average man or woman on the street who may also contribute to the content of news reporting through interviews expressing their specific views on truth and authenticity. In so doing, they provide a somewhat one-sided view of how newspapers construct and relay content.

Indeed, in the same way as Cohen in 1973, Hall et al conceptualise the media as a monolithic whole responding to events with one voice based on the notion of societal consensus and the opinion of primary definers. This conceptualisation of the media does not take into account dissenting viewpoints and resistant discourses which may also be present. This effectively negates the possibility of the existence of any resistant discourses which may be voiced by the media or interested parties and does not take into account the constitutive nature of resistant discourses which, in the same way as dominant discourses, work to produce object and subject positions which are reproduced and expressed through language and discursive practices, many examples of which can be found in the hearing transcript from ICASA.

As a consequence of these assumptions regarding the monolithic status of the media and society and also due to the ever-expanding nature of the media, McRobbie and Thornton (1995) call for a revision of moral panic theory. The authors argue that while in the past moral panics were the unintended result of journalistic practices, they have now become a goal of news reporting as well as a tool used by politicians to orchestrate consent and by businesses to promote certain types of products. There is similarity between this description of moral panics and Foucault's suggestion that dominant forms of knowledge and discursive formations become tools of normalisation. These evolving and deliberate uses and understandings of discourses demonstrates their productive power. Through their use by news media, advertisers, and politicians, dominant discourses are actively mobilised *because of* their power to create consent or, put differently, to create subject positions which (re)produce dominant knowledges and power relations. As a result, the authors argue that,

> although both the original model of moral panics and the reformulations which introduced notions of ideology and hegemony were exemplary interventions in their time,

> we argue that it is impossible to rely on the old models with their stages and cycles, univocal media, monolithic societal or hegemonic reactions. The proliferation and fragmentation of mass, niche and micro-media and the multiplicity of voices, which compete and contest the meaning of the issues subject to 'moral panic', suggest that both the original and revised models are outdated in so far as they could not possibly take account of the labyrinthine web of determining relations which now exist between social groups and the media, 'reality' and representation. (1995, pg. 560).

The authors go on to argue for an inclusive model of moral panics which encompasses and acknowledges resistant or non-dominant discourses such as those of youth groups who may see moral panics less as a social problem and more as the "culmination and fulfilment of youth cultural agendas" (1995, pg. 565). While reporting by the press may be seen as deviancy amplification, the authors argue for considering counter discourses which would view the same process differently. I would argue that this understanding of the multiplicity of voices in moral panic strongly mirrors Foucault's conception of the constant play of resistance and dominance between relations of power pertaining to a specific area of knowledge or discursive formation so that moral panics become a site where this interplay is highlighted. In terms of the current research this can be conceptualised as the interplay between dominant and marginalised discourses regarding pornography, so that while the pro-pornography and anti-censorship stance may not be completely marginalised or dominant (with the same being true for anti-porn/pro-censorship discourses) there is an interplay of power relations in which these discourses may draw on marginalised or dominant knowledges interchangeably, thus creating the back and forth motion of power relation which Foucault describes and which may come to be highlighted in the process of moral panic.

The authors' call to acknowledge this interplay of power and resistance amounts to an acknowledgement that resistant discourses also produce objects of knowledge and subject positions and that the productive power of these discourses and knowledges must be taken into account in an analysis of moral panic. Additionally, and in this vein, due to the rapid growth of the media as well as the formation of interest and lobby groups which often support and lobby for folk devils, or those people held to be a bad influence on society, McRobbie and Thornton note that there is now a multiplicity of voices at play within any social debate and this has resulted in a much more complex set of associations between the media, those in positions of power, interest groups, folk devils, and the public, which cannot be taken into account using previous models of moral panic.

Further to this point, the authors point out the media's position as situated in society and not separate from it as assumed by previous moral panic models. This assumption is inherent in Foucault's model of knowledge and power, since nothing can exist meaningfully outside of discourse, it is obvious that the news media, even though they are instrumental in the production of objects of knowledge, are also necessarily subject to the same power relations and discourses informing this production of knowledge. This is important to acknowledge as reality, or "truth", is mediated through the processes of representation in the media. This means that the discursive practices governing the production of news influence the way that news is framed and expressed. It is crucial to take into account that the press provide a socially constructed version of the truth and not an objective account of what reality is; indeed, the possibility of such an account is excluded from Foucault's theory as all knowledge is constructed and changing. This means that while previous models of moral panic have assumed that news reporting may have been distorted or exaggerated versions of real events, new models of moral panic need to take into account the

fact that the media provides one subjective representation of reality, albeit a representation accepted as reality by many.

In addition to the establishment and analysis of the main concepts outlined above, research on moral panic has taken many different directions. Altheide (2009) describes how the concept and social understanding of moral panic has changed between its inception and the new millennium. He argues that moral panic is more widely used in newspaper reporting than TV news because it fits with the logical format of newspaper news in that it "serve(s) to codify or encapsulate the fear narrative for news purposes" (2009, pg. 85). The author goes on to track the changing status of moral panic from a sociological concept to public discourse and argues that moral panic is now employed as part of a critical public discourse representing the "other side" of reported incidences of deviancy. He extends this argument by stating that while moral panic may represent a differing view from that which is predominant in the news media, it "adds to news discourse by providing a contrary view that is predictable, even scripted" (pg. 90).

Another direction of moral panic research links the emergence and return of moral panics to an economy of fear (Crichter, 2011). Critcher provides an overview of theorisations around the discourse of fear and how it is linked to both a political and financial economy of fear. He then makes the link to moral panics in that this economy of fear influences "the whole context which reproduces moral panics on a regular basis and […] is the same context for the continuous process of moral regulation, of which moral panics are an extreme form" (pg. 261).

Areas representing strong social taboos (such as crime, psychiatric institutions, and sex), where conflict may already be present due to the nature of these areas of knowledge and their associated discourses, seem to be the most likely to produce moral panic. This effect is increased

if there is a danger to society exemplified in deviant behaviour by people or in actions taken by organisations. This can be seen in the discourses and power relations which relate to pornography, which, in some explanations exemplifies deviant behaviour and its concomitant and risk to society.

Pornography

While pornography as an academic subject has grown around the world, especially within feminist analysis, there remains a lack of research into pornography in the South African context. This can possibly be tied to the conservative, Calvinist attitude towards sex and sexuality left over from pre-apartheid South Africa (Watney, 2008, pg.1), discussed at the start of this dissertation. Watney provides an overview of the regulation of online pornography in South Africa and notes that in apartheid South Africa, "various committees who had the powers to decide what adults might see, read and hear eroded any form of freedom of expression and subjected South Africans to particularly severe censorship" (pg. 1).

At present, under South Africa's constitution, effort has been made to preserve freedom of expression while at the same time trying to maintain the human rights of those who are considered to be at risk from by pornography, such as children. However, at times this results in a dilemma since one needs to balance rights to freedom of expression and privacy with the rights of children to be protected. Legislators have attempted to tackle this problem through the classification and regulation of pornography. As such, the classifications for films in South Africa are as follows: "refused classification" refers to those films which are judged to contain

child pornography, propaganda, and hate speech. If a film is classified as such, possession of it or submission to the film and publications classification board would result in criminal proceedings. The "XX" classification refers to films that contain:

> (i) explicit sexual conduct which violates or shows disrespect for the right to human dignity of any person
>
> (ii) bestiality, incest, rape or conduct or an act which is degrading of human beings
>
> (iii) conduct or act which constitutes incitement of, encourages or promotes harmful behaviour
>
> (iv) explicit infliction of sexual or domestic violence
>
> (v) explicit visual representations of extreme violence (Film and Publications Act, 2009)

These terms apply unless the film can be judged to be a *bona fide* documentary or publication of scientific, literary or artistic merit and does not contain child pornography. For a rating of "X18" the film must contain "explicit sexual conduct" with the aforementioned provisos also applied to this rating. In essence, these regulations entail that any person over the age of 18 may possess any film classified as "XX" or "X18" as long as it is for private use, however those who wish to broadcast such films publicly would need to be registered and all films classified before being broadcast (Watney, 2008, pg. 6-8).

The regulation of pornography through laws such as the ones described above can be understood as an effect of the productive and institutional power of the discursive formation addressing the domain of human sexuality. The discursive practices of applying such laws are carried out by

institutional bodies such as the Film and Publication Board (among others) and as such can be said to be part of the creation of pornography as a specific object of knowledge. At the same, time this process creates a code of practice that circumscribes the limits of how one may talk about or engage with pornography; in other words, this is an example of the judicative aspect of discursive practices. But, discursive practices have a dual nature, so that in the creation of pornography as an object of knowledge there is also the production of discourses of truth (veridicative aspect) to legitimise the associated codes of practice. In this case the code generated prevents engagement with pornography of a specific nature (i.e. violent porn, child porn, bestiality etc.) as well as defines what types of pornography are acceptable and how one may engage with and speak about them. Examples of the kinds of discourse which could be generated to support and reproduce this code of practice may be something like "pornography is harmful to women and children" or "pornography destroys the traditional family unit". An additional effect of these discursive practices is what Foucault refers to as "the implantation of perversions", or the process by which various sexual acts come to be classified as deviant and inserted into dominant discourses regarding sex and sexuality, thus influencing the construction of "normal" sexual desire and identities and labelling those who indulge in such practices as deviant or perverted.

While classification and definition attempt to provide ways to regulate and control the consumption of pornography, academic debate regarding pornography has largely been taken up by feminist academics and authors, and has been strongly divided along the same the either/or, pro/anti structure described by Atwood (2002). Anti-porn feminist debates have for the most part focused on the perceived patriarchal nature of pornography; arguing that the sex industry in general is a "euphemism for the sexual enslavement of women" (Dworkin, 2004, pg. 138) and that women and women's sexuality have been "commodified and objectified in a manner which

supports the patriarchal oppression of women and nowhere is this exemplified as clearly as in pornography" (Carline, 2011, pg. 314). Inherent in this argument is the notion that pornography constitutes institutionalised sexual violence and as such no woman can consent to work in the sex industry, or more specifically pornography, as this consent has been manufactured by an oppressive, patriarchal society. This discourse has been highly influential in the regulation of pornography, in the media, as well as in providing the framework within which discussions around porn take place. Those who consider the sex industry to be legitimate or those who wish to promote a broader understanding of sex and pornography are silenced or censured as this line of reasoning is seen as just as damaging to the women's movement as pornography itself (pg. 314).

While anti-porn feminism embraces an unchanging attitude toward all pornography as harmful, pro-porn feminism considers certain forms of pornography as acceptable and even subversive. This perspective moves towards a "positive embrace of sexual non-conformism with the idea that changing ideas about sex can change sex itself and with it the balance of power in society" (Sutherland, 2004, pg. 144 cited in Carline, 2011, pg. 314). Emphasis is placed on the fact that women *do* actively consume pornography that may otherwise be seen as misogynistic; and, this sometimes results in a destabilisation of and resistance to patriarchal understandings of and discourses around porn. In this way pornography is not seen as always oppressive and victimising towards women and this creates a space for more positive discourses regarding women's sex and sexuality in relation to pornography.

While debates between pro-porn and anti-porn feminism are important to consider they do not move past that "tired binary" (Juffer, 1998, pg. 2) of whether porn has fixed patriarchal meanings and attempt to address wider questions of power relations and discourse. Attwood (2002) discusses a paradigm shift within porn studies that moves towards the contextualisation of

pornography and entails investigating, in a less censorious way, issues of representation, sexual excitement and sexual practices (pg. 93). One of the main focuses of such a paradigm shift is an investigation into the way in which porn, as an "outlaw discourse" (pg. 93), signifies within a wider cultural framework as well as the polysemic nature of texts and potential fluidity of readings.

> Here, the articulation of a range of feminisms, which attempt to represent not only women's common identity and experience but their differences, and a growing emphasis on women's sexual agency and pleasure have, perhaps, been the key elements in the questioning of an earlier feminist orthodoxy on porn (pg. 93).

Since the 1990's this move towards the consideration of cultural significance, representation, identities, and discourses in relation to porn has continued, and pornographic media is no longer considered to have fixed, simple meanings which reflect oppressive power relations and misogynistic ideals. Pornography can now be contextualised and the various and contested meanings of this type of media can be theorised within a wider cultural framework. This new direction employs "many of the theoretical perspectives and preoccupations which have become central within Cultural Studies, particularly the polysemic nature of cultural texts and the potential fluidity of readings" (Attwood, 2002: 93). In this sense, pornography has the potential to unsettle established social hierarchies while at the same time providing the basis upon which such a hierarchy is constructed since, through the nature and content of pornography, it comes to stand for a whole range of social apprehensions including sexism, disintegration of the "traditional" family unit, and violence against women and children (Williams, 1989).

Along with academic and ideological changes in the approach to pornography studies, changes in technology must also be considered. The constantly changing and expanding nature of the

internet provides a platform for those who want to consume and produce porn to engage in and create ever new and different forms of the genre. These technological advancements have opened the market in the porn industry allowing for new pornographies, such as amateur porn and independent productions, to be accessible to a wider and more varied audience (Attwood & Smith, 2014). These changes can be seen in the South African context in the emergence of a developing porn industry, the first black South African full length porn film, as well as South African produced porn sites such as sondeza.com. However, with all the changes in technology and genre, porn has become a large part of many people's lives but what it means to them remains largely uninvestigated (Attwood & Smith, 2014).

The move away from debates regarding the potential harm inflicted by porn bares similarities to Foucault's theorisation of the establishment of subject positions in relation to the power relations and knowledges which inform our understanding of sex, desire, and sexuality. Foucault conceptualises the work of power relations and discourse as carried out on the physical body and therefore his work has,

> premised the idea of a textual body. His disquisition on sexuality (or sexualities) upset those notions according to which the body itself is the repository of unbridled passions, meanings, and sexual desires – heretofore – "repressed" – and that the body always signifies in the same way. The Foucauldian body is not a transcendental signifier. To talk of the discursive body, however, suggests that there are shifting associations attached to social and local bodies *and* that our sexual desires are formed for us in discourse, in economies of regulation, confession, technique (Berkeley, 1995, pg. 4).

Here, Berkeley describes how human sexuality is not an inherent quality of humans, but is discursively produced according to changing associations and economies of regulation, both of which rely on power relations and preferred forms of knowledge (or dominant discourses) about sexuality for their discursive work on the body. These changing forces map out available subject positions from which a person may come to understand and become a part of the concept of human sexuality as a whole as well as their own sexuality and sexual desires. The discursive turn to issues of power, identity and discourse in the study of pornography strongly reflects this ideological stance, in that debates regarding pornography and sexual desire no longer centre on the harmful effects of porn that are understood as always inherent in its nature, but rather on how individual sexualities and sexual desires, and by extension pornography, are discursively constructed within a system of power relations and knowledge. This understanding acknowledges that these forces are constantly changing and subject to resistance so that while some individuals may choose to construct their sexual identities in harmony with dominant knowledges and discourses, others may do the opposite, and construct their understandings of sexuality in relation to deviant discourses. It also allows for an interrogation of the contribution of social bodies of control, or disciplinary institutions, to the construction of human sexuality through an analysis of the power relations and knowledges which inform them and which are present in the texts produced by each institution. In this instance, the disciplinary institutions of ICASA and the news media serve as part of the mechanism for the construction and control of human and individual sexualities in the South African context. As such, an examination of the texts produced by these institutions allows for an interrogation of the interplay between the power relations and knowledges embedded in them which construct sexuality (possibly in different ways for each institution) at a specific social moment.

Foucault examines the process by which sexuality came to be examined as a scientific object in the 18th and 19th centuries in *The History of Sexuality Vol. 1* (1978). Here, Foucault argues that while contemporary thinking holds the view that sexuality had been suppressed from the 17th to mid-20th centuries (referred to as the "repressive hypothesis"), in fact, discourse on sexuality increased during this period. Indeed, Foucault refers to a "modern compulsion to speak incessantly about sex" (Foucault, 1978, pg. 57-58; Williams, 1989, pg. 2) and argues for the emergence of a *scientia sexualis* or science of sexuality.

> Where ancient and non-Western cultures had organized the knowledge of sex around an erotic art, or *ars erotica,* aimed at passing general knowledge from the experienced to the initiate without specifying or classifying the details of this knowledge, modern Western cultures have increasingly constructed a *scientia sexualis*- a hermeneutics of desire aimed at ever more detailed explorations of the scientific truths of sexuality. The *scientia sexualis,* Foucault argues, constructs modern sexualities according to a conjunction of power and knowledge that probes the measurable, confessable "truths" of a sexuality that governs bodies and their pleasures (Williams, 1989, pg. 34).

Foucault conceptualises the modern understanding of sexuality in a similar way to the modern control of criminality, as an object of scientific knowledge which "makes each individual a 'case': a case which at one and the same time constitutes an object for a branch of knowledge and a hold for a branch of power" (Foucault, 1975, pg. 191). The emergence of this science of sexuality constructs the practice of sex and the experience of sexuality within the domain of the scientific rather than the erotic. This is achieved through the use of standardised techniques and technologies (such as those used by psychologists, doctors, and researchers in the examination and treatment of people in relation to sexual issues) as well as through the establishment of

institutional organisations and the creation of medicalised categories relating to human sexuality and sexual behaviour. The discourses and discursive practices of *scientia sexualis* construct sex as an object of scientific study and in so doing produce specific types of knowledges regarding sex and sexuality and, concomitantly, specific types of power relations and thus subject positions. This means that,

> not only is there control exercised via others' knowledge of individuals; there is also control via individuals' knowledge of themselves. Individuals internalize the norms laid down by the sciences of sexuality and monitor themselves in an effort to conform to these norms. Thus, they are controlled not only as *objects* of disciplines but also as self-scrutinizing and self-forming *subjects* (Gutting, 2014, emphasis original).

Inherent in these proliferating medical and scientific discourses on sex is a need to identify and describe various and different sexual practices and desires, and in this process these "perversions" become "implanted" into the discourses, discursive formations and practices, and areas of knowledge relating to sex and sexuality. However, while this propagation of discourses and practices may strive to control desire and sexual activities through repression and pathologisation, it is worth noting that Foucault's conception of power is constitutive and positive, so that desire is not suppressed but discursively produced within discourse. This process of production through repression is true with respect to both the sex industry (including pornography) and the medical treatment of perversions (Taylor, 2009) resulting in an "implantation of perversions" relating not only to pathologised understandings of sexual practices and desires, but also to practices and desires which may deviate from the norm established by the sciences of sexuality in less pathological but irregular ways (i.e. consuming pornography in general, or a specific kind of pornography). In this way, "the osmosis of a

pleasure feeding into power and a power feeding into pleasure" allows for "sexualities rigidify(ing) into identities that are then further institutionalized by discourses of medicine, psychiatry, prostitution [...] and pornography" (Williams, 1989, pg. 3).

The net result of the emergence of the *scientia sexualis* is that the creation of sex and sexuality as an object of scientific study has resulted in the construction of knowledges about sex and desire that pathologise and repress irregular and deviant desires and practices while at the same time constructing other practices and desires as the norm. The impetus to control and the desire to dissect and talk about sex have had productive results leading to the construction of perversions (or deviant practices and desires) which have been incorporated into the body of knowledge relating to human sexuality along with normative practices. This has resulted in a number of potential subject positions in relation to the discursive formation of human sexuality; those which are consistent with the constructed norm for sexual behaviour and those that deviate from this norm – discourses of the pervert and madman.

