

Pornography

Reading:

Catharine MacKinnon, "Not a Moral Issue" *Yale Law and Policy Review* 2:2 (1984): 321-345.

John Stoltenberg, "Confronting Pornography as a Civil-Rights Issue" *TF*.

Lisa Duggan, et al. "False Promises: Feminist Antipornography Legislation" *TF*.

I. What is pornography?

MacKinnon maintains:

Pornography, in the feminist view, is a form of forced sex, a practice of sexual politics, an institution of gender inequality. In this perspective, pornography is not harmless fantasy or a corrupt and confused misrepresentation of an otherwise natural and healthy sexuality. Along with the rape and prostitution in which it participates, pornography institutionalizes the sexuality of male supremacy, which fuses the erotization of dominance and submission with the social construction of male and female. Gender is sexual. Pornography constitutes the meaning of that sexuality. Men treat women as who they see women as being. Pornography constructs who that is. Men's power over women means that the way they see women defines who women can be. Pornography is that way. (325-6)

Question: How does pornography function to "construct" men and women, on MacKinnon's view?

Longino: "Pornography...is verbal or pictorial material which represents or describes sexual behavior that is degrading or abusive to one or more of the participants *in such a way as to endorse the degradation.*"¹

- Note contrast with erotica.
- Why include "endorsing degradation"?
- In what sense does ordinary pornography "endorse degradation"?
- Is this an adequate definition? Why or why not?

Statutory definition (in MacKinnon/Dworkin Ordinance). "Basically the Ordinance says, something is pornography if and only if it meets four specific tests" (Stoltenberg 304, also Duggan et al, *TF* 323):

1. It must be graphic.
2. It must be sexually explicit.
3. It must be the subordination of women.
4. It must include at least one form from a list of specific scenarios listed in the Ordinance (see p. 305).

Question: what does it mean to say that pornography *is* the subordination of women? Does that mean simply that it *causes* the subordination of women?

II. Feminist Anti-porn Considerations

1. Pornography, especially violent pornography, is implicated in the committing of crimes of violence against women.
2. Pornography is the vehicle for the dissemination of a deep and vicious lie about women, e.g., that they are inferior to men, that they are sex objects and proper subject of sexual domination. It is defamatory and libelous.
3. The diffusion of such a distorted view of women's nature in our society as it exists today supports sexist (i.e., male-centered) attitudes, and thus reinforces the oppression and exploitation of women.
4. Pornography itself subordinates women

¹ Helen Longino, "Pornography, Oppression and Freedom: A Closer Look".

5. Pornography itself silences women.

Question: What does it mean to say that pornography is “not a moral issue”?

III. Censorship: Prior-restraint v. civil rights approach

Obscenity law is a criminal law. It is initiated by a police officer and the state prosecutes due to the moral offense to the community. It is tried in the criminal courts and the punishment can be imprisonment, monetary fines, censorship.

Anti-pornography ordinances are civil laws. (Such ordinances have been passed and vetoed in Minneapolis (1983-4) and passed in Indianapolis 1984. In *Hudnut v. American Booksellers Assn* (1985), the Ordinance was struck down by the US Court of Appeals. The Supreme Court refused to hear the case). In case of a violation of a civil law, the complaint or lawsuit is brought by the plaintiff with a cause of action; the claim is based on injury to the victim. It is adjudicated by a human rights commission or tried in a civil court. Remedies are money damages and/or injunctions.

IV. Feminist “Pro-Sex” arguments

1. The feminist movement has been committed to sexual self-determination and sexual autonomy; the MacKinnon-Dworkin approach undermines this commitment.
2. The definition in the Ordinance is too broad. The material it could suppress is virtually limitless. For example, worthwhile literature and art that are worthy of first amendment protection would fall under the Ordinance.
3. The Ordinance does not address non-pornographic images that are also demeaning to women. Women’s oppression is better explained by other forces.
4. The Ordinance reinforces a sexual double-standard.
5. Pornography – the images and texts – cannot subordinate women. There is a difference between an image and an action.
6. Sexually explicit speech does not cause or incite violence.
 - a. It is illegitimate to generalize from the lab to “natural” settings.
 - b. Nonaggressive pornography shows no tendency to cause violence.
 - c. There is no way to single out a unifying “cause” of violence towards women.
 - d. There isn’t a correlation between the availability of porn and violence against women.
7. The Ordinance unconstitutionally discriminates on the basis of sex.
 - a. What about men in pornography?
 - b. Why aren’t women allowed to consent to participate in porn?
8. The Ordinance does not help those who are most vulnerable. The criminal law should be used to protect those who are subject to sexual violence. Don’t blame images!

MacKinnon, Catharine A. "Not a Moral Issue." *Yale Law & Policy Review* 2, no. 2 (1984): 321-45. © Yale Law School. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <http://ocw.mit.edu/help/faq-fair-use/>.

Stoltenberg, John. "Confronting Pornography as a Civil-Rights Issue." In *Theorizing Feminisms: A Reader*. Edited by Elizabeth Hackett and Sally Haslanger. Oxford University Press, 2005. © Oxford University Press. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <http://ocw.mit.edu/help/faq-fair-use/>.

Duggan, Lisa, Nan D. Hunter, and Carole S. Vance. "False Promises: Feminist Anti-Pornography Legislation." In *Theorizing Feminisms: A Reader*. Edited by Elizabeth Hackett and Sally Haslanger. Oxford University Press, 2005. © Oxford University Press. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <http://ocw.mit.edu/help/faq-fair-use/>.

MIT OpenCourseWare
<http://ocw.mit.edu>

WGS.301J / 17.007J / 24.237J / 17.006 Feminist Thought
Fall 2014

For information about citing these materials or our Terms of Use, visit: <http://ocw.mit.edu/terms>.