

Copyright Warning and Restrictions

Title 17, United States Code of the copyright law of the United States governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions, the New Jersey Institute of Technology (NJIT), Robert W. Van Houten Library is authorized to furnish a photocopy or other reproduction on the condition that either is not to be "*used for any purpose other than private study, scholarship, or research.*" If a person makes a request for or later uses a photocopy or reproduction for purposes in excess of "fair use", that user may be liable for copyright infringement.

Fair Use Guidelines

Notwithstanding the provisions of section 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include –

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

Per's in
1984/85

TAKE BACK THE NIGHT

Women on Pornography

Edited by Laura Lederer

NY: 1980

theoretical opposition, not if they wish to maintain their liberal credentials. Yet when it comes to the treatment of women, the liberal consciousness remains fiercely obdurate, refusing to be budged, for the sin of appearing square or prissy in the age of the so-called sexual revolution has become the worst offense of all.

Erotica and Pornography: A Clear and Present Difference

Gloria Steinem

Perhaps one of the greatest debates about pornography is the question of how to distinguish pornography from erotica. Here, in an article first printed in *Ms.* magazine, Gloria Steinem provides a practical test for making a distinction between the two.

Human beings are the only animals that experience the same sex drive at times when we can and cannot conceive.

Just as we developed uniquely human capacities for language, planning, memory, and invention along our evolutionary path, we also developed sexuality as a form of expression; a way of communicating that is separable from our need for sex as a way of perpetuating ourselves. For humans alone, sexuality can be and often is primarily a way of bonding, of giving and receiving pleasure, bridging differentness, discovering sameness, and communicating emotion.

We developed this and other human gifts through our ability to change our environment, adapt physically, and, in the long run, affect our own evolution. But as an emotional result of this spiraling path away from other animals, we seem to alternate between periods of exploring our unique abilities to forge new boundaries, and feelings of loneliness in the unknown that we ourselves have created; a fear that sometimes sends us back to the comfort of the animal world by encouraging us to exaggerate our sameness with it.

The separation of "play" from "work," for instance, is a problem only in the human world. So is the difference between art and nature, or an intellectual accomplishment and a physical one. As a result,

we celebrate play, art, and invention as leaps into the unknown; but any imbalance can send us back to nostalgia for our primate past and the conviction that the basics of work, nature, and physical labor are somehow more worthwhile or even more moral.

In the same way, we have explored our sexuality as separable from conception: a pleasurable, empathetic bridge to strangers of the same species. We have even invented contraception—a skill that has probably existed in some form since our ancestors figured out the process of birth—in order to extend this uniquely human difference. Yet we also have times of atavistic suspicion that sex is not complete—or even legal or intended-by-god—if it cannot end in conception.

No wonder the concepts of “erotica” and “pornography” can be so crucially different, and yet so confused. Both assume that sexuality can be separated from conception, and therefore can be used to carry a personal message. That’s a major reason why, even in our current culture, both may be called equally “shocking” or legally “obscene,” a word whose Latin derivative means “dirty, containing filth.” This gross condemnation of all sexuality that isn’t harnessed to childbirth and marriage has been increased by the current backlash against women’s progress. Out of fear that the whole patriarchal structure might be upset if women really had the autonomous power to decide our reproductive futures (that is, if we controlled the most basic means of production—the production of human beings), right-wing groups are not only denouncing pro-choice abortion literature as “pornographic,” but are trying to stop the sending of all contraceptive information through the mails by invoking obscenity laws. In fact, Phyllis Schlafly recently denounced the entire Women’s Movement as “obscene.”

Not surprisingly, this religious, visceral backlash has a secular, intellectual counterpart that relies heavily on applying the “natural” behavior of the animal world to humans. That application is questionable in itself, but these Lionel Tiger-ish studies make their political purpose even more clear in the particular animals they select and the habits they choose to emphasize. For example, some male primates (marmosets, titi monkeys, night monkeys) carry and/or generally “mother” their infants. Tiger types prefer to discuss chimps and baboons, whose behavior is very “male chauvinist.” The message is that females should accept their “destiny” of being sexually dependent and devote themselves to bearing and rearing their young.

Defending against such reaction in turn leads to another temptation: merely to reverse the terms, and declare that all nonprocreative sex is good. In fact, however, this human activity can be as construc-

tive or destructive, moral or immoral, as any other. Sex as communication can send messages as different as life and death; even the origins of “erotica” and “pornography” reflect that fact. After all, “erotica” is rooted in “eros” or passionate love, and thus in the idea of positive choice, free will, the yearning for a particular person. (Interestingly, the definition of erotica leaves open the question of gender.) “Pornography” begins with a root “porno,” meaning “prostitution” or “female captives,” thus letting us know that the subject is not mutual love, or love at all, but domination and violence against women. (Though, of course, homosexual pornography may imitate this violence by putting a man in the “feminine” role of victim.) It ends with a root “graphos,” meaning “writing about” or “description of,” which puts still more distance between subject and object, and replaces a spontaneous yearning for closeness with objectification and voyeurism. The difference is clear in the words. It becomes even more so by example.

