Sex, Sin, and Women’s Liberation: Against Porn-Suppression.

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Carlin Meyer*

I. Preface

Men treat women as who they see women as being. Pornography constructs who that is . . . . [P]ornography is the essence of a sexist social order, its quintessential social act.

—Catharine A. MacKinnon

Given the cultural history we have inherited from Rabelais to Sade to Magritte, it would be foolhardy to think we can dismiss, segregate, or eliminate dehumanizing or violent constructions of male and female sexuality.

—Susan Gubar

Feminist porn-suppressionists claim that pornography constructs


2. Susan Gubar, Representing Pornography, in For Adult Users Only: The Dilemma of Violent Pornography 65 (Susan Gubar & Joan Hoff eds., 1989).

3. I use this term to distinguish feminists who favor porn-suppression due to its effects on women, such as law professor Catharine MacKinnon and writer Andrea Dworkin, from others who favor it for religious and moral reasons (I mean to include the latter when I omit the adjective “feminist”), as well as from feminists like myself who agree that much pornography pictures women in degrading ways but, nevertheless, oppose suppression of it. The term “feminist” includes both men and women.

4. As numerous writers have noted, it is notoriously difficult to define pornography, and most definitions ultimately rest more on the prejudices and prejudices of viewers than on clear delineation. See, e.g., Jeffrey Weeks, Sexuality and Its Discontents: Meanings, Myths and Modern Sexualities 232 (1985) (“[P]ornography is an exceptionally ambiguous yet emotive term which takes on different meanings in different discussions.”); cf. Linda Williams, Hard Core: Power, Pleasure and the “Frenzy of the Visible” 2 (1989) (discussing the futility of “attempting some
the way men see and treat women, "eroticises" gender inequality and male sexual abuse of women, and "silences" women. So, they urge, just get rid of it; take this sexually explicit, vulgar, and unsettling imagery and suppress it. Pass ordinances defining it as discriminatory because it is degrading and injurious to women, and enjoin publication and dissemination of offending images. Even if we do not thereby end gender discrimination, we will surely make a dent in it, and in the meantime, we will be free of pornography's ugly and oppressive presence.

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See, e.g., MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 152. Pornography, which "eroticises" male dominance and is "central to [its] institutionalization," is therefore a "core constitutive practice" of gender discrimination. Id. at 146, 148-49; see also Susan G. Cole, Pornography: What Do We Want?, in GOOD GIRLS/BAD GIRLS: FEMINISTS AND SEX TRADE WORKERS FACE TO FACE 157, 161 (Laurie Bell ed., 1987) (hereinafter GOOD GIRLS/BAD GIRLS) ("The best way to institutionalize a dynamic of power is to eroticize it.").

It is this claim, which concerns the importance of pornography in fostering misogynist ideology and acts, that I address in this Article. For other claims concerning direct linkage between pornography and specific acts of violence against women, also addressed by feminist anti-pornography ordinances, see infra note 8 and note 63 with accompanying text.

For a discussion of the "silencing" claim, see infra subpart II(B).

7. Feminist porn-suppression efforts center on gaining passage of ordinances that define pornography as a "practice" of gender discrimination and permit anyone harmed by its presence to seek to enjoin production, distribution, or display of offending images. Hereinafter I use the terms "images" and "imagery" to mean verbal as well as pictorial depiction. Suppression advocates and their allies also use nongovernmental avenues such as public pressure and self-help suppression of purportedly pornographic work. For discussion of anti-porn ordinances, see infra section II(B)(I). For examples of private and self-help suppression, see infra notes 65, 101, 102, and accompanying text.

8. In this Article, I focus only on the claim that pornography fosters and is centrally responsible for misogynist views and, indirectly, men's treatment of women. Porn-suppressionists argue, in addition, that pornography causes direct harm to women: to models coerced and abused in its production, and to victims of those whom porn supposedly directly propels to commit violent and abusive acts. See, e.g., MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 157, 187. These claims have been extensively addressed by others, who have shown that neither claim offers convincing justification for suppressing porn. See LYNN SEGAL, SLOW MOTION: CHANGING MASCULINITIES, CHANGING MEN 223-25 (1990) (hereinafter SEGAL, SLOW MOTION) (reviewing the literature on the causal connection between pornography and violence, and highlighting the failure of the research to identify a firm connection); Augustine Brannigan, Obscenity and Social Harm: A Contested Terrain, 14 INT'L J.L. & PSYCHIATRY 1, 3-5 (1991) (arguing that the evidence that social scientists typically examine to demonstrate the link between pornography and sex crimes is flawed and unreliable); Berl Kutchinsky, Pornography and Rape: Theory and Practice?, 14 INT'L J.L. & PSYCHIATRY 47, 61 (1991) (determining that in four countries in which porn prevalence went from "extreme scarcity to relative abundance," in no country did rape increase more than nonsexual crime and that in all but the United States, "rape increased less than nonsexual assault"); see also DANIEL LINZ & NEIL MALAMUTH, COMMUNICATION
Who could object? Only “sexual liberals” who want a world where everyone can write, portray, say whatever they want—no matter the cost to women. On the other hand, those who take seriously the pervasive sexual violence against women—rape, mutilation, spousal and child abuse, sexual harassment—would surely agree on the benefits of ridding society of pornography.

Or would we? Granted, pornography often depicts women in dehumanizing ways—violated, subjugated, dominated, and degraded. The displays of breasts and buttocks screaming for attention from magazine stalls and not-so-hidden in back corners of video rental stores, as well as the crass sexist photos and cartoons of Hustler and Playboy, are often among the most blatant, vulgar, and ugly expressions of patriarchal society’s reduction of women to “tits and ass” available for the taking—to be used, abused, bought, sold, dissected, violated, molested, mutilated, and killed. Certainly, a world that did not produce such imagery would probably be a far better world for women.

But will the effort to suppress these images help change the society
that spawns them? Will it ultimately reduce violence against women? Will it promote gender equality on the streets and in private bedrooms? Will it liberate women's voices?

I contend that it will not have these salutary effects, but rather precisely the opposite ones. The suppression strategy—by targeting only "explicitly sexual" imagery, a narrow band on the broad spectrum of misogynist, violent, degrading, or "objectifying" depictions of women, and by blaming pornographic expression for far more complex cultural problems—is inimical to feminist ideological and political goals. First, it reinforces the very sin=sex=Woman nexus that has for centuries undergirded women's oppression. Second, the porn suppression effort takes feminism down a dangerous road by emphasizing primarily "deviant" imagery (letting mainstream sexist practices and imagery off the hook); by treating

11. See infra subpart II(B).

12. MacKinnon and others argue that male domination and abuse of women are fostered by the cultural constitution of women as "objects." "Objectivity is the epistemological stance of which objectification is the social process, of which male dominance is the politics, the acted-out social practice." MacKinnon, Feminism Unmodified, supra note 1, at 50. But that women's inferior status is created by constituting or treating them as objects is hardly as obvious as MacKinnon and others who use the concept seem to believe. See Frigga Haug et al., Female Sexualization 131 (Frigga Haug et al. eds. & Erica Carter trans., 1987) [hereinafter Female Sexualization] (questioning the adequacy of the subject/object dichotomy on the ground that women act as subjects when they willingly adopt a role as the object of male desire); Lynne Segal, Sweet Sorrows, Painful Pleasures: Pornography and the Perils of Heterosexual Desire, in Sex Exposed, supra note 8, at 65, 72-73 [hereinafter Segal, Sweet Sorrows] ("[I]t is the dynamic interplay between power and desire, attraction and repulsion, acceptance and disavowal, which eroticizes those already seen as inferior. . . . It is not, as some feminists believe, the eroticizing of an object which creates it as inferior.").

13. The choice to emphasize sex is rooted in a Judeo-Christian tradition that has always associated sex, sin, and women. See Simone de Beauvoir, The Second Sex 97, 61-138 (H.M. Parshley ed. & trans., Alfred A. Knopf 1983) (1949) (surveying the history of the treatment of women and remarking that "Christian ideology has contributed no little to the oppression of women"); BRAM DUKSTRA, Idols of Perversity: Fantasies of Feminine Evil in Fin-de-Siecle Culture 5 (1986) ("Some of the most vicious expressions of male distrust of, and enmity toward, women can be found in the writings of the medieval church fathers which late nineteenth-century writers liked to quote. These tireless purveyors of culture were also forever delving into the large fund of antifeminine lore to be found in classical mythology and the Bible."); MARGARET R. MILES, Carnal Knowing: Female Nakedness and Religious Meaning in the Christian West 184 (1989) (describing "religious practices and representations of female nakedness in the Christian West" as a way of reinforcing women's secondary status in relation to men); Dorothy D. Burlage, Judeo-Christian Influences on Female Sexuality, in Sexist Religion and Women in the Church: No More Silence! 93, 96-97 (Alice L. Hageman ed., 1974) (arguing that the religious treatment of the Biblical figures Eve and Mary are determined by their sexual behavior). See generally Peter Brown, The Body and Society: Men, Women, and Sexual Renunciation in Early Christianity (1988).

14. MacKinnon's and Dworkin's theories emphasize that male abuse of women is pervasive and not merely "deviant." See infra note 140 and accompanying text. In anti-porn ordinances and in the rhetorical strategy employed to gain support for them, however, the emphasis is on acts of "deviance," such as women being penetrated by animals, and extreme abuse, such as women being mutilated or, as in so-called "snuff" films, allegedly being killed on camera. For an analysis of the ordinances, and a discussion of the problematic nature of stressing deviance, see infra subpart II(B). For a description of the rhetoric porn-suppressionists employ, see Donald A. Downs, The New Politics of Pornography 70-74 (1989) (describing how antipornography coalitions focused on porn's violent aspects to
women largely as passive victims of Western sexual construction; by encouraging superficial understanding concerning the way in which culture functions; and by substituting ineffectual "quick-fix" solutions for more difficult-to-achieve but meaningful ones.

Not only does the suppressionist movement generate a conservative ideology, it also strengthens the political power of the Right to censor sexual and progressive discourse and to pass measures aimed at controlling women's bodies and sexuality. By doing so, feminist porn-suppressionists alienate natural allies—progressive artists, writers, musicians, and scholars—thereby making coalitions more difficult and weakening women's liberation efforts. Finally, the porn-suppression effort wastes valuable resources because, although porn may contribute to the notion that women are worthy targets of male domination and abuse, its impact is marginal in comparison with the myriad mainstream images and practices that influence societal attitudes towards women.

In Part II, I elaborate on the way in which the porn-suppression strategy fosters sexual repression and control of women and argue the importance to women of ensuring the presence of sexually explicit material, including pornography. In Part III, I demonstrate that while much porn does depict women in ways that may foster misogynist attitudes, it is nonetheless largely marginal to the process by which sexual relations are constituted and sexual aggression against women is generated. Part IV concludes by pointing to alternative paths to re-envisioning human sexuality taken by those who eschew both the theory of "the phallic imperative as the literal motor of human history"15 and the suppressionist strategy it generates.

II. What's Sex Got to Do with It?

Few men about her would or could do more, hence she was labelled harpy, shrew or whore.

—Adrienne Rich16

secure passage of Minneapolis's 1988 antipornography ordinance); Ted C. Fishman, Hatefest: Hanging Out at a Feminist Legal Conference, PLAYBOY, Aug. 1993, at 41, 42-44 (recounting the graphic rhetoric used by antipornography speakers at a conference at the University of Chicago Law School).

15. SEGAL, SLOW MOTION, supra note 8, at 208. Segal is referring to MacKinnon's theory that sex and sexuality are to patriarchy what economics, in Marxist theory, is to capitalism—that is, its centrally constitutive force. See CATHARINE A. MACKINNON, TOWARDS A FEMINIST THEORY OF THE STATE 1 (1989) [hereinafter MACKINNON, FEMINIST THEORY OF THE STATE]. Feminist porn-suppressionism is premised on this theory as well as on particular views of the sexual natures of both men and women. Although frequently termed "radical feminist" ideas, the views propounded are neither new nor particularly radical. See SEGAL, SLOW MOTION, supra note 8, at 208 (describing the feminist analysis of the phallic imperative as simply the "old conservative common sense we were raised on"—that women's primary sin should be to tame and civilize men's unbridled sexuality); Wilson, supra note 8, at 26 (stating that the anti-pornography campaigner's focus on sexually explicit images "simply reproduces the assumptions and ideology of the dominant culture").

In spending such large amounts of energy on keeping our legs together, we begin to feel there is something we must keep hidden, something which would otherwise be revealed to public view. It is through the activity of concealment that meaning is generated.

—Frigga Haug

It is by now almost a truism that concepts of sex, sexuality, and the erotic are central to the constitution and maintenance of power relations in society. Numerous scholars have shown that the pleasures and workings of the body, though subject to historically changing constructions, have always been employed in the service of social control and that sexual stereotyping has throughout history been used by dominant groups to designate outsiders as “Other”—different, deviant, and inferior. But it is hardly obvious that pornography has played a significant role in this process, still less that suppressing it will be helpful to reconstructing Western sexuality in ways that benefit women.

17. HAUG ET AL., supra note 12, at 77.
18. Michel Foucault’s claim that sex, far from being hidden or repressed in Western society, has been central to establishing power relations is widely accepted. See MICHEL FOUCAULT, 1 THE HISTORY OF SEXUALITY 98, 97-100 (Robert Hurley trans., Random House 1978) (1976) [hereinafter FOUCAULT, 1 THE HISTORY OF SEXUALITY] (“[W]e must immerse the expanding production of discourses on sex in the field of multiple and mobile power relations.”); MICHEL FOUCAULT, 2 THE HISTORY OF SEXUALITY: THE USE OF PLEASURE210-11, 219-20 (Robert Hurley trans., Random House 1985) (1984) (analogizing “between positions in the social field . . . and the form of sexual relations”). For a contrary sociobiological claim that sexual behavior is universal and innate rather than contingent and socially constitutional, see CAMILLE PAGLIA, SEXUAL PERSONAE: ART AND DECADENCE FROM NEFERTITI TO EMILY DICKINSON 3 (1990) (“Sex is the point of contact between man and nature, where morality and good intentions fall to primitive urges.”).
19. See JOHN D’EMILIO & ESTELLE B. FREEDMAN, INTIMATE MATTERS: A HISTORY OF SEXUALITY IN AMERICA at xii (1988) (“[S]exuality has been continually reshaped by the changing nature of the economy, the family, and politics.”); WEEKS, supra note 4, at 122 (“[T]he body is a site for historical moulding and transformation because sex, far from being resistant to social ordering, seems peculiarly susceptible to it.”). See generally FOUCAULT, 1 THE HISTORY OF SEXUALITY, supra note 18.
20. Simone de Beauvoir is widely credited with demonstrating the way in which male-dominated Western culture constitutes women as “Other.” See DE BEAUVOIR, supra note 13, at xiii-xxxix (explaining the concept of women as “Other”). For an excellent study demonstrating the way in which labelling blacks, Jews, and women as sexually deviant was used to designate them as inferior, see generally SANDER L. GILMAN, DIFFERENCE AND PATHOLOGY: STEREOTYPES OF SEXUALITY, RACE, AND MADNESS (1985). See also D’EMILIO & FREEDMAN, supra note 19, at 35-38, 85-108 (discussing the regulation of sexual deviance and describing the use of sexually degrading imagery involving minorities as a tool for maintaining a racially segregated society); BELL HOOKS, BLACK LOOKS: RACE AND REPRESENTATION 61-77 (1992) [hereinafter HOOKS, RACE AND REPRESENTATION] (discussing society’s consistent representation of black women as sexual deviants); RICKIE SOLINGER, WAKE UP LITTLE SUSIE: SINGLE PREGNANCY AND RACE BEFORE ROE V. WADE 18 (1992) (arguing that “race was a centrally important factor in constructing two different sets of strategies of female subordination” for single pregnant women); Regina Austin, Sapphire Bound!, 1989 WIS. L. REV. 539, 569-74 (observing that black unwed mothers are often subjected to criticism by the black community and that no similar stigma of deviance is attached to white unwed mothers).
21. To agree that sexuality has been used to constitute women as inferior and that conceptions of masculinity have indeed become increasingly phallus-centered as men have lost power in economic,
Subpart II(A) below shows how the sin-sex nexus reinforces women's oppression and undergirds male domination and aggression by dichotomizing reason and emotion, culture (or civilization) and nature, reserving for men the privileged preserve of intellect and of control over nature and women while associating women with nature, emotion, and dangerous, untamed sexuality. Subpart II(B) argues that the porn-suppression strategy, by distinguishing dangerously sexist from tolerably sexist imagery on the basis of whether explicit sex is depicted, follows the Western tradition of blaming-it-on-sex, and hence perpetuates the sin-sex nexus. Subparts II(C) and II(D) show how porn-suppression fosters other ideas that are disempowering to women. Such ideas strengthen right-wing ideology and politics aimed precisely at controlling women's "unruly bodies" and alienate allies in the effort to comprehend and reconstitute Western sexuality. Subpart II(C) shows how suppressionists' emphasis on women as victims not only circumscribes women's ability to be and act sexual but also limits women's ability to use the terrains of the body and sexuality to achieve change. Subpart II(D) explores the way in which legislative suppression efforts encourage erroneous views about the way in which depiction acquires meaning and impacts culture—views that harm women by constricting sexual and progressive discourse and by strengthening conservative politics. The final subpart explains why uninhibited discussion and depiction of sex and sexuality are crucial to the achievement of feminist goals.

A. Women: The Sinfully Sexual Sex

A woman in the shape of a monster
a monster in the shape of a woman
the skies are full of them . . . .

—Adrienne Rich

Western culture remains steeped in a “way of seeing” that reduces women to unruly bodies in perpetual need of societal (hence male) domination and control. This “ideology of men” is one that sees sex as

23. JOHN BERGER, WAYS OF SEEING (1977). Substituting the phrase “ways of looking,” bell hooks highlights the active nature of looking and hence the possibility of transformative critique—of choosing to look in other ways. See HOOKS, RACE AND REPRESENTATION, supra note 20, at 4.

24. What follows in this subpart is a necessarily superficial, overdrawn, and oversimplified outline of the dominant competing cultural views. It is neither adequately nuanced nor accurate for all periods and locales—the analysis differs accordingly among class, race, nation, and time period and has subtly shifted variations. For example, the Christian emphasis on women’s sinful sexuality was modified (though not displaced) in Victorian times by an emphasis on the “virgin” side of the equation—that is, on (white middle-class) women as pure, fragile, flower-like. See DIJKSTRA, supra note 13, at 3-24. And men’s sexuality was also viewed at times as uncontrolled (although controllable by men’s reason with the aid of a “good” woman). See E. ANTHONY ROTUNDO, AMERICAN MANHOOD: TRANSFORMATIONS IN MASCUULINITY FROM THE REVOLUTION TO THE MODERN ERA 126 (1993) (noting that one way in which a 19th-century man “straddled the conflicting demands for sexual assertion and purity” was “to turn the duty for sexual control over to the woman he loved”). Moreover, in the modern world, dominant cultural constructions have been increasingly joined by competing and plural ones. See LEONARD B. MEYER, MUSIC, THE ARTS, AND IDEAS 172-75 (1967); LEONARD B. MEYER, Future Tense: Music, Ideology and Culture 16-22 (1993) (unpublished manuscript, forthcoming as Epilogue to MUSIC, THE ARTS, AND IDEAS) (both arguing that cultural innovations do not displace existing ideas but instead contribute to the development of a spectrum of attitudes whose popularity fluctuates).

Writers on culture are especially careful to emphasize the way in which viewpoints concerning sexuality are embedded in time and place. See, e.g., HOOKS, RACE AND REPRESENTATION, supra note 20, at 61-77 (describing images of black female sexuality that were shaped by 19th-century racism but continue to affect present-day perceptions); MARGARET R. MILES, THE VIRGIN’S ONE BARE BREAST: NUDITY, GENDER, AND RELIGIOUS MEANING IN TUSCAN EARLY RENAISSANCE CULTURE, IN THE EXPANDING DISCOURSE: FEMINISM AND ART HISTORY 27 (Norma Broude & Mary D. Garrard eds., 1992) [hereinafter THE EXPANDING DISCOURSE] (“[N]o pictorial subject is more determined by a complex web of cultural interests than visual narrations of the female body.”); CAROL SMART, DISRUPTIVE BODIES AND UNRULY SEX: THE REGULATION OF REPRODUCTION AND SEXUALITY IN THE NINETEENTH CENTURY, IN REGULATING WOMANHOOD: HISTORICAL ESSAYS ON MARRIAGE, MOTHERHOOD, AND SEXUALITY 7, 11 (Carol Smart ed., 1992) [hereinafter REGULATING WOMANHOOD] (examining “the specific conditions of the production of the woman of legal discourse in one historical period without presuming a ‘universal posturing’”). Yet, the dominant themes repeated here have been noted by numerous authors as undergirding Western thought. See infra notes 25, 38.

25. DAVID FRIEDBERG, THE POWER OF IMAGES: STUDIES IN THE HISTORY AND THEORY OF RESPONSE 318 (1989) (stating that although “all viewing in the West has [probably] been through male eyes,” it is insufficient to rest an analysis of “the power of images” on that insight alone); see also E. ANN KAPLAN, IS THE GAZE MALE?, IN POWERS OF DESIRE: THE POLITICS OF SEXUALITY 309 (Ann B. Snitow et al. eds., 1983) [hereinafter POWERS OF DESIRE] (arguing that all film portrayals reflect a “male gaze”); LAURA MULVEY, VISUAL PLEASURE AND NARRATIVE CINEMA, IN FEMINISM AND FILM THEORY 57-68 (Constance Penley ed., 1988) (explaining the manner in which traditional film has made women into objects for the male spectator); LAURA MULVEY, AFTERTHOUGHTS ON “VISUAL PLEASURE AND NARRATIVE CINEMA” INSPIRED BY DUEL IN THE SUN, IN FEMINISM AND FILM THEORY, supra, at 69, 69 [hereinafter MULVEY, AFTERTHOUGHTS] (pursuing the reactions of the female spectator and asking about the nature of the pleasure she might experience). But see Introduction to THE FEMALE GAZE: WOMEN AS VIEWERS OF POPULAR CULTURE 5-7 (Lorraine Gamman & Margaret Marchment eds., 1989) [hereinafter THE FEMALE GAZE] (noting the controversy over whether Mulvey’s and Kaplan’s psychoanalytic analyses are adequate and questioning whether “the gaze is always male” or male perspective is “merely ‘dominant’”). See generally BERGER, supra note 23, at 45-64 (comparing the presence of men and women in art and concluding that women are present merely as the objects of male spectators); Gubar,
sinful and women as dangerously sexual. Women are portrayed as slaves to instinctual sexual impulses—whether properly directed to species propagation or self-servedly sinful—and hence in perpetual need of societal protection, control, and redemption. They are categorized by their supposedly sexual natures: "madonnas and whores, earth-mothers and vampires, helpless little girls and dominatrices"26 deserving of supervision, if not brutality, when "bad";27 provoking anger as often as reverence when "good."28 "Bad" girls tempt men to sin, degradation, and disease; "good" girls tolerate sex for the good of society but do not engage in it for pleasure or self-fulfillment, still less indulge in it outside of socially sanctioned parameters.29

Western viewers have learned to “associate naked female bodies with sensuality and temptation while naked male bodies symbolize power, athletic prowess, and self-knowledge.”30 We see in images of women’s legs


27. Women who fall from the pedestal of bodily purity are thought—whether consciously or otherwise—to deserve whatever violence and domination they get. See, e.g., Ross E. Milloy, Furor Over a Decision Not to Indict in a Rape Case, N.Y. TIMES, Oct. 25, 1992, at L30 (describing the initial refusal of a Travis County, Texas, grand jury to indict an accused rapist whose victim, at knife-point, begged him to use a condom); Rape Term Hailed, NEWSDAY, Dec. 7, 1989, available in LEXIS, News Library, NEWSDY File (reporting the conviction of a rapist who was acquitted of a previous attack because the jury felt the victim “asked for it” by wearing a miniskirt); E.R. Shipp, In Court, a Woman’s Character Can Dictate Her Legal Fortune, N.Y. TIMES, June 10, 1987, at C1 (describing the 1984 New Bedford gang-rape of a 22-year-old woman and the community sympathy for the defense position that there was no rape because the woman had no business being in the bar alone); see also HELEN BENEDICT, VIRGIN OR VAMP: HOW THE PRESS COVERS SEX CRIMES 23 (1992) (arguing that the misconception of rape as a sexual rather than a violent crime results in the characterization of a rape victim as either a “vamp” who “by her looks, behavior or generally loose morality, drove [her attacker] to such extremes of lust that he was compelled to commit the crime,” or a “virgin,” the innocent victim now sullied by a “depraved and perverted monster who is now a martyr to the flaws of society”).

28. For a discussion of the psychological and historical roots of these opposing typologies, see BARUCH, supra note 21, at 167-69 (discussing the Freudian and Jungian theories relating the virgin/whore dichotomy to childhood development and basic personality structure, respectively). Anti-woman violence may also be spawned by men’s anger at women for playing the dual role of tempting men to sin, yet chastising them for surrendering to temptation. See generally DIJKSTRA, supra note 13, at 14 (quoting August Comte as representative of the fin-de-siècle view that the “mission of woman is to save man from . . . corruption”). See also ROTUNDO, supra note 24, at 92 (describing male ambivalence toward women as stemming from dual experiences of nurture and rejection).

29. Black women, from Hottentots to African (-American) slaves, were “bad girls” simply by virtue of their color. See HOOKS, RACE AND REPRESENTATION, supra note 20, at 61-77. Hooks labels this viewpoint the “racialized pornographic imagination” to emphasize the connection between its racism and its sexism. Id. at 72.

30. NOCHLIN, supra note 25, at 15 (“When the image is feminine . . . it inevitably refers to the implied sexual attractiveness of the invisible model, presented as a passive object for the male gaze.”).
sexual availability, whereas similar depictions of male legs suggest strength and power. To Western eyes, a full-breasted woman bearing a platter of apples is "one of the prime topoi of erotic imagery," while a similar portrayal of a "well-hung" male bearing a platter of bananas is absurd and enormously amusing.

Female bodies, female nakedness, and female sexuality are portrayed as profoundly dangerous to men and to civilization. Woman's sinful sexuality was responsible for "the Fall." It constantly tempts men not merely to immorality and sin, but away from the business of creating and maintaining civilization, from pursuit of science, of government, of war, of commerce, and of invention. If women are not reined in, supervised, and controlled, if their unruly sexuality is not repressed and regulated (for it cannot be tamed), if they are allowed to tempt men to lose superegoistic control, civilization itself will fall.

Reflection of this viewpoint in literature, art, religion, music, science and medicine, law, film, and commercial culture has been remarkably consistent despite vastly different social contexts, scientific understandings of sexuality, and conceptions of the sexually provocative or the permis-

31. The images Nochlin uses to demonstrate her point are Manet's *Ball at the Opera* (1873), *Bar at the Folies-Bergere* (1881), and Andre Kertesz's 1939 photograph, *Dancer's Legs*. *Id.* at 12-15.

32. *Id.* at 139. The poster referred to is a famous anonymous French poster. Nochlin points out that the breast/apple metaphor is confined neither to popular culture nor to visual imagery. Likening the "desirable body to ripe fruit, or more specifically, likening a woman's breasts to apples" occurs not only in images "low on the scale of artistic merit," but also in such works as Gauguin's *Tahitian Women With Mango Blossoms* (1899). *Id.* Margaret Atwood similarly writes that to alienated man, the female body is a "vision of wholeness, ripeness, like a giant melon, like an apple, like a metaphor for breast in a bad sex novel." Margaret Atwood, *The Female Body, in The Female Body*, supra note 26, at 1, 4.

33. *See Nochlin, supra* note 25, at 141 ("While there may indeed be a rich underground feminine lore linking food—specifically bananas—with the male organ, such imagery remains in the realm of private discourse, embodied in smirks and titters rather than works of art."). While there are many exceptions, the authoritative conception of women as body-objects for male possession and use—whether for worship or rape—pervades entertainment media, art museums, revered literature, Broadway shows, religious texts, and everyday discourse, and it has remained a surprisingly constant theme. *Cf.* Miles, *supra* note 24, at 36 (arguing that Christian religious art involving female figures relies upon the figure merely as a means to represent something other than a character in her own right).


35. Until the late 18th century, women were seen as inverted and lesser males, defined by sex (reproductive) organs that were the obverse of men's. *See Thomas Laqueur, Making Sex: Body and Gender from the Greeks to Freud* 4 (1990) ("For thousands of years it had been a commonplace that women had the same genitals as men except that, as Nemesius, bishop of Emesa in the fourth century, put it: 'theirs are inside the body and not outside it.'"). Thereafter, as science purportedly revealed significant biological difference—that female physiology and, especially, the female
sible limits of erotic depiction. Throughout history, the more openly sexual a woman appeared, the more she was pathological and deviant, yet the more she revealed Woman's "true" nature.\textsuperscript{36} Hence science studied the earlobes, foreheads, and psyches of prostitutes and measured the buttocks and genitals of "Hottentots,"\textsuperscript{37} while artists depicted scenes of seduction, rape, and prostitution, and endlessly explored the female nude.\textsuperscript{38}

This ideology is reflected as well in the treatment of women throughout history. When women have been openly sexual, they have been publicly branded, scorned as insane or adulterous, sequestered, jailed as prostitutes, burned as witches, and driven to suicide by prosecution and humiliation.\textsuperscript{39} Black women were forced into sexual slavery while the sexual/reproductive system was not merely the inversion of, but entirely separate from that of the male—women became distinct, but still inferior. See id. at 5-6.

37. Id. at 76-108.
38. See generally BERGER, supra note 23, at 47, 45-64 (arguing that the nude is "the principal, ever-recurring" subject of European painting and reveals "the criteria and conventions by which women have been seen and judged as sights"); FEMINISM AND ART HISTORY: QUESTIONING THE LITANY (Norma Broude & Mary D. Garrard eds., 1982) [hereinafter FEMINISM AND ART HISTORY] (demonstrating the use of female nudity, rape, or seduction as a popular form for conveying artists' ideology and indirectly controlling social morality); NOCHLIN, supra note 25, at 1-33 (describing the artistic use of the female figure as a means of establishing male dominance in a patriarchal society). These depictions of the female nude were contrasted with equally numerous genre paintings and other depictions of chaste domestic bliss. See generally DIJKSTRA, supra note 13; THE EXPANDING DISCOURSE, supra note 24; FEMINISM AND ART HISTORY, supra.
39. The examples are legion. See ELLEN CHESLER, WOMAN OF VALOR: MARGARET SANGER AND THE BIRTH CONTROL MOVEMENT IN AMERICA (1992) (detailing Sanger's prosecution for attempting to distribute contraceptives and birth control information); BARBARA EHRENREICH & DEIDRE ENGLISH, WITCHES, MIDWIVES, AND NURSES: A HISTORY OF WOMEN HEALERS 10-12 (1973) [hereinafter EHRENREICH & ENGLISH, WOMEN HEALERS] (discussing the expressions of female sexuality that subjected women to persecution as witches); EDWARD DE GRAZIA, GIRLS LEAN BACK EVERYWHERE: THE LAW OF OBSCENITY AND THE ASSAULT ON GENIUS 3-19 (1992) (describing the prosecution of late 19th- and early 20th-century feminists); DIJKSTRA, supra note 13, at 14, 11-14 (describing "the cult of the household nun" which permeated fin-de-siècle art and literature and advocated that "[w]omen . . . aspire to the vestial purity of the nun"); Carol Gilligan, Joining the Resistance: Psychology, Politics, Girls and Women, in THE FEMALE BODY, supra note 26, at 16-18 (describing the punishment of adulterous and otherwise inappropriately sexual women); Ursula Vogel, Whose Property? The Double Standard of Adultery in Nineteenth-Century Law, in REGULATING WOMANHOOD, supra note 24, at 147, 147-65 (detailing the history of harsh penalties imposed on wives who engaged in adultery while condoning adultery by husbands); Jeremy D. Weinstein, Note, Adultery, Law and the State: A History, 38 HASTINGS L.J. 195, 227-28 (1986) (describing as a historical paradox the view that although male adulterers do not deserve death, a wronged husband may be entitled to exact it); Mark Horowitz, An Ancient Double Standard, USA TODAY, May 7, 1990, at 10A, available in LEXIS, News Library, USATODY File (stating that early American colonies "offered punishments as deterrents to adultery, such as brandings, whippings or imprisonment"); see also United States v. Dennett, 39 F.2d 564, 569 (2d Cir. 1930) (reversing Mary Dennett's conviction for mailing obscene materials because her discussion of sex "tend[ed] to rationalize and dignify it"); Wilson, supra note 8, at 26 (describing the ban in England and the United States of Radclyffe Hall's exploration of lesbian sexuality, The Well of Loneliness).

Indeed, if anything has "silenced" women, it is surely the repression, even murder, of the
popular ideology sought to present them as “vamps” who tempted innocent slavemasters to sin.40 Nineteenth- and twentieth-century working-class and middle-class women were punished for seeking freer sexual expression in dress, dating, dance, and domestic life, or for fighting against sexual double standards that created “fallen” women out of girls raped, seduced, or simply sexually active.41 Social “purity” movements were periodically necessary to ensure that everything from prostitution to public dance was stamped out.42 Married women could not be trusted with such basic

women described above who have challenged assigned gender roles by refusing to be submissive, asexual producers and reproducers. See infra subpart II(E).

40. HOOKS, RACE AND REPRESENTATIONS, supra note 20, at 68; D’EMILIO & FREEDMAN, supra note 19, at 93-108 (emphasizing the effects of slavery on Southern sexual norms and explaining the myth of black promiscuity); cf. GILMAN, supra note 20, at 99 (describing the association of blacks with hypersexuality in the early 19th century).

41. See KATHY PEISS, CHEAP AMUSEMENTS: WORKING WOMEN AND LEISURE IN TURN-OF-THE-CENTURY NEW YORK 108-14 (1986) (describing the rigid sexual norms urged upon the early 20th-century ethnic working class); CARROLL SMITH-ROSENBERG, DISORDERLY CONDUCT: VISIONS OF GENDER IN VICTORIAN AMERICA 109-28 (1985) (describing the condemnation of the New York Female Moral Reform Society’s challenge to the double standard attached to adultery); Gayle Rubin, THINKING SEX: Notes for a Radical Theory of the Politics of Sexuality, in PLEASURE AND DANGER: EXPLORING FEMALE SEXUALITY 267, 267-69 (Carol S. Vance ed., 1984) [hereinafter PLEASURE AND DANGER] (noting the punishment and treatments for those who crossed traditional boundaries of sex roles); Vogel, supra note 39, at 147-65 (exploring the historically pervasive double standard used by society to gauge the propriety of men’s and women’s sexual behavior); cf. Ellen C. Dubois & Linda Gordon, Seeking Ecstasy on the Battlefield: Danger and Pleasure in Nineteenth-Century Feminist Sexual Thought, in PLEASURE AND DANGER, supra, at 31, 35-36 (noting that 19th-century religious thought conceptualized sex only in terms of intercourse designed to produce children). Even some feminists condemned the new sexual freedom; Charlotte Perkins Gilman, for example, denounced the risqué clothing of the flappers as a backlash of primitive femininity. See Carol Ascher, Selling to Ms. Consumer, in AMERICAN MEDIA AND MASS CULTURE: LEFT PERSPECTIVES 43, 45 (Donald Lazere ed., 1987) [hereinafter AMERICAN MEDIA AND MASS CULTURE].

42. See D’EMILIO & FREEDMAN, supra note 19, at 139-56, 208-12 (detailing the reform movements launched by women and doctors against prostitution as well as the battle between opponents of obscenity and advocates of free speech and discussing the social hygiene movement); BARBARA M. HOBSON, UNEASY VIRTUE: THE POLITICS OF PROSTITUTION AND THE AMERICAN REFORM TRADITION 51-76, 139-84 (1987) (examining 19th-century moral reform societies and the historical movement against prostitution); WILLIAM LEACH, TRUE LOVE AND PERFECT UNION: THE FEMINIST REFORM OF SEX AND SOCIETY 243-60 (1980) (describing the dress reform movement); PEISS, supra note 41, at 163-84 (describing reform attempts to close down dance halls in the 1920s); Lucy Bland, Feminist Vigilantes of Late-Victorian England, in REGULATING WOMANHOOD, supra note 24, at 33, 33-52 (recounting turn-of-the-century movements aimed at eradicating revealing dress, prostitution, and other perceived sexual improprieties); Judith R. Walkowitz, Male Vice and Female Virtue: Feminism and the Politics of Prostitution in Nineteenth-Century Britain, in POWERS OF DESIRE, supra note 25, at 419, 427-34 [hereinafter Walkowitz, Male Vice and Female Virtue] (describing the takeover of a feminist movement by a social purity reform group attempting to stamp out prostitution); Judith Walkowitz, The Politics of Prostitution, in WOMEN: SEX AND SEXUALITY 145, 145, 145-57 (Catharine R. Stimpson & Ethel S. Person eds., 1980) [hereinafter Walkowitz, The Politics of Prostitution] (describing the early feminist campaigns against prostitution and pornography as “historical precedents for the current feminist attack on commercial sex”).

Prostitution remains illegal in most Western countries. See RICHARD SYMANSKI, IMMORAL LANDSCAPE 4 (1981) (“Most of the Western world governments at all levels have laws that attempt to
As the right to own property, to vote, to sign contracts, or to have custody of children, not only because, as mere bodies, women lacked the capacity and intellect to contribute, nor simply because they might seduce men from important business, but also because their sex-driven impulses would misguide, dupe, or drain mankind.

Although Western women have gained many heretofore denied social and political rights, the sin-sex nexus continues to limit women's full social participation. Women are forced constantly to watch and control themselves—appearance, behavior, speech and movement—lest they cross invisible yet omnipresent sexual boundaries. And when women do cross such boundaries—whether by being forced to do so through sexual abuse as children, or rape, or coerced prostitution, or economic necessity, or


44. Justice Bradley's concurrence in Bradwell v. Illinois, 83 U.S. (16 Wall.) 130, 141-42 (1872), is the classic expression of the late-19th-century view that women exhibit a “timidity and delicacy” that "evidently unfit[s] them for many of the occupations of civil life."