This study is interested in the manner in which sex and sexuality and, by extension, pornography come to be constructed as objects of knowledge by the disciplinary institutions of ICASA and the South African news media, as well as how people take up subject positions in relation to these forms of knowledge. Additionally, the study also analyses the similarities and differences between the ICASA hearing and the news media in the construction of sexual knowledge and representation of subject-positions, and relates these differences to the discursive practices of the media which are associated with the generation and maintenance of moral panic. These different analyses are realised through a close and thorough examination of the language used by each institution using the techniques and tools provided by critical discourse analysis.

Chapter 3: Data Gathering and Methodology

This chapter will present the methods used for gathering and selecting the relevant data as well as the methodology which will be used in the analysis.

Data Gathering

Data for the present research was gathered in two different stages. Firstly, the transcript of the hearing was provided directly from ICASA which has a library on site that is accessible to the public. The transcript was accessed with the help of the ICASA librarian and was scanned and emailed to me from the ICASA premises.

Newspaper reports were accessed through Sabinet (sabinet.co.za) which provides access to digitalised newspapers and other publications online. The first parameter used was the time frame within which to search. Since the hearing in question occurred in 2013 this was the time period in which the search was conducted. I specifically chose to focus on 2013 as Top TV and ODM did not attend the first hearing held in 2012 and as such the reports of this event are not relevant. Secondly, in order to maintain a manageable corpus size I chose to analyse reports only from the newspapers with the highest circulation figures in 2013. This information was obtained from marklives.com, a media website which analyses circulation trends among South African newspapers, and magazines (among other media formats) based on data received from the Audit Bureau of Circulations. This resulted in a list of the following newspapers to be searched: *Daily Sun, The Times, Isolezwe, The Star, Sowetan, Son, Beeld, Die Burger, The Citizen, Business Day, Sunday Times, Soccer Laduma, Rapport, Sunday Sun, City Press, and Sunday World*.

The following table details the articles which are analysed:

Date	Newspaper	Article
14/01/2013	Beeld	Top TV sè hy wil weer porno wys
14/03/2013	The Star	Top TV flights adult entertainment chance again
16/03/2013	Beeld	Ek's verkrag bieg Dr Eve
17/03/2013	City Press	Porn on TV a sticky debate
19/03/2013	Beeld	Kerke staan saam in Top TV-boikot
27/03/2013	The Citizen	Naked truth about porn on television
25/04/2013	Beeld	Finale "Ja" vir porno
25/04/201	Die Burger	Groen lig vir porno op Top TV

3		
25/04/2013	The Star	ICASA gives porn channels the thumbs up
26/04/2013	Beeld	Skrywer: 'Seks kan woema kry'
26/04/2013	The Citizen	Channels for TV porn 'degrading'
26/04/2013	The Citizen	No link in porn, sexual violence
2/05/2013	The Star	Hurray for porn channels (reader's letter)

Each newspaper was searched individually using a feature on Sabinet that allows the researcher to specify the publication in which to search. The following search terms were used: "ICASA", "Icasa"[14], "TopTV", "Top TV", "Top Tv", "porn", "pornography", "porno", "ODM", "On Digital Media", and "hearing". Some of these publications did not run articles on the application, the hearing or the outcome, these were: *Sowetan* and *Sunday World. Daily Sun, Isolezwe, Son,* and *Soccer Laduma* were not available on Sabinet. This resulted in a corpus of 26 articles

[14] Searches on Sabinet are case sensitive and some newspapers use the fully capitalised ICASA while others use Icasa.

containing those keywords. Once the articles were obtained they were all analysed and coded for discourses relating to pornography and Constitutional arguments as well as any other relevant discourses which were present (e.g. discourses regarding sex practices and desires, sexual identities, and sexual violence). Reports were chosen for inclusion based on their relevance to the hearing, for example, *Business Day* reports mainly on the financial aspects of the application and not on events at the hearing.

Methodology

This study makes use of critical discourse analysis (CDA) in order to analyse the language used in the transcript of the hearing at ICASA as well as newspaper and media reports of the application by TopTV.

Drawing on the work of M.A.K. Halliday, CDA conceptualises language as a system of resources from which creators of texts can draw in order to "place events and ideas into broader frameworks of interpretation" or discourses (Machin & Mayr, 2012, pg. 20). CDA aims to tease out and understand the links between language, power, and ideology which are manifested within a text's linguistic structure and (re)produced in society. In order to do this, CDA provides a number of techniques and tools which are used in the study. These include analysis of lexical choices, the expression of modality, the use of personal pronouns, and presupposition.

The analysis of lexical choices is the most basic level of analysis in CDA and involves investigating word connotations and connections in order to understand what discourses they carry and how (Machin & Mayr, 2012). Since all word choices are ideological, analysis of the specific linguistic choices in a text may reveal the discourses and power relations which have

shaped that text. Lexical analysis also requires an attention to whether certain words or themes are repeated often, which words have been omitted, and if there are any structural oppositions in the text. Structural oppositions occur because words gain meaning not only on their own but as part of a network of meanings, which includes their antonyms, and this creates the possibility for the use of structured oppositions in language. In everyday language use these structural oppositions are inherent in opposing concepts such as young-old, good-bad, and hot-cold. However, when appearing in texts or speech "often only one of these may be mentioned, which can imply differences from qualities of opposites without these being overtly stated" (Machin & Mayr, 2012, pg. 39). In other words mentioning a specific word can call to mind its opposite and thereby set up an implicit comparison between the two which may have ideological implications for the argument being made by the writer or speaker (Machin & Mayr, 2012).

Another important factor to consider for the present research is the linguistic ways in which truth or certainty are indicated by a speaker and how this is related to a speaker's specific subject position. This concept refers to modality and this is defined generally as "to do with speaker or writer authority" (Fairclough, 1989, pg. 126). Different types of modality exist, "relational modality" refers to "the authority of one person over another" and is also referred to as deontic modality. "Expressive modality", or epistemic modality, refers to "the speaker or writer's authority with respect to the truth or probability of a representation of reality [...] i.e. the modality of the speaker/writer's evaluation of the truth" (Fairclough, 1989, pg. 126-127). For the present research the focus is on epistemic modality since representatives at the hearing are there to express their version of the truth in relation to pornography and issues of Constitutional freedom of speech. Although the hearing is a quasi-legal event, there is no authority of one person over another expressed in the same way as, for example, in a trial in a court of law. Modality may be expressed by writers and speakers in a number of ways, firstly through the use

of modal auxiliary verbs such as *like, may, might, must, should, can't,* and *ought.* Auxiliary verbs are used in conjunction with main verbs to express variations in certainty, since "some are higher in degree of commitment than others" (Fairclough, 2003, pg. 170). This means that auxiliary verbs such as *may* or *might* express a lower level of commitment to the truth than words such as *will* and *do*. Additionally, if there is an absence of auxiliary verbs altogether this indicates that a speaker or writer does not feel the need to mitigate their expression of the truth (Fairclough, 1989).

Secondly, modality is expressed through the use of the present tense form (Fairclough, 1989, pg. 127). The present research is interested in those instances where speakers and writers make use of the present tense form of verbs because this indicates "a categorical commitment of the producer to the truth of the proposition" (Fairclough, 1989, pg. 129). The present tense form may occur in a positive sense, for example; "your library books are overdue" or in the negative sense; "your library books are not overdue". Both of these forms display an equally categorical commitment to the truth. Fairclough additionally comments on the presence of modality in newspaper reporting, stating that "reported happenings are generally represented as categorical truths – facts – without the sort of intermediate modalities" discussed above. In this statement Fairclough notes that news reporting does not generally make use of modal auxiliary verbs or adverbs to express truth or facts, instead making use of categorical modality – modality expressed through the use of the present tense form.

> The presence of categorical modalities supports a view of the world as transparent – as if it signalled its own meaning to any observer, without the need for interpretation and representation. 'News' generally disguises the complex and messy processes of information gathering and interpretation which go into its production, and the role therein

> of ideologies embedded in the established practices and assumptions which interpreters bring to the process of interpretation (Fairclough, 1989, pg. 129).

In other words, newspaper articles are presented as the truth through the use of the present tense form which implies that the reporting is representing things in the world "as they are" and does not reveal the ideological and conventional methods, or discursive practices, used by journalists in processing and interpreting the information available to them.

Another aspect of writing and speech to consider in a critical discourse analysis, and which is important for the current research, is the use of personal pronouns (Fairclough, 1989 & 2003). This is because personal pronouns mark relationships between the speaker or writer and the audience to which the speech or text is addressed, as well as possibly to other people who may not be part of the audience. What is significant about pronouns is that speakers and writers can use them to align an audience for or against their (or other's) ideas and claims (Machin & Mayr, 2012) and in this way pronouns can also express power relations. Generally pronouns such as *us, we,* and *them* are used in this way, although the use of *we* is less clear cut than the other two. While *us* indicates that the speaker and the audience are being included in the same group, *we* can be inclusive or exclusive of the audience being addressed (Fairclough, 2000). The use of the pronoun *them* explicitly creates an in- and out- group which is again an expression of power relations by the writer or speaker. Since the present research considers an issue which is generally polarising, the expression of power relations in this way (i.e. in-groups and out-groups as well as audience inclusion or exclusion) is important to consider.

Finally, the use of presupposition is important to consider when conducting a critical discourse analysis and particularly for the present research. Presupposition has to do with "the kinds of

meanings which are assumed as given in a text" (Machin & Mayr, 2012) or in other words the "pre-constructed" elements (Fairclough, 1995) of a text. Normal language use relies on presupposition in order to be meaningful; in every utterance certain meanings are assumed as understood by both the speaker and the listener and this allows for efficient communication. However, certain speakers or writers will presuppose that their audience has a specific understanding of a subject when in fact this understanding is highly contestable. In this way presupposition can work to conceal certain meanings while at the same time highlighting others. This is important because these kind of contestable but concealed meanings can be used to form the basis of a seemingly logical argument while at the same time concealing alternative meanings and the power relations which inform them (Machin & Mayr, 2012).

Each set of data can be considered as culturally and historically situated texts, and as such, they are shaped by the cultural knowledges, power relations, and discursive formations of which they are an object. The tools and techniques of CDA are mobilised to disrupt the naturalness of these power relations and preferred knowledges, and through an examination of the effects of discourse and disciplinary institutions, to understand the nature of cultural knowledges regarding pornography, sex and sexuality and their influence on individual understandings of sex and sexuality and how these relate to the concept of moral panic.

In order to achieve this, these basic CDA techniques and tools are combined with a Foucauldian approach to discourse analysis which focusses on power relationships as expressed through discourse and language. In this view discourse does not only include spoken and written language but also the "rules, systems and procedures" which produce knowledge (Hook, 2001, pg. 2). Through the use of language, discursive and non-discursive practices, and rules which constrain what can and cannot be spoken about, dominant knowledge is produced about a

specific subject. Because part of this process includes certain actions, identities and practices while at the same time excluding others (through rules about what can and cannot be spoken about), the production of knowledge necessarily relies on contesting and conflicting power relations. This means that "discourse itself is both constituted by, and maintains the reproduction of, the social system, through forms of selection, exclusion and domination" (Hook, 2001, pg. 2-3). Thus, discourse for Foucault, is productive, in that it produces the subject which it addresses (Kendall & Wickham, 1999). It is this productive element of discourse which is relevant to the present research because the hearing at ICASA and the related news articles are forms of knowledge production regarding pornography, sex, sexuality and the South African constitution through the working of discourse.

Inherent in this understanding of discourse, and essential for the present research, is the notion of power. Foucault conceptualises power as a "network or web that enables certain knowledge(s) to be produced and known" while at the same time also "constrain(ing) what it is possible to know in certain situations" (Given, 2008, pg. 356). In this sense, power is inherent in individual relations between people and between people and forms of knowledge (Gutting, 1993) and is also considered to be productive instead of repressive (Given, 2008). Power operates through forms of selection, exclusion, and domination in discourse and provides the means through which knowledges as well as subjects are constituted. In this understanding, power and knowledge, although two different entities, cannot be separated; the production of knowledge is dependent on power relations and power relations are expressed through the production of truth (or dominant forms of knowledge) (Given, 2008). Notably, the "knowledge underpinning a discourse can be used by proponents of that discourse both to claim authority and presence in certain settings and to exclude other possible discursive framings" (Given, 2008. Pg. 356) and this property of knowledge and discourse is necessary to consider in regards to the current

research. This is because those arguing in favour of the application and those arguing against it can both use a specific type of knowledge about pornography in specific discursive framings to create authority and at the same time refute other discursive framings. In this way, a specific discursive framing of an area of knowledge can render that knowledge visible and understandable while at the same time preventing other discursive interpretations that would offer alternative views of reality. It is this interplay between different discursive frameworks, or discourses, that forms the basis of the hearing and news articles relating to it because these sets of data present two different and competing discursive understandings of pornography.

By using the basic tools and techniques provided by CDA to analyse the language used in the hearing transcript and related newspaper reports, the present research aims to uncover and examine the workings of power, discourse, and discursive framing and the consequent production of subject positions and related forms of knowledge pertaining to pornography in South Africa. The study begins with a close analysis of the language and specific linguistic choices in each piece of data, starting with the hearing transcript in chapter four and moving on to newspaper reports in chapter five. Both of these sets of data were analysed and coded for various discourses to illustrate the prevalence and nature of both dominant and deviant discourses and how these are mobilised by various social actors in each context. Finally, chapter six brings these threads of analysis together in a discussion of the overall effects of power and discourse in the construction of knowledges and subject positions in relation to sexuality and how these are related to issues of moral panic.

Chapter 4: Transcript Analysis

This chapter will present the analysis of selected excerpts of the hearing transcript. The selection of these excerpts was performed in such a way as to gain a representative sample of the discussions held at the hearing. Many points are often repeated, especially those made regarding constitutional and legal considerations. As such, I have selected a representative sample of speech from a range of representatives.

Top TV and ODM's arguments in favour of the proposed channels contain a number of discourses that are employed to gain agreement from the panel at ICASA. The two most prominent of these are: (1) a rights based discourse which argues that the broadcasting and consumption of porn can be classified as free speech under Section 16(1) of the Constitution and are thus protected; and (2) a pro-porn discourse which advocates that porn is not misogynistic and has potential social benefits. Top TV also relies on a discourse of social responsibility in order to reassure the public that no one will be harmed by the airing of the proposed channels.

Top TV's arguments rely heavily on a rights based discourse, the main focus of which is the Constitutional right to freedom of expression as articulated in South Africa's Constitution which states:

> 16. (1) Everyone has the right to freedom of expression, which includes -
>
> (a) freedom of the press and other media;
>
> (b) freedom to receive or impart information or ideas;
>
> (c) freedom of artistic creativity; and

(d) academic freedom and freedom of scientific research.

(2) The right in subsection (1) does not extend to -

(a) propaganda for war;

(b) incitement of imminent violence; or

(c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm (1996).

This is often strongly linked with a legal discourse which deals with the legality of broadcasting such content as stipulated by the Film and Publications Act and under related South African law. In the opening address Mr Eddie Mbalo (CEO of On Digital Media) states:

> In launching these channels ODM has set its constitutional right to freedom of expression and choice. The content does not contravene the law on hate speech or incitement to violence nor does it discriminate against or demean women or risk harm to children. There is no law prohibiting the proposed adult content, in fact, we will show that refusal of channel authorisation would be unlawful and unconstitutional (Van-Der-Ben & Van-Der-Ben, 2013, pg. 7).

Further adding to this argument Mr Mbalo states that,

> ODM acknowledges that some people find sexually explicit content offensive on the grounds of moral or religious beliefs. We respect and fully defend the rights of people to hold those beliefs. In a democracy, however, adult citizens are free to make the choices

> that suit them within the rule of the law. It is not the role of the state, church or any other body to dictate to people how to behave as long as no one is harmed in the process (Van-Der-Ben & Van-Der-Ben, 2013, pg. 8).

In these two extracts we see the two-pronged approach of the constitutional argument which underlies Top TV's representations. On the one hand, it is argued that the content to be broadcast does indeed fall under the category of free speech as set out by the Constitution and as such is protected. Additionally, it is also argued that it should be every adult's personal choice whether to watch the channels and that right is also protected under the Constitution. The strength of this argument is augmented by the fact that Mr Mbalo speaks in the present tense and does not make use of mitigating auxiliary modal verbs such as *may* or *might* which would soften his argument, thereby lessening his commitment to the truth of his statement. Fairclough (1989, pg. 129) states that the use of the present tense form is an indication of "a categorical commitment of the producer to truth of the proposition", or strong modality. This form of modality and the absence of mitigating modal verbs indicates that the speaker is confident that what they are expressing is the truth and therefore should be accepted as such by their audience. Mr Mbalo's argument is further strengthened by the implication that the result of the hearing is a foregone conclusion since "it is not the role of the state, church or any other body to dictate to people to how to behave as long as no one is harmed in the process" and "refusal of channel authorisation would be unlawful and unconstitutional". This argumentative strategy effectively negates the need for an application hearing in the first place and in so doing creates a strong appeal for the panel at ICASA to rule in favour of ODM and Top TV.

The Constitutional discourse introduced by Mr Mbalo is also taken up by Advocate Steven Budlender, representing ODM and Top TV's legal interests, who continues to unpack and argue

for ODM and Top TV's Constitutional right to broadcast the channels by stating, "now we all know, of course that section 16(1) of the constitution provides for the right to freedom of expression. […] We also know that freedom of expression under section 16(1) does not apply to certain kinds of speech" (Van-Der-Ben & Van-Der-Ben, 2013, pg. 16-17). Here the speaker presupposes, through the phrase "now we all know, of course", that his audience has previous in-depth knowledge of the Constitution, and specifically Section 16(1). The phrase "we all know" lends his argument credibility by assuming group consensus – if everyone knows something then there can be no cause for disagreements or dissent. Presupposition refers to the "pre-constructed elements" (Fairclough, 1995, pg. 107) of a text or the meanings which are assumed as shared knowledge. These meanings are important for ensuring effective communication but are often contestable and as well as assuming knowledge they may also presuppose agreement, as in the case of Adv. Budlender's statement. The suggestion made by the inclusion of the discourse marker "of course" is that everyone knows exactly what the Constitution states; this implies that since everyone knows this, everyone must agree with his argument.

Adv. Budlender's use of presupposition is coupled with the same strength of certainty in his arguments as was present with Mr Mbalo. He begins introducing the first slide of his presentation with the statement that the slide deals with "the *fact* that the content of the proposed channels *does* constitute expression in terms of section 16(1) of the Constitution" (Van-Der-Ben & Van-Der-Ben, 2013, pg. 16, emphasis added). This statement makes use of language indicating very strong certainty through the use of the modal noun "fact" and through the appearance of the strong modal verb "does". In this case the use of nouns such as "fact" and verbs such as "does" in the present tense form, indicates that Adv. Budlender is strongly committed to and is certain about his statements. Strong modality is also present in his statement that,

> the bottom line is there is no law or provision which prohibits the content which ODM seeks to broadcast […] and [as] has rightly been pointed out, in fact, ODM can already broadcast this content. It is just that it is now seeking a separate channel to do so for the reason that it wants to strictly control how this is done and to ensure that there is no access to children (Van-Der-Ben & Van-Der-Ben, 2013, pg. 19).