Look at any photo or film of people making love; really making love. The images may be diverse, but there is usually a sensuality and touch and warmth, an acceptance of bodies and nerve endings. There is always a spontaneous sense of people who are there because they want to be, out of shared pleasure.

Now look at any depiction of sex in which there is clear force, or an unequal power that spells coercion. It may be very blatant, with weapons of torture or bondage, wounds and bruises, some clear humiliation, or an adult’s sexual power being used over a child. It may be much more subtle: a physical attitude of conqueror and victim, the use of race or class difference to imply the same thing, perhaps a very unequal nudity, with one person exposed and vulnerable while the other is clothed. In either case, there is no sense of equal choice or equal power.

The first is erotic: a mutually pleasurable, sexual expression between people who have enough power to be there by positive choice. It may or may not strike a sense-memory in the viewer, or be creative enough to make the unknown seem real; but it doesn’t require us to identify with a conqueror or a victim. It is truly sensuous, and may give us a contagion of pleasure.

The second is pornographic: its message is violence, dominance, and conquest. It is sex being used to reinforce some inequality, or to create one, or to tell us that pain and humiliation (ours or someone else’s) are really the same as pleasure. If we are to feel anything, we must identify with conqueror or victim. That means we can only experience pleasure through the adoption of some degree of sadism

or masochism. It also means that we may feel diminished by the role of conqueror, or enraged, humiliated, and vengeful by sharing identity with the victim.

Perhaps one could simply say that erotica is about sexuality, but pornography is about power and sex-as-weapon—in the same way we have come to understand that rape is about violence, and not really about sexuality at all.

Yes, it's true that there are women who have been forced by violent families and dominating men to confuse love with pain; so much so that they have become masochists. (A fact that in no way excuses those who administer such pain.) But the truth is that, for most women—and for men with enough humanity to imagine themselves in the predicament of women—pornography could serve as aversion-conditioning toward sex.

Of course, there will always be personal differences about what is and is not erotic, and there may be cultural differences for a long time to come. Many women feel that sex makes them vulnerable and therefore may continue to need more sense of personal connection and safety than men do before allowing any erotic feelings. Men, on the other hand, may continue to feel less vulnerable, and therefore more open to such potential danger as sex with strangers. Women now frequently find competence and expertise erotic in men, but that may pass as we develop those qualities in ourselves. As some men replace the need for submission from childlike women with the pleasure of cooperation from equals, they may find a partner's competence to be erotic, too.

Such group changes plus individual differences will continue to be reflected in sexual love between people of the same gender, as well as between women and men. The point is not to dictate sameness, but to discover ourselves and each other through a sexuality that is an exploring, pleasurable, empathetic part of our lives; a human sexuality that is unchained both from unwanted pregnancies and from violence.

But that is a hope, not a reality. At the moment, fear of change is increasing both the indiscriminate repression of all nonprocreative sex in the religious and "conservative" male-dominated world, and the pornographic vengeance against women's sexuality in the secular world of "liberal" or "radical" men. It's almost futuristic to debate what is and is not truly erotic, when many women are again being forced into compulsory motherhood, and the number of pornographic murders, tortures, and women-hating images are on the increase in both popular culture and real life.

Together, both of the above forms of repression perpetuate that familiar division: wife or whore; "good" woman who is constantly vulnerable to pregnancy or "bad" woman who is unprotected from violence. Both roles would be upset if we were to control our own sexuality. And that's exactly what we must do.

In spite of all our atavistic suspicions and training for the "natural" role of motherhood, we took up the complicated battle for reproductive freedom. Our bodies had borne the health burden of endless births and poor abortions, and we had a greater motive than men for separating sexuality and conception.

Now we have to take up the equally complex burden of explaining that all nonprocreative sex is not alike. We have a motive: our right to a uniquely human sexuality, and sometimes even to survival. As it is, our bodies have too rarely been enough our own to develop erotica in our own lives, much less in art and literature. And our bodies have too often been the objects of pornography and the woman-hating, violent practice that it preaches. Consider also our spirits that break a little each time we see ourselves in chains or full labial display for the conquering male viewer, bruised or on our knees, screaming a real or pretended pain to delight the sadist, pretending to enjoy what we don't enjoy, to be blind to the images of our sisters that really haunt us—humiliated often enough ourselves by the truly obscene idea that sex and the domination of women must be combined.

Sexuality is human, free, separate—and so are we.

But until we untangle the lethal confusion of sex with violence, there will be more pornography and less erotica. There will be little murders in our beds—and very little love.

Pornography and the First Amendment: Prior Restraints and Private Action

Wendy Kaminer

Wendy Kaminer wrote this article because she found that very few people understand the complex legal process involved in First Amendment cases. A practicing attorney with experience in criminal law and the First Amendment, she was a member of Women Against Pornography and helped draft their position paper on freedom of speech and pornography.