45. See Barbara Ehrenreich & Deidre English, For Her Own Good: 150 Years of the Experts' Advice to Women 126-27 (1978) [hereinafter Ehrenreich & English, For Her Own Good] ("[T]he "oversexed" woman was seen as a sperm-draining vampire who would leave men weak, spent, and effeminate."); see also Freud, supra note 34, at 50 ("[W]omen soon come into opposition to civilization and display their retarding and restraining influence—those very women who, in the beginning, laid the foundations of civilization by the claims of their love."). This image of women is deeply rooted in Western culture, as evidenced by its prevalence in the canonical literature. See, e.g., Homer, The Odyssey 93-100 (Robert Fitzgerald trans., Vintage Classics 1961) (describing how the seductive sea nymph Kalypso distracts the hero Odysseus from his journey homeward).

46. In workplaces, on public transport, on streets and in homes, women are bounded by rigid—and often contradictory—sexual norms. Young girls quickly learn that to be drab in dress is to invite spinsterhood but to wear short skirts or tight blouses or to sit spread-legged is to invite the label "loose woman" and to be responsible for their predicament if they are sexually harassed or even raped. They must comport themselves "just so" to express the "proper" sexuality for every occasion. Exposed skin (or even tight clothing) almost always invites sexual harassment and attack, yet is (within limits) required for social occasions and at the beach. Public sexual display for profit or trade of sexual favor for gain are frowned upon when not made illegal, except when making "good," but not "fortune-seeking," marriages. See generally Haug et al., supra note 12, at 131-33, 141-45 (discussing the ways in which dress alters perceptions of women).

by willfully transgressing societal boundaries by engaging in extra-marital sex, choosing unwed motherhood, or flouting norms of dress and behavior—they often permanently cross an invisible but omnipresent divide from "pure" to "sullied," from "good girls" to "bad," with all of the attendant consequences.

As feminist porn-suppressionists point out, much pornography reflects this "ideology of men," often in a singularly blatant and vulgar form. But by seeking only to address explicitly sexual representations of it, suppressionists reinforce the notion that the sexual is sinful, that eros—especially female eros—is not only problematic, but also a central source of evil (gender discrimination) and corruption (female subordination).

B. Suppressionist Strategy: Anti-Porn Ordinances Draw the (Deviant) Sex Line

Merely characterizing the pornographic in terms of explicitness is about as useful and as accurate as characterizing capitalism as extreme misery.

—Beverley Brown

48. See Susan McClary, Foreword to CATHÉRINE CLÉMENT, OPERA, OR THE UNDOING OF WOMEN at ix, xvi (Betsy Wing trans., 1988) (noting that women in the Renaissance "who sang in public or who tried to publish their poetry were regarded as courtesans and were pressured to grant sexual favors"); Phyllis L. Metal, Not Huarachas In Paris, in SEX WORK, supra note 47, at 35, 35-36 (describing the plight of a middle-aged Parisian woman who became a prostitute to support herself). See generally GOOD GIRLS/BAD GIRLS, supra note 5 (collecting the debates on whether women demean themselves by willfully entering the sex trades); PEISS, supra note 41 (examining the deliberate changes in social patterns and values resulting from women's entry into the working classes).

49. Once sullied, for example, by child sexual abuse or rape—especially if it results in public knowledge due to unwed motherhood, abortion, or other physical or psychological symptoms—women are likely to engage in sex trade work. They do so because constricted opportunities make it the only viable option or because, shunned by families and friends, they are easily subject to economic, physical, and psychological coercion, because they view themselves, because sullied, as "good for" only such work. See From the Floor, in GOOD GIRLS/BAD GIRLS, supra note 5, at 48, 53 (quoting a social worker's assertion that an abusive home life can lead a teenage girl to enter the sex trade). This pattern may not hold true for upper-class women, who are less likely to be ostracized. See SOLINGER, supra note 20, at 9-10 (claiming that unmarried, upper-class women who become pregnant are able to find support with family members).

50. There are rare exceptions, perhaps more frequent in fiction than fact: the lucky prostitute who marries her G.I.; the fallen woman "rescued" by the perceptive male who sees her true goodness. See, e.g., PRETTY WOMAN (Touchstone Pictures 1990). And when middle- and upper-class women transgress boundaries en masse, occasionally the boundaries themselves will move. See SOLINGER, supra note 20, at 217 (describing the legitimization of pre-marital sex and unwed motherhood by—and largely only for—white, middle-class women); Jason DeParle, Big Rise in Births out of Wedlock, N.Y. TIMES, July 14, 1993, at A1 (reporting the large increase in out-of-wedlock births among "professional" women). But see Katha Pollitt, Bothered and Bewildered, N.Y. TIMES, July 22, 1993, at A23 (asserting that statistics showing an increase in the number of unwed mothers with college degrees are unsurprising and may reflect only the decreased benefits of marriage for women).


[The books on sexuality we had looked at, in restricting themselves to the ‘erogenous zones’ and sexual organs, had necessarily mistaken their object.

—Frigga Haug

1. The Law: From Vulgarity to Victimization.—Feminist porn-suppressionists center their efforts on gaining passage of ordinances prohibiting production, dissemination, and display of explicitly sexual depictions that arguably subordinate women. Existing constitutional doctrine permits the government to censor pornography that falls under the definition of “obscenity”—that is, portrayals that are patently offensive to the community in that they represent “ultimate sexual acts, normal or perverted, actual or simulated” or “masturbation, excretory functions, and lewd exhibition of the genitals,” which appeal to the “prurient interest” and which “taken as a whole” lack “serious literary, artistic, political, or scientific value.”

Feminist porn-suppressionists purport through their ordinances to “rename” the obscene—to shift the focus from sex to sexism, from vulgarity to the victimization of women. They have sought to refashion obscenity doctrine to treat that which sexually subordinates women as unprotected speech. The feminist porn-suppressionist viewpoint has been influential among academics, conservatives, and legislators, and has been as-


54. Miller v. California, 413 U.S. 15, 24-25 (1973) (requiring that the work, taken as a whole, lack merit in order for the work to be obscene); see A Book Named “John Cleland’s Memoirs of a Woman of Pleasure” v. Massachusetts, 383 U.S. 413, 419 (1966) (requiring each criterion to be upheld independently); Pope v. Illinois, 481 U.S. 497 (1987) (making clear that the value of a work is to be measured neither by generalized community standards nor by art critics, but by the reasonable person within a given community). Justice Scalia’s concurrence in Pope, however, argued that the addition of this purportedly objective standard “is of little help in the inquiry.” Pope, 481 U.S. at 505 (Scalia, J., concurring). Indeed, several courts have questioned the usefulness of a gender-neutral “reasonable person” standard when sexual conduct is at issue because of men’s and women’s differing positions and attitudes in relation to it. See, e.g., Ellison v. Brady, 924 F.2d 872 (9th Cir. 1991) (analyzing the standard of sexual harassment from the victim’s perspective); Lehmann v. Toys “R” Us Inc., 626 A.2d 445, 453 (N.J. 1993) (using a “reasonable woman” standard to determine whether a hostile work environment exists in a harassment case); see also Naomi R. Cahn, The Looseness of Legal Language: The Reasonable Woman Standard in Theory and in Practice, 77 CORNELL L. REV. 1398, 1404-11 (1992) (arguing in favor of a “reasonable woman” standard rather than the purportedly neutral “man” or “person” standard in situations involving sex or violence against women). But see Harris v. Forklift Systems, 114 S. Ct. 367, 370 (1993) (twice employing the term “reasonable person” in a sexual harassment analysis). For analysis of the obscenity standard, see Frederick Schauer, Codifying The First Amendment: New York v. Ferber, in 1982 SUP. CT. REV. 285 (1983) (placing the Supreme Court’s treatment of child porn in the context of its overall First Amendment jurisprudence); Frederick Schauer, Speech and “Speech”—Obscenity and “Obscenity”: An Exercise in the Interpretation of Constitutional Language, 67 GEO. L.J. 899 (1979) (discussing the meaning of “speech” in a constitutional context and its relation to obscenity regulation).

55. More than a thousand scholars and activists gathered, a significant portion of them to endorse
serted by the Canadian Supreme Court as a justification for upholding the broad censorship of sexually explicit materials.\(^5\) American courts, however, have thus far refused to expand or alter First Amendment doctrine to accommodate the porn-suppressionist view.\(^5\) The feminist anti-porn ordinances, none of which has survived long enough to be implemented, are based on a Model Ordinance—authored by Catharine MacKinnon and Andrea Dworkin—which holds porn responsible for exploitation and subordination of women, for aggression and violence against women, for denying equal opportunity and full citizenship to women, and for imposing a reality of subordination on women’s lives.\(^5\)

The anti-porn view, at a recent University of Chicago conference on hate speech. Fishman, \textit{supra} note 14, at 41.


57. Anti-porn ordinances were passed in Minneapolis, Minnesota, and Indianapolis, Indiana. \textit{See} American Booksellers Ass’n v. Hudnut, 771 F.2d 323, 324-26 (7th Cir. 1985) (describing the Indianapolis ordinance), \textit{aff’d}, 475 U.S. 1001 (1986).


60. \textit{ANDREA DWORIN & CATHARINE A. MACKINNON, Model Anti-Pornography Civil-Rights Ordinance, in PORNOGRAPHY AND CIVIL RIGHTS: A NEW DAY FOR WOMEN’S EQUALITY 138 app. D (1988) [hereinafter Model Ordinance].} Discussion of the various ordinances considered by local legislatures hereinafter invokes the \textit{Model Ordinance}, which presumably best encapsulates the legal-political strategy of feminist porn-suppressionists. Elsewhere, Dworkin and MacKinnon have defined porn far more expansively. \textit{See, e.g., MACKINNON, FEMINISM UNMODIFIED, supra} note 1, at 262 n.1, 130 (porn is anything “graphically sexually explicit” in which “the woman is defined as to be acted upon, a sexual object, a sexual thing” or which “eroticises the despised, the demeaned, the accessible, the there-to-be-used, the servile, the child-like, the passive and the animal”). The ordinance’s statement of policy describes pornography as:

a systematic practice of exploitation and subordination based on sex that differentially harms and disadvantages women. . . . The bigotry and contempt pornography promotes, with the acts of aggression it fosters, diminish opportunities for equality of rights in
The ordinances create causes of action (deemed "sex discrimination") for "coercing" someone into pornographic performance, 61 "[f]orcing pornography on a person," 62 "[a]ssault or physical attack due to pornography," 63 "[d]efamation through pornography," 64 and "[t]rafficking in pornography." 65 All causes of action can be remedied by damages, 

employment, education, property, public accommodations, and public services; . . . promote injury and degradation such as rape, battery, sexual abuse of children, and prostitution, and inhibit just enforcement of laws against these acts; . . . [and] contribute significantly to restricting women in particular from full exercise of citizenship and participation in the life of the community . . . .

Model Ordinance, supra, § 1.2. Similarly, University of Calgary Law Professor Kathleen Mahoney, who has been credited with persuading the Canadian Supreme Court to adopt this viewpoint, calls pornography "an instrument of subordination and discrimination." Fishman, supra note 14, at 41-42 (quoting Kathleen Mahoney).

61. Model Ordinance, supra note 60, § 3.1. For critiques of this provision, which provide, inter alia, that it is no defense that the person "appear[ed] to cooperate actively" or "signed a contract, or made statements affirming a willingness to cooperate" or that "no physical force, threats, or weapons were used," see Strossen, supra note 8, at 1137-40 (attacking the "materialistic" and freedom-restricting nature of the Dworkin-MacKinnon anti-pornography ordinance); John F. Witenius, Giving the Devil the Benefit of Law: Pornographers, the Feminist Attack on Free Speech, and the First Amendment, 20 FORDHAM URB. L.J. 27, 31-32 (1992) (arguing that MacKinnon does not distinguish pornography from other jobs filled by those who have no other economic options); see also Ruth Colker, Legislative Remedies for Unauthorized Sexual Portrayals: A Proposal, 20 NEW ENG. L. REV. 687, 700-05 (1984-1985) (arguing for the adoption of enhanced remedies specifically addressed to dissemination when publishers intentionally or negligently fail to obtain consent).

62. Model Ordinance, supra note 60, § 3.2. This cause of action would permit injunctions against the display of pornography at newstands, in video stores, and other public places and would also enable suits for damages and injunctions against its presence in workplaces and homes. DWORIN & MACKINNON, supra note 60, at 49-50, 54-56. There are no exceptions; displays in offices of fertility doctors or academic articles graphically depicting or describing pornography would constitute discrimination. Id.

63. Model Ordinance, supra note 60, § 3.3. This cause of action allows a complaint against either the perpetrator of an assault allegedly "directly caused by specific pornography" or against the "maker(s), distributor(s), seller(s), and/or exhibitor(s)" of the offending porn and would apply to enable suppression of an entire work because someone claimed to have based an assault or attack on any part of it. See DWORIN & MACKINNON, supra note 60, at 56 ("In a case of assault, the court could stop the material proven to have caused the assault from being distributed or sold further."). For a survey of the literature analyzing the "direct causation" argument, see supra note 8 and accompanying text.

64. Model Ordinance, supra note 60, § 3.4. This cause of action prohibits the unauthorized use of a name or likeness in pornography and allows revocation of authorization any time prior to publication. Id.

65. Model Ordinance, supra note 60, § 3.4. This section prohibits production, sale, exhibition or distribution of any depiction defined as pornographic and allows any woman (or man, child, or transsexual injured "in the way women are injured") to seek an injunction preventing production, dissemination, and exhibition. It is the only section that may not be invoked based upon "[i]solated passages or isolated parts" of an allegedly pornographic work. Model Ordinance, supra note 60, § 3.5(a), (b), (c). Unfortunately, this limitation has not proven effective to inhibit feminist-inspired censorship outside the ordinance's rubric. As MacKinnon has written, "if a woman is subjected, why should it matter that the work has other value?" MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 152-53. Indeed, Dworkin helped to delay publication of a feminist health book because of supposedly objectionable paragraphs describing women faking rape in order to get abortions. See Clare McHugh, In Feminist Abortion Book Squall, Bigfoot Dworkin Stops the Press, N.Y. OBSERVER, Oct.
including punitive damages and attorneys fees, and injunctions against continued production, dissemination, or exhibition of pornographic works. But portrayals are subject to suppression only if “graphic[ally] sexually explicit.” The Model Ordinance defines pornography as follows:

the graphic sexually explicit subordination of women through pictures and/or words that also includes one or more of the following:

a. women are presented dehumanized as sexual objects, things or commodities; or
b. women are presented as sexual objects who enjoy humiliation or pain; or
c. women are presented as sexual objects experiencing sexual pleasure in rape, incest, or other sexual assault; or
d. women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt; or
e. women are presented in postures or positions of sexual submission, servility, or display; or
f. women’s body parts—including but not limited to vaginas, breasts, or buttocks—are exhibited such that women are reduced to those parts; or
g. women are presented being penetrated by objects or animals; or
h. women are presented in scenarios of degradation, humiliation, injury, torture, shown as filthy or inferior, bleeding, bruised or hurt in a context that makes these conditions sexual.

26, 1992, at I (describing the delay in publication of REBECCA CHALKER & CAROL DOWNER, A WOMEN’S BOOK OF CHOICES: ABORTION, MENSTRUAL EXTRACTION, RU 486 (1992)). And Michigan law students, apparently counselled by MacKinnon, forcibly removed one sexually explicit video from a sizable art exhibit that, as a whole, explored many facets of prostitution. As a result, the exhibit was suspended. "Porn’im’age’ry “Reinstalled: At the University of Michigan, the Show Finally Goes On, AM. CIV. LIBERTIES UNION ARTS CENSORSHIP PROJECT NEWSL., Winter 1994, at I [hereinafter "Porn’im’age’ry “Reinstalled”]; see also Tamar Lewin, Furor on Exhibit at Law School Splits Feminists, N.Y. TIMES, Nov. 13, 1992, at B16 (describing how the removal of the video from the exhibit caused tension between feminist camps that sought to suppress pornography alleging that it incites sexual violence and those that said the anti-pornography movement was engaging in a form of censorship that limits women’s sexuality and free speech rights).

66. Model Ordinance, supra note 60, § 5.2.
67. Id. § 5.3.
68. Id. § 2.1.
69. Id. § 2.1(a)-(h). The Model Ordinance provides, in addition, that “[t]he use of men, children, or transsexuals in the place of women” is also pornography. Id. § 2.2. The ordinance passed in Indianapolis and enjoined in Hudnut contains a similar definition of pornography. See American Booksellers Ass’n v. Hudnut, 771 F.2d 323, 324 (7th Cir. 1985), aff’d, 475 U.S. 1001 (1986).
Significantly, "graphic sexually explicit" depiction is never defined. A capacious interpretation would include so much cultural depiction that the ordinances would have no hope of passing constitutional muster because they would prohibit everything from advertisements for perfume and blue jeans to Rodin's sculptures. Ordinance drafters no doubt expect and intend its interpretation to conform to Supreme Court doctrine—that is, to define sexually explicit to mean the plain description or representation of "ultimate sexual acts, normal or perverted" and "masturbation, excretory functions, and lewd exhibition of the genitals." But this definition reaches only a rather narrow segment of arguably misogynist sexual depiction, much of which shows no acts or organs. Still less does it cover the vast array of nonsexual images that arguably depict women in misogynist or degrading ways. Imagery that portrays extreme, but not sexual violence against women, or treats women as brainless bimbos, as asexual, frigid bitches, or as whores and witches worthy of domination, can proliferate so long as sex acts and organs are not on display. Descriptions of "women . . . dehumanized as sexual objects, things or commodities; or

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72. Cass Sunstein's valiant attempt to accommodate liberal concerns about the "chilling" breadth of the feminist definition and feminist concerns about eroticization of sexual abuse preserves the "sexually explicit" formulation. *See* Cass R. Sunstein, *Pornography and the First Amendment*, 1986 DUKLJ 589. His test is problematic also because it requires that a portrayal both intend to and have the effect of producing arousal results. In one test of this definition, the *Beaver Hunters* image—a Playboy "joke" that depicts a pair of hunters beneath a naked, spread legged woman bound atop their van with a caption suggesting they planned to "stuff and mount" her and that has been identified by Sunstein and Dworkin as obviously pornographic—was categorized by many law students as not falling within his definition because it fails to arouse. *See* James Lindgren, *Defining Pornography*, 141 U. PA. L. REV. 1153, 1213-14 (1993) (arguing that the Sunstein test's arousal element renders it underinclusive because it fails to reach obviously pornographic material that is nonetheless too crude to produce arousal); *see also* Keller, *supra* note 8, at 2207 (arguing that underlying Sunstein's narrow definition of pornography are false premises that assume both that female abuse has a single, discernible meaning and that depictions of women as enjoying abuse are false). It is unsurprising, in my view, that law students did not find the *Beaver Hunters* image arousing; indeed, I suspect that Sunstein does not find it so either, but believes it arouses some other (less intellectual) group of men. One of the difficulties with feminist (and law academy) efforts at addressing sexual abuse is the failure to respond adequately to those who raise questions of class and race in interpreting sexual meaning and arousal. *See, e.g.*, *Hooks, Race and Representation*, *supra* note 20, at 22-24 (describing white males' sexual desire for women of other races as motivated by a longing to dominate and ultimately consume the other); Laura Kipnis, *Male Desire and Female Disgust: Reading Hustler*, in *Cultural Studies* 373, 374 (Lawrence Grossberg et al. eds., 1992) (questioning the view that pornography is primarily about gender and proposing the centrality of class in understanding pornography); *see also infra* note 258 and accompanying text (discussing class considerations in pornography). For a related critique of Cass Sunstein's attempt to define pornography as dependent on a questionable reason/emotion dichotomy, see Kenneth L. Karst, *Boundaries and Reasons: Freedom of Expression and the Subordination of Groups*, 1990 U. ILL. L. REV. 95, 99-104.
presented as sexual objects who enjoy humiliation or pain; or . . . in postures or positions of sexual submission, servility, or display." They are thus impliedly less seriously damaging to women when sex organs and acts are not depicted. Portrayals that, irrespective of subject matter, contribute to the subordination of women—for example, by helping to set beauty standards that convince women to engage in acts of self-mutilation—may be freely disseminated.

This emphasis on explicitly sexual imagery suggests that there is something powerfully bad about sex acts and sexual body parts, strengthening puritanical and ultraconservative views that nonprocreative sex acts such as masturbation and oral/genital sex, as well as sex outside the confines of traditional heterosexual marriage, constitute harmful and

73. These phrases derive from the statutory definition. Model Ordinance, supra note 60, § 2.1(a), (b), (e). As noted earlier, use of the term "sexual object" is problematic. See supra note 12 and accompanying text. Moreover, the ordinances never make clear whether "subordination of women" is intended to mean that women are shown subordinated, or that the portrayals must, in the context in which they are seen, actually contribute to women's subordination. But the latter cannot be the ordinance's meaning, because enjoining all dissemination of a particular depiction would never be appropriate if the "subordination" were not treated as residing within the image itself.

74. See SUSAN FALUDI, BACKLASH: THE UNDECLARED WAR AGAINST AMERICAN WOMEN 171 (1991) (describing beauty ideals—which stress a slender, youthful appearance despite the fact that most American women are middle-aged and wear sizes 10-12—as part of a backlash against women); Susan Bordo, "Material Girl": The Effacements of Postmodern Culture, in THE FEMALE BODY, supra note 26, at 106, 109, 124 (detailing the disabling results of bulimia and anorexia fostered by commercial promotion of slender body images, and describing "scalpel slaves"—cosmetic surgery addicts in search of perfect bodies). Naomi Wolf describes the extent of the problem, reporting that 150,000 women die of anorexia each year and that anorexia and bulimia affect 5-10% of girls and women and as many as half of the women on college campuses. NAOMI WOLF, THE BEAUTY MYTH 181-83 (1991).

75. The sex emphasis is problematic not only because it lends credence to the ideological equation of sex with sin, but also because it disables wider inquiry into the way in which "photographs in Vogue, for example, make use of protocols similar to those of erotic pictures, as also do works of art." Wilson, supra note 8, at 25; see also bell hooks, Power to the Pussy: We Don't Wannaibe Dicks in Drag, in MADONNARAMA, supra note 71, at 65, 70 [hereinafter hooks, Power] ("Madonna is really only a link in the marketing chain that exploits representations of sexuality and the body for profit, a chain which focuses on images that were once deemed 'taboo.'"); Lisa Steele, A Capital Idea: Gendering in the Mass Media, in WOMEN AGAINST CENSORSHIP 58 (Varda Burstyn ed., 1985) ("Images of women that exist within hard- and soft-core porn are but one part of the process of representation—a process that is more characterized by continuity between the various sectors—that is, television programming, advertising, mass-circulation porn publications and so on—than it is by discord."). The porn-suppression effort, by treating pornography as segregable from other imagery, suggests that it is uniquely problematic.

2. The Ideology: Sex, not Sexism, Divides Good from Bad.—Although suppressionists argue that the anti-sex message is muted because the ordinances target only depiction that subordinates or degrades women, leaving untouched other explicitly sexual portrayals, in fact nearly all sexual portrayals of women can be viewed as subordinating or degrading. Whenever women are depicted naked, whenever their genitals, breasts, or buttocks are displayed, they are arguably shown subordinated, as "sexual objects" in "postures or positions of servility or submission or display." Indeed, from the "endless catalogue of rape in Greek anti-social behavior." Ultimately, sex, not sex discrimination, is the touchstone against which harm is measured.

77. See LINZ & MALAMUTH, supra note 8, at 6-9 (summarizing the conservative morality underlying the effort to suppress pornography).

78. The choice to focus on only the explicitly sexual is presumably explained partly as a practical choice to extend obscenity law rather than to overhaul it. But when legal expediency drives political choice, feminism loses. It is also, in part, a claim that powerful portrayals of the erotic contribute to actualizing what it portrays—e.g., violence and aggression against women. I treat the latter claim in subpart III(D).

79. Model Ordinance, supra note 60, § 2.1. The ordinances do not define the term "subordination," but MacKinnon has suggested elsewhere that it "refers to materials that, in one way or another, are active in placing women in an unequal position." MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 201. Dworkin says that subordination has four elements: hierarchy, objectification, submission, and violence. Andrea Dworkin, Against the Male Hood: Censorship, Pornography and Equality, in PORNOGRAPHY: PRIVATE RIGHT OR PUBLIC MENACE?, supra note 34, at 57-59. But see Isabel Marcus et al., Feminist Discourse, Moral Values, and the Law—A Conversation, 34 BUFF. L. REV. 11, 70 (1985) ("What constitutes subordination and domination? [MacKinnon's] is a circular definition. To be dominant is to be male and to be subordinate is to be female. Who is a male? Anyone who is dominant. What is dominance? Whatever males do.... Consider 'lesbian sadomasochism.' If there's a woman on top, she is a male—she functions as if she were a male. That seems to me to be circular.") (quoting Ellen DuBois).

80. Model Ordinance, supra note 60, § 2.1(b). As Carole Vance has noted, the concept of degradation has a tendency to have feminist content to feminists, but fundamentalist content to fundamentalists. Carole S. Vance, Negotiating Sex and Gender in the Attorney General's Commission on Pornography, in SEX EXPOSED, supra note 8, at 29, 36-37. It is for this reason that women have little to celebrate when Canada's highest court adopts the view that imagery which degrades women is worthy of suppression. To fundamentalist eyes, nearly all sexually explicit depiction of women is degrading, while to the Canadian censors implementing Butler v. The Queen, [1992] 1 S.C.R. 452 (Can.), gay imagery and Andrea Dworkin's writings are. See infra note 109 and accompanying text.

81. The ordinances supplement, rather than substitute for, existing obscenity regulation, so that few depictions of explicit sex would not be subject to suppression.

82. Indeed, as James Lindgren has shown, the delimiting "list" of prohibited portrayals seems to serve as no limit at all. See Lindgren, supra note 72, at 1208-09.

83. Model Ordinance, supra note 60, § 2.1. It is almost inconceivable that a sexually explicit portrayal of a female could not be seen as one in which she is depicted as an "object" by being placed in a posture of display. See BERGER, supra note 23, at 49-57 (arguing that portrayals of nude women are intended merely to display women as objects for the viewing pleasure of male spectators); FREEDBERG, supra note 25, at 12-13 (describing the extent to which spectators move from seeing an image to wanting to "possess" it in its original form—that is, the person). Indeed, MacKinnon herself has written that "[t]hese lines have proven elusive in law because they do not exist in life ....
way, it is extremely difficult to avoid the possibility that viewers will take them in this light because the vilest, the obscenest picture the world possesses."

vidious within thirty square miles of it." Titian's famous *Olympia* with her sexualized black servant as foil, 86 Edwin Long's *The Babylonian Marriage Market*, 87 Rodin's nude, spread-legged *Iris* and cloakedy erect *Balzac*, 88 and Delacroix's, 89 Courbet's, 90 and Titian's photos and paintings, 91 women's sexuality has virtually always been on display as an enticement and offer to men. 92 Any contemporary

**[P]**ornography converges with more conventionally acceptable depictions and descriptions." 84 MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 154. Furthermore, Lindgren's studies indicate that "most people would find that explicit sex scenes, even in feminist fiction, fall within one of the specific acts enumerated in the MacKinnon-Dworkin definition." Lindgren, supra note 72, at 1208 (describing the results of a survey in which a majority of women classified an excerpt from Andrea Dworkin's novel, *Mercy*, as pornographic under the MacKinnon-Dworkin definition). Lindgren notes that under one MacKinnon-Dworkin definition of subordination, most works were found subordinating, while under another, "[e]very excerpt [of six surveyed] was considered subordinating." Id. at 1209. Moreover, because women's body parts have centrally symbolized not only eros but also degradation and deviance, any depiction of, for example, the buttocks of a black female, could contribute to, or be interpreted as contributing to, misogynist views. See GILMAN, supra note 20, at 79-92 (arguing that the black female's buttocks came to represent the perceived deviant sexuality of all blacks during the 18th century); HOOKS, RACE AND REPRESENTATION, supra note 20, at 62-64 (asserting that a focus on body parts, rather than on the body as a whole, encourages men to view women as things to be manipulated or examined rather than as people).

84. Mary D. Garrard, Artemisia and Susanna, in FEMINISM AND ART HISTORY, supra note 24, at 147, 168.


86. See GILMAN, supra note 20, at 77 (Plate 1: Edouard Manet, *Olympia* (1862-63)); see also Carol Duncan, Virility and Domination in Early Twentieth-Century Vanguard Painting, in FEMINISM AND ART HISTORY, supra note 38, at 293, 302 (describing *Olympia*, which depicts the defiance and self-assertiveness of a slave for sale, as the only painting by a male artist that comes close to portraying a full, human woman).

87. See GILMAN, supra note 20, at 93 (Plate 10: Edwin Long, *The Babylonian Marriage Market* (1882)). Long's painting perfectly embodies Eurocentric ( racist) views of feminist beauty and availability by lining up the women—being crudely purchased by foreigners—from darkest to lightest coloring and from cast to most European-looking facial features. Id. at 91-93.

88. See Anne M. Wagner, Rodin's Reputation, in EROTICISM AND THE BODY POLITIC 191, 217-24 (Lynn Hunt ed., 1991) [hereinafter EROTICISM] (describing the sculptures as expressions of Rodin's views that women's bodies are to be seen and attained by men). Mortier, a feminist of Rodin's time, described his work as liberating, while Jean Dolent, Mortier's teacher, called Rodin "the mind in a rut" and his art as "capturing the second stage in a rape." Id. at 201, 231.

89. FREEDBERG, supra note 25, at 350-51.

90. Id. at 351.

91. Id. Freedberg suggests that some viewers would acknowledge the "sexual invitation" in Titian's famous *Venus of Urbino*'s asked body, erect nipples, and hand placed as if toying with her pudenda. Id. at 17. The English Victorian poet Swinburne wrote that no man "can be decently virtuous within thirty square miles of it." Id. at 345 (citations omitted). Mark Twain called it "the foulest, the vilest, the obscenest picture the world possesses." Id. (citations omitted). Photographic reproductions of it were confiscated as obscene in the late 19th century. Id. at 350.

92. Even when female nudes and women's body parts are not intended to present women in this way, it is extremely difficult to avoid the possibility that viewers will take them in this light because
or past “realistic” portrayal of a woman engaged in sex will likely paint her as a “sex object” in a “posture . . . of display.” How could it be otherwise, when women have always been “postured” and exhibited for male viewing if not possession?

Moreover, because courts, juries, and citizens are conditioned to notice and condemn public displays of sex, but are not yet fully attuned to, still less deeply offended by, displays of sexism, the anti-sex message is bound to dominate. Judges, jurors, and most members of the public are

audiences have been taught to view them in certain ways. Cf. BERGER, supra note 23, at 45-47, 64-65 (discussing the objectification of women in our culture and asserting that because of this, women are perceived as different from men in fundamental ways); supra note 25 and accompanying text (discussing the socially constructed “male gaze”). See also Norma Broude, Edward Degas and French Feminism, Ca. 1880: "The Young Spartans," the Brothel Monotypes, and the Bathers Revisited, in THE EXPANDING DISCOURSE, supra note 24, at 268, 289 (claiming that Degas expressed the fear of women felt by male society at large). For examples of women’s efforts to challenge and transcend the view of women as an enticement and offer to men, see generally Darcy Grigsby, Dilemmas of Visibility: Contemporary Women Artists’ Representations of Female Bodies, in THE FEMALE BODY, supra note 26, at 83.

93. As bell hooks has observed, this objectification is based on the underlying social structure: “[W]ithin patriarchal culture where male domination of women is promoted and male physical and sexual abuse of women is socially sanctioned, no open cultural climate exists to promote consensual heterosexual power play, in any arena, and that includes the sexual.” hooks, Power, supra note 75, at 75. Films frequently fetishize the female body; indeed, some have argued that the first films, Muybridge’s studies of bodies in motion, did so by posing women nude, draped in gauzy fabric, smoking or performing other quasi-sexual, semi-illicit acts. By contrast, Muybridge photographed horses galloping and naked men leaping and running. WILLIAMS, supra note 4, at 37-42. For additional discussion of how film fetishizes the female body, see generally TANIA MODLESKI, FEMINISM WITHOUT WOMEN: CULTURE AND CRITICISM IN A ‘POSTFEMINIST’ AGE 81, 127-28, 162-63 (1991) [hereinafter FEMINISM WITHOUT WOMEN] (describing specific instances in which films make a fetish out of the female body); Kaplan, supra note 25, at 310, 309-25 (“[V]oyeurism and fetishism are mechanisms the dominant cinema uses to construct the male spectator in accordance with the needs of his unconscious.”).

94. See FREEDBERG, supra note 25, at 317 (suggesting that the desire to possess the erotic image underlies its arousing nature); BERGER, supra note 23, at 64, 45-64 (“Women are depicted in a quite different way from men . . . because the ‘ideal’ spectator is always assumed to be male and the image of the woman is designed to flatter him.”). Indeed, porn-suppressionist theory posits precisely that male sexual encounters with women nearly always are characterized by objectification and abuse and that pornography occurs along a cultural continuum. The problem is that the choice to emphasize the sexually explicit is never defended; it is simply assumed that because porn quintessentially embodies and expresses male sexual dominance, it powerfully constructs it in real life. See supra note 83 and accompanying text; infra note 140 and accompanying text.

95. Legal institutions ordinarily have an inbuilt bias toward protecting the status quo. Judges are likely to find images “degrading” that they would otherwise have held obscene, leaving intact those depicting “ordinary” objectification and degradation of women. Indeed, the feminist porn-suppression effort is subject to the very attack that its proponents level at obscenity doctrine: because the meaning of imagery rests not in content, but in point of view, both rest ultimately on a judge “know[ing] it when [she] see[s] it.” MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 90 (critiquing Justice Stewart’s famous statement about pornography, “I know it when I see it.” in Jacobellis v. Ohio, 378 U.S. 184, 197 (1964) (Stewart, J., concurring)). Indeed, in MacKinnon’s own words, “the law sees and treats women the way men see and treat women.” MACKINNON, FEMINIST THEORY OF THE STATE, supra note 15, at 161-62. The strong predispositions of the predominately male judiciary are hardly likely
likely to find most explicit or "deviant" sexual depictions repellant and view as degrading not only sexual portrayals that descriptively, humorously, playfully, or ironically depict subordinated women, but also those that are explicitly intended to challenge that subordination.

Feminist porn-suppressionists would likely answer that the mere fact that existing puritanical biases make interpretation difficult is no reason not to go forward; indeed, it makes more crucial the effort to shift the obscenity focus from acts and organs to degradation. But the suppression strategy does not and cannot perform this task; it merely adds justification to existing puritanical discomfort with sex and sexual "deviance." In order to encourage the public to focus on sex discrimination, feminists would have to recognize that a depiction's tendency to foster or reinforce misogyny does not depend on whether sex is explicitly on view, but rather on the viewpoint expressed and likely to be understood as dominant when taken in the context of its (likely) consumption.

to produce the sort of "disobedient reading" that Margaret Miles has suggested an "analysis of gender constructions calls for." MILES, supra note 13, at xiv.

96. Canadian customs censors have singled out smaller presses for censorship—often gay and lesbian presses—because they are easier to identify and oversee. See Sarah Lyall, Canada's Morals Police: Serious Books at Risk?, N.Y. TIMES, Dec. 13, 1993, at A8 (describing the seizure of romance novels imported into Canada because they were considered pornographic under Canada's strict guidelines); DOWNS, supra note 14, at 24-25 (citing a Newsweek report of a 1985 Gallup poll reporting that 47% of the public favor banning magazines showing adults having sexual relations and 21% favor banning magazines that show nudity); James H. Andrews, Free Speech: How Free Is Too Free?, CHRISTIAN SCI. MONITOR, Nov. 12, 1991, at 7 (reporting a statement by Dean Kaplan of the National Coalition Against Pornography that recent juries have brought in guilty verdicts against purportedly pornographic works more than 90% of the time).

97. See, e.g., CAUGHT LOOKING: FEMINISM, PORNOGRAPHY, AND CENSORSHIP (2d ed. 1988) [hereinafter CAUGHT LOOKING] (collecting feminist essays on sexuality together with a sampling of the history of pornographic photography). Indeed, the determination of whether a portrayal "subordinates" women is impossible to make because meaning resides not in the image alone, but in the context in which it is viewed. As art historians and students of literature constantly remind us, meaning changes over time and according to social context. See, e.g., Kaplan, supra note 25, at 323-24 (asserting that representations of female sexuality in film are perceived differently depending on the viewer's sex and cultural context); Kate Linker, Representation and Sexuality, in ART AFTER MODERNISM: RETHINKING REPRESENTATION 391, 391-92 (Brian Wallis ed., 1984) (stating that meaning is subjective, formed as a function of context and social conditions).

98. Porn-suppressionists do not seek the repeal of legislation censoring or limiting dissemination of explicitly sexual materials that do not degrade women. To do so would undermine alliances with conservatives and fundamentalists who support broad suppression of sexual depiction.

99. The strength of this discomfort is visible in recent efforts by the Clinton administration to broaden the definition of censorable child pornography to include portrayals of fully clothed children if posed in lewd sexual ways. See Martin Dyckman, Politics and Pornography, ST. PETERSBURG TIMES, Nov. 23, 1993, at 9A, available in LEXIS, News Library, STPETE File (criticizing the administration's new definition of child porn); Neil A. Lewis, Clinton to Widen Law on Child Smut, N.Y. TIMES, Nov. 16, 1993, at A24 (reporting on the political debate behind the new policy).

