

Mark R. Wicclair

## Feminism, Pornography, and Censorship

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Wicclair accepts the definition of pornography given by feminists such as MacKinnon and Longino; he agrees that pornography is morally repugnant. But he argues that the sexist and misogynistic nature of pornography does not justify its censorship, given the importance of freedom of expression in our society. According to Wicclair, the causal connection between pornography and harm to women has not been established, and indeed pornography may reduce harm to women. In any event, he claims the censorship of pornography is not likely to help women achieve equality in our society; there are better things to do to improve the status of women that do not have the substantial negative side effects of censorship.

It is sometimes claimed that pornography is objectionable because it violates conventional standards of sexual morality. Although feminists tend to agree that pornography is objectionable, they reject this particular argument against it.<sup>1</sup> This argument is unacceptable to feminists because it is associated with an oppressive Puritanical sexual ethic that inhibits the sexual fulfillment of all people, but especially women. In

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order to understand why feminists find pornography objectionable, one has to keep in mind that they do not equate the terms "pornographic" and "sexually explicit." Rather, sexually explicit material is said to be "pornographic" only if it depicts and condones the exploitation, dehumanization, subordination, abuse, or denigration of women. By definition, then, all pornography is sexist and misogynistic. Some pornographic material has the additional feature of depicting and condoning acts of violence against women (e.g., rape, brutality, torture, sadism). Thus there is a world of difference between harmless "erotica" and pornography. Whereas erotica depicts sexual activity in a manner which is designed to produce sexual arousal and is therefore likely to be objectionable only to those who subscribe to a Puritanical sexual ethic, pornography is "material that explicitly represents or describes degrading and abusive sexual behavior so as to endorse and/or recommend the behavior as described."<sup>2</sup>

Despite the general agreement among feminists that pornography, understood in the way just described, is objectionable, they are sharply divided over the question of its censorship. Whereas some feminists find pornography to be so objectionable that they call for its censorship, others oppose this proposal.<sup>3</sup> I will argue that anyone who supports the aims of feminism and who seeks the liberation of all people should reject the censorship of pornography.<sup>4</sup>

When discussing censorship, it is important to keep in mind that there are very strong reasons to be wary of its use. In our society, the importance of the principle of freedom of expression—an anticensorship principle—is widely recognized. The ability to speak one's mind and to express ideas and feelings without the threat of legal penalties or government control is rightly perceived as an essential feature of a truly free society. Moreover, an environment that tolerates the expression of differing views about politics, art, lifestyles, etc., encourages progress and aids in the search for truth and justice. In addition to the many important

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values associated with the principle of freedom of expression, it is also necessary to consider likely negative side effects of censorship. There is a serious risk that once any censorship is allowed, the power to censor will, over time, expand in unintended and undesirable directions (the "slippery slope"). This is not mere speculation, for such an expansion of the power to censor is to be expected in view of the fact that it is extremely difficult, if not impossible, to formulate unequivocal and unambiguous criteria of censorship. Then, too, the power to censor can all too easily be abused or misused. Even though it may arise in a genuine effort to promote the general welfare and to protect certain rights, officials and groups might use the power to censor as a means to advance their own interests and values and to suppress the rights, interests, and values of others. Thus, given the value of freedom of expression and the many dangers associated with censorship, there is a strong *prima facie* case against censorship. In other words, advocates of censorship have the burden of showing that there are sufficiently strong overriding reasons which would justify it in a specific area.

Like racist and antisemitic material, sexist, and misogynistic films, books, and magazines surely deserve condemnation. But censorship is another matter. In view of the strength of the case against censorship in general, it is unwise to advocate it merely to prevent depicting morally objectionable practices in a favorable light. Fortunately, proponents of the censorship of pornography tend to recognize this, for they usually base their call for censorship on a claim about the *effects* of pornography. Pornography, it is held, is *injurious* or *harmful* to women because it fosters the objectionable practices that it depicts. Pornography generally is said to promote the exploitation, humiliation, denigration, subordination, etc., of women; and pornography that depicts acts of violence against women is said to cause murder, rape, assault, and other acts of violence. On the basis of the "harm principle"—a widely accepted principle that allows us to restrict someone's freedom in order to prevent harm to others—it would appear to be justified to override the principle of freedom of expression and to restrict the freedom of

would-be producers, distributors, sellers, exhibitors, and consumers of pornography. In short it seems that censorship of pornography is a legitimate means of preventing harm to women.