Adv. Budlender presents this statement as fact to the audience, and this is achieved not only through the use of categorical modality in the present tense form, but also through modal nouns such as "fact". This is further enhanced through the use of the metaphor "the bottom line". The use of metaphor is a powerful linguistic strategy which can influence an audience's understanding of a particular issue and at the same time conceal meanings while seeming to make things clearer (Fairclough, 1995). In this case, what is being presented as fact through the use of this metaphor is the notion that pornography is acceptable content to be broadcast on TV since there is no law prohibiting this. However, this statement is highly contestable because for many people, it may not be only the law which serves to determine what acceptable media content is, but also public opinion, religious beliefs, and personal morals. By using this metaphor, the speaker attempts to render these alternative understandings invisible, thereby providing only one discursive frame through which to understand his argument. While Adv. Budlender may feel that his case for the channels being lawful is robust, others may not agree and it is this contestation that the metaphor serves to obscure in order to gain implicit agreement from the audience.

The presence of an appeal to the Constitution and its associated legal concerns can be conceptualised through a Foucauldian lens as an appeal to the norms on which a disciplinary society is based. For Foucault, norms are understood as a set of rules about a certain thing, a way

of producing these rules as well as, most importantly, a principle of valorisation (Foucault, 1978; Ewald, 1990). In this sense, norms are related to hegemonic expressions of power and are characterised by an implicit logic of how things should operate in society as a reflection of this power. Since norms clearly define their object (i.e. which objects, actions, or people are normal and acceptable) they provide a means for distinguishing what conforms to these rules and what does not. Norms "come to the fore most typically in constitutions, legal codes, and the constant, clamorous activity of the legislature" (Ewald, 1990, pg. 138) and are the basis for a disciplinary society since "the norm is the principle that allows discipline to develop from a simple set of constraints into a mechanism" (pg. 141). Norms allow disciplinary bodies such as ICASA and the news media to operate with a common language, thus facilitating the operation of discipline through mechanisms such as courts of law and hearings such as the one under investigation.

In order to strengthen and add validity to its argument, ODM appeals to the foundations of South African society by referring to the norms by which it operates. In essence, they are saying that their intention to broadcast the proposed channels falls under what South African society valorises as normal because the right to free speech is a norm represented in the Constitution and maintained through disciplinary practices such as enforcement of the law and court rulings. If this is the case then there can be no legal or disciplinary reason not to allow the broadcasting of the content.

While such an appeal follows the logic of norms and discipline embodied in disciplinary states and operationalized through disciplinary institutions, this is nonetheless a highly emotional tactic employed by ODM's representatives. This is because the norms and the resultant laws and codes of practice in South Africa's Constitution and legislature have come into existence following many years of struggle for equality and democracy. As such, the Constitution of South Africa is

held by many of its citizens to be a document with great personal significance, representing the physical and emotional aspects of the past fight for freedom, which may have affected people directly through their participation in the process of political change of which it is the result. ODM attempts to appeal to this personal significance and in so doing position their argument on the same level of importance as the social norms enshrined in the Constitution. This sentiment is expressed by Mr Mbalo's statement that "in launching these channels, ODM has set its Constitutional right to freedom of expression and choice" (Van-Der-Ben & Van-Der-Ben, 2013, pg. 7). The reference to the "Constitutional right to freedom of expression and choice" subtly mobilizes the meaningful and emotive aspects of South African democracy and the political struggle which birthed it that exist within the national collective consciousness of South Africa as a nation. This means that this discourse is a powerful one in this context as it appeals, not only to these highly valued collective representations of South Africa as a democracy, but also and by extension to those people who have some power to enforce the ideals embodied in the Constitution and indeed, *requires* of them to act in accordance with the Constitution in order uphold these ideals.

In this way ODM and TopTV frame this debate as being on the same level of importance as the struggle for freedom and democracy, and this is a tactic which underscores the importance of the issue at hand. The strong and consistent reliance on this argument[15] creates the impression that this is an issue of extreme import in a democratic South Africa, and places the same emphasis on this issue as other Constitutional issues such as the continuing racial divide and uneven distribution of wealth which characterise South African society. In order for this tactic to work

[15] ODM and Top TV rely heavily on Constitutional arguments however, space limitations prevent a full and detailed quotation of these instances. References to Constitutional arguments by Top TV and ODM are made at the following locations in the hearing text: pg. 7-8 by Mr Mbalo; pages 16-27 by Mr Woodland and pages 149-161 also by Mr Woodland. These references are from representations made by Top TV and do not include Constitutional arguments made in response to questions by ICASA panel members.

ODM and Top TV have to demonstrate that they do not see pornography as transgressive or potentially dangerous to society and this is achieved through the use of pro-pornography discourses.

This discourse is introduced by Mr Mbalo stating:

> ODM research shows there is majority support in demand for these channels and this is research that was conducted amongst the current subscribers. 75% of 501 respondents agree that […] 'an adult has a right to watch pornography in the privacy of his or her home' 51 % of respondents […] of which 60% are male and 40% female are highly likely to subscribe to an adult content channel. 51% of respondents who have watched an adult channel have done so with their partner (Van-Der-Ben & Van-Der-Ben, 2013, pg. 7).

In this extract, the speaker displays high epistemic modality through the use of the present tense form which is further enhanced by the fact that the speaker does not use modal auxiliary verbs such as "may" or "might" which would temper the force of the speaker's statements. What is notable in this instance is also the inclusion of statistics as a discursive strategy through which to further strengthen the argument. Modality and numbers here work in tandem to convince the audience of the veracity of the speaker's arguments – present tense verbs such as "is" imply a statement of fact and as such when combined with statistics, which bear connotations of real, scientifically established truths, the speaker's argument seems more plausible. In addition, the lexical choices further advance the ideological threads of Top TV's argument. Mr Mbalo says that there is a "demand" for these channels on the basis of a survey of 501 current subscribers. Here the word "demand" implies that while Top TV is proposing to air the channels, it is really only in response to what the public wants. "Demand" in this case carries the connotation of a

large portion of the public voicing a strong desire for something in the market; however, there were only 501 respondents, which came from people who were already subscribers and not from the general population.

This selection is problematic as it only shows interest for the channels among current subscribers and not South Africans in general. Therefore, the use of the word "demand" boosts the impact of the following statistics by implying a larger group of consumers who wish to subscribe to the channels, while not acknowledging that these respondents were already subscribed to Top TV. In so doing, ODM and Top TV capitalise on pro-pornography discourses which position pornography as healthy and beneficial to relationships. While this discourse does not necessarily square with the neo-liberal, market driven stance taken by Top TV, in so much as the "porn is healthy and good for your relationship" discourse exists to support ODM and Top TV's attempts to change the market in their favour; it is nevertheless an attempt to introduce a more liberal and sexually progressive discourse into the public sphere. Further, Mr Mbalo quotes the word "right" from the survey results, stating that 75% of respondents believed that they had the "right" to watch porn in the privacy of their homes. This lexical choice ties into the constitutional and legal discourses which are the foundation of Top TV's argument and implies that it is not just ODM and Top TV who believe that this is a rights based issue but also the general public who are protected by Section 16(1) of the Constitution. While Mr Mbalo's speech implies that these are his own words, he is really giving voice to the results of the survey conducted, in order to strengthen his own argument. This is further emphasised with the use of the word "privacy" which implies that the consumption of porn channels is a personal choice which does not extend into or rely upon the public domain; people have a right to choose to watch porn at home where those who may disagree with this choice cannot be harmed or influenced by it.

From a Foucauldian perspective on sexuality this is problematic because "since Victorian times 'sexuality was confined to the home through the institution of conjugal family and the parents' bedroom" (Foucault, 1978) which is what ultimately made sex in public not only illegal but also a form of moral 'deviance' which would breach 'public decency' whatever that may mean (Milani, in press). However, if the hearing is considered as playing a part in the production of knowledge regarding sexuality, this assertion can be seen as an attempt to re-structure this knowledge about sexuality and bring it out of the domain of the private.

Interestingly, the speaker goes out of his way to include both males and females in this argument. Mr Mbalo states that "51 % of respondents […] of which 60% are male and 40% female are highly likely to subscribe to an adult content channel". This elaboration of how the 51% is made up indicates an awareness of the debates surrounding women consuming and performing in pornography and also links to the pro-porn and anti-censorship discourses present in Top TV's representations. The fact that Top TV feels it is important to provide this information suggests that the inclusion of females in this argument is a strategy used to bolster their case. Debates regarding pornography often centre on the harm it may cause women through objectification and sexism. In stating that a near majority of their respondents in favour of the channels are female, Top TV is attempting to negate assertions about misogyny in porn by implying that since so many women wish to consume porn these debates can no longer be valid. These attempts at including women as active porn consumers are further highlighted in the final line of the extract which says that more than fifty percent of respondents have watched porn with a partner. This is a very strong argument in favour of pornography since porn is often cited as a major contributing factor in relationship conflicts (Marriott, 2003; Lambert, Negash, Stillman, Olmstead, & Fincham, 2012; Paul, 2005). Top TV is implying that the channels to be broadcast cannot be misogynistic or cause conflict in relationships since so many women in their research have

spoken up in favour of them. This reference to the use of porn by couples also contains within it an inherently heteronormative discourse which positions pornography as potentially part of a healthy and satisfying sex life, but only for consenting heterosexual monogamous adults. This positioning attempts to describe porn as an essentially healthy and wholesome activity which ultimately *contributes* to a happy and healthy family life rather than disrupting and destroying it. This discursive strategy indirectly appeals to a family values agenda and in so doing attempts to negate and ignore potential harmful results of the production and consumption of pornography, of course to Top TV and ODM's benefit. The speaker emphasises the use of porn with *their* partner (singular) which indicates monogamy and stability and at the same time erases the use of porn by more than two people at a time or by those in non-monogamous relationships. In addition, from a queer perspective this also negates and ignores the use of pornography by individuals on their own (whether it be a man or woman) as well as in homosexual relationships.

Top TV's position that pornography (or at least the pornography they will be airing) is not misogynistic is clearly articulated with Mr Mbalo's statement that "the content does not contravene the law on hate speech or incitement to violence nor does it discriminate against or demean women" (Van-Der-Ben & Van-Der-Ben, 2013, pg. 7). This pro-porn stance is also taken up quite strongly by Mr Simon Woodland (CFO of ODM) who introduces Playboy South Africa as ODM's partner in undertaking to broadcast the channels.

> Speaking on behalf of Playboy who is our partner in this enterprise, they are probably the best known and biggest provider and distributor of this type of content and they are strongly committed to equality and the rights of women (Van-Der-Ben & Van-Der-Ben, 2013, pg. 12).

This introduction again brings out the claim that Top TV does not believe that the pornography they will be broadcasting is misogynistic or harmful to women. In addition, this association with an established media actor in soft porn works to legitimise and justify the application by Top TV and ODM.

However, Mr Woodland continues thus:

> Since its launch 60 years ago, Playboy has been at the forefront of reproductive rights for women. In 1959 Playboy's Penthouse TV series was the first example of racial integration on TV in the USA and Playboy is widely acclaimed to have helped break down racial barriers on American TV. The company's philanthropic arm supports local and international non-profit organisations that protect civil liberties and promote social justice. Playboy was the only corporate giving program in the US to fight successfully for widespread condom distribution and gave billions of dollars to grants in regional and national organisations to promote women's rights […] ODM is equally committed to driving sexual education and health. So in parallel with these adult content channels we are committed to a strong social responsibility program and this includes a whole range of sexual health programs, teaching aids, radio platforms and ongoing sexual health campaigns. We also undertake to incorporate the Playboy activist philosophy of the Playboy Foundation, namely, protection of civil liberties, combating censorship, promoting education and research in human sexuality (pg. 12-13).

This statement, when compared to Mr Mbalo and Mr Woodland's previous statements that pornography is not degrading to women or sexist, creates a contradiction in Top TV's argument. Mr Woodland emphasises that Playboy is strongly committed to women's rights and goes on to

outline Playboy's philanthropic ventures, part of which is financial support to organisations working for the promotion of women's rights. A discursive opposition is set up in this statement between the rights of women, which are explicitly mentioned, and the unmentioned but implied opposite – men's rights. Important to note here is that this opposition does not necessarily exist in reality but in this case, is a result of the linguistic strategy employed by the speaker. A more nuanced understanding is that women's and men's rights do not exist within the same discursive frame and it is this distinction which creates the implication that ODM and Top TV may be acknowledging the possible misogynistic aspects of their product. Since pornography is traditionally geared towards the male gaze (Mulvey, 2003; Williams, 2004) and has not been implicated in transgressing the rights of men there is no need to advocate for such. The fact that Playboy produces, markets, and sells media products that are created for the male gaze, the same gaze which is strongly implicated in arguments that porn objectifies and degrades women, in a society where women's rights are valorised differently to men's necessitates their involvement in social support programs for women. The fact that Playboy, as well as ODM and Top TV, feel the need to provide for the rights of women implies that they are acknowledging their participation in an industry that is in some ways misogynistic and does not always have the rights of female performers and consumers at heart and, in some cases, completely ignores them. Thus, while stating that the content to be broadcast is not misogynistic or demeaning, ODM and Top TV are also acknowledging the fact that pornography has been implicated in sexism and misogyny as well as anticipating any criticism on this point.

ODM and Top TV are clearly advocating for the possible social benefits that will accompany the broadcasting of these channels through their social outreach and rights advocacy programs. In this vein Mr Woodland states that Playboy TV was instrumental in breaking down racial barriers in the United States. This point is an especially salient one in a South African context where

there is a long history of racial division. Despite the new Constitution and the Bill of Rights which explicitly condemns racism, the reality for many South Africans is that a racial divide still exists. By mentioning Playboy TV's role in "breaking down barriers on American TV" Top TV may be attempting to position themselves as a possible South African equivalent and implying that by broadcasting these channels they may be able to further break down South Africa's racial barriers. However, they do not provide details of what this would mean in the South African context or of how this will be represented in the content to be broadcast. Mr Woodland articulates a very strong pro-pornography discourse which focusses on the possible social benefits of pornography, most especially for women.

Discourses which position pornography as beneficial, and even healthy, do not usually dominate public discussions about sex and the consumption of porn. Much academic work and media coverage focusses on the detrimental effects of porn and people engaging with and consuming pornography are often labelled as participating in sexually deviant or, at the least, taboo activities. As such pro-pornography discourses may be considered as marginal. In this case ODM and Top TV are deliberately positioning their imagined viewers and themselves as an organisation as subjects of such marginalised discourse. While it is true that subjects of marginalised discourses may genuinely hold knowledge about themselves, and in this case their sexuality, which deviates from dominant knowledge and power relations and thus may embody resistant or deviant discourses, ODM and Top TV have a tactical imperative to position their potential viewers and in a sense, themselves, in this way. It would not be possible to argue for the broadcasting of these channels without taking a pro-pornography stance and as such ODM and Top TV are required to manipulate the discursive and social currency of progressive discourses, such as pro-pornography and women's rights discourses, as well as social understandings of free speech for their ultimate financial gain.

Foucault characterises the interplay between dominant and marginalised discourses as dynamic, with conflicts between these two positions constantly changing over time (Foucault, 1978, Gutting, 1994). In this way there is always tension in the power relations between dominant and marginalised knowledges. The hearing at ICASA can arguably be considered the result of such tensions. The use of strong modality and overly confident language as discussed above indicates a strong resistance to dominant discourses and a definite and clearly articulated subject position. Top TV and ODM deliberately invoke dominant discourses regarding pornography through their explanation of their statistics and by referencing women specifically, so that they can take up a subject position in opposition to these discourses. By constituting themselves and their imagined audience as subjects of marginalised knowledges and discourses on sex and pornography, ODM and Top TV deliberately mobilise this tension in order to promote their product and by extension their business interests. The emphasis on their findings that porn is consumed by women and also as part of a stable relationship directly challenges hegemonic beliefs regarding pornography and sex. This challenge heightens the already existing tension between discourses and arguably creates a space for their product by doing so.

Top TV also articulates a discourse of social responsibility along with these rights-based and pro-porn discourses. In the extract above this discourse is expressed through an association with Playboy TV's various social advocacy programs and the proposed plans to replicate this in South Africa, but it is also expressed through Top TV's plans for safety mechanisms on the proposed channels to prevent harm to children and a promise to broadcast only during the watershed period. As stated by Mr Mbalo, "Top TV has taken the decision to narrow its application to ICASA to the effect that it will broadcast adult content only during the watershed period" (Van-Der-Ben & Van-Der-Ben, 2013, pg. 8) and reiterated by Mr Woodland: "ODM will only be broadcasting during the watershed period. Now, the watershed period is the period that was

specifically designed by regulators to ensure that the likelihood of children being in the audience is very minimal" (pg. 27).

The strong emphasis on this aspect of their argument seems in direct contradiction to their earlier position regarding pornography; if pornography is beneficial and does not harm women or relationships, there should be no need for social responsibility programs. However, this is an indication of Top TV and ODM's awareness that public opinion about pornography is not usually positive. Taking up a subject position in direct opposition to dominant discourses around sex and porn helps to strengthen their argument, but it also serves to alienate those members of the public and the panel who hold genuine concerns regarding the effects of porn on women as well as society in general. These two positions are contradictory and it may seem incongruous to occupy both at once; however, ODM and Top TV are once again using the tension between dominant and marginalised forms of knowledge and the power relations which support them to their benefit. They are stating that while they do believe that porn is not harmful and can be enjoyed by adults in couples or alone, they wish to recognise that concerns exist regarding the effects pornography may have on individuals and communities. These concerns may not be held by Top TV as an organisation or by any of the individual speakers; however, acknowledging and attempting to offset them with social responsibility programs allows them to address and somewhat placate those representatives and members of the public who do hold such concerns and at the same time maintain a pro-pornography stance. Additionally they wish to make it clear that on the matter of children and pornography they are in agreement with advocates of censorship and do not wish to cause harm to children by broadcasting these channels. This illustrates "the strictly relational character of power relations" and their capacity to produce "cleavages in society that shift about, fracturing unities and effecting regroupings, furrowing across individuals themselves, cutting them up and remolding them" (Foucault, 1978, pg. 95-96).

The push and pull of these two contradictory positions thus opens up a space in which ODM and Top TV may attempt to "cleave" a place in society for their product.

In addressing this issue Mr Woodland states "we are all family people so we are equally as concerned as anybody else in protecting children from viewing inappropriate content" (Van-Der-Ben & Van-Der-Ben, 2013, pg.13). In this statement the speaker makes use of the pronoun "we" which attempts to create an imagined community (Anderson, 1983) of people who believe in a specific principle. This is a technique which is used to align people for or against a proposition – the creation of an imagined community consisting of people who all believe in one specific idea. However, while the use of the pronoun "us" implies the audience's inclusion in the imagined community, use of the pronoun "we" is less clear cut (Fairclough, 2000). "We" may or may not include the audience which the speaker is addressing and conversely may refer to an entirely different group of people to which only the speaker belongs (Machin & Mayr, 2012). In this case while Mr Woodland's use of the term "we" is ambiguous the effect is the same. He may simultaneously be referring to the team of people behind the development of the proposed channels as "family people" or he may be referring to everyone present at the hearing. In either case the use of this specific pronoun creates a sense of agreement between the speaker and the audience while at the same time concealing contested meanings. Since everyone present, or everyone on the ODM/Top TV team, are family people they would all have the same interests at heart – namely the safety of children. In addition the use of this pronoun by Mr Woodland also positions himself personally as the moral actor, effectively serving to highlight the fact that it is not just Top TV who feels this way but also a real live person who is a father and shares the concerns of the other parents present at the hearing. The use of pronouns in this way is an effective tool which creates implicit agreement as well as casts the Top TV representatives in a positive light, thereby pre-empting any objections to the proposed channels on the grounds of

danger to children. This allows Top TV to maintain their pro-pornography, anti-censorship stance while at the same time positioning themselves as "on the same team" as others who are concerned with the welfare of children in relation to pornography in general and these channels specifically.