100. Few portrayals have one meaning to all, even when seen in a given context. Hence, suppression is rarely a sensible strategy, although there are limited contexts in which it is appropriate. See, e.g., Robinson v. Jacksonville Shipyards, Inc., 760 F. Supp. 1486, 1491, 1522-27, 1535 (M.D. Fla.
The anti-sex message will dominate, too, because it is simply easier to target the sexual than to make subtle determinations about whether a portrayal degrades or subordinates women. We easily identify images of women bare-breasted and prone; it is far more difficult to measure whether, because "penetrated" by nipple rings they are "mutilated," or because prone, they are "subordinated" in "postures" of "servility," "submission," or "display." It is easier to go along with the presumption that women postured in these ways are "objectified" and "on display" for men than to risk accusations of insensitivity. It should thus surprise no one that even feminist-inspired censorship has resulted in attacks on imagery that neither intends to—nor does, to many thoughtful viewers—show women degraded, still less actually "degrade" women.101

1991) (finding that sexual pin-ups and posters created a hostile work environment); Jenson v. Eveleth Taconite Co., 824 F. Supp. 847, 879-83 (D. Minn. 1993) (holding that sexual graffiti, photos, and cartoons created a hostile work environment). Notably, Sylvia Law and Nan Hunter, authors of the Hudnut FACT Brief, supra note 9, opposing the censorship of pornography, signed an amicus brief in Robinson, on appeal to the Eleventh Circuit, supporting the District Court's finding of a hostile work environment. There is a vast difference between societal suppression of purportedly degrading sexual depictions for the purpose of cultural reformation and the removal of pin-ups from workplaces within which women and men are captive audiences for the purpose of ensuring that women are able to work free of harassment.

101. Model Ordinance, supra note 60, § 2.1. In Leeds, England, five women destroyed several art works they thought denigrating to women, including two by Zena Herbert, a woman artist of Jewish and Algerian Rif-Kabyle (Berber) descent. One of these works, The Dancer, was a sculpture designed to share and honor Herbert's heritage. Herbert states that it began mid-thigh because in the Atlas foothills, where the tents are low, women dance on their knees. I remembered women I had danced with, body jewellery [sic] shimmering, lamplit, free together. No arms: I saw no need. No legs: they would not show. Did I make a "mutilated torso"? I made a velvet headdress with brass bezels and stranded bugle beads from the ears to the breasts. (Nipple and labia rings—and testicle rings for men—are traditional with Rif-Kabyle. I wear them from choice.) The brass half-skirt fastened with beads and a single ring linked the labia. The Dancer was not in a sexual situation and had chosen to close her body.

Zena Herbert, The Dancer and Heat, in VISIBLY FEMALE: FEMINISM AND ART 10, 10-11 (Hilary Robinson ed., 1987) [hereinafter VISIBLY FEMALE]. Heat was a sculpture depicting a naked Rif-Kabyle woman, looped with jewelry (including labia rings) stretched along the ground, one leg bent under her body. Herbert meant to represent proud bodies and self-assured authority, but the Leeds feminists saw debased and victimized women, mutilated and chained. Id. at 10-11.

102. See id. at 10-12; Lewin, supra note 65, at B16 (describing a 1992 incident in which University of Michigan Law students removed a video installation by a former prostitute that included footage from sex films and a brief clip of her testifying against an anti-pornography measure); McHugh, supra note 65, at 1, 19 (describing Andrea Dworkin's effort to delay or prevent publication of a feminist health book).

These activities, in turn, chill producers and, especially, distributors and exhibitors. The cost of replacing Herbert's sculptures is surely substantial. See supra note 101. Carol Jacobsen, the artist who put the Michigan exhibit together, spent enormous amounts of time and thousands of dollars to get the exhibit reinstalled. "Porn't'm age'ry" Reinstalled, supra note 65, at 7 (describing the year-long effort to gain reinstallation). Moreover, producers and distributors are especially likely to be chilled given the atmosphere of reprisal already generated by attacks on art exhibits that merely display nudity. See MARJORIE HEINS, SEX, SIN AND BLASPHEMY: A GUIDE TO AMERICA'S CENSORSHIP WARS 107,
In addition, the ordinances' heavy emphasis on scenarios typically viewed as “deviant”—on penetration by objects and animals, on dominance/submission scenes, and sado-masochism\(^{103}\)—encourages surveillance, policing, and labelling of deviance more generally, strengthening the very stereotyping that has stigmatized and subordinated women throughout history.\(^{104}\) While feminist porn-suppressionists would claim that their ordinances protect images that are not “subordinating” images—such as women using dildos by themselves or on one another, or gay men consensually playing out dominance/submission scenarios—when particular behaviors and practices (ones that happen to be often associated with gay and lesbian sex) are highlighted as potentially bad, fine distinctions are unlikely to be made by the public, even if they are ultimately made in court.\(^{105}\) Indeed, given that most states continue to criminalize as deviant commonly practiced sexual behavior, enforcing their laws only against social “outcasts” like homosexuals,\(^{106}\) feminists should be especially leery

110, 112-15 (1993) (describing numerous incidents throughout the country in which paintings and photos of nudes were removed from exhibits). Productions of plays such as Shakespeare’s *A Midsummer Night’s Dream* were complained of, censored, or canceled due to even brief glimpses of nudity, and even a newscast showing Michelangelo’s *David* was censored from a junior high school in Oregon. *Id.* See also *Pally,* supra note 8, at 9-10 (observing that over the past decade, the belief in restricting or banning some art forms as a solution to social problems has become more prevalent). 103. Prohibited portrayals include “women . . . as sexual objects who enjoy humiliation or pain; or . . . experiencing sexual pleasure in rape, incest, or other sexual assault; or . . . being penetrated by objects or animals; or . . . in scenarios of degradation, humiliation, injury, torture, shown as filthy or inferior, bleeding, bruised, or hurt.” *Model Ordinance,* supra note 60, § 2.1(e)-(h). And despite the wishes of feminist porn-suppressionists, those who use objects (dildos) or act out dominance/submission in consensual, nonsubordinating settings, are likely to be viewed as deviant. For a sensitive and helpful exposition on sado-masochism that reveals how difficult the attempt to distinguish “good” from “bad” sex can be, see hooks, *Power,* supra note 75, at 73-75. 104. *See Gilman,* supra note 20, at 54-58 (arguing that the stereotypical image of the female child as sexual was used by Freud and others as a way to deflect male responsibility for their own sexual fantasies). Women continue to be labeled “dykes” when they play strong roles in the workplace, “nymphomaniacs” when they have multiple sex partners or adulterous relationships, and “whores” if they are publicly sexual or choose sex work rather than factory or housekeeping work. See also Linda Williams, *Second Thoughts on Hard Core: American Obscenity Law and the Scapegoating of Deviance,* in *DIRTY LOOKS: WOMEN, PORNOGRAPHY, POWER* 46, 47 (Pamela C. Gibson & Roma Gibson eds., 1993) [hereinafter DIRTY LOOKS] (arguing that the development of anti-pornography law increasingly scapegoats deviance). 105. Consent is, after all, often difficult if not impossible to ascertain from an image; indeed, it is often ambiguous in practice. See infra note 113 (describing the debate over the definition of, and statistics concerning, rape and abuse). 106. *See,* e.g., *Bowers v. Hardwick,* 478 U.S. 186 (1986) (upholding a sex-neutral sodomy statute as applied to gay men when the state conceded it did not prosecute heterosexuals under the statute). Porn-suppressionists’ focus on “deviant” sex acts makes it more difficult to expose the irony that the genital activity many women find most sexually pleasurable, cunnilingus, is illegal in most states, whereas until quite recently, forced penetration (the genital activity most women find least pleasurable) was legal within marriage in most states. See BARBARA EHRENREICH ET AL., RE-MAKING LOVE: THE FEMINIZATION OF SEX 87-88 (1986) (noting women’s frequent performance of fellatio by the 1960s and 1970s, but belated “discovery” of the clitoris despite the fact that, in the words of one writer to a sex
of designating certain unusual sexual practices as presumptively problematic.\textsuperscript{107} Wholly predictably, after Canada's highest court legalized suppression of sexual works found to be degrading to women,\textsuperscript{108} the first targets were lesbian and gay bookstores, as well as the works of Dworkin herself.\textsuperscript{109}

C. Women as Sexual Victims: Chastity Belts and Gag Rules

Women are not only objects of male desire: they themselves play a part in their creation as such.

—Frigga Haug et al.\textsuperscript{110}

publication, "[s]timulating a woman's genitals with a penis is like trying to cut a diamond with a chain saw" and that not until the end of the 1970s did 74\% of men report that they "found cunnilingus desirable"); John E. Theuman, Annotation, \textit{Validity of Statute Making Sodomy a Criminal Offense}, 20 A.L.R. 4th 1009, 1017 (1983) (surveying the cases that have considered the validity of sodomy statutes and observing that "[p]rosecutions for private, consensual activity between adults, and especially between married couples, appear to be quite rare"). For a discussion of the current status of the marital rape exemption, see \textit{Note, To Have and to Hold: The Marital Rape Exemption and the Fourteenth Amendment}, 99 \textit{Harv. L. Rev.} 1255, 1269 (1986) (noting that spousal and family abuse were seldom reported and are rarely taken seriously by police and prosecutors).

\textsuperscript{107} Ordinance authors MacKinnon and Dworkin would probably answer that there is nothing presumptive or suggestive about their lists; the lists are merely illustrative of things that are potentially subordinating to women. But the selection of certain behaviors—object penetration and sadomasochism, but not sex between those whose ages or economic status is vastly different—sends a message, especially when extreme, nonsexual physical abuse is not addressed.

\textsuperscript{108} \textit{See Butler v. The Queen}, [1992] 1 S.C.R. 452 (Can.).

\textsuperscript{109} \textit{See Fighting Words}, 255 \textit{Nation} 39, 40 (1992) (noting that the first raid after the \textit{Butler} decision was of a gay bookstore and that the items seized were copies of a lesbian erotic magazine); \textit{International Perils of MacKinnonism}, AM. CIV. LIBERTIES UNION ARTS CENSORSHIP PROJECT NEWSL., Fall 1993, at 7; Mary W. Walsh, \textit{Chill Hits Canada's Porn Law}, L.A. TIMES, Sept. 6, 1993, at A1, A17 (reporting that Canadian police seized copies of Dworkin's \textit{Woman Hating} and \textit{Pornography: Men Possessing Women} because they "illegally eroticized pain and bondage").

Many depictions of lesbian sex are aimed in large part at titillating heterosexual men. \textit{See Andrea Dworkin, Pornography: Men Possessing Women} 46 (1979) [hereinafter DWORKIN, PORNOGRAPHY] (asserting that the symbolic reality of lesbian sex scenes is expressed in the posture of women exposed purposely to excite a male audience); Dottie Enrico, \textit{Advertisers Caught in Furor over Kiss}, \textit{St. Louis Post-Dispatch}, Mar. 23, 1991, at 7D (quoting a media executive's comment that "[s]eeing two women together has always been a turn-on for many heterosexual men"); Stephen Amidon, \textit{Sapphic Designs}, SUNDAY TIMES (London), Dec. 6, 1992, § 6 (Books), at 30 ("Hollywood marketed the suggestion of lesbianism, not because it intentionally sought to address lesbian audiences, but because it sought to address male voyeuristic interest." (quoting ANDREA WEISS, \textit{Vampires and Violets: Lesbians in the Cinema} 32 (1992))); \textit{supra} note 85 (discussing Lautree and Rodin's depictions of sexually postured women similarly aimed at male audiences). Perhaps much that was raided would have reinforced misogynist views. But suppression deprives every audience, and it is not clear that simply because men are titillated by voyeurist viewing of lesbian women that viewing necessarily produces or reinforces misogyny or that, even if it does, that is its dominant effect. \textit{See infra} subparts II(D), III(A).

\textsuperscript{110} \textit{Haug} \textit{et al.}, \textit{supra} note 12, at 131.
To reduce domination to a simple relation of doer and done-to is to
substitute moral outrage for analysis. Such a simplification, more-
over, reproduces the structure of gender polarity under the guise of
attacking it.

—Jessica Benjamin

In the world of feminist porn-suppressionists, women’s sexuality is en-
tirely bounded by either direct or indirect coercion: Men constantly force
sex on women directly by abuse and indirectly by culturally inducing
women’s complicity in sexual submission. Rape and sexual abuse are
pervasive and, like porn, are becoming increasingly prevalent and vio-
 lent. When women are pictured in porn as active participants in sex
acts, still more when they are portrayed enjoying such activities, the
portrayals are part of what Andrea Dworkin has labeled a “strategy of
dominance” designed to encourage women to “want our own self-
 annihilation.” Because pornography objectifies women, it is centrally
part of the way patriarchy “gets the woman to take the initiative in her own
degradation.” Women, one way or another, are sexual victims.

112. “[T]here is no male conception of sex without force as the essential dynamic.” DWORKIN,
PORNOGRAPHY, supra note 109, at 176. “Women also embrace the standards of women’s place in this
regime as ‘our own’ . . . as affirmation of identity and right to pleasure . . . . Love of violation, variously termed female masochism and consent, comes to define female sexuality . . . .” MACKINNON,
FEMINIST THEORY OF THE STATE, supra note 15, at 138, 141.

113. Officially reported incidents of rape increased markedly between 1964 and 1984. See
Kutchinsky, supra note 8, at 52. However, there is a strong indication that the increase since the mid-
1970s may be due in no small part to improved reporting and registration. Id. at 51, 61; see also Berl
Kutchinsky, OBSCENITY AND PORNOGRAPHY: BEHAVIORAL ASPECTS, in 3 ENCYCLOPEDIA OF CRIME AND JUSTICE 1084 (Sanford H. Kadish ed., 1983) (suggesting that the increase in the number of reported forcible rapes between 1960 and 1977 is attributable in part to an increased willingness among women to report rape); Berl Kutchinsky, PORNOGRAPHY AND ITS EFFECTS IN DENMARK AND THE UNITED STATES: A REJOINDER AND BEYOND, 8 COMP. SOC. RES. 301, 322 (1985) (observing that although the number of reported forcible rapes has risen steadily since 1960, Department of Justice surveys suggest that the actual number of rapes has not increased). For arguments questioning the view that sexual assault is on the rise, see Jean B. Elshtain, THE VICTIM SYNDROME: AN UNFORTunate TURN IN FEMINISM, PROGRESSIVE, June 1982, at 42-43 (noting that the FBI and Justice Department statistics from 1973 through 1978 showed little change in the rate of forcible rapes as compared with the crime rate in general); Neil
Gilbert, THE PHANTOM EPIDEMIC OF SEXUAL ASSAULT, 103 PUB. INTEREST 54, 57-65 (1991) (insisting that the emphasis on the rise in purported rapes is political, not factually based, and that the definition of rape, not the behavior of men, has changed); Thomas, supra note 8, at 135 (contending that rape rates only appear to have increased because the definition of rape has been substantially broadened over time). This is not to claim that sexual abuse of women is not a serious problem; all cited sources agree that it is. But to recognize the problem is a far cry from claiming either that it is the dominant form of heterosexual sex, or that it is increasing due to pornography.

114. ANDREA DWORKIN, INTERCOURSE 142 (1988) [hereinafter DWORKIN, INTERCOURSE].
115. MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 54.
116. DWORKIN, INTERCOURSE, supra note 114, at 142.
There is, of course, some truth in this portrait. Women are often intimidated by male coercion and power, sexually as well as in other ways. And Western sexuality is peculiarly male, with its phallus-centered sex in which the penis is the font not only of sexual pleasure but also of creativity and civilization, and in which penile stimulation, erection, and “money shot” ejaculation are always center-stage. Had sex been woman-centered for thousands of years, the picture would doubtless look (and feel) quite different. But that is not to say that women derive no pleasure from, and exercise no power over, sexuality. It is true that women’s sexual choices in our culture are delimited, constrained, and restricted; women cannot act in ways that are not conditioned and in some sense “coerced” by a culture “where male domination of women is promoted and male physical and sexual abuse of women is socially sanctioned.” But that does not mean that women cannot and do not make choices among (albeit limited) options and are not responsible for those choices. To treat

117. “There is no doubt that Dworkin and MacKinnon... are repeating the dominant contemporary cultural discourses and iconographies surrounding sexuality.” SEGAL, SLOW MOTION, supra note 8, at 208. “The ubiquity of the discourses and imagery of ‘conquest/submission,’ ‘activity/passivity,’ ‘masculinity/femininity’ constructing heterosexual intercourse as the spectacular moment of male domination and female submission, is inescapable... But we must be cautious in assuming an equation between such sado-masochistic discourse and people’s lived experience of sexuality.” Id. at 209 (emphasis in original); see also JEAN B. ELSHTAIN, POWER TRIPS AND OTHER JOURNEYS: ESSAYS IN FEMINISM AS CIVIC DISCOURSE 122, 119-33 (1990) (contending that feminist porn-suppression turns on a “patronizing view of women’s passivity, one in which women have neither agency nor complicity in any complex social or sexual outcome”).

118. See Wagner, supra note 88, at 223-25 (arguing that the phallic symbolism of Rodin’s Balzac makes the statue “the incarnation of creativity”). Phallocentrism is hardly unique to Western culture. See, e.g., PHYLLIS KRONHAUSEN & EBERHARD KRONHAUSEN, I THE COMPLETE BOOK OF EROTIC ART (1978); 2 id. (both presenting numerous figures showing oversized penises in cultures as varied as Mayan, Japanese, Chinese, and European).

119. “Money shots,” also known as “come shots,” are scenes of “visible penile ejaculation” and are the centerpieces of most male-oriented pornographic film. WILLIAMS, supra note 4, at 8, 93-95. Williams quotes STEPHEN ZIPLOW, THE FILM MAKER’S GUIDE TO PORNOGRAPHY, which advises that “one thing is for sure: if you don’t have the come shots, you don’t have a porno picture. Plan on at least ten separate come shots.” Id. at 93. The recent films of Candida Royalle, who aims at a female audience, do not feature money shots. Telephone Interview with Candida Royalle, Director, Femme Productions (June 7, 1994) (affirming that she does not “use come or money shots in [her] films”); see also Sandra Barwick, For Women in Need of a Good Laugh, INDEPENDENT, Apr. 25, 1992, at 15 (opining that Penthouse Publishers’ soft-core porn magazine, For Women, borders on the ridiculous for its adoption of male, phallocentric norms).

120. Indeed, in the last three decades women have revolutionized sexual practice to accommodate clitoral stimulation and feminine-defined forms of sexual pleasure. See EHRENREICH ET AL., supra note 106, at 74-102.

121. hooks, Power, supra note 75, at 75.

122. In his fascinating and thoughtful exploration of “sexy dressing” in honor of Mary Joe Frug (who was one of the most revolutionary in redefining it), Duncan Kennedy notes that “[w]omen, who have no choice but to dress somehow within this system of contending normativities, act neither as mere tools of patriarchy nor as the autonomous subjects of liberal theory.” Duncan Kennedy, Sexual Abuse, Sexy Dressing and the Eroticization of Domination, 26 NEW ENG. L. REV. 1309, 1312 (1992).
women always and only as sexual victims, as feminist porn-suppressionists do, is to deny women meaningful agency and the power to effectuate change.\footnote{123}

It is virtually impossible for a woman to exist in our culture—to eat,\footnote{124} dress, or have sex—without participating in (or in some degree reinforcing even when rebelling against) bodily, and hence sexual, practices that at least in part re-enact and participate in women's subordination.\footnote{125}

Women who have cosmetic surgery or who diet,\footnote{126} who acquiesce in workplace norms of dress and behavior,\footnote{127} who act sexually "provocative" by flirting or "submissive" in agreeing to play dominance/submission games, or who present themselves as "objects" by "sexy dressing" in negligees or leather bikinis,\footnote{128} may often be reinforcing norms partially or ultimately inimical to feminist goals. But their choices to do so are not simply products of coercion (whether direct or indirect), nor are the modes in which they do so predetermined. Women often exercise considerable control over whether and how to do these things. And while cultural

\footnote{123. It also, as many women have noted, helps create women as sexual victims by perpetuating myths about men's naturally lascivious predativeness and women's innocence. See SEGAL, SLOW MOTION, supra note 8, at 208, 208-09 (criticizing MacKinnon for reinforcing "the dominant contemporary cultural discourses and iconographics surrounding sexuality"); ELLEN WILLIS, BEGINNING TO SEE THE LIGHT: SEX, HOPE, AND ROCK-AND-ROLL 225 (1992) ("[S]anitized feminine sexuality . . . is as limited as the predatory masculine kind and as central to women's oppression . . ."). Bell hooks criticizes sociologist Robert Staples for similarly suggesting that "black men could only internalize this norm [of patriarchal masculinity] and be victimized by it.... He therefore cannot acknowledge that black men could have asserted meaningful agency by repudiating the norms white culture was imposing." HOOKS, RACE AND REPRESENTATION, supra note 20, at 97.

124. "[N]ever before had it been so clear to us how impossible it is for a woman to eat without this being accompanied by some kind of implicit comment on her figure—usually formulated by herself . . . ." FEMALE SEXUALIZATION, supra note 12, at 26.

125. Western culture "regulates" women's bodies in every aspect of appearance and behavior; rules govern even the most minute activity. See BERGER, supra note 23, at 45-47 (arguing that women's appearance is subjected to scrutiny—by themselves and others—when they take actions as diverse as walking across a room or weeping at a funeral); FEMALE SEXUALIZATION, supra note 12, at 132-33 (noting that society judges women by their external appearance rather than their inner qualities).

126. See Bordo, supra note 74, at 109-10 (discussing the large number of women harmed in dieting and the "scalpel slaves" who undergo cosmetic surgery).

127. See Price Waterhouse v. Hopkins, 490 U.S. 228, 235 (1989) (discussing the denial of partnership to a female accountant for failing to conform to norms requiring that she simultaneously "walk more femininely, [and] talk more femininely" yet aggressively seek new accounts); Lucinda M. Finley, Transcending Equality Theory: A Way out of the Maternity and the Workplace Debate, 86 COLUM. L. REV. 1118 (1986) (describing ways in which women are required to conform to workplace norms and standards that deny the reality of their lives); Nadine Taub, Keeping Women in Their Place: Stereotyping Per Se as a Form of Employment Discrimination, 21 B.C. L. REV. 345, 356-58 (1980) (arguing that working women are often judged by standards embodying both stereotypical female attributes and male attitudes toward job performance).

128. See Kennedy, supra note 122, at 1311-12 (arguing that dress is a form of "political participation in the regime of patriarchy" and analyzing ways in which men and women benefit from and are harmed by "sexy dressing").}
conditioning often seems overwhelming, many women elect not to un-

129. As bell hooks has pointed out, to glory in shared victimhood without validating other choices, possibilities, and realities is disempowering and, indeed, "silencing" to those who have not been vic-
tims, or have actively chosen paths of lesser complicity. See HOOKS, RACE AND REPRESENTATION, supra note 20, at 41-47, 79-86. Hooks is well aware that we are all powerfully conditioned by domi-
nant ideologies, and none of us can completely escape that conditioning any more than we can access
and express innate "preferences" about how to be or act.
130. See infra note 181 and accompanying text.
131. "Should women... suppress any kind of pleasure in their bodies, simply because it is in that pleasure that [they] subordinate [them]selves to socially prescribed forms of femininity?" Id. at 26.
132. It is not accidental that control over one's appearance is viewed as so fundamental a freedom. See WENDY CHAPKIS, BEAUTY SECRETS: WOMEN AND THE POLITICS OF APPEARANCE (1986); HAUG ET AL., supra note 12, at 27 (suggesting that women achieve credibility in the workplace and in their relationships through the use of their physical appearance); Karl E. Klare, Power/Dressing: Regulation of Employee Appearance, 26 NEW ENGL. L. REV. 1395, 1397 (1992) ("Appearance autonomy is not an insignificant aspect of the freedom to make self-realizing changes.").
133. To feminist porn-suppressionists, all sex workers are, like Deep Throat actress Linda Marchiano, deluded or coerced into participating in sexual display. See LINDA LOVERLACE & MIKE GRADY, ORDEAL (1980). The complex causes of sexual victimization are reflected by the fact that Marchiano was raised in a religious household in which sex was treated as the ultimate sin
134. See supra note 61. To feminist porn-suppressionists, all sex workers are, like Deep Throat actress Linda Marchiano, deluded or coerced into participating in sexual display. See LINDA LOVERLACE & MIKE GRADY, ORDEAL (1980). The complex causes of sexual victimization are reflected by the fact that Marchiano was raised in a religious household in which sex was treated as the ultimate sin and never spoken of, that she fled that household propelled by romantic dreams about marriage and white picket fences, and that it was her ex-marine husband who beat, raped, and forced her into pornographic performance. Id. at 15, 72.
135. See Caryn Jacobs, Patterns of Violence: A Feminist Perspective on the Regulation of Pornography, 7 HARV. WOMEN'S L.J. 5, 20-21 (1984) (asserting that porn contracts are often signed, and pornographic performances often given, while the actor is under physical and mental duress). But those who favor suppression conveniently discount the unsilent voices of sex workers who claim to choose their trade as superior to other available choices of employment, many of which not only maim and kill but also pay less than the sex trades. See, e.g., Jane Smith, Making Movies, in SEX WORK, supra note 47, at 135, 135 (noting the assertion by a female pornographic worker that her performances were not coerced but instead stemmed from economic motives); Peggy Morgan, Living on the Edge, in SEX WORK, supra note 47, at 21, 24 ("There are the assumptions that women who go into sex work are uncontrollably sexual, that it's something intrinsic to their nature, like a disease; and that poor and working class
describe women as victims of sexual depredation and never as agents of sexual pleasure, they disable women from sexual choice, responsibility, and power. They replicate Victorian views that “normal” (“real”?) women do not (“freely” and “intelligently”) choose sex—at least not sex on the Model Ordinance’s prohibited-images list, that sex is purely a matter of phallic power. In their view, women never willingly even appear to enjoy domination, let alone actually enjoy it. Women never choose penetration by objects, although one survey revealed that vibrators are the items most frequently purchased by women visiting sex shops alone. According to porn-suppressionists, women able to make (relatively) uncoerced choices eschew all but the most egalitarian, wholesome sex;

women are innately morally inferior and more sexual than the happy upper classes, ‘who can control themselves.’”); cf. Drucilla Cornell, A Defense of Prostitutes’ Self-Organization, 1 CARDOZO WOMEN’S L.J., 121, 123-24 (1993) (advocating the decriminalization and unionization of prostitution within a framework that does not view prostitutes as victims). Moreover, suppressionists ignore the increasing number of “home” porn videos made by “plain folks” who appear neither deluded nor coerced, although they seem, like some law professors, to incline to exhibitionism. Michael deCourcy Hinds, Starring in Tonight’s Erotic Video: The Couple down the Street, N.Y. TIMES, Mar. 22, 1991, at A14 (attributing the popular appeal of home adult videotapes to voyeurism and exhibitionistic tendencies).

135. See Downs, supra note 14, at 70-71 (collecting statements made by porn-suppression advocates that present women as victims of pornography’s individual and systemic degradation).

136. Victorian dominant norms were, as Steven Marcus has shown, not necessarily followed in practice. See Steven Marcus, The Other Victorians: A Study of Sexuality and Pornography in Mid-Nineteenth-Century England (1966) (detailing the hidden, but widespread, world of pornography and brothels in Victorian England). For more on the way in which feminist porn-suppressionism mirrors 19th-century Victorianism, see generally Walkowitz, The Politics of Prostitution, supra note 42.

137. According to feminist porn-suppressionists, the woman who penetrates her erotic organs with nipple and labia rings, who spreads her legs for the camera, who slithers naked on the floor with eels, or who performs fellatio on a male standing above her, is deviant, deluded, or, most likely, coerced. In all cases, she is victimized. Even the woman who claims to enjoy penetration despite the fact that it does not typically produce orgasm is, in the view of many feminists, deluded. See Dworkin, INTERCOURSE, supra note 114, at 122-32 (asserting that intercourse is accompanied by delusion and coercion). Regarding female orgasm, see supra note 106.

138. Michael Stein, The Ethnography of an Adult Bookstore: Private Scenes, Public Places 97 (1990). It might well be that these women found vibrators less “subordinating” than the male partners available or did not use them for penetration, but the fact remains that pictures of women using their vibrators would be presumptively suspect under the ordinances, either as making women seem like sexual objects or as depicting penetration by an object. See Model Ordinance, supra note 60, § 2.1. Indeed, use of such imagery would, in some contexts, such as “rev-up” sessions for military or sports conquests, contribute to women’s subordination. See infra Part III(A)(2). But descriptions of women using vibrators might also enlighten a young woman starved for information about alternatives to traditional heterosexual encounters. See Alice Walker, All the Bearded Irises of Life: Confessions of a Homospiritual, in Living by the Word: Selected Writings 1973-1987, at 163, 164 (1988) (recalling that her first exposure to homosexual attraction and the variety of noncoital methods of achieving orgasm came via erotica).

139. As Ellen Willis notes, the view that “lovemaking should be beautiful, romantic, soft, nice, and devoid of messiness, vulgarity, impulses to power, or indeed aggression of any sort” is “not feminist but feminine.” Willis, supra note 123, at 224. Katie Roiphe describes the Dworkin/Mackinnon inspired views of the anti-rape movement as holding that “[s]ex should be gentle[,] it should not be aggressive; it should be absolutely equal[,] it should not involve domination
however, such egalitarian sex is a near impossibility, at least in situations involving heterosexual sex.\footnote{140}

This view is at once seductive and extremely damaging to women. It beguilingly suggests that consent and equality are nonproblematic categories in sexual images and relations—that discerning, caring persons "know" equality when they see or experience it and that they are always certain when they themselves, let alone others, mean "yes" or "no."\footnote{141} Moreover, by seeking to eliminate images of women engaging in sex in the ways most women learn to "do sex"—that is, by dressing up "as sexual objects, things or commodities," and adopting postures that might easily be characterized as "sexual submission, servility or display,"\footnote{142}—porn-suppressionists not only denigrate the women who do these things (most of us),\footnote{143} but also render invisible the men and women who attempt to avoid, alter, or challenge pre-ordained sexual roles and behaviors.\footnote{144}

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and submission; it should be tender, not ambivalent; it should communicate respect; it shouldn't communicate consuming desire." Katie Roiphe, \textit{Date Rape's Other Victim}, \textit{N.Y. Times}, June 13, 1993 (Magazine), at 26, 28-30; see also infra note 147. Sexual encounters that feature power imbalances, bodily fetishization, or unequal physical or psychological vulnerability are presumptively coercive. For example, Nikki Craft lambasted Madonna's \textit{Sex} for showing "a lot of chains, [and] a lot of bondage," as if these in and of themselves necessarily disempower women even when a woman appears in control of both the acts and imagery. See Fishman, supra note 14, at 45. While Madonna's "control" may be a sham within the context of corporate capitalism's media power, that is not the same as suggesting that women are always harmed by dominance/submission sex play.

140. Dworkin, at least, believes that intercourse is inherently an act of male domination, an act that places men in the role of a "conqueror" who "occupies," "rules," and "possesses" a woman. "The act itself, without more, is the possession." \textit{Dworkin, Intercourse}, supra note 114, at 63. She "views all men as beasts and all women as innocent (and strangely passive) victims." \textit{Elizabeth Fox-Genovese, Feminism Without Illusions: A Critique of Individualism} 93 (1991); cf. \textit{hooks, Power}, supra note 75, at 75 (arguing that in a culture pervaded by male domination, consensual S/M "power play" rarely exists in heterosexual situations). MacKinnon similarly argues that within patriarchy, it is nearly impossible to distinguish sex from rape. See \textit{MacKinnon, Feminist Theory of the State}, supra note 15, at 172-83.

For a contrary view, expressing pleasure in penetration, see M. Nourbese Philip, \textit{Commitment to Hardness}, in \textit{Erotique Noire: Black Erotica}, supra note 138, at 224, 225. It is no accident that this "deviant" (in Dworkin's eyes) affirmation of penetration is expressed by a black woman. See \textit{Gilman, supra} note 20, at 83-89 (describing the way in which Western cultures legitimized their stereotyping of blacks as inferior by characterizing black women as sexually deviant).

141. There is, for MacKinnon, Dworkin, and others, no middle ground between "yes" and "no," and certainly no "maybe"; indeed, it is "rape whenever a woman has sex and feels violated." Roiphe, supra note 123, at 30 (quoting MacKinnon).

142. \textit{Model Ordinance}, supra note 60, \S 2.1(a), (e).

143. One might call this the porn-suppressionist version of "learned helplessness," the disempowering psychological theory that Lenore Walker initially developed to explain why battered spouses remain in relationships with batterers. See generally \textit{Lenore E. Walker, The Battered Woman} (1979).

144. This totalizing victimhood is the hallmark of Catharine MacKinnon's theoretical work. In every sphere, MacKinnon adopts the immobilizing dichotomies of subject/object, perpetrator/victim, powerful/powerless, doer/done to, and places women as subject/victims who are done to, never able to exert genuine power or influence. See \textit{MacKinnon, Feminist Theory of the State}, supra note 15, at 138, 140-41 (employing these dichotomies to assert the victimhood of women). As black
The notion that all sexual practices that feature power imbalances, fetishization, segmentation, lack of "intimacy," and the like, or in which one party is treated as an object, are harmful and worthy of suppression— that the only "good" sex is egalitarian, caring sex, based on "romantic love,"—is problematic for other reasons as well. First, it too easily converges with Victorian notions that for women, it is equality, caring, and nurturance that are important, not sex—women crave intimacy and pillow talk, not fellatio, cunnilingus, or coitus. It replicates the

feminist critics have pointed out, such characterizations of women as victims avoid addressing the power that white women exercise over black women, allowing them to blame white men for white women's (mis)treatment of servants, just as black men have blamed white racism for their own mistreatment of black women. See HOOKS, RACE AND REPRESENTATION, supra note 20, at 45-49, 96-97.

145. For an excellent description of the vicissitudes of the concept of romantic love from its roots—commonly found in the canzones of 12th-century troubadours singing of their unrequited love for married ladies—through its rejection by 1960s and 1970s feminism and to its reincarnation in the post-AIDS world, see BARUCH, supra note 21, at 2. Baruch traces the attitudes of various sectors of the women's movement toward the concept, noting the feminist emphasis on the ways in which it has served to control and disempower women, or at least has fortified systems that do so by justifying female self-sacrifice and submission to male power and arguing that feminists have not adequately addressed the ways in which it has also "given women power." Id. at 1. Like Susan Faludi, she points out that its most recent incarnation embodies regression and backlash against women. Id. at 257-60; FALUDI, supra note 74, at 46-72. Both Baruch and Faludi point particularly to such box office hits as FATAL ATTRACTION (Paramount Pictures 1987) as reincarnating traditional "family values" versions of romantic love by presenting alternatives to sex within the nuclear family unit as dangerous and sexual women as psychotic. BARUCH, supra note 21, at 258-59; FALUDI, supra note 74, at 112-23.

Even films with a feminist veneer—sensitive men, 1990s feminist jokes—pursue the same themes. See, e.g., SLEEPLESS IN SEATTLE (TriStar Pictures 1993) (presenting a modern-day version of triumph of love-at-first-encounter in the face of obstacles and near-misses); WHEN HARRY MET SALLY (Castle Rock Entertainment 1989) (presenting a similar tale, not coincidentally featuring the same female star); AN UNMARRIED WOMAN (20th Century Fox 1978) (exploring one woman's attempt to pick up the pieces after her life is shattered by the breakup of her traditional family). Romance ideology continues to be created and reissued for youngsters—like Baruch and Faludi, it too is a "classics," now available on videos seen by very young children. See, e.g., SNOW WHITE AND THE SEVEN DWARFS (Walt Disney Pictures 1937); BEAUTY AND THE BEAST (Walt Disney Pictures 1991). And most contemporary romance literature, whether traditional or of the supposedly more sophisticated variety, still "exclusive[ly] focus[es] on heterosexual love as the solution to all of women's problems." Kate Ellis, Gimme Shelter: Feminism, Fantasy, and Women's Popular Fiction, in AMERICAN MEDIA AND MASS CULTURE, supra note 41, at 216, 216 (emphasis in original); see infra subpart III(C).

146. I do not mean to suggest that romance based on equality cannot and should not serve as an appropriate ideal in some circumstances. But it is an ideal that in Western culture has been so deeply tied to images of heteronormative marriage and patriarchal power that to reinforce it without question is to reinforce heterosexism—stereotyping lesbians and gay men, as well as women who remain single ("spinsters"), and others who choose alternative sexual lifestyles.

147. In the words of Susie Bright, a "typical little girl education about sex" teaches that
1) Girls don't know very much about sex, and they don't need to know more.
2) Girls need love, not sex.
3) Don't expect to come.

Bright, supra note 71, at 81. In addition, a typical education taught women that they were characterized by "inherently sexual gentility and [a] monogamous nature" and taught them to "equat[e] our desire with romantic love, our sex with a nurturing non-genitally focused sensuality." Id. at 81. For evidence of the gap between ideology and reality, see EHRENREICH ET AL., supra note 106, at 134-51
view that "impersonal" sex is bad for women; women who claim to enjoy sex for its own sake, apart from claims of a deep connection and a potential long-term future relationship, are objects of disdain and pity for engaging in sex without a "real connection." It encourages women who feel passion divorced from a desire for intimacy or long-term caring to feel guilty and deviant, and it induces them to avoid guilt by convincing themselves that their lust is love, or to believe that feelings of warmth and caring will eventually flower into sexual passion. In either case, the result is often marital misery, followed by divorce and self-recrimination.

Second, romantic-love ideology contributes to the isolation as "deviant" of those who choose to defy heterosexist norms: those gay men and lesbians who claim enjoyment of sex for its own sake, hetero- and (noting that even some Christian fundamentalist women have encouraged wives to have sex with their husbands while dressed in sexually provocative costumes).

Even if women want sex, "good" sex is never, for women, experimental and certainly never features power imbalances, sadomasochism, objects, or animals. Healthy women (and men) never derive pleasure in submission and would never choose domination in a future and healthy world. As Susan Gubar has noted, the porn-suppressionist view is premised on "the unexamined assumption that there is no such thing as female voyeurism or fetishism." Gubar, supra note 2, at 64. Yet, Freedberg relates that a Fra Bartolomeo painting of Saint Sebastian had to be removed from a church display when "the friars found out by the confessional that women had sinned in looking at it, because of the comely and lascivious realism with which Fra Bartolomeo had endowed it." Freedberg, supra note 25, at 346. See also Benjamin, supra note 111, at 9 (asserting that feminism itself "has constructed the problem of domination as a drama of female vulnerability victimized by male aggression").