However, there are a number of problems associated with this attempt to justify censorship. To begin with, it is essential to recognize the important difference between words and images, on the one hand, and actions, on the other hand. A would-be rapist poses a *direct* threat to his intended victim, and by stopping him, we prevent an act of violence. But if there is a connection between the depiction of a rape—even one which appears to condone it—and someone's committing an act of violence against a woman, the connection is relatively *indirect*; and stopping the production, distribution, sale, and exhibition of depictions of rape does not directly restrict the freedom of would-be rapists to commit acts of violence against women. In recognition of the important difference between restricting words and images and preventing harmful behavior, exceptions to the principle of freedom of expression are generally thought to be justified only if words or images present a "clear and present danger" of harm or injury. Thus, to cite a standard example, it is justified to stop someone from falsely shouting "Fire!" in a crowded theater, for this exclamation is likely to cause a panic that would result in serious injury and even death.

It is doubtful that pornography satisfies the "clear and present danger" condition, for there does not seem to be conclusive evidence that establishes its *causal* significance. Most studies are limited to violent pornography. And even though some of these studies do suggest a *temporary* impact on *attitudes* (e.g., those who view violent pornography may be more likely to express the view that women seek and "enjoy" violence), this does not show that viewing violent pornography causes violent *behavior*. Moreover, there is some evidence suggesting that the effect on attitudes is only temporary and that it can be effectively counteracted by additional information.<sup>5</sup>

But even if there is no conclusive evidence that pornography causes harm, is it not reasonable to "play it safe," and does this not require censorship? Unfortunately, the situation is not

as simple as this question appears to suggest. For one thing, it is sometimes claimed that exposure to pornography has a "cathartic" effect and that it therefore produces a net *reduction* in harm to women. This claim is based upon two assumptions, neither of which has been proven to be false: (1) Men who are not already violence-prone are more likely to be "turned off" than to be "turned on" by depictions of rape, brutality, dismemberment, etc. (2) For men in the latter category, exposure to pornography can function as a substitute for actually causing harm. It is also necessary to recall that there are significant values associated with the principle of freedom of expression, and that a failure to observe it involves a number of serious dangers. Since censorship has costs which are substantial and not merely speculative, the more speculative the connection between pornography and harm to women, the less basis there is for incurring the costs associated with censorship.

Just as it is easy to overlook the negative side of censorship, it is also common to overplay its positive effects. Surely it would be foolish to think that outlawing antisemitism in sexually explicit material would have halted the slaughter of Jews in Hitler Germany or that prohibiting racism in sexually explicit material would reduce the suffering of Blacks in South Africa. Similarly, in view of the violent nature of American society generally and the degree to which sexism persists to this day, it is unlikely that censorship of pornography by itself would produce any significant improvement in the condition of women in the United States. Fortunately, there are other, more effective and direct means of eliminating sexism than by censoring pornography. Passage and strict enforcement of the Equal Rights Amendment, electing feminists to local, state, and national political office, achieving genuine economic justice for women, and securing their reproductive freedom will do considerably more to foster the genuine liberation of women in the United States than will the censorship of pornography. With respect to rape and other acts of violence, it has often been noted that American society is extremely violent, and sadly, there are no magic solutions to the problems of rape and violence. But the magnitude of the problem suggests that

censoring pornography only addresses a symptom and not the underlying disease. Although there is still much dispute about the causes of violence generally and rape in particular, it is unlikely that there will be a serious reduction in acts of violence against women until there are rather drastic changes in the socioeconomic environment and in the criminal justice system.