Feminist protests against pornography often seem to posit a choice between the First Amendment rights of a few pornographers and the safety, dignity, and independence of all women. Pornography is speech that legitimizes and fosters the physical abuse and sexual repression of women, and censorship appeals to some as a simple matter of self-preservation. A battle line has been drawn between "feminists" and "First Amendment absolutists," and the Women's Liberation Movement, which has been a struggle for civil rights and freedom of choice, has suddenly become tainted, in the popular view, with a streak of antilibertarianism.

None of this has been necessary. The bitter debate over pornography and free speech derives from misconceptions on both sides about the methods and goals of the anti-pornography movement and the practical meaning of First Amendment guarantees of free speech. Feminists need not and should not advocate censorship, but we have every right to organize politically and to protest material that is degrading and dangerous to women.

There are two basic constitutional principles that must be understood in formulating a position against pornography:

1. Public v. private action. The First Amendment guarantees freedom of speech against government interference and repression. It does not restrict or even apply to private actions.
2. Prior restraint. The government cannot impose restraints

on the publication of speech that has not first been proven illegal. It can only act after the fact to punish someone for saying something illegal; it cannot stop her from saying it.

The First Amendment is a restriction of the power of the government to restrain or repress speech; it establishes a right to free speech in the individual in relation with her government. It does not affect or apply to private relationships; it does not restrict private actions.

Women can protest pornography with impunity under the First Amendment as long as they do not invoke or advocate the exercise of government authority. Only the government, by definition, can violate a First Amendment right. A woman who goes as far as "trash-ing" a porn shop could be convicted of a variety of offenses under the state criminal law and would probably be liable to the target business in a civil-damage action, but she would not have violated any rights to free speech.

We have our own First Amendment right to protest pornography, to engage in consciousness-raising and political organizing. The First Amendment is designed to maintain an open "marketplace of ideas," an arena in which competing private-interest groups can assert their views free of government repression. Women speaking out against pornography are fulfilling a classic First Amendment role.

The First Amendment applies to government action at the state or federal level. Generally the control of obscenity or pornography in practice is a matter of state law, although there are federal statutes prohibiting interstate, international, or postal traffic in obscene materials.¹ But official regulation of speech at any level is governed by constitutionally mandated rules of legal procedure designed to protect the basic right to speak.

The heart of the First Amendment is its procedural safeguards against the imposition of prior restraints on any form of speech. It protects the act of expression, although it may not always protect the substance of what is said. Obscenity may, in principle, be prohibited under state law and is generally treated as a criminal offense. But the government may not restrain or prohibit any material before a judicial determination that it is, in fact, obscene. The government may not, in practice, take any general action, either civil or criminal, against a class of speech; it may only act against an individual utterance *after* it has been proven to fall within an unprotected class or to present an immediate threat to the national security.

Freedom of speech is largely a matter of procedure; the First

Amendment works by narrowly proscribing the power of the government to enforce speech-related prohibitions. Its enforcement process is borrowed from criminal law. All speech is presumed protected until proven otherwise, just as all defendants in criminal cases are presumed innocent until proven guilty. In each case the government bears a heavy burden of proof, and a conviction of guilt or a finding of obscenity depends on the weight of the evidence. Every instance of speech must be judged individually on its own merits before it may be prohibited, just as every criminal defendant must be tried before he may be sentenced.

Obscenity is not, in theory, protected by the First Amendment. In 1957 in *Roth v. United States*, 354 U.S. 476, the Supreme Court held that obscenity (like libel) was simply not speech and could be prohibited. But the practical problems of defining obscenity and separating it from protected speech are overwhelming. The current definition of obscenity was enunciated by the Supreme Court in 1973, in *Miller v. California*, 413 U.S. 15. It is material "that the average person, applying community standards, would find . . . as a whole, appeals to the prurient interest," material that "depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law," and material that "taken as a whole, lacks serious artistic, political, or scientific value."

Most hard-core pornography would probably be found legally obscene under *Miller* and could therefore be prohibited. But effective, generalized enforcement of obscenity laws is not possible without violating the very basic prohibition of prior restraints.

Every single book, magazine, or film must be proven to be obscene in an individualized judicial proceeding before it may be enjoined. This makes it almost impossible for the government to take any generalized action against businesses that regularly deal in pornography. A bookstore selling allegedly obscene material cannot be closed by the state until every book in it has been found obscene—in court. A store with an inventory of 1,000 books cannot be closed because of 50 or 100 or even 500 obscenity convictions. The state cannot restrain the sale of remaining or future stock that has not been proven obscene and must all be presumed to be protected speech. Broad civil-injunctive relief against pornography-related businesses is barred by the prohibition of prior restraints, regardless of the number of underlying obscenity convictions.*

Even individual convictions for obscenity are difficult to obtain,

* Several jurisdictions have enacted nuisance or "padlock" statutes that provide for the closing of an entire business on the basis of individual obscenity

and the process in each case is complicated by First Amendment procedures. The seizure of any allegedly obscene material for use in a pending trial must be based on a narrowly drawn judicial warrant and cannot completely cut off access to the material. Thus, a district attorney may seize one copy of a book as evidence in a given case, but he cannot prohibit its sale or distribution before a hearing or judicial determination of obscenity. Seizures of material for evidence in obscenity cases must comport with due-process requirements under the First Amendment as well as with Fourth Amendment standards for search and seizure. Obscenity prosecutions are long, costly, and unpredictable and are, necessarily, a piecemeal approach to the problem of pornography.