148. Needless to say, those who engage in "public" sex—prostitutes, nude dancers, porn models, Playboy bunnies—are quintessentially those whose sexual encounters lack connection and intimacy and are hence centrally objects of feminist disdain and pity. For a challenge to this disempowering view of their choices, see Morgan, supra note 134, at 24-26 (arguing that public sex is not an expression of the worker’s sexuality but of a reasoned response to economic need). But the refrain has been used from time immemorial to disparage women who engage in sex without marital connection, and in today’s reincarnation it has emerged to disparage independent (especially career) women. See supra note 145 and accompanying text. Ironically, sex without connection was the refrain used to disparage the "public sex" of 1920s youth who ceased courting in the patriarchally supervised family parlor and instead dated in dance halls, movie houses, or at the “petting parties” that were a national craze.” Stephanie Coontz, The Way We Never Were: American Families and the Nostalgia Trap 194 (1992).

149. See, e.g., Midge Decter, The New Chastity and Other Arguments Against Women’s Liberation 84-85 (1972) (“[W]ith few exceptions, young girls who are moved to enact their newfound sexual freedom tend to do so within the forms of pseudo-marriage.”).

150. Indeed, the overlap between the likely conditions for egalitarian sex and conservative “family values” should give feminists pause.

151. Feminist porn-suppressionists would claim that they clearly exempt those gay sexual practices that are egalitarian in nature, and that all other practices deserve to be considered deviant. The problem with this argument as it applies to imagery rather than practice is that it is impossible to tell from an image whether, for example, lesbians portrayed in hutch/femme or S/M sex roles are shown having egalitarian “fun” or replicating the patriarchal victimization of women. Moreover, a great deal of lesbian porn is aimed at titillating straight men. Therefore, its capacity to foster objectification of women is not dependent on whether the role-playing portrayed is “egalitarian” or not. See infra note 192 and accompanying text.
homosexuals who experiment with S/M power play,\textsuperscript{152} and those who make other nontraditional sexual choices—for instance, single women who prefer sex toys to men or eschew live-in, long-term relationships in favor of successive sexual partners.\textsuperscript{153} The romantic-love model tends to deny the possibility of multiple intimacies: those who have successive multiple partners must be engaging in non-intimate, depersonalized sex; those who have simultaneous multiple partners are likely, in addition, to be engaging in inequalitarian practices.\textsuperscript{154}

Finally, romantic-love ideology immobilizes women (and men) by suggesting that the sexual activities from which they derive pleasure are "bad"—that fantasies of desire, overpowerment, rape, or stranger sex are "sick" and must be repressed.\textsuperscript{155} These notions trap women in fantasies of an unrealizable, idealized future, rather than enabling them to cope with

\textsuperscript{152} Bell hooks argues that while consensual "power play" is difficult within our culture, it is inevitable and appropriate that there are "progressive voices and bodies of diverse individuals engaged in S/M sexual practice." \textit{hooks, Power, supra note 75, at 75, 74.} Rather than deny or suppress power play, \textit{hooks} argues for altering the conditions that make it so often oppressive to women. \textit{Id. at 75.} For challenges to the one-dimensional nature of Dworkin's and others' interpretation of Pauline Reage's \textit{Story of O} as merely a pornographic "story of a victimized woman," see \textit{Benjamin, supra note 111, at 55, 56-68.} Lindgren's survey revealed that most participants agree with MacKinnon and Dworkin that the \textit{Story of O} excerpt was, by their definition, pornographic. \textit{Lindgren, supra note 72, at 1188; see also Baruch, supra note 21, at 253} (asserting that the real-life account of Joel Steinberg's brutal treatment of Hedda Nussbaum was far worse than Reage's fictional \textit{Story of O}); \textit{Linz & malamuth, supra note 8, at 3-4} (describing the many ways in which \textit{Story of O} can be interpreted); \textit{Pat Califia, Among Us, Against Us: The New Puritans, in Caught Looking, supra note 97, at 20} (describing her production of what she calls lesbian, sado-masochistic erotica and affirming that as a child she found comic book images "of capture, helplessness, and torture (reassuringly followed by miraculous escape and revenge)" quite exciting).

\textsuperscript{153} Indeed, because inequality in the realm of the intimate is at least partly produced by pervasive economic and social inequalities, even were it desirable to eliminate power play in sex, the only way to do so now might be to eschew sex altogether. And it is questionable whether, because childhood dependence is likely to remain part of the human condition, sexual fantasies of power, dependence, and inequality will ever fully disappear. "Given the link between sex and the intensities of feeling about dependence and power which transport us back to those of childhood, perhaps we will always, at least in fantasy, tend to eroticise relations of power and hostility." \textit{Segal, Slow Motion, supra note 8, at 231-32; see Baruch, supra note 21, at 169} ("It is conceivable that the combination of romantic passion and equality in marriage cannot exist. Perhaps it would deny some deep needs of the psyche that we do not as yet entirely understand."); \textit{Kaplan, supra note 25, at 311} ("[O]bjectification may be an inherent component of both male and female eroticism.").

\textsuperscript{154} None of these conclusions are necessary: It is surely possible, though difficult, for several people to encounter one another sexually in nonsegmented, nonfetishistic, and fully intimate, respectful ways. But the greater the number of participants, the more likely that the sex will involve play and pageantry, roles and fantasies, rather than egalitarian intimacy. And because these issues are never explored in porn-suppression campaigns—which focus on pictures of women bound, gagged, and dismembered—existing idealizations (Father Knows Best and its more sexually explicit cousins) provide content to the implicit aims of suppression.

\textsuperscript{155} Fantasy life reflects and changes in tandem with real life, and when women no longer feel guilty and ashamed of sexual desire, they may no longer need to imagine that they have submitted to it only out of domination and force. For a discussion of women's and men's fantasies, see \textit{infra} notes 194, 427 and accompanying text.
the reality of uncertain desire, of negotiated terms and confusing communi-
cation, and of the difficulty in ascertaining one’s own arousal—let alone someone else’s. 156

These notions are disabling, not only because they deprive women (and men) of the opportunity to operate on today’s real (not tomorrow’s ideal) sexual terrain, but also because they discourage men and women from joining feminists in cultural critique. By labeling as deluded—or, in the case of men, coercive—those who refuse to delay pleasure and gratification until egalitarian perfection is possible, feminists alienate potential allies. And by again reinforcing the line between the deviant and deluded women who “do,” and the “good girls” who “don’t,” they put women who engage in sex—those who seek sexual knowledge and value sexual power and prowess—outside the reach of feminism. Indeed, by isolating these women, anti-porn ideology enhances the power of sexual conservatives to control them.

The notion that women never choose “bad” (objectified, servile, exhibitionist) sex and that images in which they are shown to do so must be eliminated suggests that women who do these things need to be protected from themselves—indeed, that all women need to be protected from potentially dangerous sex. This, in turn, lends support to wider sexual “protectionism,” protection that seeks to keep women from (bad) sex by denying them access to birth control information, sex education, and abortion; 157 by enforcing largely against women legal and social strictures against adultery; 158 by “protecting” underage women from having sex with older

156. I am not suggesting that sex accompanied by intimacy, respect, and caring is not an appropriate ideal. Rather, I mean to argue that the sort of equality in which no one is ever the aggressor in fantasy or in reality is, at best, a “utopian vision of sexual relations: sex without power, sex without persuasion, sex without pursuit.” Roiphe, supra note 123, at 40. It neither can nor should be the sole basis for sexual exploration and encounter in the present, and it is neither clearly the best basis for the future, nor necessarily incompatible with fetishistic, objectifying power-play.

157. The punitive intent of abortion constraints dates as far back as the Roman Empire, when the punishment of exile was imposed upon wives who obtained an abortion without their husbands’ consent, as well as on women who administered contraceptives and abortifacients. ROSALIND P. FETCHESKY, ABORTION AND WOMAN’S CHOICE: THE STATE, SEXUALITY, AND REPRODUCTIVE FREEDOM (rev. ed. 1990). In 1977, the first Hyde Amendment was passed, cutting off most federal funds for women seeking abortions. The rationale for anti-abortion legislation has ranged from curbing “promiscuous” sex among young poor women to, more recently, protecting “fetal rights.” Id. at 132, 262. But for women who bear the burdens of such legislation, “the denial of access to safe abortion must indeed be regarded as a form of punishment analogous to involuntary servitude; there is no other way to read it.” Id. at 383.

158. See Conn. Adultery Arrest, NEWSDAY, June 8, 1990, at 14, available in LEXIS, News Library, NEWSDAY File (reporting that the wife of a Norwich school board member was arrested and charged with adultery after her husband filed a complaint); William E. Schmidt, Adultery as a Crime: Old Laws Dusted Off in a Wisconsin Case, N.Y. TIMES, Apr. 30, 1990, at A1 (observing that a special prosecutor chose to charge only a woman accused of adultery by her husband, not her alleged lover or the husband, who had admitted to his own extramarital affair); see also Martha Fineman, Dominant Discourse, Professional Language, and Legal Change in Child Custody Decisionmaking, 101 HARV.
men;¹⁵⁹ and by implementing codes of dress and behavior that ostracize and punish women who claim the right to appear and be sexual.¹⁶⁰

Indeed, going after the women who “do” porn and the men who read it fosters the view that basic social reform in male and female sexual practices within marriage or in mainstream depictions of and attitudes toward women is unnecessary.¹⁶¹ Porn-suppression suggests that gender inequality is something that happens at the margins and implies that we can solve the problems of women, whether individual women exploited as porn models or women degraded by porn’s ideology of sexploitation, by isolating and “jailing” these problems. Somehow, if husbands would just stop reading porn, the gender bias embedded in the institutionalization of heterosexual marriage will be reduced. Not only does such a strategy take the focus off mainstream institutions and practices, but by promising a “quick fix” solution to long-term problems and paying far too much attention to “sex lit,” it also undermines the slow, painstaking struggle to examine and deconstruct existing sexual relations and to reconstruct a new and humanized sexuality.

D. What’s in an Image? Porn as Subordination

It is not that life and art imitate each other; in sexuality, they are each other.

—Catharine MacKinnon¹⁶²

¹⁵⁹. See Frances Olson, Statutory Rape: A Feminist Critique of Rights Analysis, 63 Tex. L. Rev. 387, 404–05 (1984) (observing that until constitutional concerns forced equalization, many states provided harsher penalties for men who had sex with underage girls than for women who had sex with underage boys).

¹⁶⁰. See, e.g., Rape Term Hailed, supra note 27 (reporting the conviction of a man who had been acquitted of an earlier rape charge because the jury felt the victim “asked for it” by wearing a white lace miniskirt); Meritor Sav. Bank v. Vinson, 477 U.S. 57, 69 (1986) (asserting that evidence of a complainant’s speech and dress is “obviously relevant” in a sexual harassment suit).

¹⁶¹. This is, of course, not what feminist porn-suppressionists say. Indeed, MacKinnon and Dworkin both stress the pervasive nature of the pornographic viewpoint, as well as of sexual abuse in mainstream marriage. See MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 24 (“Women are systematically beaten in our homes by men with whom we are close.”); DWORKIN, INTERCOURSE, supra note 114, at 165–67 (discussing the law’s historical sanctioning of rape in marriage). Nonetheless, the focus on marginal imagery—hard core and violent porn—and on marginalized women—such as porn models and prostitutes—and particularly the notion that suppression rather than reform is a viable strategy, suggests that the practices and imagery are not as pervasive as all that: They can be eliminated by excising them from the “rest” of the body politic.

¹⁶². MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 150 (emphasis in original).
And the thing itself not the thing itself,
But a metaphor.

—Jean Valentine

When feminist porn-suppressionists counsel that we can achieve significant cultural reform by suppressing porn imagery, they overemphasize the importance of porn at the same time that they understate its richness and complexity. Further, by measuring porn’s impact largely in terms of its subject matter, they misconceive the way in which imaginative depiction affects viewers. While subject matter content is surely important, the same subject matter’s meaning differs depending on its manner of presentation, and its import and impact depend crucially upon where, when, by whom, and under what circumstances it is “consumed.” Depictions may have dominant themes, but rarely, if ever, do they have single, much less unambiguous, meanings even when consumed within a single context by persons of similar background. Porn-suppressionist ideology is all the more harmful because the notion that content is the measure of meaning fosters suppression not merely of porn, but also of all sorts of imagery based on (narrowly understood) subject matter, rather than contextualized meaning or impact.

Much pornography, even when it does not depict violence, portrays women in ways that are distorted and degrading. Women are spread-legged in postures displaying artificially enhanced genitals and over-sized, air-brushed breasts; penetrated not only by penises, but by bottles, sticks, and snakes; sometimes whipped, gagged, chained, and shown aroused and exhilarated by rape, force, and violence. Even “non-violent” porn often suggests that women are nothing but sex objects and not good for much else. But this does not mean that more readers and viewers are therefore induced to treat women in these ways nor that, even if porn does help inculcate negative views of (and hence potentially abusive treatment of)

164. Suppressing porn as constituting subordination of women erroneously equates depiction with action and confounds fantasy with reality. In Part III, I argue that porn is marginal to the process by which Western culture constructs women as body-objects—as commodities fit for male domination, consumption, and control. My point is that although much porn may reflect a dominant viewpoint, it plays a relatively unimportant role in the creation or reinforcement of it.

165. Fear of imagery has a long pedigree. It is deeply embedded in much religious thinking, in which “the image is, at best, profane—at worst, evil incarnate.” Harry H. Chartand, Christianity, Copyright, and Censorship in English-Speaking Cultures, 22 J. ARTS MGMT. L. & SOC’Y 253, 255 (1992). Imagery has, in addition, been a staple of rulers who wished to control societies by eliminating knowledge of the past, thereby regulating culture and suggesting the inevitability of the present. Id.

166. Interestingly, however, homemade video porn, which portrays ordinary (not air-brushed) men and women engaged in non-violent sex acts, has rapidly become one of the most popular genres of porn. See Hinds, supra note 134, at A14.
women, the creation of misogynist views is porn’s sole or primary impact.167

The subject matters of much porn are complex and contradictory and may, depending on the manner in which they are presented, absorbed, or understood, contribute to feminist goals. Pornography breaks the boundaries of traditionally confined sex and sexual depiction and allows us to look closely at sex outside the rarified realm of scientific and medical publications.

In addition, pornography’s direct and exaggerated look at sexual activity expresses other liberating elements.168 For, “[w]hile pornography does not provide an exemplary model of sexual freedom, it does release women’s sexuality from the confines of reproduction, marriage, domestication, and heterosexuality.” Even hard-core pornographic film—“this most masculine of film genres”—is ambiguous and complex, confounded by its own attempt to present images of female sexual pleasure in a culture in which female sexuality has been de-sexed by male portrayals of it.170 Precisely because pornography is so outrageous, it can be explosively subversive, challenging social strictures that keep women oppressed.171

167. See SEGAL, SLOW MOTION, supra note 8, at 222, 223-25 (criticizing Dworkin’s critique of pornography for ignoring the fact that “our fantasy life has little or no connection with what we would enjoy in reality”).

168. To refuse to be educated; to refuse to be taught lessons about maturity and adult responsibility, let alone about sexism and racism; to be naughty, even bad, but mostly naughty; to be on your worst behavior—all of this may be a ruse of patriarchy, a ruse of capitalism, but it also has something to do with a resistance . . . .

ANDREW ROSS, NO RESPECT: INTELLECTUALS & POPULAR CULTURE 201 (1989).

169. Nancy W. Waring, Coming to Terms with Pornography: Toward a Feminist Perspective on Sex, Censorship, and Hysteria, in 8 RESEARCH IN LAW, DEVIANCE AND SOCIAL CONTROL 85, 90 (Steven Spitzer & Andrew T. Scull eds., 1986). Interestingly, while Japan has had a long history of comic-book style serial art—some of it sexually explicit—in the 1960s, Japan began producing serials designed for teenage girls, which, via images of highly stylized and idealized homoerotic love, allow Japanese girls an imaginative escape from the highly circumscribed boundaries of permissible sexuality and sex roles. See Sandra Buckley, “Penguin in Bondage”: A Graphic Tale of Japanese Comic Books, in TECHNO-CULTURE 163, 170-79 (Constance Penley & Andrew Ross eds., 1991) [hereinafter TECHNO-CULTURE] (asserting that girls, whose only societal destiny is to become wives and mothers, are attracted by the books’ pervasive images of freedom).

170. WILLIAMS, supra note 4, at x (describing hard-core pornography’s remarkable uncertainty and instability in depicting sexual power and pleasure).

171. Sexual presentations have throughout history been used to mock, at the same time that they often reinforced, the sexual status quo. Shakespeare’s multilayered sexual puns, Matisse’s recumbent nudes, Magritte’s dismembered women, Marilyn Monroe’s and Madonna’s innocent virgin-whores depend on and potentially bolster (while they seek to transform) existing cultural conventions. Magritte’s painting Le Viol, for instance, challenged a bourgeois materialism that promoted ownership and objectification of women, yet at the same time itself embodied misogynist attitudes. See Gubar, supra note 2, at 49-54 (observing that Le Viol, like most Magritte paintings, represents misogynist views of women as fragmented beings, yet noting that the painting, in which a woman’s facial features are replaced by sex organs, taunts the viewer’s prudishness); see also Lynn Hunt, Obscenity and the Origins of Modernity, Introduction to THE INVENTION OF PORNOGRAPHY: OBSCENITY AND THE ORIGINS
As one commentator states:

It is a fantasy of an extreme state in which all social constraints are overwhelmed by a flood of sexual energy. Think, for example, of all the pornography about servants fucking mistresses, old men fucking young girls, guardians fucking wards. Class, age, custom—all are deliciously sacrificed, dissolved by sex.

Though pornography's critics are right—pornography is exploitation—it is exploitation of everything. Promiscuity by definition is a breakdown of barriers.172

Indeed,

[A] large part of pornography’s popularity lies in its refusal to be educated; it therefore has a large stake in celebrating delinquency and wayward or unauthorized behavior, and in this respect is akin to cultural forms like heavy metal music, whose definitive, utopian theme, after all, is “school’s out forever.”173

Carl Stychin argues that for gay men, “pornography becomes liberating rather than objectifying” and has “the unique ability to destabilize the coherence of the male subject,” thereby “subvert[ing] ‘phallocracy.’”174 Thus, he argues, for gay men, “pornographic representation shifts from a sexual experience to a political expression.”175

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172. Ann B. Snitow, Mass Market Romance: Pornography for Women Is Different, in POWERS OF DESIRE, supra note 25, at 245, 256 (emphasis in original); see also STEVEN H. SHIFFRIN, THE FIRST AMENDMENT, DEMOCRACY, AND ROMANCE 104 (1990) (stating that pornography can be characterized as a form of dissent because it “rebels against the puritanical outlook of an uptight society”); SONTAG, supra note 4, at 47 (“Pornography is one of the branches of literature—science fiction is another—aiming at disorientation, at psychic dislocation.”); Steven G. Gey, The Apologetics of Suppression: The Regulation of Pornography as Act and Idea, 86 MICH. L. REV. 1564, 1628 (1988) (claiming that porn rejects “the very concept of social worth,” “attacks the most sacred aspects of the majority ethics,” and “seeks out society’s rawest nerve”); Deana Pollard, Regulating Violent Pornography, 43 VAND. L. REV. 125, 137 (1990) (“Pornography generally endorses the concept of sex that is uninhibited and without commitment, of sex just for pleasure.”).

173. ROSs, supra note 168, at 201 (emphasis in original). For examples of Western erotica, too numerous to cite individually, that embody this rebellious and occasionally humorous quality, see generally KRONHAUSEN & KRONHAUSEN, supra note 118 (reprinting representations that might run afoul of anti-porn ordinances, including women penetrated by animals, men with oversized phalluses, and women shown having penises).

174. Carl F. Stychin, Exploring the Limits: Feminism and the Legal Regulation of Gay Male Pornography, 16 VT. L. REV. 857, 857 (1992) (emphasis omitted). The term “phallocracy” is borrowed from Zillah Eisenstein’s The Female Body and the Law and denotes the symbolized construction of biological difference as male perspective and male dominance. ZILLAH R. EISENSTEIN, THE FEMALE BODY AND THE LAW 21 (1988); see also SEGAL, SLOW MOTION, supra note 8, at 144-57 (discussing gay subcultures such as “camp” and “super-macbo” as methods of exposing the oppression and absurdity of masculine conventions).

175. Stychin, supra note 174, at 858. This is not to suggest, however, that gay men are any more uniform in their response to pornography than are heterosexuals or that all gay men would view porn
Women who dare to admit that they enjoy porn note that its images are “many and varied”—some “fragmented and idealized,” others “crude and unflattering,” others “dreamy, psychedelic,” and still others “violent, reptilian.” They emphasize that their responses to it are “layered and complex and multiple.”

For young women, porn not only offers otherwise unavailable information about sex, but by providing imaginary transgressions of traditionally restrictive sexual parameters, it provides reassurance and permission to be sexual. And the same porn imagery that shows women on display often also portrays them as sexually powerful. The very power of sexual imagery to objectify women may as a political statement. See BERGER ET AL., FEMINISM AND PORNOGRAPHY 83 (1991) (acknowledging that the writings of gay men on pornography reflect many divergent views).

Those who favor porn suppression dismiss the claims of women who say they enjoy it as false consciousness resulting from the distortions produced by living within a culture of male domination. See WILLIAMS, supra note 4, at 17-18 (stating that suppressionists view “women who find pleasure in rape fantasies,” even by reading descriptions of rape in romance novels, as “guilty victims of false consciousness”). It is surely true that patriarchy has warped the sexual predilections and practices of those living within it, whether by fostering the adoption of sexist ideology or producing a reaction against it. But it is quite another matter to treat women’s enjoyment of porn as purely a matter of “false consciousness,” still less to seek suppression of the imagery as the appropriate response.

It is this aspect of pornography, of course, as much as anything else which provokes its conservative critics, causing them to target works which depict explicit sex for educational or artistic reasons as well as the pornographic. Cf. Herbert Mitgang, PEN Issues Warning on Censorship, N.Y. TIMES, June 5, 1988, at A59 (listing books that have been challenged in schools on religious or moral grounds).

It may be this claim to power that has made Madonna—whose very name is a subversive challenge to religious sexual strictures—the idol of teen girls. Madonna’s videos typically present her as strong, self-aware, and consistently in control—on the one hand a “blonde bombshell” who takes pleasure in her body and enjoys using it to seduce men; on the other a cultural genius who laughs all the way to the bank at the voyeurs and peeping toms who pay to watch themselves mocked and reviled in her videos. For instance, in Open Your Heart (Warner Reprise Video 1990), a voluptuous Madonna enters a porn theater and partially disrobes to perform extremely provocative sexual rituals—no “ultimate” acts are shown—while a series of men representing various sexual perversions eagerly watch and reach for her from aquarium-like cages. (A young boy, too, watches her, but with curiosity and empathy). Her teasing concluded, Madonna dances off with the boy, clothed in a crazy quilt of men’s and women’s attire, chased by an elderly, salivating theater manager. The reasons teen girls love Madonna may have as much to do with her humor and her sexual and economic power and control, as with her “bombshell” status, which carries negative gender and race connotations. See HOOKS, RACE AND REPRESENTATION, supra note 20, at 157-64 (arguing that white supremacy and racism underlie “Madonna’s and our recognition that this is a society where ‘blondes’ not only ‘have more fun’ but where they are more likely to succeed in any endeavour”).

Indeed, Madonna is a perfect example of the difficulty with the suppression approach. A thirteen-year-old girl may find in her a rebellious challenge to parental authority, as well as a model
be—and often is—subversively employed to reverse or at least question the process or basis of objectification.\textsuperscript{181}

Moreover, literal subject matter does not capture meaning or import.\textsuperscript{182} Contemporary scholarship in fields ranging from semiotics to cultural critique have taught us that within the “language” of depiction, images vary according to subtle, cloaked signs and symbols; references, pre-conceptions, “understood” vocabulary, gaze, and perspective all affect meaning.\textsuperscript{183} Thus, “[t]he elements which constitute [porn] as a distinctive representational genre . . . [include] a certain rhetoric of the body, forms of narration, placing and wording of captions and titles, stylisations of sexy or liberated femininity. A feminist—male or female—might be amused by her richly ironic and multilayered ridicule of puritanical and hypocritical sexual norms, yet be appalled by the evident class and race bias and conservatism evinced in her (especially later) work and worry that viewers will take her at face value. \textit{Id.} at 162 (“Madonna clearly reveal[s] that she can only think of exerting power along very traditional, white supremacist, capitalistic, patriarchal lines.”); hooks, \textit{Power}, supra note 75, at 78 (“Throughout [her photo essay] \textit{Sex}, Madonna appears as the white imperialist wielding patriarchal power to assert control over the realm of sexual difference.”); see also Susan E. Keller, \textit{Review Essay: Justify My Love, by Madonna}, 18 W. St. U. L. Rev. 463 (1990) (discussing the mixed messages sent by Madonna’s videos). A constitutional law scholar might see only smut, and assert that “[i]n a better world, we would require Madonna to clean up her act.” William Grimes, \textit{American Culture Examined as a Force That Grips the World}, \textit{N.Y. Times}, Mar. 11, 1992, at C17 (quoting political science Professor Walter Berns of Georgetown University). And a rapist might, of course, feel urged to commit an act of sexual violence. Notably, Madonna’s book of porn/erotica, \textit{Sex}, carefully avoids obscenity law by avoiding the display of sex acts and organs, while featuring every sort of fetishism and power imbalance imaginable. It would thus be a likely target under feminist anti-porn ordinances. Indeed, at a recent conference on hate speech, Nikki Craft called it “the worst mainstream pornography I have ever seen.” Fishman, supra note 14, at 45. For a critique of its imagery, see Bright, supra note 71, at 83-84 (remarking that although the images are not original, they are “still provocative, still have the power to affect us, simply because . . . we, the audience, are completely unaccustomed to anyone being straightforward about what they like in bed”).

181. Of course, “[b]ecause . . . oppressive cultural and sexual images may only be subverted through recombinations and reinventions of the oppressive images themselves,” using them in this way is “fraught with the danger of merely recreating the stereotypes [one] wishes to subvert.” Keller, supra note 180, at 462. But the risk is a necessary one. \textit{See also} Angela Partington, \textit{Feminist Art and Avant-Gardism}, in \textit{VISIBLY FEMALE}, supra note 101, at 228, 232-38 (noting the danger that nearly all of the various strategies—“negation (the use of male-directed humor as a political tool),” parody, celebration—may merely reinforce dominant norms).

182. “Content- and explicitness-centered definitions of pornography, in their attempt to pin down a moving target, end up obscuring the contextual complexity and fluidity of pornography as it shifts and changes across boundaries of time and space (geographic, cultural, historical). Buckley, supra note 169, at 183. Yet content is precisely the focus of porn-suppressionists like Dworkin, who “cannot take her eyes off it . . . . She is so intent on looking at ‘the scene and the characters’ that she never sees the frame.” \textit{Susie Suleiman, Subversive Intent: Gender, Politics, and the Avant Garde} 80 (1990).

183. \textit{See Linker, supra} note 97, at 391-92 (asserting that all cultural forms derive their meaning from the conditions of recognition, their contextual relations, and the existing social associations); Mulvey, \textit{Afterthoughts}, supra note 25, at 69 (describing how a text and its attendant identifications are affected by the presence of a female character occupying the center of the narrative arena); Constance Penley, “\textit{A Certain Refusal of Difference}”: Feminism and Film Theory, in \textit{ART AFTER MODERNISM}, supra note 97, at 386-88 (contrasting classical and experimental uses of narrative organization, point of view, and identification).
and postures, a repertoire of milieux and costume, lighting techniques, etc.\textsuperscript{184} When the very manner and means of presenting an image can create a male "gaze,"\textsuperscript{185} neither impact nor import can be measured by subject matter alone:

The spectator [of a film] is obviously in the voyeur position when there are sex scenes on the screen, but screen images of women are sexualized no matter what the women are doing literally, or what kind of plot may be involved.\textsuperscript{186}

Indeed, it is not content alone, but also context and audience reception that determine whether a portrayal degrades women. Porn gains its meaning because of sexual "taboos" that confine viewing to secrecy; because of the predispositions of its largely male audience concerning what it ought to mean and how they ought to react to it; because it is shown in "stag" contexts—often in association with military and sports conquest; and because it is used as a ritual of male bonding, of Oedipal rebellion against the authority of mothers, of growth towards manhood, and hence is linked to exclusion and vanquishment of the female. Disassociated from some or all of these contexts and meanings, its import may change.

By treating "subordination" as residing in the image itself\textsuperscript{187} rather than in the engagement between image and audience, anti-porn advocates ignore the "play" between the two.\textsuperscript{188}

184. Brown, supra note 52, at 6-7.

185. \textit{See} E. ANN KAPLAN, WOMEN IN FILM: BOTH SIDES OF THE CAMERA 14 (1983) (explaining that the "gaze" is created in the cinema through a combination of a darkened room, the projection camera's position, and the spectator's act of watching); Kaplan, supra note 25, at 311 (observing that the "male gaze" takes several forms, including the male gaze of the camera when a man does the filming); Mulvey, \textit{Afterthoughts}, supra note 25, at 69 (describing the "masculinization" of the spectator position). \textit{But see Introduction} to THE FEMALE GAZE, supra note 25, at 5-7 (questioning whether "the gaze is always male").

186. Kaplan, supra note 25, at 311 (emphasis added); \textit{see} FREEDBERG, supra note 25, at 319 (discussing how the process of imaging can sexualize even images such as that of the Virgin Mother of Christ); \textit{cf.} Gubar, supra note 2, at 63 ("[F]ormal (as well as content-oriented) elements may function as framing devices that simultaneously justify and perpetuate female degradation.").

187. Although suppressionist terminology ambiguously implies that it targets only images whose effect is to subordinate women, the statutory scheme clearly not only permits but encourages assessment of imagery based upon whether certain acts are depicted. It could not be otherwise, for as many have noted, the "chilling effect" reaches all those who consider publishing, disseminating, or displaying sexual imagery that falls within one of the statutory categories, because any such image might have the effect, in some context, of subordinating women. \textit{See} Nadine Strossen, \textit{The Convergence of Feminist and Civil Liberties Principles in the Pornography Debate}, 62 N.Y.U. L. REV. 201, 220-22 (1987) (reviewing WOMEN AGAINST CENSORSHIP, supra note 75) (describing the danger that the \textit{Model Ordinance} could be used to repress feminist works that explore women's sexuality because it prohibits—without defining—"subordination").

188. The degree to which audiences can, in the modern era, appropriate and transform views promulgated by the purveyors of mass media imagery is a subject of much debate among theorists of popular culture, as well as among art and literature historians and others. My claim is not that pornography plays no role in fostering misogyny. But that is not \textit{all}, nor even \textit{primarily}, what it does, and
and, most importantly, the pre-existing understandings, beliefs, cultural discourses, and language of the audience invest an image with meaning. Significance arises not from the images alone, but from their place within the artistic, cultural, moral, and sexual discourse that changes over time and according to the audience and the particular context.190

Although the anti-porn ordinances require a finding after trial that a work actually "subordinates" women—and hence arguably call for contextualized assessment of the meaning and effect of a depiction—they nonetheless suggest, by listing some but not other subject matters, that certain content makes an image presumptively problematic. They therefore chill production, dissemination, and display of works containing those subject matters because producers and disseminators fear that they will generate expensive proceedings and bad publicity. Moreover, the subtleties of contextualized assessment will often be lost on those deciding whether to bring suit, on the juries that hear cases, as well as on the legislators and censors (governmental and private) that decide to target works.191

it is surely less harmful than the images of "beauty sadomasochism" and "designer rape sequences" in the mainstream media. See WOLF, supra note 74, at 131-54 (noting that representations of women in submissive postures contribute to a social context in which women are ashamed of themselves and their sexuality). For the popular culture "debate," see Tania Modleski, Introduction to STUDIES IN ENTERTAINMENT at ix, ix-xix (Tania Modleski ed., 1986) (providing an overview of the varying schools of thought in mass culture criticism); see also Robin D.G. Kelley, Notes on Deconstructing "The Folk," 97 AM. Hist. REV. 1400, 1405 (1992) ("Audiences do make critical choices about what to see and hear, reinterpret the intended meanings of various texts, and, despite constraints, ultimately help shape the production of popular culture."). I, like Susan Bordo, believe that many contemporary writers over-emphasize the audience's ability to resist or transform dominant viewpoints. See generally Bordo, supra note 74.

189. Photography, by falsely suggesting that it merely captures "what is," while actually presenting a particular reality by its choice of subject, composition, lighting, and presentation, is a medium particularly susceptible to a fetishistic and sexualized gaze. Viewers are invited to dote on and, indeed, to possess not only the representation, but the "real" person depicted. See generally FREEDBERG, supra note 25, at 319, 317-26 (explaining that the sight of a picture can produce arousal "from attempted or imagined possession of the body in the picture").

190. See FREEDBERG, supra note 25, at 350-51 ("Arousal by image (whether pornographic or not) only occurs in context: in the context of the individual beholder's conditioning and, as it were, of his preparation for seeing the arousing, erotic, or pornographic image. It is dependent on the prior availability of images and prevailing boundaries of shame."). The ritual of viewing isolated and often pornographic "sex" scenes is in our time a rite of passage for young boys (and, increasingly although in different ways, young girls). But the meaning of this ritual resides not in the sex scenes, but in a whole sexual culture of which the particular image is but a minor part. And, of course, it is a ritual that typically occurs well after children have been thoroughly acculturated to Western sexual mores and norms.

191. See HEINS, supra note 102, at 95-115 (describing numerous attacks on depictions merely of nudity); Herbert, supra note 101, at 10-12 (describing the destruction by feminists of sculptures described by their creator as having been inspired by strong and powerful women). Indeed, as the Leeds and Michigan incidents and Lindgren's surveys show, the claim that the feminist porn-suppressionist definition rescues only portrayals that have the effect of subordinating women is not borne out in practice. See supra note 65 (describing the disruption by feminists of an art exhibit at the
Legislative suppression cannot and does not account for all of these factors. Its message—one that continues to be expressed also in “private” suppression efforts as well as in existing obscenity regulation—is that if a depiction contains the prohibited elements, if its subject matter is woman-degrading sex, then it constitutes discrimination and harms women.

This one-dimensional view of representation spills over into the proposition that what an image *depicts*, it *urges*. According to this view, an image of a dismembered woman tells its audience that it is fine to dismember women. A description of a woman’s erotic fantasy of being overpowered or raped suggests that women like rape. And depictions of egalitarian sex will ensure that sex indeed becomes egalitarian. Yet as Lynne Segal has wisely pointed out, porn represents an internal fantasy world, and “[i]deology is precisely what most fantasy does not express: hence, the well-known incidence of fantasies of powerlessness from leading patriarchs, fantasies of sexual domination by black men (or women) from white racists, and rape fantasies from feminists.”

This University of Michigan); supra note 82 (summarizing the results of Lindgren’s studies); supra note 101 (providing an overview of the Leeds incident).

192. In this, porn-suppressionists “err on the side of eliding reality with fantasy (i.e., in treating an image’s violating of women on the same level as a literal act of violation on the street) . . . [and] on the side of seeing a world constructed only of signifiers, of losing contact with the ‘referred’ world of the social formation.” Kaplan, supra note 25, at 320. If imagery really is responsible, then we should suppress not merely grade B slasher and kung fu films (to cleanse the world of violence), but Ernest Dickerson’s *Juice* (to cleanse the world of youth crime), see *Juice* (IMPix 1992), and Spike Lee’s *Do the Right Thing* (to prevent neighborhood racial violence), see *DO THE RIGHT THING* (40 Acres and a Mule Productions 1988). *Thelma and Louise* would require censorship to prevent women from turning to crime and suicide, see *THELMA AND LOUISE* (Percy Main Productions 1990); *Home Alone* to prevent children from running wild, see *HOME ALONE* (Hughes Entertainment 1990).

193. Women “must straddle the old and the new orders, take responsibility for birth control but not for sex itself, acknowledge desire but not act on it. Is it any wonder that rape becomes appealing as a fantasy resolution to conflicts between permissible lust and potential rejection?” Ellis, supra note 145, at 224 (emphasis in original). Anti-porn feminists recognize that porn degrades women because its images fit within a broader patriarchal context that already eroticizes, and to some extent authorizes, male violence against women. Yet, anti-porn ordinances make no accommodation for the possibility that when *The Accused* depicts a gang rape, it is undertaking an important exploration of the meaning of rape, as impacted by uncomfortable questions of community, class, ethnic identity, and gender roles rather than authorizing or fostering gang rape. *The ACCUSED* (Paramount 1988).

194. Segal, *Sweet Sorrows*, supra note 12, at 71. Research shows that women’s sexual enjoyment includes and often depends (whether unfortunately or not) upon fantasies of being physically overpowered, raped, and sometimes brutalized. See, e.g., Eugene J. Kanin, *Female Rape Fantasies: A Victimization Study*, 7 VICTIMOLOGY: INT'L J. 114 (1982) (noting the prevalence and ambiguous meaning of female rape fantasies); Danielle Knafo & Yoram Jaffe, *Sexual Fantasizing in Males and Females*, 18 J. RES. PERSONALITY 451, 459, 459-60 (1984) (presenting research findings that women often have force or submission fantasies, not only during intercourse but at other times, and concluding that women show a “widespread tendency, despite the Sexual Revolution, to still associate—at least in fantasy—masculinity with activity and power, and femininity with passivity and submission”). See generally NANCY FRIDAY, *MY SECRET GARDEN* 109-36 (1973) [hereinafter FRIDAY, *MY SECRET GARDEN*]; NANCY FRIDAY, *FORBIDDEN FLOWERS* 296-98 (1975) [hereinafter FRIDAY, *FORBIDDEN FLOWERS*] (both collecting women’s rape and forced-sex fantasies). But see NANCY FRIDAY, *WOMEN
“feminist realist” view leads directly to the sort of “anti-pornography curtailment” and rectification campaigns recently waged by China to ensure that its magazines present “healthy, forward-looking, colourful and realistic contents.”