Those who remain concerned about the possible contribution of pornography to violence and sexism should keep in mind that it can be "neutralized" in ways that avoid the dangers of censorship. One important alternative to government censorship is to help people understand why pornography is objectionable and why it and its message should be rejected. This can be accomplished by means of educational campaigns, discussions of pornography on radio and television and at public forums, letter writing, and educational picketing. In addition, attempts might be made to prevent or restrict the production, distribution, display, sale, and consumption of pornographic material by means of organized pickets, boycotts, and the like. Such direct measures by private citizens raise some troubling questions, but the dangers and risks which they pose are considerably less than those associated with government censorship.

There are several other reasons for questioning the view that the sexist and misogynistic nature of pornography justifies its censorship. Some of the more important of these include the following:

1 Although pornography depicts some practices that are both morally objectionable and illegal (e.g., rape, assault, torture), many of the practices depicted are morally repugnant *but do not break any law*. Thus, for example, our legal system does not explicitly prohibit men from treating women in a degrading or humiliating manner; and with some exceptions, it is not a crime to treat women exclusively as sex objects or to use them exclusively as means and not ends. But is it not odd to recommend making illegal the production, distribution, sale, and exhibition of materials that depict practices that are not themselves illegal?

2 It is essential that laws be clearly formulated and that vagueness be avoided. Vague laws can have a "chilling effect" on unobjectionable

activities, and they tend to undermine the fair and effective enforcement of the law by giving police, prosecutors, and judges too much discretionary power. But those who call for the censorship of pornography on the grounds that it is sexist and misogynistic fail to recognize the difficulty of formulating laws which would have an acceptable degree of clarity and specificity. Proponents of censorship use terms like "degrading," "humiliating," "debasement," "exploitative," and "subordination of women." But these terms are far from unambiguous. In fact, they are highly subjective in the sense that different people have different criteria for deciding when something is degrading, humiliating, etc. For example, someone might think that the depiction of an unmarried female or a lesbian couple having and enjoying sex is "demeaning" or "debasement." Thus, in order to prevent censorship from being applied in unintended and undesirable ways, it is necessary to offer clear and unambiguous operational criteria for terms like "demeaning," "humiliating," etc. But the feasibility of articulating generally acceptable criteria of this sort remains highly doubtful.

3 Sexually explicit material that depicts violence against women or that depicts sexist practices is said to be subject to censorship only if it *condones* the objectionable practices. Thus, for example, news films, documentaries, and works which take a critical stance toward those practices are not to be censored. But it is exceedingly difficult in many cases to determine the "point of view" of films, books, photographs, etc.<sup>6</sup> If scholars who have advanced degrees in film, literature, and art can come to no general consensus about the "meaning" or "message" of certain works, is it plausible to think that prosecutors, judges, and juries are likely to fare any better?

4 Why call for the censorship of sexist and misogynistic books, magazines, films, and photographs only if they include an explicit depiction of *sexual activity*? There is no conclusive evidence showing that material that includes a depiction of sexual activity has a greater causal impact on attitudes and behavior.<sup>7</sup> Moreover, it will not do to claim that such material is not worthy of protection under the principle of freedom of expression. Surely, many works which

include explicit depictions of sex are not totally devoid of significant and challenging ideas. Consequently, advocates of censorship are faced with a dilemma: Either they can call for the censorship of *all* material that contains objectionable images of women; or they can call for censorship only in the case of sexually explicit materials of that nature. If the first alternative is chosen, then: given the pervasiveness of objectionable portrayals of women in art, literature, and the mass media, very little would be immune from censorship. But in view of the strong *prima facie* case against censorship, this seems unacceptable. On the other hand, if the second alternative is chosen, this invites the suspicion that the restriction to sexual material is based upon the very same Puritanical sexual ethic which feminists rightly tend to reject. I am not suggesting that feminists who call for censorship wish to champion sexual oppression. But it is noteworthy that many conservatives who generally do not support the aims of feminism align themselves with feminists who advocate censoring pornography.