Advocate Budlender continues this line of argument by stating the following:

> Finally and very importantly, there are the question (sic) of the rights of children. We cannot suggest to this body that the rights of children are not relevant. On the contrary, we accept that they are relevant but what we say is that in the present context, there is no lawful basis for refusing ODM channel authorisation on the basis of protection for children and that is for three reasons (Van-Der-Ben & Van-Der-Ben, 2013, pg. 26-27).

Here, the speaker follows on from Mr Woodland by emphasising the importance of the rights of children and the fact that ODM and Top TV are aware of how they pertain to the issue at hand – again emphasising the imagined community and their shared interests in the rights of children. Advocate Budlender then goes on to describe the various safe-guards created by Top TV to prevent children from viewing the proposed channels and ends with the following statement: "We know that hardcore pornography, often violent pornography, is available via the internet with none of these safeguards and, of course, with far more hardcore and violent things"(pg. 28-29). In this statement the speaker sets up a structural opposition between content available on the internet and the content which Top TV will be broadcasting. The adjectives "hardcore" and "violent" are used to describe internet pornography, creating a sense of licentiousness against which the content of the proposed channels is set. Using this structural opposition as a starting point Advocate Budlender points out that while the internet, where such hardcore and violent

content can be found, has no safeguards, ODM and Top TV are providing as many measures as possible to prevent children gaining access to the channels even though the content they will be broadcasting cannot be said to be “hardcore” or “violent”. By using such extremes in comparison the speaker attempts to cast the proposed channels in a good light as well as distance Top TV and ODM from a specific kind of pornography.

ODM and Top TV occupy a somewhat contradictory stance on the broadcasting of pornography on television. Because it is integral to their argument they must occupy a strongly pro-pornography and anti-censorship subject position which, when compared with dominant discourses on the subject, can be seen as deviant and marginalised. However, while this position is important to promote their argument it also necessarily alienates some members of their intended audience and, more specifically, members of the panel at ICASA who will be ruling on the future of their endeavour. As such, it becomes important to acknowledge and work with dominant discourses which regard pornography as harmful or dangerous. This invoking of dominant discourse while at the same time taking up a position in opposition to it mobilises the tensions between dominant and deviant bodies of knowledge and their related subject positions and this creates the space where Top TV and ODM hope to market their product. By deliberately engaging with both sides they maintain a contradictory subject-position that allows for the progressiveness of pro-porn discourses but at the same time embodies social responsibility and awareness, thereby accommodating representatives on both sides of the debate. In addition to this ambiguous stance, Top TV and ODM rely strongly on a rights based discourse which appeals to the fundamental values on which the Constitution and democracy of South Africa are based. Essentially the panel and representatives’ agreement or disagreement with the notion that porn is harmful is rendered irrelevant. This is because using a rights based approach attempts to makes it difficult for ICASA to decline the application as doing so would contravene Top TV

and ODM's rights to freedom of expression as well as the rights of those who would choose to subscribe to and watch the proposed channels and in so doing deny the base values on which the country is founded.

While the discourses expressed by Top TV and ODM reproduce a subject position within which understandings of pornography are not necessarily negative, the opposite is generally true for those members of the public and social organisations who made representations at the hearing. A total of nine representations from the public were made, two of which were in favour of Top TV and ODM's application. Speakers making representations at the hearings focussed on the same general areas of knowledge as were addressed in ODM and Top TV's argument, namely the Constitution of South Africa, the validity of pornography as a healthy part of human sexuality, and issues of social responsibility. However, the subject positions produced by the majority of speakers regarding these areas of knowledge differ significantly from that expressed by Top TV and ODM. As with Top TV's representations the two most common discourses present are Constitutional considerations, and discourses regarding pornography and its effects and uses.

Constitutional arguments from representatives who are opposed to the application focus strongly on the rights of children to be protected, the rights of women, and partially on the Constitutional obligation for ICASA to regulate broadcasting in a manner that is fair and represents a diversity of views. Where the rights of children are concerned representatives argue that the right to freedom of expression as stated under Section 16 (1) is not an absolute right and as such may be trumped by the rights of children as set out in the Bill of Rights. Ms Hettie Brittz, representing the Family Policy Institute, in place of Pastor Errol Naidoo, summarises the basis of this argument in her statement, "The Bill of Rights: The rights of the weakest member of society protection (sic), in this case, children, trump the rights of everyone else to the freedom of choice

etc." (Van-Der-Ben & Van-Der-Ben, 2013, pg.35). This sentiment is later echoed by Ms Pasela Yates of the African Christian Democratic Party (ACDP):

> A child's best interests are of paramount importance in every matter concerning the child. So, if it's a question between does dad want to watch the odd bit of Playboy […] or if the child could be hurt or damaged by that, then the child's interests come first (Van-Der-Ben & Van-Der-Ben, 2013, pg. 47).

This position is also expressed more specifically by Dr Albu Van Eeden representing Doctors for Life after presenting detailed neurological research on the development and effects of pornography "addiction" as it applies to adolescents.

> So, I believe that because teenagers are so susceptible to the negative effects of pornography, that in this case the government has the right to override the rights of the individual to freedom of speech […] and enforce all people to protect children and minors against pornography. The right of minors for protection is bigger than the right to freedom of speech (Van-Der-Ben & Van-Der-Ben, 2013, pg. 73-74).

Finally, Pastor Anton Myburgh, representing Shofar Christian Church, adds the following in terms of Constitutional arguments:

> Rights need to be balanced and for the same reason that somebody would say you need to wear a seatbelt, so in the same way we need to also look at how do we need to (sic) protect our children and our women against the influence of pornography (Van-Der-Ben & Van-Der-Ben, 2013, pg. 100).

As with the arguments presented by ODM and Top TV, the speakers here all make use of strong modality markers – present tense and auxiliary verbs – which contribute to presenting their statements as facts. In addition each speaker's representations are marked by anti-porn and pro-censorship discourses evidenced by references to the potential harm pornography may cause to children. Notably, Pastor Myburgh makes use of the pronoun "our" when referencing women and children in South Africa. This pronoun indicates possession by the speaker and one or more people that may or may not be present. As mentioned in relation to Mr Woodland, one of the functions of pronouns is to create implicit agreement with an audience (Machin & Mayr, 2012). The use of this particular pronoun in this context alludes to a patriarchal attitude of ownership towards women. Additionally, the phrase "women and children" places adult women within the same category as children and this phrasing suggests that, just as children are helpless and lacking agency, so are women, and both are therefore in need of protection. Indeed, the use of the pronoun "our" does not only suggest ownership but also responsibility. The implication here is that since women and children are both in need of protection it is the responsibility of men to decide what that protection looks like as well as what is best is best for both. Pastor Myburgh mobilises this dominant patriarchal discourse, putting it forward as a reason that the panel at ICASA should rule against the application. In this way, he articulates a specific type of knowledge regarding gender and agency which is (re)produced in this patriarchal discourse in order to influence the panel's decision.

These implications imbue Pastor Myburgh's statement with a patronising tone as well as being overtly patriarchal and he mobilises this attitude in order to gain agreement from the audience, assuming that the sentiment that women are dependent on protection from men will be shared by the ICASA panel.

When the above is considered in conjunction with the speakers' stance on issues of free speech and protection of children in the Constitution, it is evident that these representatives occupy a different subject position in relation to the norms underlying the Constitution than the one put forward by ODM and Top TV. Since people take up subject positions from which a particular body of knowledge or discourse makes the most sense and are then subject to its meanings, practices and power relations (Wetherell, Taylor, & Yates, 2001), these speakers express a different view of the Constitutional right to freedom of speech, and as such become part of the conflicts between dominant and deviant knowledges and discourses. The juxtaposition of these two opposing viewpoints regarding the same body of knowledge provides an example of what Foucault refers to as resistance in his model of power relations. This conceptualisation of resistance refers not to the opposition of two ontologically different discourses, but rather to the process of conflict between different discourses and how these change over time and in different contexts (Foucault, 2000). In this case the extensive discussion[16] of Constitutional considerations by representatives at the hearing, ICASA panellists, and ODM can be seen as an attempt to make sense out of these conflicts and find a middle ground between the two opposing viewpoints. During this process ICASA's function as a disciplinary institution is to regulate this conflict and, with their judgement on the application, create new knowledge about the application of the norms contained within the Constitution and ultimately contribute to the meaning of freedom of speech.

Closely linked with Constitutional arguments are discourses which address pornography as a part of human sexuality. The majority of representations made at the hearing are characterised by anti-porn discourses, which go hand in hand with discourses which position freedom of speech

[16] The majority of the discussion during representations as well as during the question and answer session centered on Constitutional issues, however space limitations prevent a more in-depth discussion and analysis of these.

as less important than the protection of minors and women. Underlying the various anti-pornography discourses expressed and tying them together is the discourse that porn is immoral. Ms Hettie Brittz, representing the Family Policy Institute, states the following:

> If pornography were moral then there would be no need for PIN code access or for any concern that children should not watch it. If Top TV believes in a morally correct activity, why are they looking at PIN codes, by taking that action they are de facto agreeing that viewing pornography is an immoral activity. […] I have 5000 friends on my Facebook. Not a single one of them has listed as an interest girl-on-girl action, anal sex, group sex, why not? Could it be that perhaps they view it as immoral? (Van-Der-Ben & Van-Der-Ben, 2013, pg. 34).

Ms Pasela Yates, speaking for the ACDP, simply says that "pornography is wrong. Pornography is exploitation. It is not freedom of expression […] Pornography is just obscenity. It has absolutely no redeeming qualities" (pg.43). This sentiment is further echoed by Ms Kupe, speaking for African Christian Action, who states:

> The fact that internet pornography is available on the internet doesn't make it right and doesn't mean that people should have access to it […] The fact that a moral regeneration commission [was established by the President] says something about us as a society, that our morality has deteriorated […] And I don't think bringing 24 hour pornography channels is a way to bring back that morality (pg. 81).

In all of these pronouncements the speakers' understanding of pornography is that it is not (or should not be) a part of human sexuality. From this perspective then, enjoyment of and participation in pornography is seen as dysfunctional and deviant and by extension those who

consume pornography are also seen as deviant. This viewpoint positions anti-pornography discourses and the specific knowledge about porn that they express as the 'truth', while pro-porn discourses are seen as deviant. The relevance of this discursive positioning is that it provides insight into the subject positions of the speakers who express such sentiments. In this case, these speakers again occupy a subject position in direct opposition to that expressed by ODM and Top TV. These two opposing stances once more highlight the "reciprocal appeal, [the] perpetual linking and […] perpetual reversal" (Foucault, 2000, pg. 347), which is articulated in Foucault's model of power and knowledge. While Top TV takes up a subject position which actively attempts to mobilise marginalised knowledge and discourse for their benefit, these speakers do the same with dominant discourses thereby creating the push and pull that characterises resistance in this system of power.

Dominant anti-pornography discourses also focus strongly on the harm that porn may cause to women and children and how the concomitant objectification of women leads to sexual violence and rape. This position is strongly expressed by Ms Pasela Yates speaking for the ACDP in the following statement:

> Pornography degrades women. Why? Because pornography reduces women to objects and you can be one of two kinds of objects, a nice one and one that is not so nice. So, that is not nice for women. That is degrading […] Porn encourages rape, because it encourages disrespect for women. You start off with disrespect […] Porn causes rape […] Pornography makes a lot of money. There is an interest in trying to prove that pornography does not cause rape. Ask the experts. The experts are the rapists and that serial rape profiler who says serial rape murderers are commonly found with a large

> pornographic collection, either store bought or home-made (Van-Der-Ben & Van-Der-Ben, 2013, pg. 44 and pg. 49).

Here, Ms Yates links the use of pornography and the consequent objectification of women with serial murder and rape. In addition, the description of rapists as "experts" implies that the rapists themselves know, or have experienced, how pornography has contributed to the degrading of women from their perspective, thus making it easier to rape. This thread of argument is also taken up by Ms Kupe, speaking for African Christian Action:

> The evidence that was presented linking serial murderers such as Ted Bundy, one of the biggest serial murderers, 42 women killed and raped and how he talked at length about the link with pornography […] that led to his serial murder case (pg. 78-79).

These speakers' arguments for the connection between pornography and rape centre on the objectification and degradation of women in porn and this idea is repeated by almost every speaker who is opposed to the application. Possibly related to this connection is the fact that all of the representations made against the application come from Christian organisations and presenters. Pornography is generally conceptualised as immoral within religious ideology (and specifically in Christian ideology) and this conceptualisation may be what leads Christian representatives at the hearing to make a direct link between pornography and rape. If one engages in one type of immoral sexual behaviour it is then seen as inevitable that other immoral behaviours will follow. Anti-porn arguments made at the hearing that do not concern the Constitution are generally made in conjunction with such religious discourse. Pastor Anton Myburgh of Shofar Christian Church addresses this objectification within the production of pornography itself:

> In the making of these films many times the female objects are addressed as bitch or slut or other derogatory names and that would, in our view, constitute hate speech as well (pg. 96).

Although Pastor Myburgh attempts to argue for the objectification of women as inherent in pornography, he uses the term "object" to refer to women performers in pornography, paradoxically perpetuating this objectification himself. Ms Hettie Brittz, now speaking for her own organisation, Evergreen Parenting, details the incident of her own sexual assault, pointing out that it was not overtly violent and that to an outside observer, it would have looked consensual:

> What happened to me, if it was filmed, without you have (sic) the prior knowledge that this person entered my bedroom by breaking a window […] and if you had not seen them tie me up, you would just have seen a woman under a bed being pulled out very gently […] I promise you that had that been captured on video it would have looked a lot like consensual sex. What you will be viewing on television will very often look like consensual sex […] but it will be a woman who for whatever reason has decided not to say no […] It is much easier to make a movie of people under duress than it is of getting people whose ultimate lifelong dream is to be a porn star (pg. 122-123).

In this statement Ms Brittz exploits what Ehrlich (1998) references as a "deficiency model of miscommunication between men and women" (pg. 149). Using CDA, Ehrlich analyses how the notion of consent is discursively reconstructed in a transcript from a tribunal hearing into two incidences of date rape at York University, Canada, in which she shows that this discursive model frames the proceedings of the tribunal in the following ways: firstly, it is assumed that that

men and women are essentially socialised into two different sub-cultures with the consequence of having been brought up to learn two vastly different ways of communicating, thus creating the conditions for miscommunication. Secondly, since "linguistic meanings are, to a large extent, determined by the dominant culture's social values and attitudes" (pg. 156), it is assumed that men are the driving force behind dominant linguistic meanings and as such define the acceptable terms for what can be considered consent. Specifically, Ehrlich examines how the complainants' descriptions of saying no, of not giving consent, are reframed as deficient since the male defendant was not able to interpret these signals effectively. Thus, what looked like consent to the male defendant was actually resistance for the female complainants. This re-framing is a problematic issue as it allows the blame to fall on rape victims instead of rapists and places the onus on women to always indicate non-consent in a way that is intelligible to men whether or not it makes sense from a rape victim's perspective.

Ms Brittz enters this debate by stating that because she did not aggressively and frequently consent to the sexual activity this may be considered consensual to an outside viewer. Further, she relates this incident to pornography, stating that what you see in a porn film may look consensual (as her rape did) but is in fact non-consensual. Put another way, Ms Brittz's comments imply that pornography may look consensual but due to the effects of miscommunication regarding consent between men and women as well as discourses which conceptualise males' sexual urges as "compelling and uncontrollable" (Ehrlich, 1998, pg. 157) it is not in fact consensual sex that is depicted. If this proposition is accepted then there is no way to tell whether the pornography one is watching is actually rape or not. In this statement the speaker mobilises her own personal narrative of sexual assault to make and legitimise a broader point about pornography being non-consensual and therefore directly linked to rape. Van Leeuwen (2007) refers to this use of a personal narrative as a tool of legitimisation as

mythopoesis. Specifically, Ms Brittz employs the narrative of a "cautionary tale" or, a narrative that conveys "what will happen if you do not conform to the norms of social practices" (Van Leeuwen, 2007, pg. 106). In these narratives the protagonist engages in deviant activities which result in negative outcomes or "unhappy endings" (pg. 106). In this way, Ms Brittz implicitly asserts that broadcasting and engaging with pornography will lead to such negative outcomes, using her own experience as evidence even though there is no way to directly link this event with pornography. These statements tie strongly into anti-porn feminist discourses and understandings and as such suggest that the speaker occupies a subject position in relation to knowledge about human sexuality and pornography which sees participation in and consumption of porn as deviant and destructive as well as illegal.

Many other speakers also point out the prevalence of rape in South Africa and argue that although pornography may not directly cause rape, it should be considered that,

> rape is a crime of attempted assertion of power by the powerless. Therefore there will always be more rape in a country where there is a perceived imbalance of power, specifically where men see themselves as powerless and so they attempt to dominate someone weaker than themselves […] We are in an unequal society where men are struggling, where men do feel powerless, where the equality is enormous and it reflects on the way women are seen and it reflects on a callous attitude towards pornography and all its implications (Ms Brittz, Family Policy Institute, Van-Der-Ben & Van-Der-Ben, 2013, pg. 40).

The statement that rape is a crime committed by the powerless is a problematic one. The description of all rapists as "powerless" seems to absolve the individual from blame since they

are part of a society in which power is imbalanced. The implication is that it is not the rapist's fault, but rather that the blame can be placed on the fact that he has grown up in and has been influenced by a society in which he has limited power, and it is thus inevitable and perhaps understandable that that person would commit the crime of rape in order to redress this balance. Further to this implication is the presupposition which underlies the term "powerless" in this statement. In a South African context, due to the social and economic inequalities that are the legacy of apartheid, the term "powerless" here indirectly refers to the majority black and impoverished population with the implication being that these are the people who are committing rape. Additionally, there is an illogical element underlying this statement: if the people who are committing rape are the powerless, and by extension possibly also the poor, these are not the people who will be able to afford a pay TV subscription. This statement thus reveals more about Ms Brittz's ideological position than it does about any connection between pornography and rape.

Reasoning along similar lines, Ms Kupe speaking for African Christian Action, also touches on the issue of rape and pornography in South Africa:

> It is evident we face a problem of violence against women. Do we have issues of rape? Again I say we have a problem with rape and definitely there are scientific studies also which show and link pornography to cases of rape […] For a country which had 62,000 rapes in the year 2011 I think it's something we need to look at seriously (pg. 78 & 80).

More specifically, speakers also referenced attacks against young children that made media headlines. Ms Pasela Yates of the ACDP:

> Michaela Jantjies a few years ago, Eldorado Park, […] six years old. Her body was broken. Her body was brutally ripped apart. What did they find next to this murdered little 6 year old, a collection of pornography, not child porn, the ordinary stuff that you can buy at any supermarket (pg. 49).

And Pastor Anton Myburgh of Shofar Christian Church:

> During February Aneen Booysen (sic) died after being gang raped and sustained serious injuries because of violent abuse which followed […] what is clear is that South Africa was outraged at these incidents and specifically also the Aneen Booysen case and that there is a great uprising in South Africa to say we need to protect our women, we need to do everything we can to protect our women (pg. 96-97).