It is impossible to contain this approach to suppression of pornography. Rather, any subject-matter taboo will become fodder for public and private suppression efforts. Information on gay men and lesbians in classroom textbooks will be claimed to foster homosexuality, sex education materials to foster teen sex and unwed motherhood,

ON TOP 114-40 (1991) [hereinafter FRIDAY, WOMEN ON TOP] (collecting fantasies in which women, not men, are the dominant figures). However, no research indicates that women derive pleasure from actual rape or non-staged sexual violence.

195. I use the term as an analogue to “Socialist Realism” which “is the fundamental method of Soviet Literature and criticism: it demands of artists a true, historically concrete representation of reality in its revolutionary development. Further, it ought to contribute to the ideological transformation and education of the workers in the spirit of socialism.” The Statute of the Union of Soviet Writers, quoted in MONROE L. BEARDSLEY, AESTHETICS FROM CLASSICAL GREECE TO THE PRESENT 360 (1966). Plato, too, insisted that art should serve the ideal republic. See Sheldon H. Nahmad, Artistic Expression and Aesthetic Theory: The Beautiful, the Sublime and the First Amendment, 1987 Wis. L. Rev. 221, 226-27 (“According to Plato, the state must control art for the good of the society as a whole. Otherwise, art threatens the stability of the state.”).

196. Magazine Market Registers Continued Growth, BRITISH BROADCASTING CORP., SUMMARY OF WORLD BROADCASTS, March 13, 1991, available in LEXIS, News Library, ARCNWS File. The claim that the “harm” caused by imagery and representation is direct—that in a sort of “monkey see, monkey do” fashion, readers absorb and in some fashion, though perhaps not directly, act out what they see depicted—may in relatively rare cases be true. But this surely ought not be the basis for media “rectification,” or we will have to suppress Superman comics because youngsters have hurt themselves trying to fly.

197. “If the state can ban pornography because it ‘causes’ violence against women, it can also ban The Wretched of the Earth because it causes revolution, Gay Community News because it causes homosexuality, Steal this Book because it causes thievery, and The Feminine Mystique because it causes divorce.” Fred Small, Pornography and Censorship, in MEN CONFRONT PORNOGRAPHY 72, 74-75 (Michael S. Kimmel ed., 1990).

198. See, e.g., Peter Baker, A Touchy Subject for Fairfax: Homosexuality May Be Classroom Topic, WASH. POST, May 24, 1990, at C1, C7 (describing the controversy over how Virginia ninth-graders would be affected by seeing an educational video drama about a teenage boy dealing with his homosexuality); Joseph Berger, Fernandez Looking to Albany to Shore Up His Authority, N.Y. TIMES, Dec. 9, 1992, at B3 (reporting that a New York school board rejected a curriculum that teaches respect for gay families based on concerns that it would promote sodomy); David Foster, In Gay Rights Debate, Concern About Children Is Never Far Away, L.A. TIMES, June 6, 1993, at B3 (discussing the curriculum debates by school boards over the inclusion of materials advocating the tolerant treatment of gay people).

199. See Jane Mills, Classroom Conundrums: Sex Education and Censorship, in SEX EXPOSED, supra note 8, at 200-01 (noting that traditionalists view sex education as encouraging young people to have sex before they are ready). This objection is not, of course, limited to sex education materials. See Virgil v. School Bd., 862 F.2d 1517 (11th Cir. 1989) (upholding the ban on a text containing Aristophanes’s Lysistrata and Chaucer’s The Miller’s Tale). The fear that sexual display has undesirable social consequences is not, of course, unique to “feminist realists.” See REPORT OF THE NEW YORK STATE JOINT LEGISLATIVE COMMITTEE TO STUDY THE PUBLICATION OF COMICS, Mar. 1954, LEG. DOC. No. 37, at 18 [hereinafter REPORT OF THE JOINT LEGISLATIVE COMMITTEE] (citing a grand jury’s attribution of the “growing number of non-support and desertion cases” to the public
publication of *The Satanic Verses* to foster irreverence for the Deity, and even, as occurred recently, William Shakespeare's *Romeo and Juliet* to foster teen suicide. As history teaches, killing the artistic messenger quite frequently becomes the preferred quick-fix solution to complex cultural problems.

By nourishing anti-sex puritanism and artistic literalism ideology, as well as by joining in political organizing efforts, feminist porn-suppressionists fortify conservative efforts to supervise and limit communicative and imaginative exploration of sex and associated subjects. The religious and right-wing vigilantes exemplified by Operation Rescue, Reverend Donald Wildmon and his ilk—as well as mainstream politicians who cut off funds for studies of sexuality, support measures like the Pornography Victims Compensation Act, and seek sexual "loyalty display of pornographic literature.

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203. *School Officials to Review "Romeo & Juliet" Lessons*,UPI, Nov. 25, 1988, available in LEXIS, News Library, UPI File (reporting school officials' hesitation over a writing assignment on *Romeo and Juliet* out of fears that it might encourage thoughts of suicide); see also Teller, *Movies Don't Cause Crime*, N.Y. TIMES, Jan. 17, 1992, at A29 (criticizing the proposed Pornography Victims Compensation Act and noting that "[w]e penalize a movie producer for the crimes of a spectator . . . it won't be long before parents of suicidal teenagers sue high schools for teaching "Romeo and Juliet").

204. This reality has not been lost on progressive artists, writers, and musicians—the natural allies of feminism and the all-too-frequent targets of governmental and private censorship. See HEINS, supra note 102, at 95-115 (detailing numerous recent incidents of censorship). Simplistic "law and order" approaches to complex social problems are hallmarks of conservatism, not change. They are hardly the approaches suggested by the rich insights of feminist social and cultural criticism of recent decades.


206. *House Cuts Off AIDS Hotline*, NEW ORLEANS TIMES-PICAYUNE, Mar. 12, 1993, at A2, available in LEXIS, News Library, NOTPIC File (reporting on the cutoff of funding for a research program that offers free telephone counseling to gay and bisexual men about sexual practices that can cause AIDS); Barbara W. Selvin, *Study Focuses on Condom Use*, NEWSDAY, Apr. 15, 1993, at 41, available in LEXIS, News Library, NEWSDAY File (mentioning the congressional opposition to sex studies that killed two major sex-research studies during the Reagan and Bush administrations).

207. The Act, which purports to compensate "victims" of pornography at the expense of its publishers or distributors, thus chilling dissemination of sexual materials, has had many incarnations
oaths” of recipients of federal grants—benefit from the hostility to sexual and artistic license fostered by porn-suppression.

Indeed, by joining forces with them, feminist porn-suppressionists have already strengthened groups seeking to enact and enforce regressive and hostile limitations on women’s freedom. The coalitions built to

beginning as early as 1988 (S. 703, then called “The Pornography Victims Protection Act”), and was seriously considered by the Senate Judiciary Committee as recently as 1992. S. REP. No. 1521, 102d Cong., 1st Sess. (1992). See Maureen Dezell, Bundy’s Revenge, NEW REPUBLIC, Mar. 9, 1992, at 15 (describing the “strange bedfellows” that supported the legislation, including fundamentalist Christians, conservative pro-family lobbyists, and feminists); John Irving, Pornography and the New Puritans, N.Y. TIMES, Mar. 29, 1992, § 7, at 1 (arguing against the bill and noting that many feminist groups opposed it).

208. See generally Bolton, supra note 205 (describing, inter alia, the 1990 legal and political battle over graphic sexual works by Robert Mapplethorpe, including the obscenity indictment and eventual acquittal of Cincinnati’s Contemporary Arts Museum for exhibiting Mapplethorpe’s work; the attack on the National Endowment of the Arts (“NEA”) by right-wing politicians Pat Buchanan and Senator Jesse Helms for using “taxpayer money” to fund “obscene” and offensive art; and passage of Helms’ amendment prohibiting funding of “patently offensive” work). Four artists were denied NEA grants—Karen Finley, Holly Hughes, John Fleck, and Tim Miller. The denial was challenged on First Amendment grounds. In June, 1993, the case was settled, with each of the “NEA 4” receiving the grant monies they were denied as well as compensatory damages, legal fees, and litigation costs. Although the settlement resolves the artists’ original claims, the Clinton administration’s Justice Department is appealing a finding that a rider attached to the Endowment’s reauthorization statute requiring that the NEA take into account “general standards of decency” in making its funding decisions is unconstitutional. See “NEA Four” Case Settled, AM. CIV. LIBERTIES UNION ARTS CENSORSHIP PROJECT NEWSL., Summer 1993, at 1, 4. For views on the government funding controversy, see Allan Parachini, Widening Rust, 253 NATION 468, 468 (1991) (describing the Bush administration’s efforts to broaden the Supreme Court’s holding in Rust v. Sullivan, 500 U.S. 173 (1991), to support content-based evaluation of NEA funding applications).

For a forceful argument that the denial of “affirmative” governmental subsidies to artists like Mapplethorpe should be treated as violative of the First Amendment in the same way that negative (criminal) enforcement would be, see Owen Fiss, State Activism and State Censorship, 100 YALE L.J. 2087, 2096 (1991) (“Most commentators and perhaps a majority of the justices would not see this double standard [between the application of the First Amendment to negative and affirmative government action] as posing a First Amendment problem of any sort.”). Feminist porn-suppressionists may thus actually do more harm by influencing federal, state, and local grant-making to artists, writers, libraries, museums, and exhibitors than they would if they succeeded in gaining enforcement of anti-porn ordinances.

209. These groups are increasingly successful in their efforts to impose such limitations. Presidents Reagan and Bush appointed thousands of federal judges (at the time, more than half of the federal judiciary) on the basis of an explicitly conservative litmus test to ensure restrictive views on sexuality and reproduction. Sylvia A. Law, Abortion Compromise—Inevitable and Impossible, 1992 U. ILL. L. REV. 921, 925 (citing the 1992 Republican Party Platform, which calls for the “appointment of judges . . . who respect . . . the sanctity of innocent human life”). The protective trimester analysis of Roe v. Wade, 410 U.S. 113 (1973), has been replaced by a standard that invites states to enact restrictions on abortion—such as two-parent consent, waiting periods, counselling that encourages childbirth rather than abortion—and many have taken advantage of the invitation. Id. Furthermore, the Supreme Court has long permitted states and the federal government to deny to poor women information about abortion and Medicaid payment for it. See Rust, 500 U.S. at 191 (upholding the constitutionality of federal regulations prohibiting a Title IX project from engaging in abortion counseling as a means of family planning); Harris v. McRae, 448 U.S. 297, 306-11 (1980) (holding that neither Medicaid nor the states need fund medically necessary abortions). Private efforts have successfully prevented the marketing of RU486 (the French “abortion pill”) in the United States, and also have
pass anti-porn ordinances remain intact for further suppression efforts, and they have influenced school boards, art museums, media, and other institutions to suppress a wide variety of imagery. They remain intact, as well, to press for regressive social legislation that goes far beyond the suppression of pornography. It is women who will suffer most, both from the demise of free-wheeling artistic and sexual conversation, and from greater control of their sexual lives.

E. The Importance of Freewheeling Sex Talk

Here, at the end of the twentieth century, with the African continent shattered by war, famine, and AIDS, with our folks dazed by the deconstruction of Reconstruction, sex and sensuality are elements of any progressive discussion.

—Ntozake Shange

it’s a sex object if you’re pretty and no love or love and no sex if you’re fat get back fat black woman be a mother grandmother strong thing but not woman gameswoman romantic woman love needer man seeker dick eater sweat getter fuck needing love seeking woman

—Nikki Giovanni

halted private and public funding for such organizations as Planned Parenthood. See, e.g., Philip J. Hilts, Abortion Link Helps to Kill Research, N.Y. TIMES, Nov. 16, 1990, at A18 (reporting that anti-abortion protests halted federal research on RU486); Elizabeth Holtzman, The Real Agenda: Sex Only for Procreation, L. A. TIMES, Nov. 23, 1990, at B5 (reporting that anti-abortion activists had deterred U.S. companies from testing RU486); Abortion Foes Plan to Boycott French Pill Maker, N.Y. TIMES, June 2, 1994, at A21 (reporting the threat of a new boycott now that the manufacturer has donated the patent rights to the Population Council, which plans to test RU486 in the United States).

210. See HEINS, supra note 102, at 95-115 (describing numerous examples of organized attacks on artistic and theatrical depictions of nudity); Lewis Grossman, Self-Censorship by the Media Industries, 15 COLUM. J.L. & ARTS 443, 444 (1991) (arguing that “voluntary” industry censorship codes are often “not ‘voluntary’ at all, but were imposed on the media by the government and by pressure groups”).

211. Indeed, the titillating battle over sexual depiction serves to take the focus off the failure to adequately address and remove the conditions that make women subject to actual sexual abuse and harassment. It is far more exciting to fight over porno pictures than to design curricula or educational videos to prevent youth sexual harassment or to develop strategies to combat misogyny in rap, rock, and heavy metal music. See Larry Olmstead, From a Powerful Pulpit, a Warrior Takes Aim, N.Y. TIMES, June 5, 1993, Metro Section, at 23 (reporting the Rev. Calvin Butts’s attack on explicit lyrics in rap); Marshall Berman, Close to the Edge: Reflections on Rap, TIKKUN, Mar./Apr., 1993, at 13 (defending rap but acknowledging its negative qualities).


For women, and especially minority women, the sexual has always been political, and as a result, women have always sought—and been censored and repressed in their efforts to gain—sexual and reproductive freedom. Because women have been defined by their sexuality and sex-linked reproductive capacity, it has been impossible to explore women's lives or change women's statuses without addressing—sometimes quite vividly and “explicitly”—sexual subjects.

Like their forebears in the “social purity” movement of the late nineteenth century, porn-suppressionists act at a time of reaction against women's changing social, sexual, and reproductive roles. During the last century, women have gained significant access to tools of expression and communication, as well as increased freedom to express themselves on forbidden subjects like sex. Women may not control the major media, but they are writing, filming, singing, photographing, painting, and publicly talking as never before. In addition, their voices have brought new issues and perspectives to the fore.

women “enjoy” degradation? To those who believe penetration to be presumptively a form of rape, as well as to conservatives who find explicitly sexual language itself to be vulgar and immoral, the answer must surely be yes. Hence, Giovanni could be censored. See supra notes 80, 140.

See HOOKS, RACE AND REPRESENTATION, supra note 20, at 21-39, 61-77, 87-113 (describing the ways in which minorities have been sexually exploited by the white majority throughout American history); Lynn Hunt, The Many Bodies of Marie Antoinette: Political Pornography and the Problem of the Feminine in the French Revolution, in EROTICISM, supra note 88, at 108, 108, 108-26 (examining the subject of Marie Antoinette in late-18th-century French pornographic literature as a manifestation of “the underlying interconnection between pornography and politics”).

See DE GRAZIA, supra note 39, at 3-19 (describing the prosecution of feminists by federal and state officials for publishing sexually explicit works); EHRENREICH & ENGLISH, WOMEN HEALERS, supra note 39, at 11-12 (claiming that the suppression of witches in the Middle Ages was motivated by a religious view that associated their power with sexuality and accused them of using birth control and performing abortions); Gilligan, supra note 39, at 16-18 (describing the punishment of adulterous and otherwise inappropriately sexual women).

See infra notes 251-57 and accompanying text.

See HOBSON, supra note 42, at 51-76, 139-84 (examining 19th-century moral reform societies and the historical movement against prostitution).

See infra notes 223, 226 and accompanying text. Several writers have suggested that the dramatic increase in porn is symptomatic of a backlash against women's progress in the economic and political spheres, a backlash that has occurred in previous periods of gain by women—the late 19th century, the early 20th century, and the 1950s—as well. See FALUDI, supra note 74, at xxi; Gubar, supra note 2, at 63 (suggesting that porn has been used by men for centuries to regain the control over women that may have been lost in the political arena); WOLF, supra note 74, at 10 (listing the dramatic increase in the popularity of pornography as one of several harmful trends engendered by a backlash against feminist gains).

Not surprisingly, a great deal of this “talk” concerns women's bodies and sexuality. See supra text accompanying note 212; infra notes 235-37, 251-57 and accompanying text. Women's greater participation in the realm of public debate and action is amply demonstrated in the porn debate. See West, supra note 9, at 683-84 (contending that the debate over pornography has radically shifted in recent years as a result of the participation of women).

Women have placed on the agenda questions about what it means for women to have the power to decide issues such as gestation, giving birth (or not), breast feeding—and to explore the
Indeed, significant numbers of women have not only joined a discourse about sexuality that, until relatively recently, was largely the province of men,221 but also are engaging in actual as well as imaginary sexual exploration.222 Dramatic changes in reproductive knowledge and connection between these powers and sexual pleasure and pain. See Snitow, supra note 172, at 261, 254–62 (analyzing the pornographic quality of romance novels and noting that "some of the barriers that hold back female sexual feeling are acknowledged and finally circumvented quite sympathetically in these novels"). They have brought to the fore the myriad ways in which women’s bodies have served as symbols and metaphors for social disorder, political corruption, nature, irrationality, purity, and power, as well as the ways they have served in fact as pleasure machines, laborers, and producers for men. See generally EROTICISM, supra note 88 (examining the relationship between French art’s portrayal of women and the social and political status of women in French society); THE FEMALE BODY, supra note 26 (surveying the ways society objectifies the specific parts of the female body); FEMALE SEXUALIZATION, supra note 12 (analyzing the ways in which women’s bodies have been ordered and structured to fit social expectations). And they have insisted on “talking sex”; envisioning sex acts; examining sexual portrayal; experiencing and describing sexual pain and pleasure; probing lesbianism, homosexuality, and bisexuality; debating sadomasochism, masturbation, teenage sex, AIDS, contraception, abortion, eugenics, genetics, sperm, eggs, uteri and fetuses, prostitutes and pimps, and much more.

221. Religious, scientific, legal, literary, and artistic writings and representations—especially those touching on issues of sex and sexuality—have been overwhelmingly created by and for men. Indeed, many argue that “[c]ulture, as we know it, is patriarchy’s self-image” and that the “history of representation is the history of the male gender representing itself to itself.” SUSANNE KAPPELER, THE PORNOGRAPHY OF REPRESENTATION 53, 52-53 (1986); see also FREEDBERG, supra note 25, at 318, 318–20 (discussing the possibility that Western imagery reflects male ideology and that “all viewing has been through male eyes”); Grigsby, supra note 92, at 99-100 (“[T]he history of women’s visibility is predominantly the history of women’s objectification and oppression.”).

Women were not merely left out of the conversation, but actively denied access to it, especially when sex and sexuality (and, necessarily, reproduction) were concerned. See, e.g., Garrard, supra note 84, at 161 (“[T]he definitive assignment of sex roles in history has created fundamental differences between the sexes in their perception, experience and expectations of the world, differences that cannot help but have been carried over into the creative process . . . . ”); LINDA NOCHLIN, Why Have There Been No Great Women Artists?, in WOMEN, ART, AND POWER, supra note 25, at 145, 150-58 (discussing the historical exclusion of women from the world of art and the likelihood now of equal recognition). Regarding women’s exclusion from scientific and medical discourse, see EHRENBREICH & ENGLISH, FOR HER OWN GOOD, supra note 45, at 41-42 (describing the early professionalization of medicine and its resulting exclusion of women). See generally LONDA SCHIEBINGER, THE MIND HAS NO SEX? WOMEN IN THE ORIGINS OF MODERN SCIENCE (1989). Regarding women’s exclusion from and treatment in religious discourse, see Miles, supra note 24, at 36, 34-36 (analyzing religious culture in early Renaissance Italy and remarking that “[w]hile men were encouraged to identify with the male Christ, women’s identification with the female Virgin was blocked by verbal emphasis on the unbridgeable chasm between the ideal Virgin and actual women”). For a brief overview of feminist views of the portrayal of women in television, see E. Ann Kaplan, Feminist Criticism and Television, in CHANNELS OF DISCOURSE, REASSEMBLED 247, 254–67 (Robert C. Allen ed., 2d ed. 1987).

222. Changes in gender roles, reproductive knowledge, and technology have severed the necessary link for women between sexual activity and reproduction. See Michelle Stanworth, Reproductive Technologies and the Destruction of Motherhood, in REPRODUCTIVE TECHNOLOGIES 10, 11 (Michelle Stanworth ed., 1987) [hereinafter REPRODUCTIVE TECHNOLOGIES] (discussing new technologies that achieve fertilization without intercourse). Previously, women who wished to reproduce had to engage in heterosexual sex, while women who wished to enjoy heterosexual sex typically faced the danger of pregnancy. Of course, in a sense, the link between reproduction and sexual expression has never, for women, been “necessary.” Only for men is reproduction dependent on sexual “release”; women can procreate without sexual pleasure and can easily achieve orgasm without penetration and the con-
technology, as well as changes in sexual and social roles, norms, and mores, have made it possible and necessary for women to define a new sexual identity. Now that society acknowledges that women's sexual pleasure is not inextricably linked to reproduction, women can more freely explore the meaning of sexual pleasure. Yet, at the same time, increased knowledge and newly developed technology have made women's sexual and reproductive choices and behavior increasingly subject to medical, legal, and even corporate intervention and comitant risk of pregnancy. See Shere Hite, The Hite Report 134 (1976) (reporting survey data showing that only 30% of women can achieve orgasm during intercourse); id. at 51 (reporting that penetration is rarely used by women as a means of achieving orgasm); see also Patricia Y. Miller & Martha R. Fowlkes, Social and Behavioral Constructions of Female Sexuality, in Sex and Scientific Inquiry 147, 149-53 (Sandra Harding & Jean F. O'Barr eds., 1987) (surveying the research on sexuality and describing Masters & Johnson's finding that vaginal sex produces the lowest level of erotic intensity for women).

223. For an excellent discussion of changes in sexual and social roles, see Beth L. Bailey, From Porch to Back Seat: Courteship in Twentieth-Century America (1988); see also Coontz, supra note 148 (analyzing the effects of new technology and changing social norms on the modern family); Ehrenreich et al., supra note 106, at 39-73 (discussing changes in values and the increase in available information that led to a rediscovery of women's sexual identity).

224. See generally Ehrenreich et al., supra note 106 (recounting the development of the women's sexual revolution).

225. Today, we consider it obvious that women can achieve orgasm without becoming pregnant and can reproduce without orgasmic stimulation. It was not always so. Only a few centuries ago, the common belief was that reproduction could not occur unless both parties achieved orgasm. See Laqueur, supra note 35, at 2-3. Arguably, in this instance women have lost something from more accurate scientific knowledge—male attention to female sexual satisfaction when they wished for offspring.

226. Use of most contraceptive methods, from "the pill" to intrauterine devices, requires doctors' prescriptions. Knowledge about and use of new reproductive technologies—from ultrasound imaging to ever newer forms of fertilization and gestation—remain in the control of doctors, clinics, and laboratories. Decisions concerning childbirth, from when and whether to carry a fetus to term, to whether to "save" a prematurely born fetus that could not survive without extreme medical intervention, to whether to perform surgery on women for the sake of an unborn fetus, are increasingly made by doctors and hospital ethics committees. William Ruddick, A Short Answer to "Who Decides?," in Embryos, Ethics, and Women's Rights 73, 75 (Elaine H. Baruch et al. eds., 1988) (noting that the advances in reproductive technology increase physicians' control over reproduction); see also Anna Quindlen, The Littlest Patients, N.Y. Times, Jan. 29, 1992, at A21 (lamenting doctors' insistences on extraordinary measures to save the lives of prematurely born fetuses that will ultimately die or be severely deformed); Dorothy Roberts, Punishing Drug Addicts Who Have Babies: Women of Color, Equality, and the Right of Privacy, 104 Harv. L. Rev. 1419, 1442, 1442-44 (1991) (describing the "coerced" sterilizations of women of color as "one of the most extreme forms of control over a woman's reproductive life"). New birthing technologies such as In Vitro Fertilization (IVF), Gamete Intra-Fallopian Transfer (GIFT), and Zygote Intra-Fallopian Transfer (ZIFT) are tightly controlled by physicians and laboratories. See Andrea L. Bonnicksen, In Vitro Fertilization: Building Policy from Laboratories to Legislatures 25-50 (1989) (discussing physicians' self-appointed roles as "gatekeepers" of IVF technology); see generally Reproductive Laws for the 1990s (Sherill Cohen & Nadine Taub eds., 1989).

control. As a result, women's bodies and sexuality have increasingly become a battleground of political struggle between conservative and progressive forces.

Women therefore need maximum freedom to explore and express in a variety of media all sorts of imaginings, thoughts, and ruminations about sex, bodies, and heretofore hidden body parts. Voices of women like Nancy Friday, who describes the fantasies of women in (their own) surely "pornographic" words; Sallie Tisdale, who confesses her attraction to regulations that barred recipients of federal family planning funds from providing information on abortion. In addition, a variety of regulations encourage or require the sort of neonatal intervention some have decried. See Quindlen, supra note 226, at A21. For an overview of legal rules affecting reproduction, see generally REPRODUCTIVE LAWS FOR THE 1990S, supra note 226, at 129-274.

228. Technologies that promise women freedom from the reproductive consequences of sexual exploration remain not only highly controversial, but also subject to corporate control. See Steven Greenhouse, Drug Maker Stops All Distribution of Abortion Pill, N.Y. TIMES, Oct. 27, 1988, at A1 (describing the decision of a French company to suspend distribution of RU 486, an abortion-inducing drug, because of pressure from anti-abortion groups).

229. See Jessica Benjamin, Authority and the Family Revisited: Or, A World Without Fathers?, NEW GERMAN CRITIQUE, Winter 1978, at 35, 36 ("Paternal authority has been replaced by bureaucratic state institutions and the moral image of the father by a secular ideology provided by the culture of industry and science.").

230. As bell hooks notes, the commodification of women's bodies—and in unique ways, those of minority women—has made them "playgrounds" as well as battlegrounds. See HOOKS, RACE AND REPRESENTATION, supra note 20, at 22 ("[T]he body emerges as a site of contestation where sexuality is the metaphoric Other that threatens to take over, consume, transform via the experience of pleasure."); see also Varda Burstyn, Political Precedents and Moral Crusades: Women, Sex and the State, in WOMEN AGAINST CENSORSHIP, supra note 75, at 4, 9 ("[I]t is only logical that the terrain of women's bodies, both in terms of childbearing and erotic pleasure, should become intensely politicized by all sides in the political arena.").

231. See generally FRIDAY, MY SECRET GARDEN, supra note 193; FRIDAY, FORBIDDEN FLOWERS, supra note 193; FRIDAY, WOMEN ON TOP, supra note 193. Friday argues that women's sexual fantasies, which she describes as "brilliant insights into what motivates real life," have shifted with the times, so that those that expiate sexual guilt—those in which sex is "forced" by rape and aggression by faceless strangers—are increasingly supplemented by angry ones in which women "us[e] their erotic muscle to seduce or subdue anyone or anything that stands in the way of orgasm." FRIDAY, WOMEN ON TOP, supra note 193, at 18.

MacKinnon implies that the rape and domination fantasies Friday describes are products of false consciousness, as are the reactions of women like Sallie Tisdale who are sexually stimulated by pornography. See MacKinnon, Sexuality, supra note 51, at 232 ("If the existing social model and reality of sexuality centers on male force, and if that sex is socially learned and ideologically considered positive and is rewarded, what is surprising is that not all women eroticize dominance, not all love pornography, and many resent rape."); see also Williams, supra note 104, at 48 ("That pornography could be a form of the sexual speech of heterosexual women, gays, lesbians, and others who have been suppressed by male heterosexuality is to MacKinnon unthinkable."). It may be that such reactions are warped (not merely shaped) by the male dominated sexual regime within which women have had to develop their sexual lives and fantasies. But this does not make the pleasure derived from them any less real (nor necessary), nor suggest that suppression of these fantasies and substitution of images that are healthier or more in conformity with women's interests will produce "healthier" or more "genuine" sexual expression. To the extent that MacKinnon's view is premised on a conception of what women's "true" interests are—that women "naturally" eschew penetration, or power games—it is highly problematic (just as is Camille Paglia's opposite view). See PAGLIA, supra note 18, at 26 ("There is
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the fantasy life of some hard core porn;\textsuperscript{232} and Candida Royalle, who makes films she calls "women's erotica,"\textsuperscript{233} must be heard as loudly as those of scholarly and carefully sanitized sexual depiction.\textsuperscript{234} The outrageously sexual art of women like Karen Finley,\textsuperscript{235} (ex-prostitute) Annie Sprinkle,\textsuperscript{236} and Johanna Went\textsuperscript{237} deserves an audience, as do the sexist but arguably also liberating portrayals of \textit{She's Gotta Have It},\textsuperscript{238} \textit{School Daze},\textsuperscript{239} or \textit{Desperately Seeking Susan}.\textsuperscript{240}

Imagery and representation are especially important tools of sexual exploration for women, not only because flights of fantasy in which boundaries can be stretched and broken in every direction are crucial to reinventing and reimagining the sexual self,\textsuperscript{241} but also because real sex, as

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\textsuperscript{232} See Tisdale, \textit{supra} note 176, at 44 (describing her preference for "low-brow, hard-core porn" and admitting that although some types of porn "genuinely scare" her, she finds that "[s]eeing what I don't like can be as therapeutic as seeing what I do").


\textsuperscript{234} Scholarly representations include SAMUEL S. JANUS & CYNTHIA L. JANUS, \textit{THE JANUS REPORT} (1993) (discussing both male and female sexuality). Men, too, must be able to express and explore even their darkest sexual feelings and fantasies; if they cannot, women's understanding and capacity to re-envision sexuality is undermined.

\textsuperscript{235} Karen Finley's performance art monologues, during which she covers her naked body with chocolate and alfalfa sprouts while railing against the repressive effect of religion, the fear of healthy sexuality, and the brutality of rape, have provoked considerable controversy. \textit{See Luc Sante, Blood and Chocolate: What Karen Finley Really Does, NEW REPUBLIC}, Oct. 15, 1990, at 34.

\textsuperscript{236} During a recent performance, Annie Sprinkle inserted a speculum into her vagina and invited audience members to look at her cervix. \textit{See The Well-Endowed Ms. Sprinkle, WASH. TIMES}, Feb. 12, 1990, at D2, \textit{available in LEXIS, News Library, WTIMES File}.

\textsuperscript{237} Performance artist Johanna Went uses grotesque puppets to create a "constellation of scatological figurea, vaginal and phallic masquerades" in which "every orifice enacts its desire." \textit{See Grigsby, supra note 92, at 98-99}.

\textsuperscript{238} \textit{She's Gotta Have It} (Island Pictures 1986). For an informative critique of Hollywood film portrayals of women's sexuality see Caryn James, \textit{Women and Sex: A Muddle on the Screen}, N.Y. TIMES, Feb. 9, 1992, § 2, at 13. James argues that "[w]omen's sexuality is a muddle on screen," and that "[e]ven those who begin their films with an unblinking, unapologetic acceptance of women's sexual desires find some cowardly way to hedge by the end." \textit{Id.} In her view, \textit{She's Gotta Have It} is one of the few films that is unapologetic about "heroine" Nola's sexual desire. \textit{Id.} at 14. \textit{But see MICHELE WALLACE, INVISIBILITY BLUES: FROM POP TO THEORY 101 (1990) (criticizing She's Gotta Have It for its disturbing storyline, which she characterizes as being about "a black woman who couldn't get enough of the old phallus, and who therefore had to be raped")}.

\textsuperscript{239} \textit{School Daze} (40 Acres and a Mule Productions 1988). \textit{See HOOKS, RACE AND REPRESENTATION, supra note 20, at 64 (describing School Daze as transformative in its resistance of the stereotyping of blacks and in its subversive claiming of "Doin' the Butt," even though the film's "potential to disrupt and challenge notions of black bodies, specifically female bodies, was undercut by the overall sexual humiliation and abuse of black females in the film"). Importantly, however, hooks notes that because the film was not widely seen, the song \textit{Doin' the Butt} took on a life of its own, independent of the misogyny of the film. \textit{Id.} at 64.\textsuperscript{240} \textit{Desperately Seeking Susan} (Orion 1985).

\textsuperscript{241} Such uses of sexual imagery can cut across cultural lines. For a description of how quasi-
opposed to fantasy sex, is so often fraught with danger for women. Indeed, women do not merely need to be able to look at the sexually explicit, they must be encouraged to do so, despite and because of social inculcation to the contrary. Western religious, Victorian, and—in the United States especially—puritanical heritage have straitjacketed women by presenting sex as naughty and dangerous; as something to be feared, hidden, and guilty about; as something “good girls” do not willingly look at, let alone do.

Sexual expression has long been used to order, challenge, and subvert the status quo. Perhaps because of cultural beliefs about the uncontrollable and uncontrolled nature of passion—passion as the antithesis of reason, as “of the body” rather than “of the mind”—sexuality has been viewed both as a tremendous source of power and as a threat to existing, rationally constructed, structures of power. Vulgar sexual speech, pornographic Japanese bishonen comics offer “a desirable fantasy space” to readerships including female teenagers, adult women, young adult males, and gay men, allowing them to experience “a fantastical space for the exploration of sexual desire outside the closed circuit of the oedipal theater of the family,” see Buckley, supra note 169, at 181, 180, 173-81. Buckley notes, however, the sharp contrast between these and the adult porn comics that feature more explicit sexual depiction. Id. at 181, 190.

The dangers to women from physical sexual exploration arise not only or even primarily because of male sexual brutality and aggression, but because of the potential consequences to women of engaging in sexual activity. Such consequences range from guilt and parental and religious disapproval to, in the case of heterosexual sex, pregnancy and concomitant potential economic, physical, and social harm. Women suffer injury from unsafe contraceptives, abortion, pregnancy, and childbirth, as well as from the poverty, social ostracism, and economic and legal dependence in which childbirth too often results.

This hiddenness has itself been part of women's oppression: Because Victorian women could not even discuss sex-related issues, hundreds of thousands of women suffered—in America consuming Lydia Pinkham's pink sugar pills instead of getting medical help for menstrual dysfunction and other sex-related illnesses—and abandoned babies or died from back-alley abortions rather than suffer the social and economic consequences of unwed motherhood. See LINDA GORDON, WOMAN'S BODY, WOMAN'S RIGHT: A SOCIAL HISTORY OF BIRTH CONTROL IN AMERICA 18, 23, 49-60 (1976) (discussing the prohibition on the direct discussion of sexual matters by women and its negative effects).

It is hardly coincidental that women in James Lindgren's survey, when asked to classify pornography according to the MacKinnon-Dworkin test, were “more likely [than men] to object to a work, but they [were not] significantly better at correctly classifying it as pornographic.” Lindgren, supra note 72, at 1161, 1191-93.

If sex is repressed, that is, condemned to prohibition, nonexistence, and silence, then the mere fact that one is speaking about it has the appearance of a deliberate transgression.” FOUGAULT, 1 THE HISTORY OF SEXUALITY, supra note 18, at 6.

Because of sexuality's placement at the boundary of existing power structures, it can be used for that portion of the artist's job that Susan Sontag described as fascinating the audience by “advance[ing] one step further in the dialect of outrage.” See SONTAG, supra note 4, at 45. Thus, Sontag believes that some pornographic works can be characterized as art, among them HISTORIE DE L'Oeil, a 1928 Georges Bataille book that Dworkin believes to be clearly pornographic. Id. at 59-66. See generally Vivian Cameron, Political Exposures: Sexuality and Caricature in the French Revolution, in EROTISM, supra note 88, at 90, 90-107 (suggesting that the images of the body in the time of the French Revolution “operate not just on the level of sexuality... but in fact are... related to multiple discourses on morality, on economics, on politics... and on a host of other areas”); Lynn Hunt,
songs, rhymes, jokes, writings, and art—whatever offends the powerful—have abounded.247 Racial, ethnic, and political minorities, as well as feminists and other advocates of change, have often used sexual imagery—with its added "charge" of the forbidden—to contest, question, and defy authority,248 or simply to claim the sexuality that has so often been used to brand them. As one critic has stated, "Popular culture provides countless examples of black female appropriation and exploitation of 'negative stereotypes' to either assert control over the representation or at least reap the benefits of it."249 Depictions of the sexually outrageous and the unthinkable become vehicles by which to understand and, especially, to confront human limits, desires, fears, and aspirations—as well as to affirm and proclaim the desire and right to be sexual.250

Women have used sexual imagery simultaneously to explore and to

Introduction to EROTICISM, supra note 88, at 1, 1-13 (explaining how various essays demonstrate "the relationship between the erotic body and the social body"); Hunt, supra note 214, at 108-26 (noting that when royal figures are the subject of pornographic literature something in the larger body politic is being addressed); Wagner, supra note 88, at 227, 191-236 (concluding that the impact of Rodin's art on his contemporaries lay in the fact that it "was seen to give explicit sculpted form to a particular understanding of the modern sexual condition").

247. 2 Live Crew's vulgar and sometimes misogynist lyrics are born of this heritage. See, e.g., Henry Louis Gates, Jr., 2 Live Crew, Decoded, N.Y. TIMES, June 19, 1990, at A23 [hereinafter Gates, 2 Live Crew, Decoded] (asserting that the group's members are "engaged in heavy-handed parody, turning the stereotypes of black and white American culture on their heads"); Henry L. Gates Jr., The Case of 2 Live Crew Tells Much About the American Psyche, N.Y. TIMES, July 15, 1990, § 4, at 18 (claiming that obscene lyrics by black rappers must be considered part of black culture despite disavowals by some black intellectuals). Madonna constantly tests the boundaries of societal (and legal) tolerance with her literally thinly veiled portrayals of sado-masochist and other "bad" sex. See supra note 180. Karen Finley's "performance art" painting of her own nude body in chocolate is born of the same heritage as well. See Sante, supra note 235, at 36 (characterizing Finley's application of various substances to her nude body as a metaphor for numerous "violation[s] perpetuated on women's bodies"). Black women have used sexual lyrics, writing, and imagery to explore, to ridicule, to redefine prevailing sexual attitudes and standards, as well as to claim a place for sexuality and sexual self-definition. See Miriam DeCosta-Willis, Introduction to EROTIQUE NOIR: BLACK EROTICA, supra note 138, at xxix, xxxiv (introducing a collection of erotic literature by black authors and expressing surprise at "the extent to which contemporary Black women are willing and able to reveal their most intimate thoughts, their most private practices, and their most erotic fantasies" (emphasis in original)). Surrealists disembodied women's (and men's) bodies to ridicule bourgeois sexuality. See Gubar, supra note 2, at 54, 49-54 (reprinting surrealist works and commenting that the surrealists "mocked the hypocrisies of the bourgeois morality as the origin of [sexual] repression and alienation").