The attempt to define and control obscenity simply hasn't worked for feminists or First Amendment lawyers. The Court has been struggling with a legal definition for the past twenty years since the current obscenity doctrine was formulated in *Roth*. The definition has undergone relatively minor changes since then, the most important being the shift to local standards of "prurience." In addition, the courts changed the requirement that the work in question be "entirely without redeeming value" to an evaluation of the work "as a whole." These changes have apparently not increased the general number of obscenity prosecutions or the rate of convictions.²

Moreover, the current definition of obscenity is conceptually unsound, for it does not set forth a predictable, objective test even for hard-core, sexually explicit material. Instead, it involves a balancing of the social and cultural utility of the material at issue with community standards of prurience. This belies the principle on which it is based: that obscenity can be identified and prohibited.

There is, of course, a good deal of frustration among feminists about ineffective obscenity laws, and a natural concern for developing feasible legal alternatives. It has been suggested that pornography could be readily prohibited because it is dangerous and incites violence against women, based on the "clear and present danger" standard of review traditionally invoked by the Court in free-speech cases. The perception that pornography is dangerous is basic and must be impressed upon the public consciousness, but it does not translate so simply into First Amendment law.

violations. These ordinances are unconstitutional under prevailing law because they impose prior restraints on speech, *Universal Amusements v. Vance*, 587 F2d. 159 (5th Cir., 1978); aff. 48 LW 4273.

The clear and present danger standard would actually afford greater legal protection to pornography than current obscenity laws. It is a strict standard of review, governing the regulation or prohibition of *protected* speech. It is, arguably, sounder constitutional law than the formulation of obscenity as "nonspeech," and it more accurately reflects a feminist view of pornography as dangerous propaganda, but it would substantially restrict government control over obscene material. The clear and present danger standard is more logically invoked in *defense* of pornography. It was, in fact, unsuccessfully advocated by the defendant in *Roth v. United States*, 354 U.S. 476, in which the Court, instead, carved out an obscenity exception to the First Amendment. Feminists who urge the adoption of this standard should understand its legal and political implications. Otherwise they may find themselves unwittingly on the side of the pornographers and First Amendment absolutists.

The clear and present danger standard describes a very narrow exception to the general restriction of government power over protected First Amendment activity. It was formulated to review instances of official repression of political speech: Clear and present danger essentially means an immediate threat to the national security. The standard was first enunciated by the Supreme Court in 1919 after the First World War, to allow for prosecutions for anti-draft pamphleteering under the Espionage Act; it was used in the early 1950's to uphold convictions for allegedly "subversive" speech under the Smith Act; it has recently been invoked unsuccessfully by the government in an attempt to restrain the publication of the Pentagon Papers.³ It is applied in cases in which the government appears as the "aggrieved party," i.e., in its role as guardian of the national security. Its use in a pornography case would raise an initial problem of identifying a plaintiff; pornography may be a crime against women, but it is not necessarily a crime against the state.

Adoption of a clear and present danger standard to prohibit pornography would be an implicit recognition that it is protected political speech, which would considerably heighten practical problems of proof and enforcement. It is probably easier to prove that a given instance of speech is "obscene" than to prove that it presents "an immediate danger," and the clear and present danger standard imposes a particularly heavy burden of proof on the government. It must demonstrate in every case, with direct factual evidence, a compelling, even overwhelming threat to the national security. This does not mean that the speech at issue might be or could be dangerous, and it does not refer to the cumulative effect of a certain kind of

speech. It means a tangible, immediate, and individualized danger that can only be avoided by suppressing publication.

Sociological studies and expert testimony pointing to a connection between pornography generally and violence against women would not establish a clear and present danger in an individual case, as a matter of law. It might not even be properly admissible as evidence. Use of this sort of generalized evidence to demonstrate that a given instance of speech is dangerous would be like trying a defendant in a criminal case with evidence of "similar" crimes committed by "similar" people. Every instance of speech must always be tried on its own merits; restraints could still only be imposed on specific utterances actually found to present an immediate danger. Moreover, a retreat to a clear and present danger standard and the acceptance of pornography as protected speech would actually strengthen these prohibitions against prior restraints.