In all of these statements the speakers' knowledge and understanding of pornography (and the concomitant subject positions they occupy in relation to this knowledge) relates it to rape, whether it be the direct or indirect cause of the sexual assault or a video of an actual rape being marketed as pornography. References to rape in general as well as specific rape cases (especially those involving children) constitute an emotional appeal from those speakers opposed to the application. While making the connection between the consumption of pornography and the perpetration of rape through research highlights this branch of the argument against the application, references to specific cases of children having been raped and murdered, and the possible connection to pornography, individualises this argument thereby making it more poignant and emotional. Rape in South Africa is a highly contested and much lamented issue, the roots of which are often misunderstood or misinterpreted and its inclusion in these

representations draws on this history in order to bolster the speaker's arguments.[17] The kind of knowledge and discourse expressed in these arguments is decidedly opposed to that expressed by Top TV and ODM and this again provides an example of the back and forth movement between dominant and marginalised knowledges (and the power relations which inform them) that is characteristic of the hearing application.

Those speakers who made representations in support of the application of course embody similar subject positions to those expressed by ODM and Top TV. Both speakers in favour of the application represented the Free Society Institute. The first of these was Mr Jacques Rousseau who focusses on trying to create a more rational and less emotive argument than what has been expressed by previous speakers. He states,

> this conversation is occurring in quite an emotive context. So, we've got the daily rape, we've got Annie [sic] Booysen […] Now all of these things should make us cautious of falling into various psychological traps, such as the availability juristic (sic) […] So even though we might be inclined towards conservative or what we might think of prudent reactions, we need to be very cautious about the sorts of precedent we are setting. We do end up running the risk of legislating morality […] The key issue today is not anecdote […] The key issue is known harms and whether the evidence supports the idea that these harms are unavoidably the result of porn and not the result of something else (Van-Der-Ben & Van-Der-Ben, 2013, pg. 56).

In this statement the speaker deliberately distances himself from talking about pornography and its effects directly as well as from the emotive content expressed by other representatives. He

[17] For an in-depth look into the history of and relationship with rape in South Africa see Pumla Dineo Gqola's recent publication "Rape: A South African Nightmare"

instead focusses on the more "rational" aspects of the issue such as how the broadcasting of pornography may be legislated and what empirical evidence exists to support the anecdotal evidence provided by other speakers. His tone is somewhat pedagogical indicating that the speaker places his own discursive framework in a higher status position than those employed by the mainly Christian representatives in opposition to the application. All of these elements together indicate the deliberate expression of a subject position which directly opposes those embodied by speakers against the application. This position is further strengthened with the statement that,

> we can't solve everything through censorship […] The Authority is regarded as proactive as opposed to a reactive regulatory body. I would like to see evidence of that because proactively protecting people from all potential threats, […] its paternalism of the worst sort. A proactive body would create in us the ability to make informed and rational choices and give use the freedom to do so […] The overarching value that we fought so hard for in our constitutional negotiations is the value of non-paternalism. It's the value of freedom (pg. 58-61).

This clearly shows a different understanding of the Constitution to that expressed by the anti-porn representatives; Mr Rousseau's understanding is that the Constitution is supposed to provide freedom and the possibility of choice rather than outright protection. Again, the articulation of this understanding shows a specific subject position in relation to knowledge about the norms on which South African society is based and this subject position is directly opposed to those embodied by other representatives.

This position is shared by the other representative in favour of the application, Mr Kent Solomons, also speaking for the Free Society Institute, who opens his statement with the following:

> I've been given 15 minutes to inform this panel why a decision not to grant, or to deny Top TV the right to broadcast sexually explicit material. It is a disgrace upon the status of our nation and the fellowship of liberal democracies and for our whole society (Van-Der-Ben & Van-Der-Ben, 2013, pg. 101).

This initial statement clearly shows the subject position embodied by Mr Solomons; he explicitly articulates that he believes denying Top TV the right to broadcast adult content would be a "disgrace" to the "status" of the South African nation as democratic as well as to everyone in South African society. The speaker then continues to focus on Constitutional considerations and empirical, peer-reviewed evidence supporting the claim that pornography is not harmful, finally ending with this forceful statement:

> Why are we even here? Offence is not sufficient to limit the right to freedom of expression, as was pointed out by the previous FSI speaker, many non-theists would find religious broadcast offensive, but none the less the Free Society Institute would be here today to defend their right to express their offensive use on television and so should ICASA (pg. 105).

What is most important for this speaker is the maintenance of freedom of action and expression under the Constitution of the democracy of South Africa, whether he personally agrees with those actions or not. This sentiment is reflected in his use of a rhetorical question in opening the statement. Analogous to the pronouns "we" and "us", rhetorical questions do not require an

answer and instead function as a device through which to build consensus with present or imaginary audience. These two speakers occupy subject positions which align with that expressed by ODM and Top TV. However, while it is strategically required for Top TV to express such a position, in the case of these two individuals this particular subject position is a natural extension of their understandings of the South African Constitution as well as pornography and human sexuality. Whether as a direct result of a specific type of knowledge about pornography and sex, or strategically adopted the effect is the same: these subject positions are one point in the push and pull of power relations that is inherent in the hearing for this application.

By comparing the statements made by different speakers as well as those made by ODM and Top TV at the hearing it is possible to illustrate and further understand Foucault's conception of resistance as a "reciprocal appeal, [the] perpetual linking and […] perpetual reversal" (2000, pg. 347) of dominant and marginalised knowledges. The fact that even though certain speakers may be opposed to the application they are still bound to express their position within the structures of power that construct and constrain knowledge regarding the South Africa Constitution as well as knowledge regarding human sexuality and porn is an illustration of Foucault's assertion that "where there is power, there is resistance, and yet, or rather consequently, this resistance is never in a position of exteriority in relation to power" (1978, pg. 95). Indeed, it is these power relations which allow such a debate to occur, for if there was not tension between dominant hegemonic discourses and marginalised, deviant discourses about pornography there would be no need to have the hearing in the first place.

Chapter 5: Analysis of newspaper articles

The following chapter will analyse a selection of newspaper articles which address the events and discussions related to the hearing at ICASA. As with the excerpts from the hearing transcript, newspaper articles were selected on the basis of providing a representative sample of the articles that were published at that time. Some articles repeat the same information and discourses found elsewhere in the news media and as such these were not included. Additionally, some articles were not directly related to the hearing but rather addressed the economic and business repercussions of Top TV's application and their status as under business rescue administration.

News reporting is generally considered to be "underwritten by notions of 'impartiality', 'balance' and 'objectivity'" (Hall, et al., 1978, pg. 57), however these terms tend to "disguise the complex and messy processes of information gathering and interpretation" (Fairclough, 1989, pg. 129) that make up news production. Instead, news reporting is shaped by factors that include particular discursive strategies and conventional practices, economic and political imperatives, as well as reader and public opinion, and this means that it creates a "discursive space […] thereby giving a public voice to a variety of social actors who compete with each other in staking claims regarding what counts as *legitimate* knowledge" (Milani & Johnson, 2010, pg. 5, emphasis original). This is not to say that this implies a space that provides an equal footing for all the discourses and social actors involved. This is because certain individuals with high social and cultural capital (Bourdieu, 1991) generally have more privileged access to the news media (Milani & Johnson, 2010). This privileged access results in what Hall et al. refer to as a "systematically structured *over-accessing* to the media by those in powerful and privileged" (pg. 58) social positions. While that formulation somewhat overplays the role of privileged social

actors, the unequal value accorded to their opinions and expert analysis must be considered. However, by the same token news reports also rely on positions expressed by the everyday man on the street. It is these various discourses, expressed by social actors, which make up the claims of what constitutes legitimate knowledge. Put another way, these competing claims on the truth create the interplay of power and resistance characteristic of Foucault's conception of knowledge and power.

This interplay of various social voices is in line with McRobbie and Thornton's (1995) assertion that moral panic theory should take into account the multiplicity of the voices involved as well as the complex sets of associations between the media, privileged social actors, social interest groups, and the public. The news reports addressing the hearing generally display this multiplicity with references to, quotes from, and interviews with a wide variety of social actors involved in the event. The articles that appear on and before the day of the hearing, 14th March 2013, deal with the fact that Top TV and ODM were again attempting to gain permission to broadcast the channels after ICASA's first refusal in January 2012, as well as the fact that Top TV was at the time in business rescue[18] and the proposed channels were seen as a way of generating revenue as well as expanding their customer base.

Beeld's article published on the 14th January 2013 titled "Top TV sè hy wil weer porno wys" ("Top TV says it wants to show porn again") provides this information in a general overview of the new application and a summary of the outcome of the previous application hearing which

[18] The term business rescue as stipulated in the 2008 Companies Act means "proceedings to facilitate the rehabilitation of a company that is financially distressed" and involves the temporary supervision of a company, its business affairs, assets and properties by a business rescue practitioner. At the time of the hearing ODM (official owners of Top TV) was in the process of business rescue and issued their business rescue plan in the April following the hearing.

Top TV did not attend. This article quotes Pastor Errol Naidoo of the Family Policy Institute, whose organisation presented at the 2013 hearing as well as at the first hearing in 2012.

> Die Instituut vir Familiebeleid (FPI) het in samewerking met talle Christelike denominasies sy ontsteltenis oor die saak uitgespreek. Errol Naidoo, FPI se direkteur, het luidens 'n verklaring gesê hy is geskok dat die bestuur van On Digital Media (eienaar van Top TV) hulle planne heroorweeg (Sieberhagen, 2013, pg. 3).
>
> (The Family Policy Institute, with the cooperation of many Christian denominations, expressed their distress at the matter. Errol Naidoo, FPI's director, according to a statement, said he is shocked that the management of On Digital Media reconsidered their plans)

The article then goes on to provide information regarding how the public may make representations regarding the matter to ICASA. In the context of the particular discursive space opened up by news reporting on the hearing, Pastor Naidoo arguably has high social and cultural capital. This is because he has already expressed opinions in the media regarding the 2012 hearing for the same channels, and is additionally afforded social status due to the influence of his position. This social capital is mobilised in order to (re)produce specific discourses and is supported by the absence of quotes or reference to representatives from the other side of the debate were and as such is fairly biased towards the anti-porn and religious discourses expressed by Pastor Naidoo and the other anti-porn and religious representatives.

On the 7th March 2013 The Times ran an article titled: "Top TV has another go at porn TV" which also provided an overview of ODM and Top TV's application to ICASA and their failed bid in 2012. In this article the writer includes quotes from ICASA's previous statement

explaining that Top TV was not granted the licence to broadcast adult content due to the fact that at the time, ICASA felt that "the right of women to equality and human dignity overrides Top TV's right to freedom of expression" and that it "regards pornography as one contributing factor to the normalisation of violence against women in South Africa" (Ndlovu, 2013, pg. 3). Additionally, the article quotes the ICASA spokesperson as saying that Top TV will be given a fair hearing and describes ODM and Eddie Mbalo as "sticking to their guns – arguing on the grounds of freedom of expression and that 'the constitution of the republic of South Africa guarantees the right to choose'" (pg. 3). The article ends with the results of a "snap poll" conducted by the paper which shows a 50/50 split in their readership on whether the channels should be granted and this is supported with the sub-heading "South Africans evenly split on freedom of porn". In this article there is no mention made of the religious groups opposing the application, and Mr Mbalo is referenced as stating that the issue was about Constitutional freedom of speech and the right to choose. Mr Mbalo, as the CEO of ODM, occupies a biased and highly privileged position in this debate and the fact the he is the only person quoted introduces an anti-censorship stance and privileges his use of Constitutional discourses which value freedom of speech and personal choice.

Finally, an editorial piece published on the day of the hearing by *The Star* in their Opinion and Analysis section is titled "Top TV flights adult entertainment chance again" and as before details the new bid by Top TV as well as the fact that Top TV was at the time experiencing financial difficulties. The article quotes Eddie Mbalo stating that "Top TV is not looking at this application as the saviour of the business" (Delonno, 2013, pg. 18). As with the article in *Beeld* this seems to be on the face a fairly neutral report of the bid by Top TV. However, one line in the article stands out and it is here reproduced in context:

> ODM, which was humiliated after Icasa rejected a similar application by the company last year, said it was confident that the application would succeed this time.
>
> The same religious and civil groups will be in attendance at the hearing to *jeer* the application (Delonno, 2013, pg. 18, emphasis added).

The word "jeer" refers to the act of mocking someone or something with rude and insulting remarks, often in a loud voice, and as such does not cast the religious and civil groups to which it refers in a positive light. Indeed, the word implies juvenility and playground tactics which should not be employed in the context of a hearing such as the one held at ICASA. It is unclear whether civil groups supporting the application are considered in this description, however, it is telling that the author chose to specifically mention the religious contingent. Additionally, although Mbalo is quoted in the article, what he says does not touch on the discourses of freedom of speech or religious morality predominantly expressed at the hearing, instead he references the financial status of the business. Nonetheless, this article still manages to introduce an aspect of bias through the use of the word "jeer" which reflects negatively against representatives expressing religious or anti-porn discourses.

These news reports generally rely on only one source for direct quotes and information about the hearing, resulting in a fairly limited representation of the range of discourses expressed by representatives, members of the public, and civil groups in relation to the application by Top TV and ODM. However, it is still possible in these articles to note an interplay of discourses and the consequent claims to legitimacy and truth in relation to these issue at hand. This multiplicity increases in news reporting after the hearing and before the date of ICASA's statement of their decision.

Stepping into the debate regarding rape and pornography that was ignited at the application hearing, on the 16th March *Beeld* published an article titled "Ek's verkrag bieg dr. Eve" (I was raped confesses Dr Eve) (van Wyk, 2013, pg. 6). The article details the fact of Marlene Wasserman's statement at the hearing that she was also a victim of sexual violence as well as her opinions on what the causes of sexual violence towards women and children are and their relation to pornography.

> 'Pornografie, geweld en verkragting hou geen verband met mekaar nie,' het sy gesê. Sy is 11 jaar gelede een aand tuis tydens 'n inbraak oorval en verkrag, het sy gesê. (pg. 6)
>
> ('Pornography, violence and rape have no connection with each other' she said. 11 years ago she was home one night during a robbery and was attacked and raped, she said.)

She is additionally quoted as saying:

> Verkragting gaan oor geweld, dominasie en om te beheer. Dit het nie 'n direkte verband met mensehandel, verkragting en prostitusie nie. Verkragters kyk nie almal pornografie nie en alle mans wat na pornografie kyk, is nie verkragters nie (pg. 6)
>
> (Rape is about violence, domination and control. It is not directly related to human trafficking, rape and prostitution. Rapists do not all watch porn, and all men who watch porn are not rapists)

These references to Wasserman's personal experience of rape and the direct quotes about her understandings of pornography and sexual violence reference those anti-censorship discourses which do not directly relate porn to rape and in this way create a personal aspect to these arguments, casting them in a common sense, rather than controversial light. Additional weight is

lent to these comments and discourses due to the social status of Dr Wasserman who is a well-known media commentator.

Further, the article sets up an implicit structural opposition between Wasserman's description of her rape and subsequent opinions about pornography, stated during her representations at the hearing, and the statements also made at the hearing by Ms Brittz detailing her own assault and feelings regarding pornography. While Dr Eve is somewhat of a celebrity in South Africa, which is not true of Ms Brittz, it is nonetheless interesting that she (Ms Brittz) is not quoted or even referenced in this article. Both of these women address a contentious issue in the debate regarding porn on TV in South Africa and both have first-hand experience of the prevalent sexual violence in South Africa that is repeatedly described at the hearing. Considering this, it would make sense for an objective article to represent both of these viewpoints, however, the *Beeld* article does not do this. This representation of only one social voice in this instance favours Wasserman, possibly due to her celebrity status in South Africa, and shows how the related social and cultural capital (Bourdieu, 1991) of this status is mobilised in the legitimisation of specific discourses that do not link pornography with sexual violence.

This legitimisation is also apparent in many of the articles published after the hearing and before ICASA released a statement about their final decision. Predictably news reports tended to favour one side of the debate over the other, whether overtly or subtly so. *City Press* ran an article on 17th March 2013 titled "Porn on TV: a sticky debate" (Gedye, 2013, pg. 7) with the sub heading "TopTV asks Icasa hard questions about regulating morality". The article is somewhat humorous as evidenced by the play on the word "sticky" in the title and in the opening lines which deal with discussions at the hearing about the so-called "money shot" used in porn production. However, it also addresses the much debated issues around freedom of speech and morality that

were discussed at the hearing. The article provides quotes from representatives on both sides of the debate beginning with a reference to Top TV's customer research,

> TopTV argued that its research showed that 50% of TV owners are interested in subscribing to adult content and 71% feel it's okay for people to watch porn in the privacy of their homes. TopTV also argued that there is no piece of legislation that prevents it from launching adult-content channels (Gedye, 2013, pg. 7).

The journalist's retelling of the hearing foregrounds the arguments made by ODM and Top TV, in the following quote from Marlene Wasserman:

> We are implying that women are being harmed by porn, when the truth is that many women like watching adult-content TV. It's not the porn that's the problem. It's gender relations in the country (pg. 7).

Additionally, in the pro-pornography camp, the article quotes Jacques Rousseau from the Free Society Institute as saying,

> porn only seems to increase two things – arousal and religious outrage. South Africans should be insulted by the claim that porn will turn us all into rapists. (pg. 7).

These references appear alongside the following regarding the religious, anti-pornography representatives at the hearing:

> Opposition to the channels remains fierce. 'Pornography is wrong. It's not freedom of expression' said Pasela Linda Yates from the African Christian Democratic Party, to rapturous applause and a couple of 'amens'. According to Christian presenters, an

> increase in pornography results in increased rape and divorces. It also corrupts morals and is breaking apart families, they argued. There was a great deal of emphasis on the safety of children (pg. 7).

These extracts give voice to the two opposing sides of the debate, and hence the different subject positions related to them quite clearly. With regards to Top TV and Marlene Wasserman, these statements reflect a subject position that does not view the consumption of pornography as a 'deviant' sexual practice. The selected quotes even imply a healthy aspect to watching porn, which is also extended to what is perceived to be an unusual situation: a woman watching porn alone for pleasure. Additionally, these representatives all express the view that pornography does not have causal links with sexual violence. This point of view is further extended with the quote from Mr Rousseau, stating that the belief that porn will turn people into rapists should be insulting to South Africans. Mr Rousseau articulates his subject position explicitly with the statement that porn increases "religious outrage", effectively distancing himself from this kind of outrage and the people who engage in it. These pro-pornography and anti-censorship discourses are contrasted with pro-censorship, anti-porn, religious, and moral discourses as expressed by Pasela Yates of the ACDP, the only representative against the application quoted in this regard. However, what she says provides the basis of the pro-censorship position and this is supported by a summary of further arguments provided by the "Christian presenters" and a description of the reaction of the audience at the hearing to these arguments (applause and "amens").

It is clear that the copy in this article by the *City Press* has relatively evenly represented the different social voices in this discursive space, however the layout of the article[19] gives clear preference to one side over the other. Firstly, the sub-heading referencing "regulating morality"

[19] See appendix for newspaper articles

effectively provides a framework within which the discussion in the article takes place. This framing highlights the Constitutional aspects of the debate while effectively backgrounding concerns over sexual violence. In addition to this, in the sentence "TopTV asks Icasa hard questions about regulating morality", the business entity "Top TV" is personalised and placed in the subject position of the sentence, thereby implying agency and action. This is because words occurring in the subject position of sentences generally describe the entity which *performs the action* indicated by the verb. This strategy positions Top TV as the "doer", or the one who is taking the action. In this case the action described is the act questioning those who would seek to regulate morality outside of what is constitutionally acceptable. This discursively constructed agency places ODM and Top TV in a positive light as it is implied that they are standing up for the Constitutional rights of South African citizens.