248. They have done so in part precisely because sex has been used by those in authority to marginalize and devalue such groups. See generally GILMAN, supra note 20, at 76-127, 191-216 (examining stereotypes of race and gender). As Gilman notes, "No realm of human experience is as closely tied to the concept of degeneration as that of sexuality." Id. at 191.

249. HOOKS, RACE AND REPRESENTATION, supra note 20, at 65. Hooks refers not only to the women blues singers quoted infra note 255, but also to icons like Tina Turner and Aretha Franklin, who simultaneously mock and exploit for profit dominant imagery, much like Madonna, sometimes buying into and reinforcing dominant white beauty norms. Id. at 66-70.

250. They are also necessary to explore our present and past in a meaningful way. "[G]hettoizing of pornography throws out the baby with the bathwater. For . . . pornography is crucial for understanding our cultural past." Gubar, supra note 2, at 58.
celebrate female sexuality and to challenge dominant constructions of it. From Georgia O'Keeffe's highly sexual portrayals of floral "genitalia" to Judy Chicago's explicit "Dinner Party" sculptures of vaginal parts, from Sankofa's film, Passion of Remembrance, to the songs of Ma Rainey and Lucille Bogan, women have claimed their bodies and sexuality as beautiful. By contrast, Jo Spence's haunting, graphic, and unflattering photographs of parts of her own and others' nude bodies—as well as Virginia Maksymowicz's satirical "strip-tease" series, which presents famous artworks under the unbuttoned blouse of a woman—defy traditional genre norms in order to demand that viewers cease romanticizing the female body.

Moreover, sexual discourse needs to be free-wheeling and uncontrolled.

251. See Barbara B. Lynes, Georgia O'Keeffe and Feminism: A Problem of Position, in THE EXPANDING DISCOURSE, supra note 24, at 436-49 (describing the importance of O'Keeffe's female images to feminist artists).
252. See Josephine Withers, Judy Chicago's 'Dinner Party': A Personal Vision of Women's History, in THE EXPANDING DISCOURSE, supra note 24, at 451, 451 (praising Chicago's artwork as "a transcendental vision of women's history, culture, and aspirations").
253. See HOOKS, RACE AND REPRESENTATION, supra note 20, at 76 (stating that the film portrays a young, black lesbian couple who in one scene "dance together, painting their lips, looking at their images in the mirror, exulting in their black female bodies").
254. Ma Rainey's lyrics were fully understood by audiences as "sexual" if not "explicit": "If you don't like my ocean, don't fish in my sea/If you don't like my ocean, don't fish in my sea/Stay out of my valley, and let my mountain be." MA RAINNEY, Don't Fish in My Sea, quoted in Hazel V. Carby, 'It Jus Be's Dat Way Sometime': The Sexual Politics of Women's Blues, in UNEQUAL SISTERS: A MULTICULTURAL READER IN U.S. WOMEN'S HISTORY 238, 245 (Ellen C. DuBois & Vicki L. Ruiz eds., 1990) [hereinafter UNEQUAL SISTERS]; see also IDA COX, One Hour Mama, quoted in Carby, supra, at 247 ("I've always heard that haste makes waste/So I believe in taking my time/The highest mountain can't be raced/It's something you must slowly climb/I want a slow and easy man/He needn't ever take the lead/Cause I work on that long time plan/So I ain't lookin' for no speed/I'm a one hour mama, so one minute papa/Ain't the kind of man for me/Set your alarm clock papa, one hour that's proper/Then love me like I like to be.").
255. Bogon's songs are considerably more explicit than those of Rainey:

"I got nipples on my titties
Big as the end of my thumb
I got sumpin tween my legs'll
Make a dead man come.
Ahuhwwweee, ohuhwwweee, Daddy,
Say, I tucked all night an all the night befo,
Baby, an feel like I wanna fuck some mo.
Ohhh, Great God, Daddy, grind me, honey,
Baby, won't you shave em dry."

Miriam DeCosta-Willis et al., (in)F(ue)CTION: Out of the Closet and into the Bedroom, Preface to EROTIQUE NOIR: BLACK EROTICA, supra note 138, at xxii (quoting LUCILLE BOGAN, Shave Em Dry, on COPULATION BLUES).

256. For a description and copies of Spence's photographs, see Grigsby, supra note 92, at 92-95, 102 (figs. 10 and 11: Jo Spence & Tim Sheard, Carcinoma Excision. Part I: Narratives of Dis-Ease, 1990).
257. Virginia Maksymowicz, History of Art, reproduced and explained in Grigsby, supra note 92, at 102 (fig. 1: Virginia Maksymowicz, History of Art, ongoing series).
because of the hotly contested nature of issues concerning sexuality. Such issues as what constitutes pleasure for women and its connection to danger, to power, to men, and to aggression and inequality; of what sex is "good" and "bad"; and of whether women can escape inequality and coercion within Western sexual culture are debated and dissected with little agreement across boundaries of class, race, and nationality.258 Allies on other issues disagree about whether all violence is bad, over what constitutes violence or pleasure, and over the meaning of such terms as "objectified," "degraded," or "demeaned."259

Some, like Barbara Omolade, bell hooks, and Angela Harris argue that the lens of race is at least as important as that of sex in understanding patriarchal sexuality. Omolade points to European men's "cultural definitions of sex, nudity, and blackness as base, foul and bestial,"260 and hooks describes the contemporary commodification of "race and ethnicity" as "resources for pleasure" such that "the culture of specific groups, as well as the bodies of individuals, can be seen as constituting an alternative playground where members of dominating races, genders, [and] sexual

258. See generally HOOKS, RACE AND REPRESENTATION, supra note 20 (describing the exploitation of black females and black culture). See hooks, Power, supra note 75, at 78, 77-78 (arguing that in Madonna's book, Sex, "[b]lack female sexuality is stereotypically represented as degraded"). Class, however, is a rarely-addressed but omnipresent issue in the debate about pornography.

259. See supra note 12 and accompanying text. Several feminists have argued that sexual "objectification" of one's partner—indeed, the exercise of "power" over one's partner—may be intrinsically connected to sexual pleasure. Sexual equality often does not and may never, they argue, produce sexual pleasure or arousal for many women. See supra note 153 (discussing the views of several feminists on sexual inequality); see also Amber Hollibaugh, Desire for the Future: Radical Hope in Passion and Pleasure, in PLEASURE AND DANGER, supra note 41, at 401, 408 ("I don't want to do away with power in sex like a part of the feminist movement; I want to redistribute that power and knowledge so I can use it for myself and for my partner."); hooks, Power, supra note 75, at 73-75 (suggesting that, while difficult in heterosexual sex, consensual power play can be positive and meaningful); Califia, supra note 152, at 20 (explaining how she and other women are aroused by "images of capture, helplessness, and torture"); supra note 231 and accompanying text (discussing women's pleasure in fantasies of rape, overpowement, and domination).

260. Barbara Omolade, Hearts of Darkness, in POWERS OF DESIRE, supra note 25, at 350, 351. These attitudes are by no means only those of men: Both Hortense Spillers and Hazel Carby have decried the failure of white middle-class women to take account of black women's sexuality, arguing that black women have served in white culture as both "the imagined site of an illegitimate sexuality" and as "the affirmation of asexuality." Hortense J. Spillers, Interstices: A Small Drama of Words, in PLEASURE AND DANGER, supra note 41, at 85, 86; id. at 74 ("[B]lack women are the beached whales of the sexual universe, unvoiced, misseen, not doing . . ."); see also hooks, Power, supra note 75, at 78 (criticizing Madonna's book, Sex, for its stereotypical degradation of black female sexuality).

Black progressives disagree about whether the presentation of female sexuality even in black rap music and film represents, reinforces, or subverts dominant patriarchal norms. See Berman, supra note 211, at 78 ("The most vicious and shameful motif in rap is brutality toward women."); Clarence Page, Violent Messages That Deserve the Bad Rap They Get, CHI. TRIB., Jan. 27, 1992, at 21; Gates, 2 Live Crew, Decoded, supra note 247, at A23 ("[M]uch more troubling than [the group's] so called obscenity is the group's overt sexism."); cf. Simon Reynolds, Belting Out That Most Unfeminine Emotion, N.Y. TIMES, Feb. 2, 1992, § 2, 27 (contrasting the style of women rappers).
practices affirm their power-over in intimate relations with the Other.”261 Harris notes that “[f]or black women, rape is . . . an experience as deeply rooted in color as in gender.”262 Still other writers point to the importance of class,263 noting the sexual stigmatization of lower classes—such as prostitutes, “foreigners,” slaves, and minorities264—and arguing that the creation of the category “pornography” may itself be a product of dominant groups’ desire to maintain power.265 To require that debate

261. HOOKS, RACE AND REPRESENTATION, supra note 20, at 23.
263. Class is one of the least adequately addressed issues in the pornography debates, though it is often hinted at. MacKinnon, for example, argues that obscenity is what “turns on those men the men in power think they can afford to ignore.” MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 153. Walter Kendrick suggests that in carving out the category of “pornography” from erotica, dominant classes were seeking to limit what lower classes had access to. WALTER KENDRICK, THE SECRET MUSEUM: PORNOGRAPHY IN MODERN CULTURE 91 (1987). Few writers, however, have really examined the way in which definitions of erotica, as against pornography, implicate notions of elitism as compared to mass imagery, and represent not so much actual as imagined class differences. For an excellent discussion of the issue of class in the mainstream depiction of masculinity, see Peter Biskind & Barbara Ehrenreich, Machismo and Hollywood’s Working Class, in AMERICAN MEDIA AND MASS CULTURE, supra note 41, at 201, 202 (stating that films describing the working class such as Saturday Night Fever, Blue Collar, and Rocky I & II are “in a sense, middle-class male anxiety dreams in which class is no more than a metaphor for conflicting masculine possibilities”).

Porn may embody and express—in language and imagery stereotypically appealing to working class men—the same anxieties that are portrayed from the perspective of middle-class men in Hollywood films about working-class men, such as Saturday Night Fever, Blue Collar, Rocky I & II. “Violence and machismo, along with male bonding and obsessive determination, are allocated to the working class. Maturity and self-mastery are allocated to the middle class.” Id. Debate about porn abounds with discussion of what others find arousing and must hence be repressed or suppressed. See Rubin, supra note 41, at 267-75 (recounting societal efforts to regulate or prohibit certain modes of sexual expression, including pornography).

264. See generally GILMAN, supra note 20 (describing the sexualization and erotic stereotyping of prostitutes, members of the lower class, blacks, and Jews). Social reformers of the late 19th and early 20th centuries found the pictures and lyrics of the “pluggers” used to advertise working-class dances “so suggestive that they are absolutely indecent.” Kathy Peiss, “Charity Girls” and City Pleasures: Historical Notes on Working-Class Sexuality, 1880-1920, in UNEQUAL SISTERS, supra note 254, at 157, 158 (quoting GEORGE J. KNEELAND, COMMERCIALIZED PROSTITUTION IN NEW YORK CITY 68 (1913)). Today, middle-class women decry the sexually suggestive business cards distributed by phone-sex operations and dating services. It has been argued that attempts to segregate sex trades from mainstream sexual presentation—for example, nudity in Broadway theater and near nudity in modern dance—represent a form of class and cultural bias, pure and simple. See Amber Cooke, Stripping: Who Calls the Tune?, in GOOD GIRLS/BAD GIRLS, supra note 5, at 92, 92-93 (noting that total nudity came to Toronto theater via the musical Hair, not via strip joints).

265. See KENDRICK, supra note 263, at 82-92. Kendrick notes that the first significant wave of censorship of pornography occurred just as explicitly sexual portrayals emerged from the “secret museums” of the bourgeois and upper classes to become widely available through newly improved photographic and print techniques. Id. at 84-86. Today’s anti-pornography efforts coincide with improved and inexpensive video and computer printing techniques. Id. at 221-35. He posits that when new technologies of mass dissemination make the private discourses of elites more widely available, those discourses are labeled pornographic and censored. Id. at 118. Kendrick notes that the terms “pornography” and “pornographic” apparently did not come into use until the mid-19th century. Id. at 11-13. For the history of the word “pornography,” see 12 THE OXFORD ENGLISH DICTIONARY 136
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over these issues eschew evocative sexual depiction and take place only in arid scholarly form is to deny feminism one of the most powerful tools of exploration and change.266

Although feminist porn-suppressionists claim porn can be excised from sexual depiction without depriving women of their voice, the suppression effort, as I have shown, is built on theoretical premises inimical to feminism and has helped to create an atmosphere in which sexual expression is chilled and the policing of sexuality flourishes.267

In the next Part, I elaborate on my claim that the imagery feminist suppressionists target is not significantly responsible either for the cultural construction of the erotic or for the “silencing” of women.

III. What’s Porn Got to Do with It?

[T]he history of women’s visibility is predominantly the history of women’s objectification and oppression.

—Darcy G. Grigsby268

[T]he spectator is invited to dote on the [female] body in the picture and to engage those feelings of possession and fetishism from which, as long as he looks at the picture, he chooses not to escape.

—David Freedberg269

If porn-suppression reduced violence and aggression against women, thereby enhancing women’s self-expression and power, it might arguably be a worthwhile effort, notwithstanding its harmful effects. Appealing as it may be to discover in pornography’s vulgar phallocentrism the well-spring of male domination, porn simply is not that important.270

Treating

266. It is not far-fetched to suggest that eroticism would largely disappear from public discourse with the acceptance of the porn-suppressionist ideology. Not only does most sexual art, music, literature, and film potentially evoke complaints by conservatives under anti-porn ordinances, but self-censorship by publishers and exhibitors would surely take its toll. The more potentially “arousing” or evocative an image is, the more likely it is to be censored or challenged.

267. Recent examples include not only the NEA arts funding controversy but also President Clinton’s proposed broadening of child pornography censorship to include portrayals of fully clothed children if “designed” to elicit a sexual response (a definition that could include much advertising). The President acted under pressure from a unanimous Senate resolution and an extremely active conservative lobbying effort. See Dyckman, supra note 99.

268. Grigsby, supra note 92, at 99-100.

269. FREEDBERG, supra note 25, at 20.

270. For purposes of this Part, I assume that a significant dent could be made in the dissemination
it as such merely deflects attention and inquiry from crucial economic, political, and social bases for sexual exploitation and inequality. The institutionalization of eroticized aggression against women takes place not merely through its depiction, but by locating and elaborating it in complex social structures.271 Sports and military institutions, for example, are far more likely than porn to encourage sexual abuse of women. Even within the realm of imagery, pornography is less pervasive and has far less influence and impact than does mainstream fare. Moreover, the persuasive power of Western erotica is dependent in part on women’s acquiescence and even active participation in its sexual regime, a phenomenon not achieved by porn, which, despite increasing production for and consumption by women, remains largely produced by, addressed to, and consumed by men. Finally, because porn is not significantly responsible for silencing women, women will not be helped in coming to voice by its elimination.

A. The Insignificance of Porn I: The Institutional Bases of Eroticized Aggression

[T]he domination of women depends not [merely] on ideologies of femininity but on the reproduction of gender relations, which cannot take place outside the institutional contexts which give those relations meaning and consequences.

—Angela Partington272

and consumption of porn via suppression, and I ask whether it would make a similarly significant dent in gender discrimination. It is clear, however, that the suppression effort has not made and is unlikely ever to make a dent in pornography’s production and dissemination. In the first place, as suppressionists constantly point out, porn is omnipresent. When the Meese Commission in 1985 surveyed 16 adult book and video stores, it found some 2325 serialized magazines, 725 books, and 2370 videos. Michael J. McManus, Introduction to FINAL REPORT OF THE ATTORNEY GENERAL’S COMMISSION ON PORNOGRAPHY at ix, xi (Rutledge Hill Press 1986). Since then, home video porn has made its debut, as has porn designed especially for women. See Hinds, supra note 134 (discussing the emergence and popularity of amateur adult video tapes); David Landis, Erotic Videos with Women in Mind, USA TODAY, Aug. 26, 1993, at 4D, available in LEXIS, News Library, USATDY File (describing so-called “women’s porn”). Telephone sex services—and their pornographic advertising that is ubiquitous on car windshields, in the mail, and in other forms—and underground home production proliferate. See Penley, supra note 183, at 135 (revealing the existence of underground Star Trek porn in which Spock and Kirk are lovers). And were the United States somehow to succeed in curbing mass production here—it would be nearly impossible to curb home computer and “desk-top” production and, given the inexpensiveness and ease of setting up video operation, even professional video production—porn would simply be produced overseas. It is difficult to see why we would have more success in curbing its illegal importation and local dissemination than we have in curbing importation of illegal drugs. And this is wholly to ignore the lengthy proceedings in every case in which producers, distributors, or consumers challenge suppression under the First Amendment.

271. For a summary of changes in the American institutionalization of sexuality, see COONTZ, supra note 148, at 195, 192-99 (noting the breadth of influences on and appropriations of sexuality, including the fact that “[a]dvirtisers found in sexuality a common denominator that they thought could reach a mass audience; doctors and sociologists considered it the wellspring of human growth and the main explanation of health or disease”).

272. Partington, supra note 181, at 246.
[By divorcing pornography from other systems of exploitation and the wider political context, we blind ourselves to the roots of women's oppression in conventional family life, religion, science, technology, the law, national and international state policy—in short, all the most respectable institutions of contemporary society.

—Lynne Segal

Imagery does not exist or gain persuasive power in a vacuum. Its power depends upon and is inseparable from the institutions and practices that give meaning to its depiction and generate the real-life effects of that which is depicted. Although advocates of porn-suppression call it a "practice" reflected and institutionalized in eroticized male violence against women, that violence is not an institution in the sense in which that term is normally used, and pornography is not its accompanying imagery in the sense in which, for example, sports magazines, newspaper writings, trading cards, and posters are the imagery of sports institutions.

Much has been written about the complex manner in which Western sexuality has been thoroughly institutionalized. The areas of religion,

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273. SEGAL, SLOW MOTION, supra note 8, at 228.
274. Most dictionaries define "institutions" as organizations, establishments, or concerns, or, as in slavery, a well-established practice characterized by known laws and customs fundamental to a society. See THE AMERICAN COLLEGE DICTIONARY 631 (1958). In contrast, "violence" is defined as force in action or behavior. Id. at 1359.
275. Few would argue that suppression of sports imagery depicting aggressive behavior would have an impact on the culture of aggression found in most sports.
276. See generally BROWN, supra note 13 (examining attitudes toward sexuality in early Christianity). See Burlage, supra note 13, at 93-114 (discussing the Christian emphasis on reinforcing patriarchal family patterns and the way in which female figures such as Eve and Mary are defined by their sexual behavior). Much religious imagery reflects a view of women as there "to be acted upon," as "sexual objects" or "sexual things." Religion divided women into whores and virgins and created (for women) the opposition between sexual enjoyment and the virtue of an unattainable ideal of virginal motherhood. Not only the Bible itself, but also literary and artistic renditions of its stories depict women as legitimate prey, as temptresses, or as pure, virginal, and untouchable. See Henry Kraus, Eve and Mary: Conflicting Images of Medieval Women, in FEMINISM AND ART HISTORY, supra note 38, at 79, 79-87 (explaining the conflicting stereotypes embodied in artistic depictions of Eve and Mary); Madlyn M. Kahr, Delligah, in FEMINISM AND ART HISTORY, supra note 38, at 119, 139, 119-39 (discussing the artistic portrayals of Delligah and concluding that "Delilah is the embodiment of men's deep-rooted fear of the danger threatened by erotic involvement with a woman"); Garrard, supra note 84, at 147-72 (examining the various erotic and sexually exploitative depictions of the Biblical story in which the elders persecute Susanna); MILES, supra note 13, at 85-116 (summarizing the Western treatment of the Adam and Eve story); Benedetta Craveri, Women in Retreat, N.Y. REV. BOOKS, Dec. 19, 1991, at 67 (quoting Grieco's observation that "the female has a double nature, she is always contradictory. Good or bad, saint or demon, Virgin Mary or Eve.").
277. Other depictions openly celebrate male power, male genitalia, and male domination. See FREEDBERG, supra note 25, at 13-15 (discussing artistic depictions of Christ's genitalia); id. at 318-19 (examining the centrality of male possession and domination of women in religious art).
Western religions also institutionalize notions of sexuality via rules and practices that embody and reinforce women's inferior status. These rules then are translated into strong religious opposition
to teen sex education, birth control, and abortion, as well as to women's right and ability to engage in a wide range of social and cultural activities.

Christianity, however, is certainly not the only religion to institutionalize the inequality of women. See Jane I. Smith, Women, Religion, and Social Change in Early Islam, in Women, Religion, and Social Change 19 (Yvonne Y. Haddad & Ellison B. Findlay eds., 1985) (detailing the increasing segregation, seclusion, and degradation of women in early Islam); Judith Miller, The Struggle Within, N.Y. TIMES, Mar. 10, 1991, § 6 (Magazine), at 27, 39 (reporting that contemporary Muslim women who seek equality are branded "whores and prostitutes," "fallen women," and "advocates of vice").

277. For example, law has traditionally undergirded, and in many cases still supports and justifies, male aggression. The entire system of civil marriage and divorce, which sold women into marriage through "dowry," legalized their disappearance in "coverture," and allowed violence against them through the authorization of marital rape, accorded men tremendous power to carry out sexual aggression against spouses and children. See MARY BECKER ET AL., FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY 6, 241 (1994) (discussing the law on coverture and the marital rape exemption). See also supra note 43 and accompanying text (discussing legal doctrines that limited women's rights). And although much has changed, legal rules and practices continue to create the bases for male dominance. See generally Taub & Schneider, supra note 43, at 123, 117-33 (noting the various ways in which "the law plays a powerful role . . . in shaping and maintaining women's subordination").

278. Historically, science has presented women as physically, mentally, and morally inferior, lacking in intellect and reason, and comprised purely of natural instincts and bodily functions. As mere bodies, women were there to do what mere bodies do: perform physical and reproductive labor and provide sexual pleasure to men. See LAQUBUR, supra note 35, at 236-43 (presenting a historical argument of scientific understanding of female sexual structure and function); EMILY MARTIN, THE WOMAN IN THE BODY: A CULTURAL ANALYSIS OF REPRODUCTION 59-61 (1987) (showing how scientific discourse analogizes women to laborers and their uteruses to machines for the production of babies); Judith Genova, Women and the Mismeasure of Thought, in FEMINISM & SCIENCE 211 (Nancy Tuana ed., 1989) (critiquing the turn-of-the-century scientific theory that the size differential between male and female brains corresponded to a difference in intelligence); Nancy Tuana, The Weaker Seed: The Sexist Bias of Reproductive Theory, in FEMINISM & SCIENCE, supra, at 147, 148 (discussing scientific reproductive theories from Aristotle through Darwin, which support a belief that women are inferior to men).

Today, science continues to view women's sexuality in male terms—as inextricably connected to genital penetration and hence as having inevitable reproductive consequences. See ALFRED C. KINSEY ET AL., SEXUAL BEHAVIOR IN THE HUMAN FEMALE 285 (1953) (stating that in psychology and other social sciences, as well as in psychiatric and clinical theory, heterosexuality is extolled as the most desirable type of sexual activity); Miller & Fowkes, supra note 222, at 149, 149-52 ("[C]ontrary . . . is far less frequently a source of orgasmic release for women than for men . . . "); Smart, supra note 24, at 28-32 (noting that female sexuality is often referred to as aboriginal or pathological, thus establishing male sexuality as the norm). Medical science continues to view women as less important subjects of medical study than men. See, e.g., Toward Healthy Women, N.Y. TIMES, Sept. 9, 1991, at A14 (citing specific ailments for which women tend to receive unequal medical treatment, largely because men were used as the normative standard in research). For the way in which reproductive medicine continues to influence notions of sexuality, motherhood, and women's roles, see generally REPRODUCTIVE TECHNOLOGIES, supra note 222.

279. The medical profession provided ostensible proof of women's inferior mental and physical capacity and persistently linked those incapacities to their reproductive functions. See EHRENREICH & ENGLISH, FOR HER OWN GOOD, supra note 45, at 109-12, 116-30 (discussing early medical theories which maintained that women's natural state was illness and that women's overall health and intelligence were inextricably linked to their reproductive systems); MARTIN, supra note 278, at 42-45, 583 (challenging the medical profession's tendency to view menstruation and menopause as breakdowns of the female reproductive system and its tendency to view otherwise normal childbirth as defective if it failed to conform to predefined, standardized timetables). When women reported tales of sexual
sports, military culture, and artistic and entertainment culture have all played a part. Each has institutionalized its viewpoints in daily practices as well as in its imagery.

Among the many institutions that eroticize aggression against women, sports and militarism surely play a far more prominent role than porn. Both became closely linked in the late nineteenth century to combating the "feminization" of American culture by stressing "manly virtues" such as competition, combativeness, physical aggression, and domination.

brutalization by fathers, brothers, uncles, and strangers, they were accused of hysterics and fantasy. See Susan Brownmiller, Against Our Will: Men, Women and Rape 271-82 (1975) (describing attempts by the police, the medical establishment, and psychoanalysts to attribute tales of sexual assault to fantasy and hysteria). When they tried to claim sexual pleasure, psychologists answered that "mature" women relinquished elitural (genuine) orgasm for vaginal (often faked) orgasm. See Miller & Fowles, supra note 222, at 149-52 (surveying studies of women's sexuality); see also Laqueur, supra note 35, at 236, 234-43 (describing Freud's counter-evidential claims that female sexual arousal transferred to the vagina when a woman reaches maturity).

280. See infra section III(A)(1).

281. See Segal, Slow Motion, supra note 8, at 18 (noting that army training often revolves around intensifying the opposition between males and females, "thereby cementing the prevalent cultural links between virility, sexuality, and aggressiveness"); infra section III(A)(2).

282. See infra notes 371-84 and accompanying text.

283. Moreover, cultural and demographic sea-changes broadly affect the way sexuality is institutionalized and understood. It is difficult for us to imagine sexuality as other than the "private affair" we imagine it to be: witness the debates over the appropriateness of press coverage of the private lives of political candidates. See Barbara Ehrenreich & Jane O'Reilly, Femme Is Fatal: For the Boys, Safe Sex Is No Sex, New Republic, June 1, 1987, at 15 (exploring the implications of the media's treatment of Gary Hart); Morton M. Kondracke, See Questions on Clinton? Let's Settle Them Now, Roll Call, Jan. 13, 1992 (arguing that the press should investigate and report on candidates' infidelities); Thomas B. Rosenstiel, What is 'Relevant' for Voters? Press Breaks New Ground with Questions About Sex, L.A. Times, May 13, 1987, § 1, at 1 (reporting that after disclosure about Gary Hart's affair with Donna Rice, "journalists . . . are asking themselves whether they have unwittingly made even the most intimate areas of a presidential candidate's private life subjects for public inquiry"). But see Williams, supra note 104, at 47-48 ("[W]e are no longer able to claim . . . that sex is a private matter, since sex has, in effect, become so very public a matter . . ."). But, "[i]n early America, reproductive and productive activity took place in the same settings, and both were subject to extensive community supervision." Coontz, supra note 148, at 192. Not until "the family ceased to be the site of labor regulation . . . was [it] even possible to imagine that intimate affiliations and feelings could be detached from social roles, productive assignments, and authority relations." Id. at 192. And as Ellen DuBois, Judith Walkowitz, and others have shown, times of widespread social change and uncertainty have produced anxiety about sexuality and concomitant moves to control and repress it. See Coontz, supra note 148, at 193 (noting that the heightened anxiety in the second half of the 19th century produced "general attempts to 'desexualize' all arenas of society—people began to refer to the 'white meat' and 'dark meat' of poultry in order to avoid naming body parts, such as thighs and breasts"); DuBois & Gordon, supra note 41, at 32-39 (detailing late-19th-century and early-20th-century efforts to control prostitution); Walkowitz, The Politics of Prostitution, supra note 42, at 152-53 (explaining how changes in employment patterns reinforced efforts to control prostitution).

284. See Rotundo, supra note 24, at 222-46. Rotundo describes that period's rising emphasis on these manly passions as an antidote to women's domination of childrearing and education, and to the "softness" believed to result from the disappearance of the frontier, increased urbanization, and the growing dependence of middle-class men on large employers rather than "self-made" entrepreneurship. The prevalent cult of masculinity represented a backlash against women's increasing penetration into previously male spheres of economic and political power. Id. at 248-55.
Both promote male bonding in physical pursuits linked to sexual aggression against women. Physical domination of—indeed, contempt for—women is paramount. Sexual words and symbols are used to suggest femininity; accusations of femininity are used to denigrate and insult. Both cultures produce, even encourage, verbal, physical, and sexual abuse of women.

1. Sports: Male Bonding in Erotic Aggression.—

[T]he institution of sport in the twentieth century has played a key role in the construction and stabilization of a male-dominant, heterosexist system of gender relations.

The fact that winning [is] premised on physical power, strength, discipline, and willingness to take, ignore, or deaden pain inclined men to experience their own bodies as machines, as instruments of power and domination—and to see other peoples’ bodies as objects of their power and domination.

—Michael A. Messner

Sports has for more than a century been central to male education, entertainment, and bonding across and between generations, beginning in the earliest years and continuing throughout the lives of most males. Organized in its modern form as an all-male enterprise in reaction to the late nineteenth-century fear of "feminization" and to the increasing penetration of women into previously male spheres of power, sports culture sought to inculcate in young males the values and attitudes that would prevent them from becoming "soft." "In promoting dominance and submission,

285. See infra notes 293-94 and accompanying text.
287. In required gym classes and in extra-curricular activities, success at aggressive sports is an immediate source of attention and status for young males. As entertainment, it is central to lifetime bonding with other boys and with fathers: from viewing and playing sports; to collecting sports cards, magazines, and jokes; to citing statistics and making sports analogies. See generally MYRIAM MIEDZIAN, BOYS WILL BE BOYS: BREAKING THE LINK BETWEEN MASCULINITY AND VIOLENCE 177-206 (1991) (stating that athletes get parents’, especially fathers’, stamp of approval and that for many American fathers, having a son who is neither interested in sports nor athletically inclined is almost tragic); see also Beth Sherman, Talking Sports with Men, NEWSDAY, Apr. 4, 1992, at 15, available in LEXIS, News Library, NEWSDAY File (citing a survey of 600 highly committed sports fans by Michael Givant, chairman of the sociology department at Hofstra University, which found that “watching sports events together can create a strong, intimate link between fathers and sons”); Stephanie L. Twin, Introduction to OUT OF THE BLEACHERS at xv, xx-xxii (Stephanie L. Twin ed., 1979) (arguing that sports was deliberately re-energized during the early part of this century to revitalize masculinity and role models for boys who were, as families moved from farms to cities, increasingly separated from fathers and taught by women).
in equating force and aggression with physical strength, modern sport naturalized the equation of maleness with power, thus legitimizing a challenged and faltering system of masculine domination."288

Beginning quite early in life, the vast majority of males engage in individual or team sports, from which they "learn the dominant cultural conceptions of what it means to be male."289 Recent studies "consistently show[] that sport remains the single most important element of the peer-status system of U.S. adolescent males."290 Thereafter, the pattern continues, both in extracurricular sports and, especially, in sports viewing and its accompanying activities.291

And what does it teach men to value? It teaches them that winning is everything, and that to win, competitiveness and aggression are essential skills—skills that are effectively mobilized by fostering male bonding through emphasizing and vilifying its opposite, femininity. Men learn "a masculinity based upon status-seeking through successful athletic competition and through aggressive verbal sparring which is both homophobic and sexist."292 Denigration of women and gay men is endemic; masculinity

288. MESSNER, supra note 286, at 15; see also ROTUNDO, supra note 24, at 239-44 (discussing the way in which sports has traditionally been used as a test for manliness in order to promote masculine values and competitiveness). Sports organization "symbolize[d] the masculine structure of power over women" and "constituted and legitimized a heterosexist social organization of sexuality." MESSNER, supra, at 16.

289. MESSNER, supra note 286, at 19.

290. Id. at 24; see also Carin Rubenstein, Child's Play, or Nightmare on the Field?, N.Y. TIMES, Nov. 18, 1993, at C1 (noting a recent study that showed that "nearly 20 million children under the age of 14 participate in nonschool-related team sports" as proof of the importance of sports to contemporary youth).

291. See MESSNER, supra note 286, at 168-70. Messner comments that "it is reasonable to speculate that gender is a salient organizing theme" for male sports viewers in at least two ways. Id. at 168. First, men identify with male athletes, because with the "decline of the practical relevance of physical strength in work and in warfare, representations of the male body as strong, virile, and powerful" which mask the enormous amount of time, energy, and often self-abuse (drugs, anti-pain medications, steroids) involved, permit spectators to engage in narcissistic identification with the muscular bodies and prowess of sport figures. Id. at 168-69. Second, amid today's changing sexual, reproductive, and social roles, male spectators are able to gain reaffirmation of gender differences and masculine superiority. Indeed, football may be the number one American sport because it offers "comforting clarity... between the polarities of traditional male power, strength and violence and the contemporary fears of social feminization." Michael A. Messner, The Life of a Man's Seasons: Male Identity in the Life Course of the Jock, in CHANGING MEN: NEW DIRECTIONS IN RESEARCH ON MEN AND MANCULINITY 53, 54 (Michael S. Kimmel ed., 1987) (emphasis omitted).

292. MESSNER, supra note 286, at 37. It was fine for Dallas Cowboys' coach Jimmy Johnson to admit on television that he abandoned his wife of 26 years because his commitment to the Cowboys was stronger, Tom Callahan, Luckily, Coming Up Short, WASH. POST, Mar. 7, 1993, at D1; by contrast, when David Williams of the Houston Oilers chose to aid his wife in childbirth, thereby missing a game, he was initially docked $125,000 in pay, though the fine was revoked following a strong public outcry. Anna Quindlen, Williams 1, Oilers 0, N.Y. TIMES, Oct. 21, 1993, at A27. In a not uncommon metaphor, an Oilers coach likened the incident to going to war in an effort to defend the necessity of attending games. Id.; see also ROTUNDO, supra note 24, at 240-41 (noting the prevalence of sports-war analogies).
in sports depends on not being or appearing "feminine." "In sport, to be told by coaches, fathers, or peers that one throws 'like a girl' or plays like a 'sissy' or a 'woman' is among the most devastating insults a boy can receive ...." Coaches thus motivate players by labeling those not "tough" enough as "fag," "queer," "sissy," "pussy," "wuss." As early as Little League, boys imitate and echo this contempt.

Competitive success is the route to recognized masculine status; winning is everything, and to get to the top, aggression and violence are both necessary and acceptable. And females frequently become targets of such male ambitions through being made the objects of a variety of masculine aggressions: of sexual conquest and harassment aimed at "gaining status in the male peer group," jokes and loudly recounted stories (whether real or fictionalized) of such "conquest[s]," and of actual violence.

Male sports figures' violent behavior toward women is well documented. Numerous professional sports "heroes," such as O.J.

293. MESSNER, supra note 286, at 36; see also id. at 96 ("In boyhood, adolescent and young adult male peer groups, 'fag,' 'girl,' and 'woman' are insults that are used almost interchangeably.").

294. "Wuss" is a combination of "woman" and "pussy." MIEDZIAN, supra note 287, at 198-99. Indiana University basketball coach Bobby Knight reportedly "put a box of sanitary napkins in the locker of one of his players so that the player would get the point that Knight considered him less than masculine" and hence inadequate. Ira Berkow, Sports of the Times: The High Priest of Hoop Hysteria, N.Y. TIMES, May 14, 1988, Sports Section, at 53.

295. MIEDZIAN, supra note 287, at 198.

296. See MESSNER, supra note 286, at 42-46, 66. Indeed, "violence becomes normative behavior" and "aggression is usually not [even] defined by men as 'violent' so long as it is rule-governed, rather than anger-induced." Id. at 66, 69. Messner cites sociologist Lois Bryson's work noting that sport, especially in its more violent forms, not only promotes male dominance by excluding and marginalizing women, but also by "associate[s] ... males and maleness with valued skills and the sanctioned use of aggression, force, and violence." Id. at 15 (citing Lois Bryson, Sport and the Maintenance of Masculine Hegemony, 10 WOMEN'S STUD. INT'L FORUM 349, 350 (1987)).

297. MESSNER, supra note 286, at 97; see also Melinda Henneberger & Michel Marriott, For Some, Rituals of Abuse Replace Youthful Courtship, N.Y. TIMES, July 11, 1993, at A1 (quoting teen boys' comments that they do not date for fear of seeming "soft" to friends, but instead demonstrate their manhood by abusing or showing disrespect to girls via harassment, yelling propositions, and fondling them); Michel Marriott, A Menacing Ritual Is Called Common in New York Pools, N.Y. TIMES, July 7, 1993, at A1; Mary B.W. Tabor, New York Police Report Sex Assault at Another Pool, N.Y. TIMES, July 12, 1993, at B3 (both describing a "whirlpool" ritual in which boys in swimming pools lock arms and encircle girls, then fondle and assault them).

298. MESSNER, supra note 286, at 97-98.

299. Messner suggests that in relation to the large number of sports participants, those who act violently toward women are relatively few. Yet he describes sports as fostering precisely the "dynamic that is at the heart of what feminists have called the 'rape culture,'" and cites one report that between 1983 and 1986, a "college athlete was reported for sexual assault an average of every eighteen days." Id. at 101 (emphasis added). Moreover, Messner seems not to include as "assault" the verbal and psychological abuse so common among sports spectators and participants. See id. (noting that the "objectification of women among male athletes" is usually "a 'rhetorical performance' that rarely translates into physical aggression").

300. See Mike Capuzzo, Aggressiveness in Sports Has a Sorry Spinoff: Studies Show a Link to Wife-Beating, CHI. TRIB., Jan. 27, 1991, at C8 (reporting that more than 20 well-known sports figures
Simpson, Darryl Strawberry, Sugar Ray Leonard, and Mike Tyson are among more than twenty well-known sports figures who have made police blotters and headlines in recent years for acts of violence against women. These same figures boast of female "conquests" and "joke" about battering. "I am going home to beat my wife" is a frequent post-game remark. Sports conquest spills over into sexual conquest, a phenomenon recently highlighted by the plight of Magic Johnson, who has said that, as a single man, he "accommodate[d] as many women as I could."