The final irony is that in politicizing pornography, feminists are unintentionally signaling a need for a return to a more "permissive," clear and present danger standard in obscenity cases. Pornography is being redefined by women in terms of power instead of sex and "prurience"; it is being characterized as dangerous political speech. The courts are being asked to weigh the argued connection of pornography with violence against the underlying right of speech. This is the kind of balancing involved in a clear and present danger case, but again this is the standard applied to protected speech and the strongest restriction of government authority under the First Amendment. By framing pornography as political speech, feminists are, in some respects, legitimizing it in ways that First Amendment absolutists never could.

This does not mean that pornography protests are necessarily counterproductive, but it underscores the need fully to understand the legal process while shaping an effective anti-pornography movement. It makes little sense for feminists to focus on a legal "war" against pornography or to direct much energy to reformulating obscenity prohibitions.

The primary obstacles to effective legal control of pornography are procedural not definitional; it's not so much a matter of the standard that is used to identify unprotected speech in each case (which may change) but the procedures by which they are applied, which must remain constant. We cannot point to a dearth of women judges, prosecutors, or jurors to explain the failure of the system to enforce obscenity laws, because the problem is not in the way in

which pornography is perceived but in the ways in which laws must be enforced. We must understand that procedural safeguards cannot be suspended simply to deal with pornography or any other single class of speech. These procedures are meaningless if not applied in every instance, because they are specifically designed to insure a consistent legal process; in First Amendment cases they provide additionally for the narrow enforcement of speech-related regulations, so as not to infringe upon or deter protected activities. The underlying principle of the First Amendment is that the power of the government to regulate speech and political dissent that would derive from a system of prior restraints would be more dangerous than any given instance of unprotected speech.

We simply cannot look to the government to rid us of pornography; legally there are no "final solutions." The feminist movement against pornography must remain an anti-defamation movement, involved in education, consciousness-raising, and the development of private strategies against the industry. We have a crucial role of our own to play in a marketplace in which pornography is flourishing.

But it is essential for us to maintain a larger political perspective and a sense of ourselves as one of many competing private-interest groups. We can and should speak out, and take action against pornographers because they comprise a hostile group with interests antithetical to our own, that threatens our independence and well-being; but we cannot ask the government to speak for us. The Women's Movement is a civil rights movement, and we should appreciate the importance of individual freedom of choice and the danger of turning popular sentiment into law in areas affecting individual privacy.

Legislative or judicial control of pornography is simply not possible without breaking down the legal principles and procedures that are essential to our own right to speak and, ultimately, our freedom to control our own lives. We must continue to organize against pornography and the degradation and abuse of women, but we must not ask the government to take up our struggle for us. The power it will assume to do so will be far more dangerous to us all than the "power" of pornography.

For Men, Freedom of Speech; for Women, Silence Please

Andrea Dworkin

Shortly after Andrea Dworkin spoke on pornography at a New York University Law School conference in December 1978, *The New York Times* published two editorials (both of which quoted from Dworkin's speech) which characterized feminists as "overwrought" and "strident" and which underlined the First Amendment's protection of offensive expression. Dworkin submitted the following response, but the *Times* refused to publish it. So did *The Washington Post*, *Newsweek*, *Mother Jones*, *The Village Voice*, *The Nation*, *The Real Paper*, the *Los Angeles Times* Syndicate, the *New York Times* Syndicate. . . .

A great many men, no small number of them leftist lawyers, are apparently afraid that feminists are going to take their dirty pictures away from them. Anticipating the distress of forced withdrawal, they argue that feminists really must shut up about pornography—what it is, what it means, what to do about it—to protect what they call "freedom of speech." Our "strident" and "overwrought" antagonism to pictures that show women sexually violated and humiliated, bound, gagged, sliced up, tortured in a multiplicity of ways, "offends" the First Amendment. The enforced silence of women through the centuries has not. Some elementary observations are in order.

The Constitution of the United States was written exclusively by white men who owned land. Some owned black slaves, male and female. Many more owned white women who were also chattel.

The Bill of Rights was never intended to protect the civil or sexual rights of women and it has not, except occasionally by accident.

The Equal Rights Amendment, which would, as a polite afterthought, extend equal protection under the law such as it is to women, is not yet part of the Constitution. There is good reason to doubt that it will be in the foreseeable future.

The government in all its aspects—legislative, executive, judicial, enforcement—has been composed almost exclusively of men. Even juries, until very recently, were composed almost entirely of men. Women have had virtually nothing to do with either formulating or

applying laws on obscenity or anything else. In the arena of political power, women have been effectively silenced.

Both law and pornography express male contempt for women: they have in the past and they do now. Both express enduring male social and sexual values; each attempts to fix male behavior so that the supremacy of the male over the female will be maintained. The social and sexual values of women are barely discernible in the culture in which we live. In most instances, women have been deprived of the opportunity even to formulate, let alone articulate or spread, values that contradict those of the male. The attempts that we make are both punished and ridiculed. Women of supreme strength who have lived in creative opposition to the male cultural values of their day have been written out of history—silenced.