Secondly, the positioning and larger font size of Mr Rousseau's quote "porn only seems to increase two things – arousal and religious outrage" gives it a prominent place in the article and ensures that after the headline, this is the next thing that a reader would look at. The selection of this particular quote is telling as it is a very clear articulation of a subject position which is directly opposed to, and even disdainful of, the religious contingent. This coupled with the personification of Top TV highlights and legitimises the Constitutional arguments made by ODM and Top TV. This is achieved, even though sources from the opposite side are quoted, because of the use of specific discursive strategies employed by the author and editorial staff of the newspaper. In this case, *City Press* have made use of emotive language, specific layout techniques and selective quotes amongst others to give voice to claims made in the discursive space created that has been by the media around the application and hearing. In so doing they express a subject position which is at once definitive and subtle.

A further article which considers both sides of the debate was published on the 17th March by *Rapport* and titled "Woeps op TV: Wins vs walg" (van Wyk, 2013, pg. 120) (Woops on TV: Profit vs. disgust). After describing the application by ODM and Top TV and listing the proposed channels, the article provides a balanced review of the arguments made by representatives on each side of the debate through an equal number of quotes by those "for pornography" and those "against pornography". Jacques Rousseau is quoted as saying:

> 'Hoewel pornografie vernederend kan wees, is dit altyd vernederend om iemand 'n keuse te ontneem'
>
> (While pornography can be degrading, it is always degrading to deny someone a choice).

As well as Marlene Wasserman:

> 'Pornografie, geweld en verkragting hou nie regstreeks met mekaar verband nie. Daar is goeie, opvoedkundige en aanvullende volwasse inhoud wat paartjies kan doen. Verkragting gaan oor dominasie, beheer en geweld'
>
> (Pornography, violence and rape are not directly linked. There is good, educational adult content that couples can engage with. Rape is about domination, control and violence)

As expected they express anti-censorship and pro-porn discourses which do not link porn with rape and sexual violence, but rather as a possible healthy aspects of a couple's sex life. Both of these excerpts capture the main points of the position shared by Top TV and those representatives in support of the application.

By contrast, Dr van Eeden, of Doctors for Life, is referenced as saying:

> Die brein wat pornografie ‘sien’, skei dopamien af met molekulêre struktuur soortgelyk aan dié van kokaïen
>
> (The brain that ‘sees’ pornography secretes dopamine, which has a similar molecular structure to cocaine),

and this is complemented by the following from Pasela Yates:

> pornografie is haatspraak. Dit maak van vroue niks meer as objekte waarmee mans kan maak wat hulle wil nie. ‘Dit is so goed as om mense in Rwanda kokkerotte te noem’
>
> (pornography is hate speech. It makes women nothing more that objects with which men can do what they want. ‘It is as good as to call people in Rwanda cockroaches’)

These extracts carry distinctly anti-porn discourses expressed through comparing the use of pornography to the effects of cocaine and likening it to hate speech. Yates describes this as comparable to calling people in Rwanda “cockroaches” referencing the use of the word “inyenzi” or cockroach used to refer to the Tutsi population during the Rwanda genocide (Slocum-Bradley, 2008). Both of these descriptions associate pornography and its effects with activities considered deviant, and even racist. Again, these two quotes generally express the important points forming the basis of the arguments expressed by the majority religious opposition to the application.

While the articles above express a somewhat balanced range of discourses and positions within the discussion, others are more biased in their coverage of one side over another as evidenced by *Beeld*’s article “Kerke staan saam in Top TV-boikot” (churches stand together in Top TV boycott) (Jackson, 2013, pg. 3) published on 19th March. The article details a boycott against Top

TV organised by Pastor Naidoo and a group of South African churches. It is opened by paraphrasing Hettie Brittz as stating that exposing a child to pornography is as good as putting them on cocaine because it has the same effect on the brain. The article goes on to say that this statement was supported at the hearing by the members of the church wide boycott of Top TV. Further, the Family Policy Institute is referenced as saying that they,

> het die steun van Suid-Afrika se grootste kerke vir die boikot gekry. Dit sluit in die NG Kerk, die Rooms-Katolieke Kerk, die Metodistekerk, die Volle Evangeliekerk, die Evangeliese Alliansie, sowel as die Vinyardnetwerk van charismatiese kerke. (Jackson, 2013, pg. 3).
>
> (have the support of South Africa's biggest churches for the boycott. This includes the Dutch Reformed Church, the Roman Catholic Church, the Methodist Church, the Full Gospel Church, the Evangelical Alliance as well as the Vineyard Network of Charismatic Churches)

The article is more focused on Ms Brittz's representations at the hearing, specifically her statement that she was a victim of sexual assault, but states that this was not the main reason for her agreeing to speak at the hearing and support the church boycott. Instead, she is referenced as saying that,

> in haar werk met ouers en gesprekke met vroue wie se mans verslaaf is aan pornografie, sien sy die verwoestende effek wat dit het. Die seksverlsawing onder kinders wat blootgestel is aan pornografie, is byvoorbeeld baie hoog. So min as sewe minute se blootstelling kan verwoestend wees (pg. 3).

(in her work with parents and conversations with wives whose husbands are addicted to pornography, she sees the devastating effects that it has. The sex addiction among children who are exposed to pornography, for example, is very high. As little as seven minute's exposure can be devastating)

This article from *Beeld* provides an example of a very clearly expressed point of view regarding pornography, one that mirrors those expressed by Christian representatives at the hearing. In addition Ms Brittz is paraphrased making use of a scientific discourse to legitimise what is ultimately a religious and moral position. This is evident in the equation of exposing children to pornography with giving children cocaine as well as the statements linking pornography and sex addiction, both of which make use of highly emotive language to fuel what is already a contentious and sensitive issue. When taken with *Beeld*'s previously published articles dealing with the hearing (cf. "Top TV wil weer porno wys" and "Ek's verkrag bieg dr. Eve" above) it becomes clear that a range of social actors and discourses is represented even though at times a particular discourse may be highlighted while another is erased. This movement between discursive positions provides an example of the way in which the news media, and specific newspapers, engage in the back and forth of power relations involved in the production of truth.

News articles published after the 24th of April (the day ICASA released details of its decision to the public) tend to be less emotionally charged and present the findings in a more or less neutral way. For example, *Beeld* ran a front page article the day after ICASA announced their decision titled "Finale 'ja' vir porno" (Nel, 2013, pg. 1) which provides a neutral summary of ICASA's decision before quoting their spokesperson Paseka Maleka:

> Okosa herbevestig die mening dat daar geen toepaslike wet is wat die vervaardiging en verspreiding van volwasse inhoud in die land keer nie […] Die owerheid het bevind die meeste van die vertoë wat teen die aansoek gerig is, berus op morele beginsels eerder as op navorsing wat ’n verband tussen pornografie geslagsgegronde geweld kon aandui
>
> (Icasa reaffirms the view that there is no applicable law that prevents the production and distribution of adult content […] The authority said that most of the representations made against the application were based on moral principles rather than on research that could indicate a link between pornography and gender-based violence)

Additionally, there is a quote from the outgoing head of the Film and Publications Board at the time, Yoliswa Makhasi, who states that the board is sure that the safety of children will not be affected when the channels are introduced and that “ouers is uiteindelik verantwoordelik vir hul kinders en di programme wat hulle kyk” (pg. 1) (parents are ultimately responsible for their children and the programs they watch).

The above two extracts represent a decidedly anti-censorship stance which supports discourses of personal freedom and responsibility as well scientific objectivity. The emotive language and opposing viewpoints that characterised reports published before the outcome of the hearing was released are absent, lending a more logical tone to the article, and thereby reinforcing the discourses that are represented. However, the article ends with a small reference to the Christian Democratic Party and quotes their leader, Theunis Botha, as saying “vryheid van spraak is van toepassing op skadelike losbandige waardes soos pornografie, maar geld nie vir die wat nie wil sien hoe die land aan sulke smerigheid blootgestel word nie” (freedom of speech applies to harmful, promiscuous values such as pornography but does not apply to those don’t want to see

how the country is exposed to such filth). This quote is positioned at the very end of the article and, being introduced by only one line, is not elaborated upon in the same way as the extracts above. This juxtapositioning of discourses demonstrates the way in which media reports may favour one side of a debate while at the same time providing a discursive voice to opposing discourses and subjectivities.

The Star ran an article on the 25th of April 2013 titled "Icasa gives porn channels a thumbs-up" (Staff Reporter, 2013, pg. 3) which provides much of the same detail with regards to ICASA's ruling as the above article from *Beeld*, but additionally details the church boycott against Top TV (cf. "Kerke staan saam in boikot"). The article ends with a statement from Top TV that the decision by ICASA is a "victory for democracy and freedom of speech". Again, the report does not employ particularly emotive language and does not exaggerate or distort events in the same way as for example the *City Press* article ("Porn on TV a sticky debate") or the *Beeld* article detailing the church boycott. Notably, in this article there are no quotes from the religious representatives at hearing indicating a indicating a bias towards the more liberal views of those representatives and members of the public in support of the application. This is complemented by the use of the slang phrase "thumbs up" in the title of the article which carries connotations of modernity and "coolness".

The *Burger*'s article titled "Groen lig vir porno op Top TV" (2013, pg. 11) published on the 25th of April also provides an overview of ICASA's decision and references their reasons document in stating that there is no law against the channels and that ICASA believes no empirical evidence was provided linking pornography with sexual violence. The same quotations from ICASA with regards to the moral arguments made at the hearing are used, but the article ends with a reference to the Family Policy Institute and Pastor Naidoo:

> Die Instituut vir Familiebeleid (FPI) het verlede maand gesê Christelike en burgerlike gemeenskapsgroepe staan verenig in ’n boikot van TopTV. Errol Naidoo, FPI-direkteur het gesê die kerk is diep bekommerd dat die bekendstelling van die pornokanale gevalle van verkragting van en geweld teen vroue en kinders in die land sal laat toeneem (pg. 11).
>
> (The Family Policy Institute (FPI) said last month that Christian and civil groups stand united in a boycott of TopTV. Errol Naidoo, FPI’s director, said the church is deeply worried that the introduction of the porn channels will increase cases of rape and violence against women and children)

While this report does faithfully reproduce parts of the statement issued by ICASA, the reference to and direct quotes from FPI and Pastor Naidoo at the end of the article are not balanced with equivalent coverage of the representatives supporting the application, or notably, ODM and Top TV themselves.

In the same way as the above report, *The Citizen*’s article “No link in porn, sexual violence” (Swanepoel, 2013, pg. 8) also provides information only from one side of the debate. Quotes from and references to accredited experts and representatives supporting Top TV’s application reinforce the stance of the article, as expressed by sexologist Professor Johann Lemmer, that “there exists no link between pornography and cases of sexual violence against women, except in the minds of the biased moralists or the uninformed.” The article also references Rachel Jewkes, Director for the Gender and Health Research Unit at the Medical Research Council, as saying that research has not found a link between the availability of porn and rape. These scientific discourses which do not link porn with sexual violence are further supported by the following quote from Jacques Rousseau of the FSI:

> We have no scientific consensus regarding the relation between pornography and sexual violence. South Africa is experiencing exceptionally high levels of rape, but these are clustered in areas that are poor and have less access to pornography. If sexual violence was linked to porn, the middle and higher classes should be doing the raping, but they aren't (Swanepoel, 2013, pg. 8).

Rousseau articulates the same scientific discourse as the previous two people quoted, however, he links this to a somewhat racist, socioeconomic discourse which indirectly positions "poor" people as "doing the raping." Through the assertion that rape occurs in poor areas with limited access to pornography, and the fairly illogical comparison that "the middle and higher classes should be doing the raping, but they aren't", Rousseau suggests that if one accepts the position that porn causes rape, then rape should be occurring predominantly in middle and higher class areas where porn is more accessible. This presupposes an inherent link between the places where rape occurs and the consequent access to pornography and the social class of the rapist, reasoning that since rape occurs predominantly in poor areas, poor people are also the ones committing this sexual violence. Although he does follow the same line of reasoning as Brittz's description of rape being a crime committed by the powerless expressed at the hearing, he does not reference either Wasserman's or Brittz's account of sexual assault, even though the circumstances of both events contradict his generalisation. Both of these articles employ the same discursive strategy of foregrounding certain subjectivities and discourses, and thereby (re)produce, anti-porn and moral, religious discourses while erasing others, further contributing the ambivalent nature of reporting around the hearing and its outcome.

This ambivalence is best demonstrated in the range of articles published by *Beeld*. While some of their articles (see the articles detailed above "Top TV sê hy wil weer porno wys", "Ek's verkrag,

bieg dr. Eve", and "Kerke staan saam in Top TV boikot") express a pro-censorship stance others seem to advocate the opposite. This is further complicated by the following article published on the 26th April titled "Skrywer: 'Seks kan woema kry' (Potgieter, 2013, pg. 3) (Author: Sex can get oomph) which quotes Riette Rust, author of the Afrikaans sex guide *Die Aa tot Oe van Seks* regarding the use of pornography by couples:

> Hul sekslewe kan verbeter deur nuwe kennis, eksperimentering, beter seks, kreatiwiteit en die vermoë om te fantaseer [...] Wanneer hulle saam daarna kyk, kan dit vuur in 'n sukkelende sekslewe sit deur begeerte aan te wakker en die verbeelding aan te moedig
>
> (Their sex life can be improved by new knowledge, experimentation, better sex, creativity and the ability to fantasize [...] When they watch it together, it can put a fire in a troubled sex life by instilling desire and encouraging imagination)

She also advocates the use of porn if a young man or woman,

> min sekskennis het - wat dikwels die geval is – (dan) kan pornografie hulle leer hoe om hul maat te bevredig
>
> (has little sexual knowledge – which is often the case – (then) pornography can teach them how to satisfy their partner).

In both of these statements Rust expresses liberal discourses which see pornography as a beneficial tool for satisfying sexual relationships with one's partner and oneself. However, she goes on to temper this statement with the caution that:

> dit is baie belangrik dat pornografie nooit die plek van seks met jou maat mag inneem nie. 'Paartjies behoort ook saam seks te kan geniet sonder om vooraf na pornografie te kyk. Nog belangriker is ... pornografie is soos alkoholgebruik. Jy weet nie vooraf of jy teen verslawing bestand is nie' (Potgieter, 2013, pg. 3)
>
> (it is very important that pornography never takes the place of sex with your partner. 'Couples should be able to enjoy sex together without having to watch pornography first. Even more important is ... pornography is like using alcohol. You don't know beforehand if you will be resistant to addiction)

Now, Rust articulates a discourse which relates using pornography to possible "pornography addiction" and which she further explains can lead to an appetite for,

> afwykende of gewelddadige gedrag, soos kindermolestering of bloedskande. 'Omtrent 25 seksreeksmoordenaars het aan die FBI erken dat hul grootste seksuele belangstelling pornografie is en dat hulle hul seksfantasiee op regte mense uitgeleef het'
>
> (deviant or violent behaviour, such as child molestation or incest. 'About 25 sex serial murderers admitted to the FBI that pornography was their biggest sexual interest and that they lived out their fantasies on real people').

These assertions are quite extreme in their stated link between use of porn and the possible consequences of child molestation and incest; certainly this is the most drastic argument made for the potential link between porn and sexual assault in the data. The statements from Rust in this article articulate a range of contradictory discourses which cover most of the arguments made by representatives for and against the application both at the hearing and in the press.

This range of articulation is contrasted with an article published on the 27th April in *Beeld* titled "Ek het al baie dinge oorleef" (I have survived many things) (Brümmer, 2013, pg. 8). The article is an interview with Marlene Wasserman about her reasons for going public about her sexual assault at the hearing as well as her representations. The author describes her statements the hearing and saying, "dit was letterlik een sin tydens haar voorlegging vir TopTV voor […] Okasa" (It was literally one sentence during her representation for TopTV in front of ICASA) (Brümmer, 2013, pg. 8). Wasserman is then quoted as saying,

> vir my gaan dit nie oor pornografie nie, maar oor menseregte en die reg om nie sensuur te hê nie en ek het heelwat getuienis versamel […] Mense moet toegelaat word om soos volwassenes op te tree en om verantwoordelikhede te hê. Ek dink nie ons moet 'n kinderdoppasser-staat wees nie (pg. 8).
>
> (For me it is not about pornography, but about human rights and the right to not be censored and I have collected a lot of evidence. People must be allowed to behave like adults and have responsibilities. I don't think we should be a nanny state)

In this extract Wasserman expresses her stance on pornography on TV in South Africa stating that she does not see the issue in terms of the porn itself but rather as an issue of personal responsibility within a state that does not decide for its citizens how they should behave and allows them the freedom to make the choice to consume media such as pornography in an adult and responsible way. This is a clear articulation of Wasserman's subject position in relation to pornography as well as the Constitution of South Africa and it is directly opposed to the representations made by the religious contingent opposing the application.

The article goes on to detail the reasons why Wasserman felt that she should speak up about her rape:

> ‘Ek het nie na die verhore gegaan met enige ander intensie as om wetenskaplike getuienis te gee gebaseer op my navorsing nie, en toe het dinge in my gesig opgeblaas.’ Ná ure van ‘vrome morele praatjies’ en ‘nonsens wat as wetenskap verpak word’ by die verhore, was sy keelvol. Die finale strooi was toe Hettie Brittz, die hoof van Immergroen Ouerskap, gesê het elke verkragter het ’n geskiedenis met pornografie en dat dit ’n bydraende faktor tot verkragting is (pg. 8).
>
> (‘I did not go to the hearing with any other intention but to give scientific evidence based on my research, and then things blew up in my face.’ After hours of ‘pious moral talking’ and ‘nonsense that is packaged as science’ she was fed up. The final straw came when Hettie Britz, head of Evergreen Parenting, said that every rapist has a history with porn and that it is a contributing factor to rape)

In this extract the subject position previously expressed by Wasserman is contrasted with that expressed by Hettie Brittz at the hearing using language that is in a sense derogatory and disdainful of the representations made by Brittz and the other Christian representatives. These representations are described as firstly, going on for hours which implies an element of boredom and apathy, but more significantly, the content of these statements is characterised as “nonsense packaged as science” as well as “pious”. The combination of these two descriptors expresses that at the very least Wasserman does not agree with the religious moral viewpoint regarding pornography, and more specifically considers it somewhat absurd (as evidenced by the word “nonsense”). While in some contexts “pious” may be a positive descriptor, when used in

conjunction with the rest of Wasserman's statements the word becomes a negative description of the attitude of pro-censorship representatives; in this sense it is used more to indicate religious sanctimony and self-righteousness.