Fans echo and encourage the players: Chants and banners saying "beat your wife" are not uncommon at some sports events. Sexual harassment of female sports reporters is routine; incidents of campus sexual

had been arrested in the previous 2 years on suspicion of battery against women); see also Alison Bass, Macho Stereotypes Linked to Sex Abuse Rate, BOSTON GLOBE, Aug. 15, 1990, at 9 (noting that members of athletic teams are more likely than nonmembers to engage in inappropriate sexual aggression).

301. Simpson was placed on probation for two years for beating his then wife Nicole Brown Simpson in a New Year's Day argument. Capuzzo, supra note 300, at C8. More recently, he has been charged with the brutal murder of Nicole and her friend. See Richard Hoffer, Fatal Attraction?, SPORTS ILLUSTRATED, June 27, 1994, at 16.

302. Strawberry was arrested after allegedly threatening his wife with a gun. Although he was not charged, Strawberry underwent treatment for alcohol abuse. Capuzzo, supra note 300, at C8. Similarly, Boston Red Sox pitcher Wes Gardener was arrested on charges that he assaulted his wife; the charges were dropped after he agreed to attend domestic violence counseling. Id.


304. Tyson, who was also accused of beating his wife, was convicted of raping a teenage Miss Black America contestant. Tyson Takes the Count, 254 NATION 253 (1992).

305. For instance, Jim Brown, a pro-football star, wrote that he was called "the Hawk" because of his success in "chasing women" and indicates that he continues, in his fifties, to see women as consumables; referring to his current 19-year-old girlfriend, he writes, "When I eat a pesch, I don't want it overripe." MESSNEI, supra note 286, at 97 (quoting JIM BROWN, OUT OF BOUNDS (1989)). In his autobiography, Wilt Chamberlain claims to have had sex with "twenty thousand different ladies." WILT CHAMBERLAIN, A VIEW FROM ABOVE 251 (1991).

306. Capuzzo, supra note 300, at C8. One such "joker," Coach Joe Paterno, has been called a "paragon of wholesome American sportsmanship." As Capuzzo observes, these jokes are common: Charles Barkley was reported to suggest that the Nets/76ers game was such that "if you lose, you go home and beat your wife and kids." Id. More recently, New York Mets manager Dallas Green said that to cope with a poor season "I just beat the hell out of Sylvia [his wife]." Green Quip Angers Women, N.Y. TIMES, Aug. 5, 1993, at B12.

307. Johnson's Emotions, N.Y. TIMES, Dec. 11, 1991, at B16. Johnson apparently contracted AIDS during one of many such encounters. As Martina Navratilova pointed out, a female sports figure in the same situation would have been vilified, rather than virtually canonized, for admitting similar sexual activity. See Navratilova's View on Magic, N.Y. TIMES, Nov. 21, 1991, at B16.

308. For years, New York Rangers' fans heckled a hockey player with chants of "beat your wife, beat your wife," and Celtics' fans hung a banner suggesting that they liked to beat rival teams almost as much as to "beat our wives." Capuzzo, supra note 300, at C8.

309. Such harassment is often treated as less important than the abuse of teammates, rules, or equipment. See Derrick Z. Jackson, Trifling Fines Speak Volumes, BOSTON GLOBE, Nov. 30, 1990, at 21 (citing instances in which sports figures who violated rules or abused equipment were fined more money than the players who sexually harassed a female sports reporter).
harassment and assault are frequently linked to college sports. Sports viewing leads to aggression against women as well. On Super Bowl Sunday, which some have argued is the most violent day of the year for American women, the caseload in battered women's shelters increases significantly.

Certainly, much sports imagery reinforces these practices. From the annual "swimsuit edition" of Sports Illustrated, to the blatantly sexist advertising that inevitably accompanies sports events, to prime-time television's presentation of barely clothed, swaying cheerleaders at sports events, sports imagery epitomizes the view of women castigated by

310. Several studies, as well as anecdotal evidence from counselors on campuses and in rape treatment and recovery programs on campuses, show that a higher percentage of college athletes than of other students are involved in sexual assault incidents. Gerald Eskenazi, The Male Athlete and Sexual Assault, N.Y. TIMES, June 3, 1990, § 8, at 1. One study found college athletes to have been involved in roughly one-third of campus sexual assaults. Id. at 4 (citing a study by Dr. Mary P. Koss of Kent State University).

311. Sports Illustrated's "unscientific" poll of fans revealed that "everyone who had ever been a spectator at a sporting event of any kind had, at one time or another, experienced the bellowing of obscenities, racial or religious epithets . . . abusive sexual remarks to women" and more. William O. Johnson, Sports and Suds, SPORTS ILLUSTRATED, Aug. 8, 1988, at 70, 70 (emphasis in original).

312. See Super Bowl Sunday a Day for Fans, Food, Fun--and Domestic Violence, CHI. TRIB., Jan. 29, 1993, at 2 (citing a study that found a significant rise in beatings and hospital admissions in Northern Virginia after Washington Redskins' victories during the 1988-89 season and quoting one of the study's authors as saying, "[w]e suspect that when their team wins, men who are predisposed to battering experience an increase in their feelings of power"). But see Author: Abuse Study Misquoted, USA TODAY, Feb. 1, 1993, at 7C, available in LEXIS, News Library, USATDY File (reporting comments by an author of the study indicating that while women's trips to the emergency room for abuse increased in statistically significant numbers after Redskins' victories, the research had been misrepresented and more research was needed); Henry McNulty, Abused Women and the Super Bowl: Where Were the Facts?, HARTFORD COURANT, Feb. 21, 1993, at C3 (arguing that the links between the Super Bowl and violence against women were based on anecdotal evidence, not full studies, and that the claims remain unproved).


314. Beer ads, which frequently appear in conjunction with sporting events, are notorious for their sexism; some have even led to litigation alleging that they contribute to workplace sexual harassment. See Additional Sexual Harassment Suits Filed Against the Stroh Brewery Co., 1993 DAILY LAB. REP. (BNA), 230, at A8 (Jan. 29, 1992) (reporting on lawsuits against Stroh alleging that its advertising and promotional materials featuring the "Swedish bikini team" created a hostile work environment). But see Stuart Elliott, Suit Over Sex in Beer Ads Comes as Genre Changes, N.Y. TIMES, Nov. 12, 1991, at D22 (suggesting that beer advertisers are changing their practices to eliminate any content that could be construed as sexist). In Canada, the Ontario government targeted Labatt and Molson beer ads for regulation because of their sexism. See Mary W. Walsh, Hopping Mad: In Canada, Controversy Brews as Ontario Bans Sexist Beer Ads, L.A. TIMES, Apr. 4, 1991, at E1. For a critique of the Stroh Brewery cases, see Nadine Strossen, Regulating Workplace Sexual Harassment and Upholding the First Amendment—Avoiding a Collision, 37 VILL. L. REV. 757, 775-77 (1992) (arguing that the claims against Stroh related to advertising content should fail because the ads are protected by the First Amendment).

315. See Louise Bernikow, Confessions of an Ex-Cheerleader, in OUT OF THE BLEACHERS, supra note 287, at 155, 159 (criticizing cheerleading for reinforcing feminine roles that are stereotypical).
anti-porn feminists without displaying a single sexually explicit image. As
with porn, however, the imagery's projection and reinforcement of the
values it depicts is far more complex than simply direct promulgation and
absorption. For instance, while slow motion replays in football transform
"visual representation of violence . . . into 'gracefulness,'" the sig-
ificance of the transformation may reside less in its encouragement of
violence than in its allowance of narcissistic and homoerotic identifica-
tion, or, perhaps, in the fact that violence is present as "an important
aspect of the denial of the homoerotic element" of men's engagement with
sport.

Yet, however complex may be the process by which sports culture af-
facts men and women, it is surely far more significant and powerful both
in constituting the relations between them, and in promoting male domina-
tion, aggression, and violence toward women than is porn.

2. Military Conquest of the Other: Erotic Aggression; Women as
Enemies.—

In my opinion, the U.S. Navy treats the women as a way to
pass the time.

—Madelin, twenty-two-year-old Philippine prostitute

Manliness and masculinity have long been associated with military
"virtues." Military culture teaches boys through toys and games,
through clothing, television, and film, to admire and participate in a culture that glorifies violence and associates aggression against women with aggression against "the enemy." Boys learn that masculinity is personified by a culture that provides men with the perfect psychologic backdrop to give vent to their contempt for women. The very maleness of the military—the brute power of weaponry exclusive to their hands, the spiritual bonding of men at arms, the manly discipline of orders given and orders obeyed, the simple logic of the hierarchical command—confirms for men what they long suspect, that women are peripheral, irrelevant to the world that counts, passive spectators to the action in the center ring.  

Boys learn that women are not simply spectators, but fair game. Pressure in the military constantly to demonstrate masculinity through unhesitating and fearless physical aggression, its stress on unthinking adherence to authoritarian commands, and the emphasis on resolving even internal disputes through physical force and punishment, all contribute to a culture that fosters hostility to, domination of, and aggression against women. In

322. See BROWNMILLER, supra note 279, at 23-113 (documenting the history of rape as a weapon of warfare); MIEDZIAN, supra note 287, at 266 (suggesting that violent games encourage the need for enemies and reinforce attitudes of dominance toward women); MODLESKI, supra note 93, at 61-62 ("[A]n important objective of war is to subjugate femininity and keep it at a distance.").

323. BROWNMILLER, supra note 279, at 32. Notably, Brownmiller uses a sports metaphor. See SEGAL, SLOW MOTION, supra note 8, at 18 (noting that army training often revolves around intensifying the opposition between males and females, "thereby cementing the prevalent cultural links between virility, sexuality and aggressiveness").

324. See CYNTHIA ENLOE, DOES KHAKI BECOME YOU? THE MILITARISATION OF WOMEN'S LIVES 87 (1983) (noting that because of its authoritarianism, military service is more conducive to domestic violence than is any other occupation). Authoritarianism contributes both to an expectation that orders by men to women, who are seen as lower in social and family hierarchies, will be obeyed, and to a release of tension and anger generated by those higher up against those (women) below. Violence is seen both as the mode of enforcing orders and of expressing anger or releasing tension. Id. These attitudes came forcefully to light in recent revelations that 26 Navy women were sexually assaulted at an annual convention of a private group of active-duty and retired naval aviators. See Eric Schmitt, Now at Navy's Bridge, Battling Sexism, N.Y. TIMES, July 4, 1992, § 1, at 8. During the Gulf War, female army veterans and reservists were repeatedly sexually abused by fellow soldiers. See Sergeant Held in Sex Assault After Senators Hear Accuser, N.Y. TIMES, July 4, 1992, § 1, at 8.

The fact that the women's allegations were initially ignored, denied, and covered up suggests the strength of institutional male-bonding accomplished by military ideology. See INDECENT EXPOSURE: THE NAVY TAKES A HEAVY RAP IN THE TAILHOOK REPORT ON SEXUAL HARASSMENT, TIME, May 3, 1993, at 20, 21 (reporting that "[i]nvestigators believe 'several hundred' of the naval officers interviewed concealed information and 51 others lied outright"); Eric Schmitt, INVESTIGATION OF SEX ASSAULTS BY PILOTS HAD TO BEAT WALL OF SILENCE IN NAVY, N.Y. TIMES, May 2, 1993, § 1, at 24 (noting that 51 individuals lied to investigators and that officers were uncooperative); Eric Schmitt, NAVY DROPS CASE OF TAILHOOK Flier, N.Y. TIMES, Sept. 21, 1993, at A14 (noting the concern of Navy lawyers that a code of silence among flyers could hinder the prosecution). Indeed, Rear Admiral Duvall M. Williams, Jr., one of the senior Navy officials initially charged with investigating Tailhook, was quoted as comparing female Navy pilots to "go-go dancers, topless dancers or hookers" and commenting after Tailhook that "[a]ny
1990, the first Pentagon study of sexual harassment in the military concluded that more than a third of the women had been subjected to abuse ranging from fondling to rape.  

Carol Burke, who taught for seven years at the Naval Academy, describes a culture of misogyny, in which it was common to see "midshipmen running in formation and chanting in guttural tones: 'Rape, maim, kill babies. Oorah!'"

Prostitution, pornography, spousal abuse, and even rape are an integral part of military life in both Western and Eastern societies. Sex and violence are linked, both on and off the battlefield. United States soldiers in Vietnam, whose frequent rapes and gang rapes of Asian women are well documented, called a soldier who killed a woman after having sex with her a "double veteran."

Hard and soft core films were shown—officially sponsored (soft) and condoned (hard)—on British Navy ships headed for the Falkland Islands. The United States army supervised the red-light district in Iomayagua, Honduras, medically testing teen prostitutes to ensure their safe availability to soldiers from the nearby Palmerola airbase. In Vietnam, 300,000 to 500,000 prostitutes were welcomed on bases as "local national guests."

In the Philippines, some 6019 women were registered as "hostesses" for the American sailors on leave


325. See Melanie Martindale, Sexual Harassment in the Military: 1988, at xii-xiv (Sept. 1990) (unpublished report, on file with the Texas Law Review) (summarizing the results of a survey by the Department of Defense of all active members of the military). Punishment for such assaults is often minimal; Navy soldiers who held a female soldier down for simulated sexual assault and then threw her off a boat were given 30 days and a demotion. Id.; see also Chema, supra note 324, at 15-18 (documenting specific instances of sexual assault on women in the Navy).


327. See Enloe, supra note 324, at 123-73 (discussing the treatment of women in Eastern and Western militaries); Lois A. West et al., Wife Abuse in the Armed Forces 5-28 (1981) (investigating and analyzing "the incidence and various causes of wife abuse . . . in the Armed Forces"); Robert Scheer, Women at War, PLAYBOY, Sept. 1993, at 58 (describing the military's hostility to women dating back to the Civil War). Scheer reports that during World War I, women assisting the war effort were referred to as whores and that during the Vietnam War, "even high-ranking officers routinely acted on the assumption that the battlefield nurses were there 'to service them.'" Id. at 57-58.

328. Enloe, supra note 324, at 34.

329. Id. at 18-19.


331. Enloe, supra note 324, at 33.
During World War II, the Japanese military forced an estimated 60,000 to 200,000 Korean women to serve in “comfort stations” as prostitutes for Japanese soldiers. And recent stories of the deliberate strategy of brutal rape by the Bosnian Serb military make the link between sex and violence in military life all too clear. Off-base recreation is frequently sexual, and even military-sponsored recreation emphasizes sex. Moreover, from time immemorial, war has been romanticized: its heroes, erotic figures; women, its spoils. Films ranging from Full Metal Jacket, to Heartbreak Ridge, to Top Gun, to Casualties of War depict the way in which “the activities of breaking hearts and taking lives—that is, sexual domination and wartime aggression” are deeply intertwined, so that “[i]n fantasies of war, sexuality is manifested in violence, and violence carries an explosive sexual charge.”

332. Id. at 39.
335. See STURDEVANT & STOLZFUS, supra note 319 (describing, often in words of the prostitutes themselves, the sex industry surrounding U.S. bases in the Philippines, the southern part of Korea, and Okinawa). It should come as no surprise, then, that military men sometimes use what they learn to turn a profit. See id. at 46-47 (stating that several Philippine brothels are owned by ex-Navy men).
337. Such glorification of warfare extends back at least to the earliest masterpiece of Greek literature, Homer’s Iliad, in which women are both the cause and the spoils of male warfare. See HOMER, THE ILIAD (Robert Fagles trans., 1990).
338. FULL METAL JACKET (Warner Brothers 1987).
339. HEARTBREAK RIDGE (Warner Brothers 1986).
340. TOP GUN (Paramount Pictures 1986).
341. CASUALTIES OF WAR (Columbia Pictures 1989).
342. MODLESKI, FEMINISM WITHOUT WOMEN, supra note 93, at 62. Modleski points out, for example, that in Casualties of War, “the camera over and over again cuts to shots of the women who has been raped, mutilated, and repeatedly shot.” Id. at 173 n.2. See also CYNTHIA ENLOE, BANANAS, BEACHES & BASES: MAKING FEMINIST SENSE OF INTERNATIONAL POLITICS 74-75 (1989) (quoting fighter pilots’ songs that “suggest the sexualization of military life as well as the militarization of male soldiers’ sexuality”); SUSAN JEFFORDS, THE REMASCULINIZATION OF AMERICA: GENDER AND THE VIETNAM WAR (1989) (asserting the intimate connection between warfare and gender, and documenting
Virtually all young men are involved in sports, and many are in the military; all of us are affected by their culture of competitive, aggressive masculinity. Yet their conceptions of masculinity have been under siege for some time and from many quarters. Young girls are entering and, willy-nilly, transforming sports; women's presence in the military is already having an impact on sexual practices; gay men and women are refusing to choose between leaving these worlds and hiding behind, while pretending to accept, archaic conceptions of masculinity and feminity. Feminists should focus on supporting and enhancing the efforts of these men and women to change the institutions of which they are a part, and in the process to transform the imagery those institutions generate—thereby divesting porn and other imagery of its misogynist power.
on suppression, whether of sexually explicit imagery or combat dolls, is to take feminism down a dead-end path.

B. The Insignificance of Porn II: Pop Culture Is More Insidious and More Prevalent than Porn

[T]he female body haunts merchandizing from top to bottom, from the silky epidermal feel of a soft cigarette pack to the rumpy curves of a Porsche 911.

—John Updike

A bubble-bath, room-sized, in which 14 girls, delectable and sexless, twist-topped Creamy Freezes (their blonde red, brown, pinkish, lavender or silver wiglets all screwed that high, and varnished), scrub-tickle a lone male, whose chest has just the right amount and distribution of curly hair. . . .

—May Swenson

Mass dissemination of the sexually explicit fare targeted by porn-suppressionists is a relatively recent phenomenon. And while it may because of the media's portrayal of sports as an enclave of heterosexual men. For some promising beginnings toward eliminating, by making costly, the U.S. military's encouragement and tolerance of troops' sex entertainment, see Belinda Rhodes, Sins of the Fathers: Filipinos Sue U.S. Over Plight of Amerasian Children, FAR E. ECON. REV., June 17, 1993, at 40; Bruce Lambert, Abandoned Filipinos Sue U.S. Over Child Support, N.Y. TIMES, June 21, 1993, at A3 (both reporting on a class-action lawsuit seeking to hold the United States liable for $68 million in child support for 8600 Amerasian children).

348. Updike, supra note 26, at 5.


350. Although sexually explicit depiction has a long history in virtually every culture, pornography, like all "culture," was elite fare until relatively recently. See, e.g., WILLIAMS, supra note 4, at 28 (noting that until recently most pornographic images have been distributed only underground); cf. STEWART EWEN, ALL CONSUMING IMAGES: THE POLITICS OF STYLE IN CONTEMPORARY CULTURE 47-49 (1988) (discussing the emergence of a mass market in "style" during the late 19th and early 20th centuries).

Not until the 18th and 19th centuries did mass dissemination begin to occur, and today's porn "explosion" did not begin until Playboy began publishing in 1955. Since then, improved printing, copying, film, video, and computer technology, as well as changes in societal views of morality and decency reflected in decreased legal enforcement, have opened up the mass market in sexual representations. Various media, services, and paraphernalia—sex aids, recreational drugs, dating services, telephone sex-calls, erotic clothes and fetishes, sex holiday packages—have made porn a multi-billion dollar industry. See KENDRICK, supra note 263, at 129 (describing the widespread dissemination of pornographic hooks in New York each year); WEEKS, supra note 4, at 23-24 (noting how increased literacy and declining book prices in the latter half of the 19th century fostered the dissemination of
be that, as with most forms of popular culture, porn’s consumption and profitability are increasing, porn is hardly as widely or frequently consumed as such mainstream material as romance novels,\textsuperscript{351} videos,\textsuperscript{352} comic books,\textsuperscript{353} teen magazines,\textsuperscript{354} or religious texts.\textsuperscript{355}

Surely the commonplace whispers of these other texts, which are so ordinary as to seem invisible, are more influential in fostering Western attitudes about sexuality than is the vocal vulgarity of porn. Modern society so bombards us with commercial imagery that it is part of our consciousness almost without our noticing it.\textsuperscript{356} The female body, in particular, is the subject of this commercial imagery.\textsuperscript{357} Porn may be,
as anti-porn advocates claim, an $8 billion industry, but advertising generates $130 billion annual, diet industry revenues have been put at $33 billion, “youth” cosmetics at $20 billion, and cosmetic surgery at $300 million.

Prime time television sitcoms, soaps, and serials—from Dallas to Designing Women, from Dynasty to Charlie’s Angels—present women either as “selfless adjuncts to men” or as “witches, bitches, mothers and imps” whose sexuality is “potentially harmful or dangerous” or, sometimes, both. Small wonder that several commentators have

until the “puts on her face.” One study showed that 33,000 American women would rather lose 10 to 15 pounds than achieve success in work or love; another that 65% of women were dissatisfied with their bodies. Lisa Anderson, Enslaved by Your Lip Gloss? Naomi Wolf Isn’t Laughing, CHI. TRIB., May 26, 1991, § 6 (Womanews), at 1, 11. Cosmetic advertisements imply that women are what they appear to be, and perfume ads intimate that their function is to sexually titillate men. BERGER, supra note 23, at 129-54 (noting that household product and clothing ads portray women—even high-powered working women—as gullible, shallow creatures more concerned about sexy legs than about closing deals). They instruct men about what to expect and aspire to in “their” women, at the same time that they increase men’s insecurity about, and perhaps anger and violence toward, the real, blemished, odiferous, women who may be their companions.

358. MACkINNON, FEMINISM UNMODIFIED, supra note 1, at 179.
361. WOLF, supra note 74, at 66. According to one study, the skin-cream industry has a profit margin of “over 50% on a revenue of $20 billion worldwide.” Id. at 109.
362. Id. at 232. Beauty advertising imagery causes enormous violence to women, albeit not in the manner decried by the writers of the Model Ordinance—that is, by depicting women who “enjoy pain or humiliation” or “experience sexual pleasure in [being] raped.” Model Ordinance, supra note 60, § 2(1)(b)-(c). For instance, beauty imagery sells women ideals of thinness that result in dieting to extremes. More women die of anorexia each year than died of the AIDS epidemic from its beginning until 1988. WOLF, supra note 73, at 182. Naomi Wolf, a Yale graduate who was herself anorexic as a teenager, reports that 20% of women at Yale are anorexic and fully half are bulimic. Karen S. Peterson, Author Tangles with Beauty and the Sexism Beast, USA TODAY, May 15, 1991, at SD, available in LEXIS, News Library, USA TODAY File. Beauty myths cause women to suffer the hazards and pain of surgery, the dangers of anesthesia, and the risk of deformity to remake eyes, faces, buttocks, thighs, and breasts, as well as to risk serious injury from untested chemical beauty enhancements such as silicone injections and skin bleachers. See Nicholas Regush, Toxic Breasts, MOTHER JONES, Jan.-Feb. 1992, at 24, 26 (stating that about 750,000 women a year elect to have many forms of cosmetic surgery in the belief that love and approval are dependent on the right appearance). See generally EWEN, supra note 350, at 176-84 (discussing the evolution of body ideals for women over the past 90 years).
363. Dallas (CBS television).
364. Designing Women (CBS television).
365. Dynasty (ABC television).
366. Charlie’s Angels (ABC television).
367. Diane M. Meehan, LADIES OF THE EVENING: WOMEN CHARACTERS OF PRIME-TIMe TELEVISION 113, 131, 113 (1983). Images of tamed shrews are reinforced by contrast and connection to the macho he-men of film and television. Depictions of women as shallow and silly, e.g., Charlie’s Angels, supra note 366, accompany those that glorify macho loner-heroes. E.g., Maverick (ABC television); Miami Vice (NBC television). Even attempts to present modern women who work and admit to experiencing sexual desire tend to founder on the “fear of violating the good-girl/bad-girl
noted that the dominant portrayal of women in mainstream imagery differs little from that purveyed in soft-core porn.\footnote{368}

Suppression advocates argue that porn powerfully influences male attitudes toward women because it reaches boys early in life, when hormones are raging and ascension to manhood is in progress.\footnote{369} But mainstream imagery reaches children even earlier, during the periods psychologists teach are most critical to identity and value formation.\footnote{370} Boys and girls learn from Barbie dolls\footnote{371} what they only years later see mimicked in porn pin-up calendars of “The Barbies”—that sexy women are unnaturally long-legged, smooth, full-breasted, and artificially free of blemishes.\footnote{373} They learn about brainless bimbos—a term

stereotype” and retreat to the “safety of the madonna-whore cliche.” James, supra note 238, at 13.

\footnote{368. See supra note 75; see also LINZ \& MALAMUTH, supra note 8, at 51 (describing a study which found that “mass media depictions that are not sexually explicit may also increase acceptance of violence against women”) (citing Neil M. Malamuth \& James V.P. Check, The Effects of Mass Media Exposure on Acceptance of Violence Against Women: A Field Experiment, 15 J. RES. PERSONALITY 436 (1981)).\footnote{369. This is indeed the age when a great deal of crime, including sex crime, is committed. See FEDERAL BUREAU OF INVESTIGATION, U.S. DEP’T OF JUSTICE, UNIFORM CRIME REPORTS: CRIME IN THE UNITED STATES 1992, at 233 (1992) (Table 4: Total Arrests of Person Under 15, 18, 21, and 25 Years of Age, 1992) (stating that 89% of persons arrested for violent crimes were male, 12.5% were female, and that 47.5% of all those arrested for such offenses were under the age of 25, while 17.5% were under the age of 18); David Hare, Your Fears Are Exaggerated, INDEPENDENT, Oct. 10, 1993, at 23 (reporting that the peak age for crime in England, formerly 15, had risen to 17, and that one-third of all men had a conviction for an indictable offense by age 28).\footnote{370. In spoken language, for example, expressions and word uses are not only deeply gendered but sometimes misogynistic. See DALE SPENDER, MAN MADE LANGUAGE 14-24 (2d ed. 1985) (exploring the relationship between women’s devaluation in language and their devaluation in society). Naturally, such messages reach children before they view pornography. Suppression advocate Diana Russell cites research indicating that most boys did not see their first issue of Playboy until age 11. High-school boys reported having seen only an average of 16 issues, while junior-high boys had seen only 2.5 issues and only 16.3 “sexy R-rated films.” Diana E.H. Russell, Pornography and Rape: A Causal Model, in MAKING VIOLENCE SEXY: FEMINIST VIEWS ON PORNOGRAPHY 120, 132 (Diana E.H. Russell ed., 1993). Along with occasional surreptitious peeps at porn, they will see numerous slasher films, which not only portray women as victims of violence but also incorporate rape and sadistic sex into the violence they depict. See MIEDZIAN, supra note 287, at 241-43; infra note 411. Indeed, in the 1970s they might have played with slasher toy torture kits called Monster Scenes, one of which featured a partially nude female who could be strapped to a torture table with a guillotine at her throat, or placed in a torture cage or pain parlor with spikes or hot coals. MIEDZIAN, supra note 287, at 266 (citing LETTY C. POGERBIN, GROWING UP FREE: RAISING YOUR CHILD IN THE ‘80’s, at 376 (1981)).\footnote{371. He said, I won’t have one of those things in the house. It gives a young girl a false notion of beauty, not to mention anatomy. If a real woman was built like that she’d fall on her face. . . . It’s not just the pointed plastic tits, it’s the wardrobes. The wardrobes and that stupid male doll, what’s his name, the one with the underwear glued on. Atwood, supra note 32, at 2.\footnote{372. The adult pin-up calendar Barbies are long-legged, large-breasted, scantily clothed, and suggestively postured; the calendar featuring them can be purchased in ordinary stationery and card stores.\footnote{373. Indeed, I suspect many first encounters with porn result in confusion rather than persuasion. My own first encounter with porn was at about age eight or nine, when I found a well-hidden brown-}
never applied to males—from imagery ranging from television sitcoms to cartoons, comics, and Disney films long before most come into contact with porn.\textsuperscript{375} Boys, who constitute ninety percent of the video game audience, will have played hundreds of thousands of games in which females are altogether absent,\textsuperscript{376} or shown only as damsels in distress,\textsuperscript{377} by the time they reach adolescence. Most will have read hundreds of comic books.\textsuperscript{378} They will have had far fewer encounters with porn.\textsuperscript{379}

And even after they encounter porn, most boys (and girls) will spend far more time listening to popular music\textsuperscript{380} and watching music videos.
that portray a world in which “women are rarely shown other than as objects.” These videos set expectations for female behavior, for “how [girls are] to move, strip, grimace, pout, breathe and cry out during a ‘sexual’ encounter.”

Enhanced by rhythmic sound tracks and lyrics like “If I can’t have her, I’ll take her and make her,” these works surely influence their vast and susceptible audiences more than Hustler photos, Playboy centerfolds, or even the most crass and violent porn.

But to acknowledge the breadth of misogynistic imagery is to admit the futility of suppression as a strategy of reform. Moreover, cultural rectification campaigns have been notoriously unsuccessful, as the explosion in porn, as well as rap, rock, and heavy metal music in Eastern Europe and the Russian republics attests. Cultural critique makes

a discussion of a similar sexism in heavy metal music, see Robert L. Gross, Heavy Metal Music: A New Subculture in American Society, 24 J. POP CULTURE 119, 123 (1990) (reporting that songs such as Motley Crüe’s ‘Livin’ Wild’ call women whores and talk of smashing their faces).

381. William A. Davis, MTV vs. the Professor: Music Service Challenges UMass Teacher’s Use of Videos to Dissect Sexism, BOSTON GLOBE, May 17, 1991, at 29 (quoting University of Massachusetts professor Suthally). Jhally’s video made from clips of 165 rock videos suggests a view of women little different from that purveyed in much porn:

Framed by the bare legs of a straddling female, a writhing Rod Stewart makes unambiguous gestures with a microphone as he sings. A punitively voluptuous woman, consumed by nostril-flaring passion, attacks stocky rocker Sam Kinison, wrestling him into a red velvet pit. And, as the punchy, middle-aged Beach Boys play golden oldies, hordes of bikinied nymphets scream, jump and jiggle in unlikely ecstasy.

Id.

382. WOLF, supra note 74, at 164.

383. MIEDZIAN, supra note 287, at 172 (quoting a lyric from a song on an album by Poison, which sold over two million copies). Other lyrics include those of Motley Crüe describing fantasies of assaulting a woman: “Get my ways at will./Go for the throat, . . . /Going in for the kill” and Ted Nugent’s Violent Love: “Took her in the room with the mirrors on the walls,/Showed her my brand new whip.” Id. at 249. For more misogynistic lyrics, see TIPPER GORE, RAISING PG KIDS IN AN X-RATED SOCIETY 117-25 (1988).

384. It is far more likely that the recently documented rituals of group sex abuse by teen boys of teen girls—so-called “whirlpools” in swimming pools; “props” and “points” for abusing and having sex with girls, and the like—are spurred by misogynistic notions of what it means to “be a man” purveyed in this music (as well as by sports and other aspects of youth culture) and, especially for minority youth, by a sense of powerlessness and alienation. See Henneberger & Marriott, supra note 297, at A1 (describing “whirlpool” assaults at New York swimming pools as stemming from the “desire of boys to demonstrate their manhood by abusing or showing disrespect to girls”); see also HOOKS, RACE AND REPRESENTATION, supra note 20, at 94 (discussing the work of several scholars who point to the historical process by which masculinity shifted from an “emphasis on patriarchal status (determined by one’s capacity to assert power over others in a number of spheres based on maleness) to a phallocentric model, where what the male does with his penis becomes a greater and certainly a more accessible way to assert masculine status”).

sense; cultural suppression is not merely ineffectual, but dangerous.

C. The Insignificance of Porn III: Whatever Happened to Women?

[T]o understand people as socially constrained or repressed is seriously incomplete without a simultaneous hypothesis about the social production of motivation, desire and pleasure. . . . [F]emale social conditioning is not solely something done to women.

—Margaret Miles

Porn is marginal, too, because it is largely addressed to and consumed by men, whereas Western erotica could not be what it is without the participation and complicity of women. The creation of female desire and pleasure, as well as female acquiescence in a phallocentric sexual regime, has been accomplished not through porn, but by images of sanitized and symbolized sexuality such as those commonly found in romance

386. MILES, supra note 13, at 188.
387. One study of customers of an “adult” bookstore that featured magazines, books, videos (including a porn video arcade), and sex paraphernalia for sale put the ratio of men to women users at 10 to 1. STEIN, supra note 138, at 96. Yet, although most porn is produced by and for men, the number of women viewers is increasing. See SEGAL, SLOW MOTION, supra note 8, at 220-21 (citing evidence that in Britain, women, who organize in “parties” to buy porn, are buying 10-20% of porn videos, from “hard core” to “romantic” porn for women); see also WILLIAMS, supra note 4, at 231-32 (discussing the increase in female viewing of pornographic films); Carin Rubenstein & Carol Tavris, Special Survey Results: 26,000 Women Reveal the Secrets of Intimacy, REDBOOK, Sept. 1987, at 147-49, 214-15 (noting that in a survey of over 26,000 women, nearly half say they regularly watch pornographic films and that 85% have seen at least one, as opposed to 60% in 1974).
388. MacKinnon has remarked on women’s complicity. See MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 219, 219-22 (noting that “[m]any of [her] listeners express anguish and embarrassment that women in positions of power behave just as badly as men”). Yet “[e]ven the more sophisticated feminist thinkers frequently shy away from the analysis of submission, for fear that in admitting woman’s participation in the relationship of domination, the onus of responsibility will appear to shift from men to women, and the moral victory from women to men.” BENJAMIN, supra note 111, at 9. For a full explanation of MacKinnon’s view, see Catharine A. MacKinnon, Sexuality, Pornography, and Method: Pleasure Under Patriarchy, in FEMINISM AND POLITICAL THEORY, supra note 51, at 211 (arguing that sexuality is a pervasive theme in our culture and that dominant sexual images correspond with masculinity, whereas feminine images can be classified as an eroticized submission).
389. Although women seem to be increasingly interested in sexually explicit romance imagery, their interest is not primarily in the graphically depicted phalluses and vaginas that are the iconography of porn. See JANICE RADWAY, READING THE ROMANCE: WOMEN, PATRIARCHY, AND POPULAR LITERATURE 73-75 (1984) (citing questionnaire results that indicate most romance readers do not object to sex in novels in some form); CAROL THURSTON, THE ROMANCE REVOLUTION: EROTIC NOVELS FOR WOMEN AND THE QUEST FOR A NEW SEXUAL IDENTITY 7-8 (1987) (describing the increase in sexual activity that began to appear in romance novels in the 1970s); Ellis, supra note 145, at 223-25 (noting the rise in the 1970s of explicitly sexual romance fiction and rape scenes); Avis Lewallen, Lace: Pornography for Women?, in THE FEMALE GAZE, supra note 25, at 86, 86-101 (analyzing the new blockbuster novels, which “comprise a genre variously described as ‘shopping and fucking,’ or more euphemistically ‘hoarding and humping’” and which feature “adult sexual exploration”). But as one critic of romantic fiction has written, “the degree of sexual intimacy between the hero and the heroine
literature, daytime soap operas, teen magazines, comic books, major motion picture releases, and mainstream

in no way alters the shape or the meaning of the sexual plot. [W]hat the romance narrates is the progress of the erotic." JAN COHN, ROMANCE AND THE EROTICA OF PROPERTY: MASS-MARKET FICTION FOR WOMEN 21 (1988) (emphasis in original).

390. A large number of women read romance literature, which "George Eliot called . . . 'silly novels by lady novelists[,]" Charles Lamb condemned . . . as ' . . . scanty intellectual viands of the whole female reading public' [and] Germaine Greer said . . . 'sanction drudgery, physical incompetence and prostitution.' Daphne Clair, Sweet Subversions, in DANGEROUS MEN AND ADVENTUROUS WOMEN: ROMANCE WRITERS ON THE APPEAL OF THE ROMANCE 61 (Jayne A. Krentz ed., 1992) [hereinafter DANGEROUS MEN]. By the early 1980s, North American readership was at least 20 million and revenues were in excess of half a billion dollars. THURSTON, supra note 389, at 16. Today, sales are on the increase worldwide, and a new market in romance videos has recently sprung up. Agnes Torres, Readers' Love of Romance Novels Kindles a Profitable Market for Escapist Videos, CHI. TRIB., Oct. 23, 1987, at 96. Some women spend as much as $150 a month on romance. Ellis, supra note 145, at 218. See also Jean Franco, Incorporation of Women: A Comparison of North American and Mexican Popular Narrative, in STUDIES IN ENTERTAINMENT, supra note 188, at 119, 119 (noting that in the U.S., "about half of the paperback book market consists of mass market fiction (predominantly romance) for women" and that in Mexico, two serial comic-strip novels—or photonovels—"sell between 800,000 and one million copies each week for each volume"). Notably, the romance market grew in tandem with the growth of porn; both had bursts of growth in the 18th and 19th centuries, but began in earnest in the late 1950s. See Ellis, supra note 145, at 216-19.