Rape is widespread. One characteristic of rape is that it silences women. Laws against rape have not functioned to protect the bodily integrity of women; instead, they have punished some men for using women who belong to some other men.

Battery is widespread. One characteristic of battery is that it silences women. Laws against battery have been, in their application, a malicious joke.

There is not a feminist alive who could possibly look to the male legal system for real protection from the systematized sadism of men. Women fight to reform male law, in the areas of rape and battery for instance, because something is better than nothing. In general, we fight to force the law to recognize *us* as the victims of the crimes committed against us, but the results so far have been paltry and pathetic. Meanwhile, the men are there to counsel us. We must not demand the conviction of rapists or turn to the police when raped because then we are "prosecutorial" and racist. Since white men have used the rape laws to imprison black men, we are on the side of the racist when we (women of any color) turn to the law. The fact that most rape is intraracial, and more prosecution will inevitably mean the greater prosecution of white men for the crimes they commit, is supposedly irrelevant. (It is, of course, suddenly very relevant when one recognizes that this argument was invented and is being promoted by white men, significantly endangered for perhaps the first time by the anti-rape militancy of women.) We are also counseled that it is wrong to demand that the police enforce already existing laws against battery because then we "sanction" police entry into the home, which the police can then use for other purposes. Better that rape and battery should continue unchallenged, and the law be used by some men against other men with no reference to the

rightful protection of women. The counsel of men is consistent: maintain a proper—and respectful—silence.

Male counsel on pornography, especially from leftist lawyers, has also been abundant. We have been told that pornography is a trivial issue and that we must stop wasting the valuable time of those guarding “freedom of speech” by talking about it. We have been accused of trivializing feminism by our fury at the hatred of women expressed in pornography. We have been told that we must not use existing laws even where they might serve us or invent new ones because we will inevitably erode “freedom of speech”—but that the use of violence against purveyors of pornography or property would not involve the same hazards. Others, less hypocritical, have explained that we must not use law; we must not use secondary boycotts, a civil liberties No-No (since women do not consume pornography, women cannot boycott it by not buying it; other strategies, constituting secondary boycotts, would have to be used); we must not, of course, damage property, nor do we have the right to insult or harass. We have even been criticized for picketing, the logic being that an exhibitor of pornography might cave in under the pressure, which would constitute a dangerous precedent. The men have counseled us to be silent so that “freedom of speech” will survive. The only limitation on it will be that women simply will not have it—no loss, since women have not had it. Such a limitation does not “offend” the First Amendment or male civil libertarians.

The First Amendment, it should be noted, belongs to those who can buy it. Men have the economic clout. Pornographers have empires. Women are economically disadvantaged and barely have token access to the media. A defense of pornography is a defense of the brute use of money to encourage violence against a class of persons who do not have—and have never had—the civil rights vouchsafed to men as a class. The growing power of the pornographers significantly diminishes the likelihood that women will ever experience freedom of anything—certainly not sexual self-determination, certainly not freedom of speech.

The fact of the matter is that if the First Amendment does not work for women, it does not work. With that premise as principle, perhaps the good lawyers might voluntarily put away the dirty pictures (pictures that do dirt to women) and figure out a way to make freedom of speech the reality for women that it already is for the literary and visual pimps. Yes, they might, they could; but they will not. They have their priorities set. They know who counts and who does not. They know, too, what attracts and what really offends.

SECTION VI.

Taking Action

Why is it that men's blood-shedding militancy is applauded and women's symbolic militancy is punished with a prison cell and the forcible feeding horror? It means simply this, that men's double standard of sexual morals, whereby the victims of their lust are counted as outcasts while the men themselves escape all social censure, really applies to morals in all departments of life. Men make the moral code and they expect women to accept it.

—EMMELINE PANKHURST
My Own Story, 1914

Pornography and Grief

Andrea Dworkin

This paper was originally a speech presented in 1978 at the Feminist Perspectives on Pornography conference in San Francisco. Embodying a sweeping vision of the problem, it was delivered directly before a Take Back the Night March. The march was held as a way of demonstrating our commitment to stopping the tide of violence against women, whether by rapists or batterers or imagemakers in the mass media.

As night fell, 3,000 marchers gathered to hear Andrea Dworkin's "Exhortation to March." Then we wound our way toward Broadway, which was crowded with tourists, neon signs advertising live sex shows, adult bookstores, and pornographic theaters. Chanting slogans such as "No More Profit Off Women's Bodies," we filled the street entirely, blocking off traffic and completely occupying the Broadway strip for three blocks. For an hour, and for the first time ever, Broadway belonged not to the barkers, pimps, or pornographers, but instead to the songs, voices, rage, and vision of thousands of women.

I searched for something to say here today quite different from what I am going to say. I wanted to come here militant and proud and angry as hell. But more and more, I find that anger is a pale shadow next to the grief I feel. If a woman has any sense of her own intrinsic worth, seeing pornography in small bits and pieces can bring her to a useful rage. Studying pornography in quantity and depth, as I have been doing for more months than I care to remember, will turn that same woman into a mourner.