The contrast between Wasserman and Brittz's views and subject position continues with Wasserman describing her own sexual assault and contrasting this with what Brittz said at the hearing of her own rape:

> Sy't opgestaan en gesê sy's 'n verkragtingslagoffer en as iemand dit gesien het, sou hulle gedink het sy het ingestem daartoe, want sy het nie geskree nie, sy het nie terugbaklei nie. Sy't gesê sy't gedoen wat sy móés doen, en dis wat pornografie is. Ons dink dis konsensueel, maar dit is nie […] Ek het vir mev. Brittz gesê ek het ook 'n verkragting oorleef, behalwe dat ek nie gepenetreer is nie, maar ek het seksuele geweld oorleef en ek kan vir haar sê dit het nie vir my pornografies gevoel nie en ek wil dit ope rekord stel (pg. 8).
>
> (She stood up and said that she is a rape victim and if someone had seen it they would have thought it was consensual because she did not scream, she did not fight back. She said that she did what she had to do and this is what pornography is. We think that it is consensual but it is not […] I said to Ms Brittz that I also survived rape, except that I was not penetrated, but I survived sexual violence and I can tell her that for me, it did not feel pornographic and I wanted to put that on record)

In these quotes it is evident that during the hearing, Wasserman felt strongly opposed to the viewpoint expressed by Brittz, and did not feel that this should be the only description of sexual assault that was available to those at the hearing and in the public ("I wanted to put that on

record"). She very clearly articulates that she does not in any way agree with the notion that pornography is equivalent to a sexual assault where the women in question does not fight back. Her view that pornography and rape are not the same thing and are not causally linked is further extended by the following:

> 'Ek sien nie alle mans as verkragters nie. Hierdie was 'n unieke mens wat by my huis ingekom het en slegte dinge gedoen het' (pg. 8).
>
> (I do not see all men as rapists. This was a unique individual that came into my house and did bad things)

In this interview about her reflections on the hearing, Wasserman acknowledges that she does not generalize from her rape in order to blame all men; neither does she see all sexual acts by men (including pornography) as potentially being sexual assault. This expression of a specific subject position and personal understanding of the nature of sexual assault versus consensual sex relates to anti-censorship discourses expressed at the hearing and in the press. However, there is also the implication that Ms Brittz feels the opposite way – i.e. that because of her rape she now sees all men as potential rapists and that this extends to the realm of pornography also.

As, such this article published by *Beeld* further adds to the ambivalence that has characterised their reporting of these events. While certain reports explicitly express an anti-pornography viewpoint and this is supported by selective quoting of experts and attendees at the hearing (cf. "Kerke staan saam in Top TV-boikot" (19 March 2013), "Top TV sê hy wil weer porno wys" (14 January 2013)), others do the opposite, as with both of *Beeld*'s articles about Dr Eve. Further, some articles (cf. "Skrywer: Seks kan woema kry") express both discursive positions in one report. One way to look at this ambivalence is to consider the specific "genre" of these news

articles. On the one hand, articles detailing the application by Top TV and ODM and the events at the hearing provide information in a news format, and on the other, the articles about Wasserman and her experiences can be seen as more of an in-depth celebrity personality piece. Nevertheless, *Beeld* still occupies a somewhat contradictory position with regards to the issue of pornography on TV in South Africa. This is evident in the varied way that the publication legitimises certain discourses and maps out possible subject positions within the discursive space related to the hearing and application.

In Foucault's power/knowledge dyad, "truth" is negotiated within such a network of power relations between dominant and marginalised knowledge, and this process is inherent in the discursive space created by the new media. This space gives "a public voice to a variety of social actors" who attempt to legitimise certain types of knowledge expressed in discourse (Milani & Johnson, 2010, pg. 5). Part of this production of truth necessarily entails the mapping of exemplary subject positions in discourse. These are discursively produced subject positions which provide an example of what it means to understand the "truth" of a specific area of knowledge. Wetherell et al. (2001) describe subjectification in Foucault's account as occurring in two different ways; the first being that discourse provides a place for the human subject (the reader themselves) through locating themselves "in the position from which the discourse makes the most sense" (pg. 80); thereby subjecting themselves to its meanings, power and regulation. The second way that subjects are produced is as "figures who personify the particular forms of knowledge which the discourse produces. These subjects have the attributes we would expect as these are defined by the discourse" (pg. 80). It is this second type of subject position that is mapped out by the discourses reproduced in the news media. In this way the use of specific discursive practices (or industry conventions) such as selective quoting, emotive language, and market driven content produces a specific kind of knowledge about something which is then

reproduced in discourse with the effect of mapping out exemplary subject positions from which the knowledge makes the most sense. It is up to the consumer of such media to subject themselves to the knowledge produced in these publications by identifying with this exemplary subject position or with another. Either way the consumer then becomes part of this power/knowledge dyad through the process of subjectification. Since the news media, for their own benefit, do not provide an unbiased view of the world and events that occur in it, the subject positions which it exemplifies are limited and it is in this sense that they have the power to influence societal understandings (or, put another way, to produce "truth") of issues such as pornography, sexual violence and the Constitution.

This process is evident when comparing the following articles from *Mail & Guardian* and *The Citizen*. The *Mail & Guardian* published only one story regarding the debate at ICASA and it is an editorial piece in their Comment & Analysis section written by Jacques Rousseau of the FSI, titled "Naked truth about porno on television" (Rousseau, 2013, pg. 28). The sub-heading of the article reads "the usual logical fallacies were rolled out at Icasa to prevent TopTV from screening adult content" and sets the tone for the rest of the piece. It is clear in this statement that the article to follow is not going to take the side of anti-pornography representatives, and is indeed disdainful of the arguments presented by them at the hearing. This is evidenced by the description "the usual logical fallacies" which casts the arguments made against Top TV's application in a dubious light and questions their validity. Rousseau opens the article with this description of the reaction to Top TV's new bid to air the channels:

> A number of the self-appointed guardians of South Africa's moral fibre rushed to our aid. The usual suspects (African Christian Action, the Family Policy Institute) spoke of the

> ‘flood of filth’ that would destroy our families, corrupt our children and, in general, violate more rights than I was aware we even had (pg. 28).

Here the author provides a quite derogatory exemplification of the subject positions occupied by those in opposition to the application and in so doing, he implicitly describes and exemplifies his own subject position as the opposite of these descriptions. His tone is derisive in his descriptions of “the usual suspects” as the “self-appointed guardians” of morality in South Africa. He goes on to say the following about his own convictions regarding pornography:

> It is not true, as some might think, that you need to think pornography entirely unproblematic to defend the right of a broadcaster to screen it or viewers to watch it. I am convinced that porn can alter expectations in the bedroom and in relationships more generally. But so can just about any other entertainment product you can imagine. Porn becomes a big problem only if it automatically causes harm […] Except that we do not have any compelling reasons to believe that it does: no harm in ways attributable to pornography specifically, rather than other variables such as poverty, communication breakdown or the pressures of fulfilling Calvinist, heteronormative, nuclear-family-type expectations that are increasingly ill-suited to the interests and desires of the 21st century human (pg. 28).

In this statement Rousseau expresses his understanding of pornography and its effects clearly. Additionally, he expresses awareness of the nature of the debate around pornography and his consequent discursive position in relation to it with this quote with ends the article:

> The real – and honest – narrative here is one of a contest between various moral preferences, in which pornography, sex-worker trafficking and rape are treated as interrelated, just because people say they are (pg. 28).

Here, Rousseau captures the interplay of power relations which suffuse the discursive space addressing the hearing and subsequent news reporting about it. He describes the situation as a "contest" between different moral prerogatives. Another way to put this would be that the hearing and news reports capture the push and pull between dominant and marginalised forms of knowledge and power which ultimately contribute to the production of truth through discourse.

This article can be compared to *The Citizen*'s report titled "Channels for TV porn 'degrading'" (Jadoo, 2013, pg. 4), which rests on quotations and opinions from Pastor Naidoo. The article opens thus:

> TopTV's airing of porn channels will only heighten sexual abuse against women and children and further degrade society, the Family Policy Institute said yesterday. 'To launch this in a nation already reeling under the weight of sexual abuse against women and children is nothing short of criminal' said director Errol Naidoo. 'We are shocked and mortified. The public should boycott TopTV and end their subscriptions' (pg. 4).

Here Naidoo explicitly states his subject position in relation to pornography, as did Rousseau in the *Mail & Guardian* article.

The author goes on to state that:

> Naidoo called Icasa's decision 'irresponsible' and 'insane'. Pornography was highly addictive and these channels could change the view that men have of women. Marriages were also at stake, he said (pg. 4)

Here it is again evident that Naidoo feels that there is an almost automatic causal link between pornography and negative attitudes towards women which he feels put women as well as "marriages" at risk. These statements from the author of the article as well as Naidoo himself map out a very specific subject position on pornography. The understanding here is the porn is deviant and dangerous and as such presents a risk to such highly regarded institutions as marriage as well as to what are perceived to be vulnerable individuals – women and children. Comparing this view to that expressed by Rousseau above, a number of discrepancies are evident.

Firstly, these two commenters value the state of being married and the institution of marriage quite differently; while Rousseau describes it as a "Calvinistic, nuclear-family-type expectation", Naidoo clearly valorises it as something to be protected and cherished since he is worried that pornography on TV will threaten and, by extension, hurt marriages. Secondly, they differ on their understandings of the effects of pornography on the individual. Naidoo expresses the fact that he believes pornography will change the way men perceive women for the worse, while Rousseau does not believe that pornography has such immediate and direct causal effects. Finally, they disagree on the effects of pornography on society in general. Naidoo extends this changing masculine attitude toward women to an increase in sexual violence and Rousseau does not believe that pornography directly relates to the perpetration of gender-based sexual violence. Effectively, these two articles articulate two different exemplary subject positions produced by different discourses around sex, pornography and sexual violence.

While news reports generally privilege social actors with high social and cultural capital they also represent subjectivities and discourses expressed by average citizens. One space where this is possible is in the reader's letter section of a publication. *The Star* published one such letter on the 2nd May 2013 from one H. Venter, a self-described "broad-minded liberal" in Edenvale (pg. 25). The author of the letter expresses her welcome of the ruling by ICASA and states that,

> it is a victory for freedom of expression as enshrined in the constitution. Every South African has the right to hear, watch and espouse their preferences as long as it's not hate speech,

which clearly articulates an anti-censorship discourse based on the principles of freedom of expression. More than overtly stating her own subject position in this manner, the writer goes on to describe those representatives opposing the application and their arguments thus:

> The strongest case made by antediluvian elements against the flighting of adult movies is that such content would damage the minds of young people and contribute to higher rates of rape. Research has proved otherwise, and, in any case, the proposed movies will be broadcast only to subscribing adult audiences.

Here, she refers to the religious representatives as "antediluvian" implying that their arguments are ridiculously old-fashioned by describing them as essentially from the time before the biblical flood. In doing this, the reader legitimises her own liberal subject position and while attempting to discredit those of the anti-porn, pro-censorship representatives. She further criticises pro-censorship proponents and their arguments by explaining that what upsets her is that "the narrow minded Mother Grundies of both sexes and religious fundamentalists want to prescribe what film content the rest of the population can watch". The phrase "Mother Grundies" describes pro-

censorship representatives as priggish old ladies, which supports the author's understanding that this faction wants to dictate which films the public can engage with. This letter represents the legitimisation of certain discourses and subjectivities that may be shared by other members of the public, and in this way provides a voice to social actors with less cultural and social capital than the experts and celebrities usually quoted.

The process of subjectification in Foucault's conception of power and knowledge plays an important role in the production and maintenance of truth. Truth, for Foucault, is an "object, under diverse forms, of immense diffusion and consumption" and "it is produced and transmitted under the control, dominant if not exclusive, of a few great political and economic apparatuses (university, army, writing, media) (Foucault, 1980, pg. 131-132). The news media as one such apparatus functions to produce truth through discourse. However, this process of truth production is informed by uneven power relations – the push and pull of dominant versus marginalised forms of knowledge – meaning that the discursive production of truth necessarily does not result in one universal truth, but different discursively produced versions of the 'truth' depending on the source of their production. Since the subject is also discursively produced, the news media, by extension, functions as one of the means by which subjects may be constituted. In this way, discursively produced truths are taken up and embodied by the discursively produced subject as part of the "immense diffusion and consumption" of truth within economies of power, these being defined as "procedures which allow the effects of power to circulate in a manner at once continuous, uninterrupted, adapted and 'individualised' throughout the entire social body" (Foucault, 1980, pg. 119). The above newspaper reports provide an example of this process of the production of knowledge through discourse, using the discursive practices described by moral panic theorists, as well as the ways in which this knowledge is embodied by different discursively produced subjects.

Chapter Six: Discussion and Conclusion

The following chapter provides a discussion and conclusion in relation to the analysis carried out above. At this point it is prudent to point out that any analysis carried out using CDA (and to some extent Foucauldian theory) is inherently subjective and as such the possible interpretations of these texts is necessarily multiple, this being one of the most common criticisms levelled at CDA generally. As such, I would like to acknowledge that my analysis is, of course, open to interpretation and the decisions made in selecting data for analysis as well as those made in the deployment of the methodology may have been made differently by another researcher. Additionally, since much of this debate concerns the safety of women in relation to pornography and focusses on the how pornography can conceivably be linked to rape, my own subject position as a woman in South Africa may be seen as incompatible for this research. However, I feel that my subject position provides a productive vantage point from which to examine these discourses because the majority of discussion and public debate has centred on the protection of women from the dangers of porn. In this sense these discussions are about me and other women in South Africa and as such it is appropriate for a woman to address these discourses.

Discussion

Foucault's theories of power and knowledge as well as the process and effects of subjectification provide a useful tool with which to analyse the inner workings of moral panics and the role that the media plays in them. Since moral panic involves a "threat to societal values and interests" (Cohen, 1972, pg. 1), values and interests that have been established and reproduced through the workings of power relations and the production of truth, and also relies on discursively produced understandings of the cause of a specific moral panic, it is appropriate to relate these incidences

to a Foucauldian understanding of the workings of discourse and power. Foucault conceptualises power not as a large scale, top-down entity produced by the state apparatus, but rather as inherent in the everyday interactions between different people, as well as between people and the truth producing apparatus in a particular society (Foucault, 1975). Foucault's notion of power is local and acts on the body through the process of subjectification. Importantly, since power is conceptualised as relational, it is always subject to, and indeed, depends upon multiple points of resistance (Foucault, 1978). It is this resistance and dependence between power relations which ultimately produces knowledge, through discourse, which is then accepted as truth – "truth is a thing of this world: it is produced only by virtue of multiple forms of constraint" (Foucault, 1980, pg. 131). During a moral panic the "reciprocal appeal, [the] perpetual linking and […] perpetual reversal" (Foucault, 2000, pg. 347) of power relations is highlighted. While "moral entrepreneurs" (Cohen, 1972) may argue that societal norms and values are under threat from a particular group of people or a set of actions, those who form part of this group or engage in these actions will most likely disagree, and it is in this way that moral panic is a window into the reciprocal appeal, linking, and reversal of power relations described by Foucault. While the events and press coverage of the application by Top TV and the hearing at ICASA may not have fulfilled the requirements for being a full-blown moral panic, they are nevertheless analogous to the process of moral panic described by Cohen and other scholars. In the first instance, an analysis of moral panic research shows that subjects which hold a valued place within the collective societal morality, such as sex, crime, mental illness, and drug use among others are often the subject of moral panics.

> Sexuality is a fertile source of moral panic, arousing intimate questions about personal identity, and touching on crucial social boundaries. The erotic acts as a crossover point for a number of tensions whose origins lie elsewhere: of class, gender, and racial

> location, of intergenerational conflict, moral acceptability and medical definition. This is what makes sex a particular site of ethical and political concern – and of fear and loathing (Weeks, 1985, pg. 44).

Indeed, representations at the hearing touched on all of these subjects – gender, class, race, morality, intergenerational concerns and arguments, and medicalised definitions of pornography addiction. Additionally, the emergence of "moral entrepreneurs" such as the Christian groups opposing the application is also always inherent in moral panic. In addition to these, is the crucial role of the news media in the production and maintenance of moral panic through the discursive definitions of the objects of the moral panic as well as the proposed solutions and stylised representations of the major players within the debate. While early moral panic scholarship focussed on determining whether a particular set of events fulfilled the requirements for a moral panic or not, later research has focussed more on the effects of moral panic, such as the regulation and maintenance of hegemonic power relations in a particular society (Hall et al., 1978). It is in this last sense that I feel moral panic theory is most useful and applicable to this research.

The application by ODM and Top TV to broadcast adult content on TV in South Africa touches on contentious issues involving the morality of every day South Africans. Issues raised by those opposing the application included the objectification and exploitation of women, rape and sexual violence, child sexual abuse, as well as issues regarding the interpretation of the right to freedom of speech as set out in the Constitution of South Africa. More specifically, and more relevant to the everyday practices of South African citizens, are the arguments around the role of pornography within a healthy sexual relationship as well as on a personal, individual level. These arguments tended to revolve around what is and is not acceptable practice within the domain of

human sexuality and how this is related to porn. It is in these discussions that it is possible to see the varied and contested cultural understandings of sex, sexuality, and porn.

Discourses around sexuality and sexual practices are often linked to moral regulation, in that the practice of sex and the experience of sexuality have the potential to unsettle and disrupt dominantly held moral standards. As such dominant discourses work to circumscribe and regulate the way people interact in a sexual manner according to the hegemonic beliefs and values regarding sex that exist within a specific society. However, "contemporary society is characterised by a profusion of discourses about sexuality and the regulation of bodies, each with different moral implications, and these are frequently in conflict" (Thompson, 1998, pg. 25) and this means that while dominant discourses may regulate and police sexual practices, marginalised discourses may condone and even promote certain practices which, in the hegemonic understanding of sexuality, are deemed deviant. One such practice is the consumption of and engagement with pornography, whether alone or as part of a couple. As detailed in the introduction to this paper, pornography has long been an issue of contention within South African society, and while it may not have the explicit control measures of boards of publication and legal acts which ban pornography outright, the more subtle and pervasive control of sexuality continues to exist partly in the form of discourses which conceptualise pornography (among other things) as a negative and detrimental aspect of human sexual practices and delimit and regulate the set of sexual practices considered to be the norm.

These discourses are present in many of the representations made to ICASA by the Christian representatives opposing the application, an example of which is provided by the paradigmatic statement by Ms Brittz analysed in the chapter on transcript analysis, speaking for the Family Policy Institute:

> I have 5000 friends on my Facebook. Not a single one of them has listed as an interest girl-on-girl action, anal sex, group sex, why not? Could it be the perhaps they view it as immoral, or that it would reflect on them morally (Van-Der-Ben & Van-Der-Ben, 2013, pg. 34).

In this extract the speaker lists sexual acts that typically appear in pornography, explicitly labels them as "immoral" and suggests that her friends (albeit friends on Facebook) also find these practices immoral. This statement is a reflection of discourses which conceptualise pornography, as well as other sexual practices such as homosexuality, as deviant and abnormal and in so doing, directly address aspects of sexuality and sexual practices which may be a part of the everyday lives of people in South Africa. Thus, this statement, as part of a larger discourse, works on the body through delimiting what is and is not acceptable practice if one wishes to be considered "moral" and normal in terms of one's sexuality. In so doing, discourses such as these effectively render those who do not conform to them (or in other words, those who engage in sexual practices considered deviant) unintelligible to the moral majority. Those people who do conform to such value judgements about sex and sexuality become subjects of these dominant discourses and by doing so, adjust their behaviour and beliefs to fit what has been prescribed as normal. It is in this process of subjectification that discourse is able to perform disciplinary work on the physical body.