5 Why call for censorship of materials only if they depict violence or other objectionable practices in relation to *women*? Wouldn't consistency require censoring *all* violence and material that portrays *anyone* in a derogatory light? But this is clearly unacceptable. For so much of our culture is permeated with images of violence and morally distasteful treatment of people that it is hard to think of many films, television programs, books, or magazines which would be totally immune from censorship. Censorship would be the rule rather than an exception, and such pervasive censorship is incompatible with a truly free society. It also won't do to limit censorship to members of historically oppressed groups (e.g., women, Blacks, Jews). First, it is very unlikely that such "preferential censorship" would be accepted by the majority for too long. Sooner or later others would object and/or press for protection too. Second, in view of the significant costs of censorship, even if it were limited to the protection of historically oppressed groups, it would not be justified unless there were a demonstrable "clear and present danger;" and this remains doubtful. But what

about the view that only pornography should be subject to censorship because *women need special protection*? This position is also unacceptable. For since men are victimized by acts of racism, antisemitism, and violence, and since there is no evidence to prove that depictions of objectionable practices have a greater effect on behavior in pornographic material than they do in nonpornographic material, this position seems to be based on the sexist assumption that women need greater protection than men because they are "naturally" more fragile and vulnerable.

I have tried to show that censorship of pornography is neither the most effective nor a legitimate means to achieve the aims of feminism. Much pornographic material is morally repugnant, but there are less costly ways to express one's moral outrage and to attempt to "neutralize" pornography than by censorship. Moreover, pornography is only a relatively minor manifestation of the sexist practices and institutions that still pervade our society. Hence, the genuine liberation of women—and men—is best served by directly attacking those oppressive practices and institutions. It may be easier to identify and attack pornography—and to win some battles—but the payoff would be slight, and the negative side effects would be substantial.

#### Endnotes

1. Just as the civil rights movement in the United States in the 1950's and 1960's included many people who were not black, so one does not have to be a woman to be a feminist. As I am using the term, a feminist is any person who supports the fundamental goal of feminism: the liberation of women.
2. Helen E. Longino, "Pornography, Oppression, and Freedom: A Closer Look," in Laura Lederer, ed., *Take Back the Night* (New York: William Morrow and Company, Inc., 1980), p. 44. Longino also stipulates that the sexual activities depicted in pornography are degrading or abusive to women.
3. In response to the generally pro-censorship Women Against Violence in Pornography and Media, other feminists have organized the Feminist Anti-Censorship Taskforce.
4. Until recently, advocates of censorship have pressed for laws which prohibit or restrict the production, distribution, sale, and exhibition of pornographic material. However, pro-censorship feminists have hit upon a new

strategy: Ordinances which stipulate that pornography is *sex discrimination*, enabling women to file sex discrimination lawsuits against producers, distributors, sellers, and exhibitors of pornography. Most of the criticisms of censorship which I discuss in this paper apply to both strategies.

5. For a discussion of research on the effects of pornography, see Edward Donnerstein and Neil Malamuth, eds., *Pornography and Sexual Aggression* (New York: Academic Press, 1984).
6. An informative illustration of how a film can resist unambiguous classification as either progressive or retrograde from a feminist perspective is provided in Lucy Fischer and Marcia Landy, "The Eyes of Laura Mars: A Binocular Critique," *Screen*, Vol. 23, Nos. 3-4 (September-October 1982).
7. In fact some researchers claim that the impact of depictions of violence is *greater* in material which is *not* pornographic. See, for example, the contribution of Edward Donnerstein and Daniel Litz to a section on pornography, "Pornography: Love or Death?" in *Film Comment*, vol. 20, No. 6 (December 1984), pp. 34-35.

#### REVIEW QUESTIONS

1. According to Wicclair, why should we be wary of censorship?
2. What is the harm principle? How is it applied? Give some examples.
3. In Wicclair's view, what is the connection between pornography and acts of violence against women?
4. How does pornography reduce harm to women according to Wicclair? Why would censorship fail to reduce this harm?
5. Wicclair gives five additional reasons for denying that censorship of pornography is justified. What are they?

#### DISCUSSION QUESTIONS

1. Is Wicclair a feminist? Why or why not?
2. Wicclair doubts that pornography presents a clear and present danger to women. What would MacKinnon say? What do you think?
3. Wicclair claims that the passage and enforcement of the Equal Rights Amendment (which says that people's rights cannot be denied or abridged on account of sex) would do more to secure women's liberation in our society than the censorship of pornography. What is your view about this?