The pornography itself is vile. To characterize it any other way would be to lie. No plague of male intellectualisms and sophistries can change or hide that simple fact. Georges Bataille, a philosopher of pornography (which he calls "eroticism"), puts it clearly: "In essence, the domain of eroticism is the domain of violence, of violation."¹ Mr. Bataille, unlike so many of his peers, is good enough to make explicit that the whole idea is to violate the female. Using the language of grand euphemism so popular with male intellectuals

who write on the subject of pornography, Bataille informs us that "[t]he passive, female side is essentially the one that is dissolved as a separate entity."² To be "dissolved"—by any means necessary—is the role of women in pornography. The great male scientists and philosophers of sexuality, including Kinsey, Havelock Ellis, Wilhelm Reich, and Freud, uphold this view of our purpose and destiny. The great male writers use language more or less beautifully to create us in self-serving fragments, half-"dissolved" as it were, and then proceed to "dissolve" us all the way, by any means necessary. The biographers of the great male artists celebrate the real-life atrocities those men have committed against us, as if those atrocities are central to the making of art. And in history, as men have lived it, they have "dissolved" us—by any means necessary. The slicing of our skins and the rattling of our bones are the energizing sources of male-defined art and science, as they are the essential content of pornography. The visceral experience of a hatred of women that literally knows no bounds has put me beyond anger and beyond tears; I can only speak to you from grief.

We all expected the world to be different than it is, didn't we? No matter what material or emotional deprivation we have experienced as children or as adults, no matter what we understood from history or from the testimonies of living persons about how people suffer and why, we all believed, however privately, in human possibility. Some of us believed in art, or literature, or music, or religion, or revolution, or in children, or in the redeeming potential of eroticism or affection. No matter what we knew of cruelty, we all believed in kindness; and no matter what we knew of hatred, we all believed in friendship or love. Not one of us could have imagined or would have believed the simple facts of life as we have come to know them: the rapacity of male greed for dominance; the malignancy of male supremacy; the virulent contempt for women that is the very foundation of the culture in which we live. The Women's Movement has forced us all to face the facts, but no matter how brave and clear-sighted we are, no matter how far we are willing to go or are forced to go in viewing reality without romance or illusion, we are simply overwhelmed by the male hatred of our kind, its morbidity, its compulsiveness, its obsessiveness, its celebration of itself in every detail of life and culture. We think that we have grasped this hatred once and for all, seen it in its spectacular cruelty, learned its every secret, got used to it or risen above it or organized against it so as to be protected from its worst excesses. We think that we know all there is to know about what men do to women, even

if we cannot imagine why they do what they do, when something happens that simply drives us mad, out of our minds, so that we are again imprisoned like caged animals in the numbing reality of male control, male revenge against no one knows what, male hatred of our very being.

One can know everything and still not imagine snuff films. One can know everything and still be shocked and terrified when a man who attempted to make snuff films is released, despite the testimony of the women undercover agents whom he wanted to torture, murder, and, of course, film. One can know everything and still be stunned and paralyzed when one meets a child who is being continually raped by her father or some close male relative. One can know everything and still be reduced to sputtering like an idiot when a woman is prosecuted for attempting to abort herself with knitting needles or when a woman is imprisoned for killing a man who has raped or tortured her or is raping or torturing her. One can know everything and still want to kill and be dead simultaneously when one sees a celebratory picture of a woman being ground up in a meat grinder on the cover of a national magazine, no matter how putrid the magazine. One can know everything and still somewhere inside refuse to believe that the personal, social, culturally sanctioned violence against women is unlimited, unpredictable, pervasive, constant, ruthless, and happily and unselfconsciously sadistic. One can know everything and still be unable to accept the fact that sex and murder are fused in the male consciousness, so that the one without the imminent possibility of the other is unthinkable and impossible. One can know everything and still, at bottom, refuse to accept that the annihilation of women is the source of meaning and identity for men. One can know everything and still want desperately to know nothing because to face what we know is to question whether life is worth anything at all.

The pornographers, modern and ancient, visual and literary, vulgar and aristocratic, put forth one consistent proposition: erotic pleasure for men is derived from and predicated on the savage destruction of women. As the world's most honored pornographer, the Marquis de Sade (called by male scholars "The Divine Marquis"), wrote in one of his more restrained and civil moments: "There's not a woman on earth who'd ever have had cause to complain of my services if I'd been sure of being able to kill her afterward."³ The eroticization of murder is the essence of pornography, as it is the essence of life. The torturer may be a policeman tearing the fingernails off a victim in a prison cell or a so-called normal man

engaged in the project of attempting to fuck a woman to death. The fact is that the process of killing—and both rape and battery are steps in that process—is the prime sexual act for men in reality and/or in imagination. Women as a class must remain in bondage, subject to the sexual will of men, because the knowledge of an imperial right to kill, whether exercised to the fullest extent or just partway, is necessary to fuel sexual appetite and behavior. Without women as potential or actual victims, men are, in the current sanitized jargon, "sexually dysfunctional." This same motif also operates among male homosexuals, where force and/or convention designate some males as female or feminized. The plethora of leather and chains among male homosexuals, and the newly fashionable defenses of organized rings of boy prostitution by supposedly radical gay men, are testimony to the fixedness of the male compulsion to dominate and destroy that is the source of sexual pleasure for men.