On the other hand, discourses which do not conceptualise pornography as inherently deviant were also expressed at the hearing, though much less often than those described above. Representatives supporting the application by Top TV and ODM generally focussed on Constitutional issues of freedom of speech and the right of adult citizens to choose the media they wish to engage with, and as such do not touch on pornography directly. However, as I have

shown, representations made by well-known sexologist Dr Marlene Wasserman do deal directly with pornography as a part of healthy sexuality; speaking during the question and answer session at the end of public representations, Dr Wasserman addresses the issue of women watching and engaging with pornography:

> So, looking at the come shot as an example of is that degrading to women, I think we are insulting women and that's the point I want to make. We are dismissing women's voices in this conversation. We are implying that women are harmed by porn. The truth is women love to watch certain forms of adult content. Women love acting in it and women love being sexual. Women love having sex and by us dismissing and depriving and denying women access to adult content, we are once again submitting and repressing women as sexual beings (Van-Der-Ben & Van-Der-Ben, 2013, pg. 172).

In this extract Dr Wasserman conceptualises pornography as a healthy part of sexuality for women, thereby negating discourses which position women as not engaging with or enjoying porn. Instead, she expresses a liberal, pro-porn, feminist discourse by stating that conceptualising women's relationships with pornography in a negative way actually does them a disservice and negating their personal agency right to choose. In these statements about the way women use pornography it is possible to see the influence of a discourse which is opposed to that which was expressed by Ms Brittz. However, in this, arguably marginalised and deviant, discourse there also exists a disciplinary power which again defines which actions are considered the norm in terms of human sexual behaviour.

Ms Brittz and Dr Wasserman articulate two completely different discourses with regard to the role of pornography in the experience of human sexuality; while Ms Brittz sees it as deviant and

abnormal, Dr Wasserman believes that consuming pornography is a normal and healthy part of being a sexual person. Although these discourses occupy ontologically opposite points, they both circumscribe and constrain what is acceptable behaviour for the human body. Put another way, both of these discourses have the ability to perform disciplinary work on the physical body. However, in order for the disciplinary power inherent in a specific discourse to be realised, the values, beliefs, practices and statements that make up that discourse need to be sanctioned as "true" within a specific society. In other words, in order for a discourse to have disciplinary power over the majority of the population, it must be a dominant discourse. Such power relations and the creation of truth are, in Foucault's analysis, the domain of certain disciplinary institutions and truth producing apparatuses within a society, such as the news media, schools, universities and legislative bodies such as ICASA.

Disciplinary power in Foucault's conception forms part of what he terms "biopower" (Foucault, 1975 & 1978) which "refers to two interrelated forms of power associated with the emergence of the sciences of 'Man' and the institutions that relate to them" (Sawicki, 2005, pg. 382). Disciplinary power operates within the context of institutional practices and has as its target individual bodies. The work of disciplinary power is made possible through the mobilisation of norms reproduced in discourse – "by attaching individuals to normative self-understandings and practices that render them docile and useful at the same time" (Sawicki, 2005, pg. 382). Foucault describes this power as "forming a dense web that passes through apparatuses and institutions, without being exactly located in them" (1978, pg. 96) and as such ICASA forms part of this dense web as an institution in which multiple flows of power are present.

It is these flows of power as well as the status of ICASA as part of the state apparatus that allows it to become part of the truth producing apparatus of society. Truth production within ICASA

functions through the establishment of norms for different sectors within the field of communications – this is done through rulings about who is and is not allowed to broadcast television and radio channels, which companies are allowed to provide communication services, and how these services are carried out within South African society. As a result of the power that is imbued in ICASA, the institution is able to make certain discourses function as true and in this way becomes part of the disciplinary power which operates on the individual body. Since its rulings directly affect what appears in the media and this in turn influences dominant understandings and knowledge about certain topics through the (re)production of discourse, ICASA is one part of a disciplinary power system that "grasps it objects at the level of their bodies and desires; [and] in objectifying them it also creates the conditions of their subjective possibilities – their range of possible self-understandings" (Sawicki, 2005, pg. 382). In other words, ICASA is part of the system which at the same time creates out of individuals, objects to be defined and understood, as well as subjects which embody the power relations from which they are constituted. In so doing, the disciplinary power wielded by ICASA necessarily maps out possible subject positions within dominant discourse and by extension subject positions within marginalised discourse. Importantly, however, ICASA and other such institutions have the power to sanction what is true (or dominant) and what is not (marginalised, deviant) and thereby make certain subject positions function as embodiment of truth and others as deviant.

In the case of the hearing for Top TV and ODM, the ruling by ICASA forms part of the production of truth not only through the establishment of new norms for the broadcasting of pornographic content on TV but also through the establishment of norms about what is and is not acceptable practice within the discursive formation of human sexuality with regards to the use of pornography. In the context of the hearing, debates around the morality and role of pornography in people's everyday lives act as the basis for the establishment of norms that deal with

pornography in relation to the experience and practice of human sexuality. Representatives at the hearing embody differing subject positions and hence different discourses, both of which are informed and created by the contrasting and relational nature of power relations. However, it is ICASA that is able to sanction a specific range of "subjective possibilities" as dominant and in so doing establish the norms which make possible hegemonic understandings and practices in terms of sex and pornography. Since the ruling by ICASA was made in favour of ODM and Top TV, this plays a large role in sanctioning the discourses and knowledges associated with ODM and Top TV's arguments as "true" discourse, and thereby mapping out possible subjectivities which in turn rely on norms that do not necessarily conceptualise pornography as deviant. However, just as the network of disciplinary power relations does not reside in one specific institution or state apparatus, so too does the production of truth rely on a multiplicity of sources. For Foucault, the production of truth does not only occur in institutions but also in schools, the medical sciences, and relevant to the current research, in the news media.

Just as ICASA has the ability to produce "truth" as a result of the power relations which create and support it, the same is true of news reporting. However, while the ruling by ICASA effectively delimits a specific range of possible subjectivities and norms which are produced as true or dominant, the news media, due to the homogenous nature of the political, social, and moral subjectivities which inform it, necessarily contributes to a wider "regime of truth" and in so doing, offers more possibilities in the way of discursively produced knowledge and subject positions. Also important to remember is that while the news media is involved in the production of truth and the maintenance of a regime of truth, they are also necessarily subject to the operation of power and discourse and as such reproduce different "truths" according to the political leanings of the newspaper, among other factors. This is because,

> it is discourse, not the subject who speaks it, which produces knowledge. Subjects may produce particular texts, but they are operating within the limits of the *episteme*, the *discursive formation*, the *regime of truth*, of a particular period and culture (Hall, 1997, pg. 55).

As such, the news media, as an object and a constituted subject of discourse cannot exist outside of it. This means that different newspapers will produce different kinds of knowledge which is sanctioned as truth through discourse, resulting in a multiplicity of "truths regarding one specific discursive formation. This effect is also true because of the nature of power relations as conceptualised by Foucault; "the strictly relational character of power relationships [means that] their existence depends on a multiplicity of points of resistance […] Hence, there is no single locus of great Refusal […] Instead there is a plurality of resistances" (Foucault, 1978, pg. 95-96). Just as there are multiple points of resistance within a network of power relations, there exist multiple points of truth (or dominance). In this way, and because of these conflicting and constraining factors, the news media does not always produce one kind of knowledge or truth about a certain domain, and this is the case with the news reports which refer to the application by Top TV and the hearing held at ICASA.

In the analysis of the news reports it is possible to see a range of differently articulated subject positions from those who were quoted or interviewed as well as the authors of individual news reports. Because where there is power there is also resistance, many of these news reports are contradictory and this was most apparent in the oppositional views and subject positions of Marlene Wasserman and Hettie Brittz. Both women personally experienced sexual violence committed against them, yet their views and articulated subject positions could not be more heterogeneous. One possible reason for this extreme difference in opinion may be the effect of

the particular subject position occupied by each woman. Since one's subject position implies a stance from which a certain area of knowledge makes the most sense, each woman would have had a different point of reference to understand and process their personal experiences. Ms Brittz occupies a subject position in relation to the discursive formation of human sexuality in which sex that includes practices and desires outside of a heterosexual monogamous marriage is deemed deviant and this includes the consumption of pornography. This view of pornography as deviant and dangerous automatically calls for it to be associated with other sexual acts that are also considered dangerous and harmful, such as rape and sexual assault. Indeed, during the hearing and in newspaper reports Ms Brittz expresses many times that she understands pornography to be on the same level as sexual violence against women, or if not the same thing then existing in a directly causal relationship. Within this line of reasoning it makes sense then to associate her personal experience of sexual assault with the perceived consequences of the kind of content to be broadcast by Top TV and ODM, and as a result of this she feels that is important for her to express this connection. Although there is no way to prove whether her sexual assault was directly related to pornography or not, due to the nature of her subject position and her subsequent conceptualisation of pornography, it is natural for her to associate the two and attempt to stop any kind of media that she understands as dangerous in this regard from entering the public domain.

On the other hand Dr Wasserman occupies a subject position in relation to the domain of human sexuality in which sex is not necessarily confined to a committed, monogamous, heterosexual relationship and as a consequence, she does not necessarily view pornography as dangerous and deviant. This is evident in her representations at ICASA, newspaper reports in which she was quoted or interviewed as well as in the fact that she runs her own sex shop which, amongst other products, sells pornography. Dr Wasserman's view of pornography does not equate it with

sexual violence in any way and indeed, she has stated that she feels the reasons and contributing factors for sexual assault and rape have more to do with the rapist and their past experiences than the media they consume. As such, this subject position allows Dr Wasserman to understand the causes of her sexual assault differently. She does not associate the attack with the objectification of women that is argued is inherent in pornography; instead she understands her attacker as a unique individual committing an act with many and varied antecedents which do not necessarily relate directly or even indirectly to pornography. These two woman occupy two opposing points in the network of power relations flowing through the hearing at ICASA and the news reports which cover it, and as such they provide an example of how the media does not work to create one universal truth or understanding of a specific area of knowledge. Indeed, one such universal view is excluded in Foucault's account which requires multiple points of power and resistance in order to create knowledge and truth. In this way, these two different subject positions function as part of the "multiple forms of constraint" necessary to produce knowledge about a specific thing.

Since moral panic can be conceptualised as an attempt to maintain hegemonic power relations or dominant understandings around a specific area of knowledge, the question then becomes how these differing points of power and resistance represented in the news media come to be used by members of the public in the maintenance or disruption of hegemonic power relations and the consequent production of knowledge. Foucault makes use of the concept of "technologies of the self" (1988) in order to explain the process of subjectification in which a person comes to recognise themselves as a subject of a specific kind of knowledge (Foucault, 1982). Technologies of the self refer specifically to the process where individuals "think about themselves, act for themselves, and transform themselves within power relations" (Rail & Harvey, 1995, pg. 167). Since individuals are "faced with a field of possibilities in which several ways of behaving, several reactions and diverse comportments may be realised" (Foucault, 1982,

pg. 790) they must also necessarily employ mechanisms through which they take up one position in this field of possibilities.

These mechanisms are the technologies of the self, described by Foucault and include the process whereby the individual considers and problematizes their identity and the moral codes which govern them in order to understand how these moral codes relate to them specifically and how they may transform themselves within these codes and relations of power (Thorpe, 2008). It is through this conscious technique of locating oneself in a specific position from which a body of knowledge makes sense that individuals reproduce the power relations which have informed that body of knowledge. Since Foucault's conception of power/knowledge centres on an understanding that power relations function between people, attempts to change hegemonic ideals and values can only come about through a change in individual actions and behaviour which then go on to affect others around that specific individual. For example, a reader of the news media who may agree with Ms Brittz will subject themselves (through the use of technologies of the self) to the discursive formation of human sexuality from a position which sees pornography as deviant and through interactions with other people and their actions in the world they will reproduce the power relations and discourses which have led to this conceptualisation of pornography and human sexuality.

It is in this way that the news media is able to produce multiple forms of truth and it is also in this way that specific individuals, through their own subject positions, may maintain and reproduce hegemonic power relations. However, this does not mean that hegemonic power relations and knowledges can never be challenged or changed – by contrast such change is inherent in the model proposed by Foucault. This is because the subject of specific knowledge and discourse, in the reiterative process of subjectification, can also come to critically consider

the effects of the regimes of truth which sustain those power relations on themselves as a subject. Foucault refers to this as care of the self as opposed to knowing oneself as the subject of various relations of power and knowledge (Foucault, 1985). Care of the self for Foucault is always political because it "revolves around a critical awareness of the various effects of regimes of truth" (Pringle, 2005, pg. 271) and involves care of others too. In this way the critical subject, who is aware of the effects of the power relations and regimes of truth which constitute them, is able to question the naturalness of these forces in relation to their identity and thereby reconfigure the power relations around them.

Moral panic has been theorised as a strategy for maintaining the social order and hegemonic power relations which exist within a society that is facing a challenge to such hegemony by a group of people or a set of actions deemed threatening enough to possibly upset the status quo. During the process of moral panic a number of "moral entrepreneurs" emerge; these are the "articulators of public indignation" who "speak not on [their] own behalf or in [their] own interest, but to identify [their] sectional morality *with the whole nation*" (Hall et al., 1978, pg. 163-164). Moral entrepreneurs react to the perceived threat by discursively constructing the people or actions creating the threat as deviant, or in other words as deviating for established moral and social norms. Relating this concept to Foucault's theory of power/knowledge, moral entrepreneurs can be conceptualised as forming part of the network of power relations and resistance that informs and creates specific areas of knowledge. When the dominant understanding of a specific area of knowledge is under threat by those who view it differently, it is possible that the subject positions of those acting as moral entrepreneurs come under threat. Since one's subject position essentially equates to the way one understands oneself in relation to a specific discursive formation or body of knowledge, this threat is perceived by moral entrepreneurs as a threat to their self-identity and the identities of others. In the same way, those

who are labelled as deviant, or "folk devils", may be seen to be protecting their own subject positions through the articulation of their specific points of view in relation to the body of knowledge in question. When conceptualised this way, moral entrepreneurs and folk devils occupy two opposing points of power and resistance within the network of power relations flowing through and constituting them as subjects. In this way the actions of moral entrepreneurs in voicing their concerns in the media and through specific organisations and institutions may be seen as an attempt to maintain the existing configuration of power relations in a specific society at a specific time.

Moral entrepreneurs effectively mobilise dominant power relations within the process of moral panic and in so doing hope to affect and change the subject positions of those around them so that the moral status quo may be maintained. This mobilisation is evident in the hearing held at ICASA as well as news media reports about it. Before the hearing was held at ICASA news reports featured interviews with, among others, Pastor Naidoo and Ms Brittz, two of the most vocal individuals in the opposition to Top TV's bid. Both of these individuals, during the hearing and in quotes given to newspaper, articulate discourses which associate pornography on TV in South Africa with the moral degeneration of the social body and increases in crime, specifically rape and gender based violence, as well as pose a danger to children, and marriages.

In both of these instances the speakers express their feelings that the introduction of the channels poses a threat to the collective morality of South Africa as a nation and this threat is perceived to possibly result in the increase of rape and sexual violence. Both of these speakers understand themselves in a specific way as subjects of the discursive formation of human sexuality and conceptualise pornography and those who engage in it as a threat to "what is deemed normal and standard" for sexual desire and practices. As such, each speaker has expressed their position

through interviews with the press, through announcements and media releases for their respective organisations and through representations at the hearing. All of these expressions can be seen as an attempt to maintain the configuration of power relations that existed at that point and their own subject positions. Within the formulation of power/knowledge proposed by Foucault, these attempts and expressions form part of the multiple forms of constraint, the linking and reversal of relations of power which ultimately produce truth about a specific thing, in this case the relation of pornography to the discursive formation of human sexuality.

In this way the work and legal rulings of institutions such as ICASA, the reports by newspapers as part of the news media, and the expressions and the articulations of individual subject positions can all be seen to part of the system whereby power constitutes knowledge and knowledge comes to engender power in the production of truth. Although each organisation, institution, or individual may consider their position to be correct or morally superior, ultimately they all work in concert and in resistance to create the knowledge in relation to which they are constituted as objects and self-aware subjects.

Conclusion

South Africa has been conceptualised, by parties on both sides of the debate, as a nation which does not talk about sex, either between adults or as adults communicating with children. Indeed, the hearing at ICASA revealed many cultural and social insecurities and differences regarding the perception of the role of sex and pornography in an individual's life. Christian representatives at the hearing and in news reports express the view that sex is, and should only be, part of a monogamous, heterosexual, marital relationship and that practices which deviate from this or threaten this status are immoral and harmful to oneself as well as one's relationship.

Accordingly, the view that pornography may play a healthy role in an individual or a couple's sexual life is seen as somewhat concerning for this group. Since marriage is highly valued within the religious contingent, the threat that pornography poses is considered serious and extends not just to marriage but, since marriage is seen as the social foundation of the population, also to the very fibre of the nation. It is no wonder then that pornography is associated with potential violence and harm – those who watch pornography are not conforming to these religious morals and therefore may not possibly conform to other morals of social living resulting in carefree attitudes to adultery and sexual violence. These views tend to also be associated with an urge to repress freedom of expression in an effort to protect and maintain these moral standards about sex.

On the other hand, more "liberal" representatives and organisations do not conceptualise sex as something which may only occur within the confines of marriage and instead see it as the choice of consenting adults within the privacy of their everyday lives. This approach to sex is more permissive towards the consumption of pornography since there is no standard, moral perception of how sex should be and therefore there can be no threat to established norms and standard practices. Because sex, in this perception, is the purview of each individual, the use of pornography remains a personal and private decision, the influence of which extends only into the individual's personal life. However, while these representatives do not object to pornography, per se, certain forms of pornography *are* considered deviant. Such forms include child pornography, which would transgress the standard of sex between consenting adults; and sex which is violent, which would transgress norms and values around consent. Since this view of sex and pornography centres mainly on the aspect of free choice and consent, it is necessarily associated with a Constitutional view that freedom of expression should be valorised above the

protection of children since it is every parent's responsibility to keep their child from engaging with pornography.

The hearing at ICASA represents a challenge to the status quo of power relations relating to sex and pornography in South Africa and it highlights the struggle for recognition between the two generalised viewpoints described above. In a Foucauldian sense, the hearing can be seen as the nexus of the linking and reversal, the reciprocal appeal and denial of power and resistance in relation to these issues as well as the struggle for the production of one kind of truth over another. Or, in other words, the struggle to maintain one kind of knowledge about sex as dominant over another and in so doing endorse a specific set of subject positions as dominant.

Although these events did not amount to a full blown moral panic by the standards of many moral panic scholars, they did spark a debate which touched on the morality of everyday South Africans and opened up questions about how people consider themselves as sexual beings and the consequent role of pornography in their lives. It is not possible to say that a specific type of knowledge or moral prerogative has emerged as dominant from the hearing and news reports around it, but the production of only one kind of truth is excluded from the power/knowledge dyad articulated by Foucault. The production of only one kind of truth in this way would entail a transformation of power relations when, in Foucault's conception, the most that is possible is a reconfiguration of power relations, and it is this reconfiguration that has been affected through the hearing held at ICASA, their decision to allow the broadcasting of adult content, and the media reports around these events.

With the hearing and its eventual outcome as well as the varied subject positions articulated in the press, new understandings of sex and pornography have come to the fore, representing new

subjective possibilities to the public. It is through these new subjective possibilities that institutional and moral change may be created - through people reconstituting themselves as subjects of newly understood forms of knowledge and thereby reconfiguring the power relations around themselves and others. Indeed, some institutional change has already been affected in that new forms of content are now able to be broadcast on TV which in turn creates new subjective possibilities, new forms of knowledge and therefore, the potential for further reconfigurations of the power relations inherent in society and relating to sex and sexuality for individual South Africans.

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