The most terrible thing about pornography is that it tells male truth. The most insidious thing about pornography is that it tells male truth as if it were universal truth. Those depictions of women in chains being tortured are supposed to represent our deepest erotic aspirations. And some of us believe it, don't we? The most important thing about pornography is that the values in it are the common values of men. This is the crucial fact that both the male Right and the male Left, in their differing but mutually reinforcing ways, want to keep hidden from women. The male Right wants to hide the pornography, and the male Left wants to hide its meaning. Both want access to pornography so that men can be encouraged and energized by it. The Right wants secret access; the Left wants public access. But whether we see the pornography or not, the values expressed in it are the values expressed in the acts of rape and wife-beating, in the legal system, in religion, in art and in literature, in systematic economic discrimination against women, in the moribund academies, and by the good and wise and kind and enlightened in all of these fields and areas. Pornography is not a genre of expression separate and different from the rest of life; it is a genre of expression fully in harmony with any culture in which it flourishes. This is so whether it is legal or illegal. And, in either case, pornography functions to perpetuate male supremacy and crimes of violence against women because it conditions, trains, educates, and inspires men to despise women, to use women, to hurt women. Pornography exists because men despise women, and men despise women in part because pornography exists.

For myself, pornography has defeated me in a way that, at least so

far, life has not. Whatever struggles and difficulties I have had in my life, I have always wanted to find a way to go on even if I did not know how, to live through one more day, to learn one more thing, to take one more walk, to read one more book, to write one more paragraph, to see one more friend, to love one more time. When I read or see pornography, I want everything to stop. Why, I ask, why are they so damned cruel and so damned proud of it? Sometimes, a detail drives me mad. There is a series of photographs: a woman slicing her breasts with a knife, smearing her own blood on her own body, sticking a sword up her vagina. *And she is smiling.* And it is the smile that drives me mad. There is a record album plastered all over a huge display window. The picture on the album is a profile view of a woman's thighs. Her crotch is suggested because we know it is there; it is not shown. The title of the album is *Plug Me to Death*. And it is the use of the first person that drives me mad. "Plug Me to Death." The arrogance. The cold-blooded arrogance. And how can it go on like this, senseless, entirely brutal, inane, day after day and year after year, these images and ideas and values pouring out, packaged, bought and sold, promoted, enduring on and on, and no one stops it, and our darling boy intellectuals defend it, and elegant radical lawyers argue for it, and men of every sort cannot and will not live without it. And life, which means everything to me, becomes meaningless, because these celebrations of cruelty destroy my very capacity to feel and to care and to hope. I hate the pornographers most of all for depriving me of hope.

The psychic violence in pornography is unbearable in and of itself. It acts on one like a bludgeon until one's sensibility is pummeled flat and one's heart goes dead. One becomes numb. Everything stops, and one looks at the pages or pictures and knows: this is what men want, and this is what men have had, and this is what men will not give up. As lesbian-feminist Karla Jay pointed out in an article called "Pot, Porn, and the Politics of Pleasure," men will give up grapes and lettuce and orange juice and Portuguese wine and tuna fish, but men will not give up pornography. And yes, one wants to take it from them, to burn it, to rip it up, bomb it, raze their theaters and publishing houses to the ground. One can be part of a revolutionary movement or one can mourn. Perhaps I have found the real source of my grief: we have not yet become a revolutionary movement.

Tonight we are going to walk together, all of us, to take back the night, as women have in cities all over the world, because in every sense none of us can walk alone. Every woman walking alone is a

target. Every woman walking alone is hunted, harassed, time after time harmed by psychic or physical violence. Only by walking together can we walk at all with any sense of safety, dignity, or freedom. Tonight, walking together, we will proclaim to the rapists and pornographers and woman-batterers that their days are numbered and our time has come. And tomorrow, what will we do tomorrow? Because, sisters, the truth is that we have to take back the night every night, or the night will never be ours. And once we have conquered the dark, we have to reach for the light, to take the day and make it ours. This is our choice, and this is our necessity. It is a revolutionary choice, and it is a revolutionary necessity. For us, the two are indivisible, as we must be indivisible in our fight for freedom. Many of us have walked many miles already—brave, hard miles—but we have not gone far enough. Tonight, with every breath and every step, we must commit ourselves to going the distance: to transforming this earth on which we walk from prison and tomb into our rightful and joyous home. This we must do and this we will do, for our own sakes and for the sake of every woman who has ever lived.