391. Literally millions of women (and far fewer men) watch soap operas, follow their plot lines via scripts (available in supermarkets, bookstores, and newstands), and discuss them endlessly in workplaces and laundromats. Daytime serials on the three major networks account for about $1 billion a year in advertising profits, and an estimated 40 million of 90 million adult women in the U.S. watch daytime soap operas. Dana Kennedy, Soap Opera Magazines Fill Days of More Lives, CHI. TRIB., Dec. 20, 1992, at 9. Millions more women watch soap operas worldwide. See Richard Collins, Wall-to-Wall Dallas: The U.S.-U.K. Trade in Television, in GLOBEAL TELEVISION 69, 79-93 (Cynthia Schneider & Brian Wallis eds., 1988) (stating that more than one-hundred countries broadcast Dallas due to the international popularity of soap-like serial melodramas and economic incentives to rebroadcast). For a fascinating discussion of the appeal of soaps to women, see Tania Modleski, The Search for Tomorrow in Today's Soap Operas, in AMERICAN MEDIA AND MASS CULTURE, supra note 41, at 266, 266-68 [hereinafter Modleski, Search for Tomorrow] (arguing that soaps, like the 19th-century melodramas from which they derive, appeal to women because they make the spectator identify with many individuals entwined in complicated plots rather than with a single male hero). For a critique of Modleski, see Anne Cranney-Francis & Patricia P. Gillard, Soap Opera as Gender Training: Teenage Girls and TV, in FEMININE, MASCULINE, AND REPRESENTATION 171 (Terry Threadgold & Anne Cranney-Francis eds., 1990) (studying Australian teenage girls' attraction to "soapsies" and challenging Modleski's thesis that soaps are for the most part critically transformed, rather than passively absorbed, by their audiences). See generally MARTHA NOCHIMSON, NO END TO HER: SOAP OPERA AND THE FEMALE SUBJECT (1992) (arguing that despite many limitations, soap opera is a unique art form that speaks authentically to women's experiences).

392. For the importance of teen magazines, including the rise of Seventeen and its many imitations after World War II, see BAILEY, supra note 223, at 10 ("By 1960 . . . America's eighteen million teenagers were spending $10 billion a year on their own culture.").

393. See Watch Out, Archie: Veronica Is a Star, N.Y. TIMES, Feb. 22, 1989, at 12C (quoting Maggie Thompson, a co-editor at the Comics Buyer's Guide that Veronica "is as she has always been—shallow, stereotypical, rich and male-obsessed").

advertising, as well as through the institutional structures which give them power and meaning.

These images inculcate standards of appearance and behavior into women and support the feminine norms and roles that undergird the imagery of porn, as well as the violence against women that Dworkin and MacKinnon attribute to porn. As Judith Williamson has noted, the sphere of mass culture is often viewed as feminine because it so strongly converges with and overlaps the "'feminine' spheres of leisure, family or personal life, and the home; and it also focuses on these as the subject matter of its representations." Porn-suppressionists' "romance" with porn (fed by their fear of the sexual) misses the real causes and culprits in constructing female sexuality, not the least of which is the creation of women as primary consumers, especially of romance and beauty ideology.

Linda Lovelace Marchiano, who is often paraded by feminist porn-suppressionists as a quintessential example of the evils of pornography, left her home voluntarily, not to "star" in Deep Throat, but, in fact, in pursuit of romantic dreams. Fed on romance formulae that typically depict the triumph of love over sex, young women like Marchiano easily imagine that, despite evidence that their "saviors" are less than savory, they have found "Mr. Right," and will, according to the typical plot.

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395. See generally DIANE BARTEL, PUTTING ON APPEARANCES: GENDER AND ADVERTISING (1988) (discussing at length the use of sexual imagery in advertising).

396. Judith Williamson, Woman Is an Island: Femininity and Colonization, in STUDIES IN ENTERTAINMENT, supra note 188, at 99, 101. Williamson argues that the radical feminist focus on gender to the exclusion of other issues, such as class and race, mimics mass culture, especially advertising strategies that focus on sexual differences and ignore other differences. Id. at 101-03. But see HOOKS, RACE AND REPRESENTATION, supra note 20, at 21-39 (arguing that recent commercial culture has actually capitalized on ethnic differences to boost sales).

397. See supra notes 124-28, 357, 362; Ascher, supra note 41 (describing the self-conscious development of advertising psychology aimed at motivating women as consumers); see also EWEIN, supra note 350, at 173-74 (analyzing changing styles in feminine body imagery as part of broader cultural and political trends).

398. See Downs, supra note 14, at 40-41.

399. DEEP THROAT (Damiano Films 1972).

400. She left also to escape religious strictures used by her parents to justify psychological and physical abuse, as well as to pursue the commodities that advertising and glamour literature associate with the "good life." See LOVELACE & GRADY, supra note 134, at 9-23.

401. See Lauren Ficker, Romancing the Reader, CALGARY HERALD, Aug. 18, 1991, available in LEXIS, News Library, CAHLER File ("Finding Mr. Right is still the heart and soul of romance fiction . . . ."). A senior editor of a romance novel publishing house sees this as "Freudian wish-fulfillment." See Ellis, supra note 145, at 217.
line, tame their initially sexually aggressive but noncommittal romantic hero, ultimately to win a declaration (indeed, confession) of love and a promise of marriage. Romance ideology is often the flip side of porn: encouraging women to believe that men's lust is naturally violent, aggressive, and uncontrollable, but that it can be taken in hand by a strong-willed woman; that women are tempted, titillated, and aroused by this aggression, yet possess a natural "taming instinct" that will ultimately prevail. Once taming occurs, sexuality will be mysteriously transformed into the tender, sensitive, egalitarian fare that ought to characterize marital bliss.

402. As in porn, women are portrayed in romance ideology both as powerful (within a well-defined set of constraints) and submissive. Women are triumphant over male aggressors in transforming lust into love and gaining the stability of commitment and marriage as they actively "win" the economic prosperity that the nearly universally well-off heroes offer. Yet romance ideology teaches that women are and should remain dependent and submissive to the will of men and should not aspire to gain sexual pleasure or property other than by wooing a man to marriage. In this regard, modern romance plots echo those of fictional romance classics such as Jane Eyre, Pride and Prejudice, and Gone with the Wind about the proper (and only available) routes to property and power. See also COHN, supra note 389, at 15-16 (arguing that romance novels perpetuate female dependency).

Romance plots with a newer formula—inspired quite directly by their readership, who not only write frequently to authors and publishers, but also join them at gatherings and conventions—increasingly portray women in active and independent roles. Not only are these heroines employed outside the home, but they are also embroiled in complex plots that no longer end with marriage and that take on such "real-life issues" as incest, wife abuse, conflicts between work and family, problems maintaining sexual passion within marriage, and single mothering. Picker, supra note 401. The new heroine is "both good and sexual, and she possesses a passionate drive for self-determination and autonomy." THURSTON, supra note 389, at 8. See also Cynthia Brouse, Bringing the Romance Novel Home, MACLEAN'S, July 21, 1986, at 46 (noting the new "radical" elements recently introduced into romance fiction, including "older, career-oriented heroines, sensitive, vulnerable heroes, [and] explicit sex").

403. As one romance writer critical of the "bodice ripper" (more sexually explicit) variety of romance novel has suggested, its "message seems to be, rape a girl often enough, boys, and she'll grovel at your feet." COHN, supra note 389, at 15 n.1. "Formula romance routinely conveys the eroticization of male power. Every aspect of phallic power is celebrated here no less ardently, if less explicitly, than in any men's pornography." SEGAL, SLOW MOTION, supra note 8, at 231.

404. Romance ideology is everywhere: purveyed not only in romance literature and mainstream film, television, music, and soap opera, but also in advertising (which is overwhelmingly addressed to women as the primary consumers). See BARTHEL, supra note 395, at 71-76 (providing examples of advertisements that employ romance). One study of advertising found in the magazine Women's Home Companion concluded:

The satisfactions of sex and the criteria of romantic love are inextricably intertwined; but whereas romantic love is indispensable to sexual satisfaction, the reverse is not the case: romantic love is desirable in and of itself and is bound up with other ends, such as prestige, social success, power and wealth. The criteria of romantic love can be acquired cheaply by purchase: youth, smoothness of skin, a prominent bust, a deodorized body, a daily ritual of body care, handsome or alluring clothes, outward manners, and a ready affirmative response to these criteria in the other person.

OTIS PEASE, RESPONSIBILITIES OF AMERICAN ADVERTISING 38-39 (1958). Notably, some 1970s feminists also viewed love in the context of male power to be bound up with "security and social advantage," making genuine love impossible. See BARUCH, supra note 21, at 4 (quoting feminist writer Germaine Greer).
This ideology “not only eroticises men’s sexual power, but [also their] economic power in general, while glamorizing women’s social and sexual subordination to men.” Indeed, soap opera character Luke Spencer’s rape of a female cohort was made to appear so glamorous that teen fans thereafter greeted actor Tony Geary by shouting, “Rape me, Luke!” With its depiction of total dependence on men as a turn-on and its view that home and family, however abusive, are the last refuges from a threatening world and an impersonal bureaucratic state, romance ideology is surely more responsible for the female submissiveness porn-suppressionists decry than is the encouragement some men find in porn to take advantage of that submissiveness by dominating and abusing women.

Yet just as porn presents a more complex picture and represents more than simply a patriarchal cabal, so mass culture representations are not merely “a source of patriarchal indoctrination by which women learn to see themselves as objects for men.” Mass culture responds to, as well as seeks to influence, its audiences; it changes in response to changing gender roles, conceptions of masculinility and femininity, and economic and social realities. It changes as well, as many mass-culture theorists have noted, because women rebel, both quietly and openly, against its dominant constructions.

Yet Ellis, as well as many others, argues that romance novels (perhaps, indeed, like porn) are more complex and play a more nuanced role in the lives of women than these analyses would suggest. See Ellis, supra note 145, at 216, 218 (finding that the depiction of women in romance novels includes a “strand of autonomy that pulls variously but insistently against the passivity that has been ascribed to female ‘nature’” and noting that like the Gothic novel, they contain “elements that function to subvert patriarchal gender arrangements”). But see Radway, supra note 389, at 17 (“[Al]though romance reading may enable women to resist their social role and to supplement its meager benefits, romances may still function as active agents in the maintenance of the ideological status quo.”); cf. Nocimson, supra note 391 (making similar arguments regarding soap operas). For a defense of romance novels by several romance authors, see Clair, supra note 390, at 61.

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405. Segal, Slow Motion, supra note 8, at 231.
407. Many writers have claimed that “[I]love magazines and mass-market romances are the equivalent of women’s pornography.” Sara Diamond, Pornography: Image and Reality, in WOMEN AGAINST CENSORSHIP, supra note 75, at 40, 50. Others have stressed that in romance writing, “porn [is] softened to fit the needs of female emotionality . . . [becoming] dramas of dependency.” Ann Douglas, Soft-Porn Culture, NEW REPUBLIC, Aug. 30, 1980, at 25, 27-28. Such dramas tend to encourage readers “to participate in and actively desire feminine self-betrayal.” Tania Modleski, Loving with a Vengeance: Mass-Produced Fantasies for Women 51 (1982); see also Alison Assiter, Pornography, Feminism and the Individual 112 (1989) (calling one publisher’s romance novels “porn for women”). Indeed, this would appear to be all the more true with the emergence of “the ‘spectacular,’ the subgenre that succeeded the Gothic novel in the early seventies, a longer, more openly sexual product in which an obligatory rape occurred after 100 or so pages.” Ellis, supra note 145, at 217.

408. Ellis, supra note 145, at 217.
409. Cf. Ascher, supra note 41 (noting how advertising responded to changes in women’s social roles during the late 19th and early 20th centuries).
Porn-suppressionists would answer that cultural or sexual "rectification" must begin somewhere, and porn is not only vulgar, but also often violent—more degrading and injurious to women than these other artifacts of mass culture—and easier to attack. The difficulty with this argument, as I have shown, is that the strategy of isolating sex as a target, and of allying with those who would confine and control women's sexuality, while seductive, ultimately harms and silences women. The assumption that porn's blatant and explicit iconography is more harmful to women than mass culture ideology is, as I show in the next sections, questionable at best.

D. The Insignificance of Porn IV: Sexual Excitement as Persuasive Power?

primeval nightmares
men have always had:
the disappearance of the bone
annihilation of the self

—Gloria T. Hull

Might it not be the case that pornography, because it appeals directly to bodily arousal, more powerfully influences conceptions of the erotic or persuades its audience to adopt a misogynist view? When the sexual show of force against women is more direct and overt, might it not have a more forceful impact on its audience? Perhaps suppression would then be worthwhile.

Perhaps, but both propositions seem doubtful ones. Although porn, like its close cousin, the "slasher film," is "a transparent source for


411. Slasher films eroticize violence toward women and, like much porn, in narratives strikingly lacking in depth of character or plot development, typically suggest that sexually active women deserve the extreme violence meted out by male protagonists. See Carol J. Clover, Her Body, Himself: Gender in the Slasher Film, 20 REPRESENTATIONS 187, 199-204 (1987) (observing that although sexually active characters of both sexes are killed, the women's deaths are more drawn-out than the men's, and the lone surviving woman has not been sexually active); Mary B. Oliver, Contributions of Sexual Portrayals to Viewers' Responses to Graphic Horror, 3 BROADCASTING & ELECTRONIC MEDIA, Winter 1994, at 1, 1-2 (reviewing scholarly literature which has found that approximately one-third of scenes involving sexual activity end in the death of at least one of the characters involved and that females who ultimately died were more likely to be portrayed in sexual ways such as nude or undressing). While Clover argues that slasher films "recommend themselves to censorship under the Dworkin-MacKinnon guidelines at least as readily as the hard-core films," id. at 206, they are not sexually explicit within existing legal definitions of the term. See Miller v. California, 413 U.S. 15, 25 (1973) (defining sexually explicit material to include "[p]atently offensive representations or descriptions of ultimate sexual acts" or "lewd exhibition of the genitals"). Most slasher films are not, for example, X-rated.
(sub)cultural attitudes toward sex and gender in particular,” largely “[u]nmediated by otherworldly fantasy, cover plot . . . or civilized routine.” Transparency and explicitness are not the measure of persuasive power. Indeed, they may not even be the measure of arousal, for as art critics and scholars in the field of semiotics have taught, “it is not uncommon to find that the suggestive turns out to be more provocative than the blatantly descriptive.”

Most pornography, because of its exaggerated and unrealistic portrayal, invites the viewer or reader to suspend belief rather than to take its portrayals as “true.” The manner in which it is typically “consumed”—in secret, “stag” arenas, or specially zoned theaters—heightens its unreal quality. Unlike television’s serials, soaps, and even, sometimes, advertisements, which purported to portray “real life” by situating themselves in “real” time and space and wrestling with true life problems, porn is suspended in time and space, presenting a fantasy world of endless sex uninterrupted by daily tasks and unmarred by mundane detail or real-life responsibilities. Thus, although it may be “at the pinnacle of the sexist iconography of insatiable male sexual activity and ubiquitous

See also Tania Modleski, The Terror of Pleasure: The Contemporary Horror Film and Postmodern Theory, in STUDIES IN ENTERTAINMENT, supra note 188, at 155, 155-66 (noting the slasher genre’s lack of plot and character development and its hostility to women, who are terrorized and dismembered for experiencing sexual pleasure). Slasher films permit audience “mastery . . . through projecting the experience of submission and defenselessness onto the female body.” Id. at 163.

412. Clover, supra note 411, at 188.

413. Freedberg, supra note 25, at 21. Indeed, after I asked a male friend to respond to the sexually explicit images in Caught Looking, supra note 97, a feminist collection of porn, he indicated that he found its images far less erotic than the Victoria’s Secret Catalogue, which features models in “sexy” lingerie for women, with no prohibited body parts shown. Indeed, some research indicates that imagining sexual activities is more arousing to subjects than either pictorial or written depiction of those activities. See Donn Byrne & John Lamberth, The Effect of Erotic Stimuli on Sex Arousal, Evaluative Responses, and Subsequent Behavior, in 8 TECHNICAL REPORT OF THE COMMISSION ON OBSCENITY AND PORNOGRAPHY (1971) 41, 53 (Table 3: Mean Sexual Arousal of Males and Females in Three Experimental Conditions). But it is plain that some porn does succeed in arousing most men, and it is for this reason that it is used for medical purposes as well as for private pleasure. Notably, however, the Beaver Hunters photograph targeted by Andrea Dworkin, Cass Sunstein, and others as an obvious example of repellent porn deserving of suppression was almost unanimously found not to be arousing (and hence presumably not to “eroticize” its subject) by the vast majority of law students surveyed by James Lindgren. See Sunstein, supra note 72, at 593 (suggesting that the photo is “easily categorized” as porn); Lindgren, supra note 72, at 1164-65 (noting that a majority of students in two surveys did not find the picture arousing and concluding therefore that it is not pornographic under Sunstein’s definition).

414. See SEGAL, SLOW MOTION, supra note 8, at 222 (criticizing Andrea Dworkin’s “refus[al] to analyze fantasy as fantasy”).

415. When porn is viewed within other contexts, for example, as part of anti-porn exhibitions, in feminist consciousness-raising groups, or at conferences on sexuality, its underlying ideology is even less likely to be uncritically absorbed.

416. Serials and soaps tend to follow the calendars of their audiences, portraying holiday scenes at appropriate times, allowing pregnancies, graduations, and the like to occupy accurate time periods.
female sexual availability,” and may even be “the ‘truest’ form of patriarchal ideology,” it represents a fantasy world that neither creates nor expresses men’s “straightforwardly conscious wishes and intentions.”

In the fantasy world of porn, “his’ tirelessly active, rock-solid penis” perpetually pleasures “her’ slavishly desiring, wide-open cunt,” with the aid of “sprays, creams, ointments, tablets, gadgets—sexual aids of endless variety.” In this universe, “penis size—the bigger the better; ... erection on demand—as often as possible; ... [and] skilled performance—producing female orgasm, preferably multiple” demonstrate the degree of masculinity. Not only is this cosmos fanciful, it hardly expresses or is characterized simply by male domination.

Men

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417. SEGAL, SLOW MOTION, supra note 8, at 217.
418. Kennedy, supra note 122, at 1335. Porn surely expresses a phallocentric world, and, in today's culture, the “phallus as symbol condenses the multiple significances of the whole configuration of male dominance, with its diverse social practices at once conferring power and authority on ‘men,’ and giving most actual men some real power over the lives of others—at the very least within domestic life.” SEGAL, SLOW MOTION, supra note 8, at 210 (emphasis added).
419. SEGAL, SLOW MOTION, supra note 8, at 222; see Buckley, supra note 169, at 180-81 (describing Japanese pornographic comic books as offering an imaginative escape from rigid sexual boundaries). In her thoughtful and persuasive analysis of the appeal of pornography, Segal points out that Dworkin and other suppressionists refuse to analyze fantasy as fantasy, and so can shed no light on its often troubling nature. ... That our fantasy life usually has little or no connection with what we would enjoy in reality is ignored or denied, along with Freud’s claim that “psychical reality is a particular form of existence not to be confused with [what he called] material reality.” SEGAL, SLOW MOTION, supra note 8, at 222 (emphasis in original) (quoting John Torrester, Rape, Seduction, and Psychoanalysis, in RAPE? 62 (Tomaselli & Porter eds., 1985)). She notes that “it seems wilfully blind for feminists to buy into the bravado behind many men’s repression of their sexual anxieties and insecurities, by endorsing myths of the inevitable link between sexuality and male dominance. It becomes a way of women colluding in men’s defensive denials of their own confusion and doubts about sexuality....” Id. at 215; see also ALAN SOBLE, PORNOGRAPHY: MARXISM, FEMINISM, AND THE FUTURE OF SEXUALITY 84 (1986) (stating that pornography is an “attempt to gain a sense of sexual control in the realm of fantasy [which is] an admission of defeat, a resignation to the way the women’s movement has changed the world”).
420. SEGAL, SLOW MOTION, supra note 8, at 218.
421. Id.
422. Id. (emphasis in original).
423. See id. at 208 (noting that like modern advertising, both hard- and soft-core pornography convey images of masculinity as a type of insatiable sexual appetite).
424. The violently abusive varieties of pornography that porn-suppressionists frequently invoke apparently constitute but a tiny proportion of porn. See Lynne Segal, Introduction to SEX EXPOSED, supra note 8, at 6 (citing recent studies suggesting that violence in porn films may be less than 5%; that images of female submission in S/M magazines are 7%, compared to 9% portraying male submission; and that violent imagery has declined since 1977); see also Linda Williams, Pornographies On/Scene, or Different Strokes for Different Folks, in SEX EXPOSED, supra note 8, at 233, 263 (claiming that despite the hype, recent porn contains neither “snuff” nor rape scenes and is one of the few genres that do not “punish its female protagonists for seeking pleasure”). Others have put the “violence” figure much lower. See Al Goldstein, Ted Bundy's Last Lie, N.Y. TIMES, Feb. 18, 1989, § 7, at 29 (citing the Meese Commission finding that violent imagery represented less than 1% of the total top-
are perpetually required to give women pleasure and are threatened with punishment (loss of women’s respect and attention) for phallic failure.\textsuperscript{425} True, women’s pleasure is often represented as enhanced by overpwrer-
ment and abuse. But just as the fact that women find fantasies of violation and abuse pleasurable\textsuperscript{426} does not indicate women enjoy actual abuse, likewise, the fact that men find porn’s fantasies of abuse pleasurable hardly indicates that most men find actually abusing women to be pleasurable.\textsuperscript{427} Rather, men who seek out porn, like women who consume romance novels, videos, and films, are—at least in part—seeking escape from the confusing shifts and increasingly complicated choices offered by modern sexual and social life.\textsuperscript{428} Feminist porn-suppressionists are simply wrong

\textsuperscript{425} See Segal, Slow Motion, supra note 8, at 218, 219 (describing a study by Andy Moye of porn magazines showing that they institute a “gruelling phallic regime” and recounting evidence of increased male recourse to sex therapy due to “performance anxiety” in actual sexual encounters).

\textsuperscript{426} See supra note 155 and accompanying text. Such fantasies may or may not disappear when gender (and other) power relations are altered, but they will surely change. Indeed, Nancy Friday’s research concerning women’s self-reported fantasy life indicates that changes have already taken place. See Friday, Women on Top, supra note 193, at 18–19 (reporting that more women are having fantasies of being in command of sex).

\textsuperscript{427} Men simply do not appear to harbor the universal wish to sexually abuse and dominate real women. Research on male fantasies and evidence from sex workers reveals that many, if not most, men prefer the role of victim or passive recipient of domination to “conventional male heterosexual roles with their heavy emphasis on masculine prowess and dominance.” Segal, Slow Motion, supra note 8, at 213 (quoting Eileen McLegd, Women Working: Prostitution Now 59 (1982)). Forty-eight percent of men in one study and seventy-four percent in another preferred to be sexually passive with prostitutes. Id. at 212–15. “Heterosexual performance may be viewed as the mainstay of masculine identity,” but many men neither seek to dominate sexually nor find that sexual performance “in itself give[s] man power over women.” Id. at 211. Apparently, large numbers of men find in heterosexual encounters not a confirmation of their power, but of their ineptness. “[F]or many men it is precisely through sex that they experience their greatest uncertainties, dependence and deference in relation to women—in stark contrast, quite often, with their experience of authority and independence in the public world.” Id. at 212. These men are increasingly turning to sex counsellors for help and to porn for escape. Id. at 217-20; see also Elshtain, supra note 117, at 119-33, 122 (arguing that porn-suppressionists’ “theory about male sexuality, indeed male nature, which sees that sexuality and that nature as depending for its pleasure and identity on the wholesale, remorseless victimization of women” is neither original nor correct).

\textsuperscript{428} Porn may, of course, have an impact or influence on the way in which some of its viewers experience sexual encounters. But this is not to accept that viewing domination reflects or produces a desire to dominate. Moreover, because porn’s repetitious and often tedious displays of virile, acrobatic men conquering and satisfying legions of oversexed, compliant women express precisely the same post-Freudian performance anxieties as are visible in virtually every (post)modern male novel of self-exploration from Ulysses to Portnoy’s Complaint—if with greater sexual explicitness and often violence, and in a manner infinitely less nuanced or profound—porn’s primary responsibility for men’s attitudes is surely questionable. Cf. Segal, Sweet Sorrows, supra note 12, at 68 (arguing that themes that characterize porn from Victorian times to the present reflect “fear of female rejection, terror of phallic failure and homosexual feeling disguised as heterosexual performance,” precisely the same themes explored in much of the modern fiction authored by men (and some women)). Moreover, porn’s influence on sexual experience and activity is inseparable from other cultural depictions of and attitudes toward sex. See Segal, Slow Motion, supra note 8, at 223 (reporting that sexual assault rates decreased in some countries after pornography restrictions were removed). To sug-
when they regard all men as seeking, through looking at depictions of (hetero)sexual domination of the sort depicted in some porn, to, as Andrea Dworkin puts it, "experience raw phallic power." \footnote{DWORKIN, PORNOGRAPHY, supra note 109, at 128.}

Porn-suppressionists are equally inaccurate when they portray pornography as enabling that domination to take place simply because it presents it in fantasy. Porn's shallow world of insatiable women and unflaggingly erect men is hardly the stuff from which the complex web of Western sexuality could be woven. Rather, contrasting notions of "acceptable male emotions associated with the approved discourses on male sexuality"—for example "[s]ex restrained by love and marriage, sex which is 'protective,' 'respectable' and 'faithful'"—are essential to and give meaning to porn's contrary world of "sex greedy for immediate, unlimited, self-centered gratification." \footnote{Soble, supra note 419, at 82.} Empedestaled, chaste, and virtuous women are central to constituting other women as sexually "debased" and therefore available for sexual domination or abuse. \footnote{Segal, Sweet Sorrows, supra note 12, at 68.} Men are induced to find pleasure in fantasies of sexual domination not only by treating women as sex objects, but also by treating them as too pure to touch, or too stupid, flutter-brained, or frigid to be sexual at all. \footnote{Cf. Dijkstra, supra note 13, at 191 ("The woman-child, then, suggested to the nineteenth-century male not only innocence but also the absence of any resistance to the particulars of masculine desire."); MILES, supra note 13, at 36 (noting that in 14th-century Tuscany, "images of the Virgin with one bare breast both formulate and attempt to control one of the most awesome powers of women, the power to nourish").} Aggression is "eroticized" not simply by treating women as objects of male lust, but by placing them in the contradictory roles of virgins and whores; of mothers, wives, servants, and lovers; of guardians of morality who impel men to sin and then punish them for their "Fall." \footnote{This "type" can be seen, for example, in the character "Edith" from All in the Family (CBS television).} Male domination is sexualized not merely when women are pictured as enjoying rape, but also when a boy's growth towards manhood is associated with conquest and vanquishment—of nature,
of enemies, and of women.  

To reduce Western erotica to a pornographic picture is to understate the power and depth of patriarchal conditioning, which could not be captured within porn's one-sided, shallow, and repetitive imagery. Porn is meant, like the popular mystery genre, to allow escape into shallow plots and fantasies of quick and easy satisfaction, not to foster conversion.  

Nor is it likely that porn's blatant show of force against women increases its effectiveness in persuading its audience to view women as objects or to use force against them. For, as Lynn Segal has argued, "[i]t is not, as some feminists believe, the eroticizing of an object which creates it as inferior" but "the dynamic interplay between power and desire, attraction and repulsion, acceptance and disavowal, which eroticizes those already seen as inferior." Indeed, as Talcott Parsons has argued, "coercion represents the regression of power to a lower domain of generalization; a 'show of force' is the emblematic sign of the failure of power's symbolic currency." In other words, porn's graphic display of male sexual power over and violence toward women, as well as the similar portrayals in mainstream advertising, television, and film, are the likely symptoms of and reactions to weakening male power, rather than indications of porn's centrality to establishing male power in the first instance.

435. John and Beatrice Whiting "argue that male aggression is motivated by the need to break a primary identity with powerful women." This may lead to an "overdetermined attempt to prove his masculinity, manifested by a preoccupation with physical strength and athletic prowess, or attempts to demonstrate daring and valor, or behavior that is violent and aggressive." PEGGY R. SANDAY, FEMALE POWER AND MALE DOMINANCE: ON THE ORIGINS OF SEXUAL INEQUALITY 182 (1981) (citing Beatrice B. Whiting, Sex Identity Conflict and Physical Violence: A Comparative Study, AM. ANTHROPOLOGIST, Dec. 1965, at 123, 126-27; John W.M. Whiting & Beatrice Whiting, Aloofness and Intimacy of Husbands and Wives: A Cross-Cultural Study, 3 ETHOS 183 (1975)); see BENJAMIN, supra note 111, at 75-76 ("[B]oy[s] develop [their] gender and identity by means of establishing discontinuity . . . [or by] repudiation of the mother. . . . The tendency of erotic love to become erotic domination can be seen as a casualty of this characteristically male form of establishing separation.").  

436. Writers on culture and popular culture have remarked the increasing popularity of "escape" media in the late 20th century. See Jeannye Thornton, Foul Play Is No Crime on Whodunnit Nights, U.S. NEWS & WORLD REP., Jan. 27, 1986, at 66 (quoting psychologist Dr. Joyce Brothers's characterization of mysteries as "pure escapism"). Porn differs from these media in its dependence on and reproduction of sexual anxiety. Like advertising, which challenges its viewers to attain the pictured perfection by consuming its products, porn challenges its readership to produce large and unflagging erections, attract well-endowed women, and achieve hard, muscular bodies. But unlike advertising, these things are to be gained not by consuming some other product, but by depending on porn itself to support the fantasy.

437. Segal, Sweet Sorrows, supra note 12, at 72-73 (emphasis added).

438. NOCHLIN, supra note 25, at 3, 34 n.11.

439. See MILES, supra note 13, at 188; HOOKS, RACE AND REPRESENTATION, supra note 20, at 87-94 (describing how male loss of power in nonsexual spheres can result in phallocentrism); cf. SEGAL, SLOW MOTION, supra note 8, at 218-20 (describing the desperation that drives many men, feeling sexually inadequate, to turn to pornography). But see WEEKS, supra note 4, at 25 (arguing that the sexual changes of the 1960s and 1970s represented a great benefit to men rather than a loss of
But is it perhaps not the case that—because, as MacKinnon points out, porn is not about ideas, but arousal—its sexist implications are more readily accepted and absorbed by its audiences? There is little evidence that imagery which produces bodily arousal is more likely to have an impact on the mind. Bodily arousal, whether from horror imagery or sexual tension, is typically fleeting. The fact that audiences flock again and again to see horror and porn films that they have seen before, or sequels that are little different from the originals, may well indicate that the impact of such imagery, far from being powerful, disappears shortly after the image is out of sight.

But even were it the case that bodily arousal or the repeat viewing that porn seems to spawn enhances audience absorption of an ideological subtext, suppression would not be a viable strategy. For it would be impossible to suppress all imagery that is arousing at the expense of women. One would have to get rid of depictions ranging from Alfred Hitchcock's *Psycho,* in which the protagonist's unnatural attachment to his own mother drives him to murder women to whom he is attracted, to slasher and other horror films, to large segments of popular music and music videos. Indeed, one might even have to suppress advertising imagery, for much of it aims to persuade by arousal, and expresses the same views of women as are found in porn.

Porn-suppressionists' efforts to equate the degree of explicitness with the degree of societal harm are not uniquely modern phenomena. Rather, they tend to be a commonplace of censorship efforts. Photography became a frequent censorship target in the late nineteenth century because it was...
supposedly more graphic and realistic than painting.\textsuperscript{445} And painting—especially realistic painting—was viewed as more dangerous than writing.\textsuperscript{446} But historic pedigree is not necessarily the test of truth. There is little to suggest that photography has had a more powerful societal impact than painting, or painting than poetry and writing.\textsuperscript{447} It would seem, rather, that a particular depiction has a greater or lesser impact according not only to its own quality, but also to the context in which it is consumed, the place of the genre within the historical period and particular culture, and the predilection of the viewer.\textsuperscript{448}

\textbf{E. The Insignificance of Porn V: The Sounds of Silencing}

The more painful the issues we confront the greater our inarticulateness.

—bell hooks\textsuperscript{449}

Those who favor suppression frequently credit porn with “silencing” women and argue that women cannot freely examine, explore, and redefine sexuality as long as its proliferation remains unchecked. Although women have been historically “silenced” in many ways,\textsuperscript{450} and sex and sexuality

\textsuperscript{445} See Scharf, Art and Photography 130 (1974). This belief in the danger of photography’s realism reached such a point that occasionally photographic recreations of paintings, but not the paintings themselves, were censored. See Freedberg, supra note 25, at 350-53 (describing the confiscation of a photographic recreation of Titian’s Venus of Urbino).

\textsuperscript{446} See Freedberg, supra note 25, at 50 (noting that “all the writers from Aristotle and Horace onward . . . have insisted on the deeper effects of pictures than of words”).

\textsuperscript{447} This is not to deny that photography has greatly amplified the force of an image over its corresponding substance. See Ewen, supra note 350, at 39-40 (arguing that photography’s “ability to exaggerate experience, to create believable imagistic fictions, [stands] at the heart of its power to depict and transmit style”). Indeed, imagery in all forms, especially imagery that consciously or subconsciously addresses the sexual, has provoked powerful reactions. See, e.g., Freedberg, supra note 25, at 319 (describing the arousal that results from “attempted or imagined possession” of the body depicted); id. at 349 (describing “the arousal that springs from looking and gazing at any image, whether we call it art or not”); Wagner, supra note 88, at 208 (“It was commonplace for critics in the nineteenth century, and even before, to inscribe their sexual fantasies on sculpture.”).

\textsuperscript{448} See Freedberg, supra note 25, at 323, 322-24 (discussing the factors that determine the level of arousal from images containing nudity); Miles, supra note 13 (discussing the effects of images of female nakedness by examining their connections with politics, social structure, and sexual arrangements).

\textsuperscript{449} Hooks, Race and Representation, supra note 20, at 2.

\textsuperscript{450} See supra note 221 (discussing women’s denial of access to writing, painting, and other means of societal “conversation”; see also Spender, supra note 370, at 52-75 (describing women’s silence as embedded in language, to the extent that a vocabulary to express women’s experiences is lacking); Deborah Tannen, You Just Don’t Understand: Women and Men in Conversation 87-88, 93-94 (1990) (discussing the “silencing” of women, especially in large-group situations, and the different ways in which males and females learn and use speech). But see Mirra Bank, Anonymous Was a Woman (1979) (showing how women expressed themselves in samplers, quilts, and needlework, as well as in diaries, memoirs, and letters).
have been areas of particular inarticulateness for women,\textsuperscript{451} it is neither obvious that this process is deepening rather than declining, nor is there evidence that porn has contributed significantly to it.

According to porn-suppressionists, ubiquitous porn imagery silences women from full societal participation by constantly reminding them that men see them as worthy only of domination and abuse and will abuse them in the ways shown in pornography.\textsuperscript{452} Some women may indeed be inhibited from fully expressing themselves because of male aggression; they may refrain from saying what they please in relationships and workplaces where men hold power over—and "just don't understand"\textsuperscript{453}—them; from speaking their minds in classrooms and on streets for fear of retribution; from acting in any way that might be interpreted as sexual; or even from going out alone in public, especially "after hours," thereby "inviting" abuse and rape.\textsuperscript{454}

However, the silencing of women by violence and threats of violence cannot be attributed to porn. Men are impelled to violence from anger at and fear of matriarchal rule (and of mothers' scorn and punishment);\textsuperscript{455} from fury at women for imposing on them a moral straitjacket while simultaneously tempting them to sin; from denigration and disdain for women's purported lack of intelligence and capacity; from the desire for conquest and control—whether of the Father's possessions, the Mother's domain, or the Other, the Enemy.\textsuperscript{456} Indeed, the very sexual taboos that, I argue, are fostered by porn-suppression are probably more central to silencing women than is porn.\textsuperscript{457}

\textsuperscript{451} See HAUG ET AL., supra note 12, at 29-30 ("Our discussions have shown sexuality to be a crucial area of unhappiness (and of silence) for us as women, an area in which our speechlessness prevents us [from] asking questions.").

\textsuperscript{452} See MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 140, 153, 156 ("Pornography terrifies women into silence . . . . [Pornography freely enslaves women's minds and bodies inseparably, normalizing the terror that enforces silence from women's point of view.").

\textsuperscript{453} TANNEN, supra note 450, at 93.

\textsuperscript{454} See Shipp, supra note 27. As Shipp notes, juries in rape cases are often prejudiced against victims because of their behavior: "'Nobody asks a robbery victim why she was out at night carrying money, why did she come home from her job at night exposing herself to robbery, why she was on the subway,' . . . But when the issue is rape, 'juries will hold that woman to a much higher standard.'" \textit{id.} at C8 (quoting Brooklyn District Attorney Elizabeth Holtzman).

\textsuperscript{455} See supra note 435 and accompanying text.

\textsuperscript{456} See GILMAN, supra note 20, at 107 ("The 'white man's burden,' his sexuality and its control, is displaced into the need to control the sexuality of the Other, the Other as sexualized female." (emphasis in original)).

\textsuperscript{457} In this regard, Kim Edwards recounts her experience of sexual harassment (by men) and ostracism (by women and men) for wearing Western garb in a predominantly Muslim Malaysian culture, in which religious teaching stated that "women's bodies were the tool of the devil, and that women must cover themselves to save the souls of good men." Edwards, supra note 434, at 142. Not until she moved to Japan, a culture in which "the video shops have extensive sections of pornography which include women bound hand and foot, chained to poles or balconies with expressions of ecstasy on their faces," \textit{id.} at 142, could she throw off her unwillingly acquired "sense of the body as
Moreover, the roots of silencing run far deeper. Women, like other historically oppressed groups, lack both a language in which to express their experiences, as well as the tools to make those experiences that can be expressed heard and felt. Women self-censor because of profound, culturally-fostered beliefs that their views are unimportant or will receive no audience. And on issues of sex and sexuality, women are silenced by fear of reprisals—not simply physical, but ostracism, loss of jobs and friends, and the like—for transgressing the permissible.

Yet women do not seem to be as silenced as anti-porn advocates claim: Across class, race, occupation, ethnicity, and geographic locale, women are speaking out and being listened to as never before. Advocates of suppression answer that porn is proliferating precisely because women’s voices have begun to emerge, and porn is part of society’s way of shutting women back up. Though the evidence of backlash against women’s changing roles and newly emergent power is plentiful, and though porn proliferation is very likely part of it, it is but a minor part and has not, so something to hide, and a message that the flesh was an aggression, a sin,” id. at 144, and, “walk alone at night [in Tokyo] without any fear of being accosted.” Id. at 142; see also LOVELACE & GRADY, supra note 134, at 13 (indicating that her parents’ silence about sexuality contributed to her “ordeal” as a star of pornographic movies); Harris, supra note 262, at 585-86 (arguing that the voices of black women are silenced by MacKinnon’s isolation of gender from race); HAUG ET AL., supra note 12, at 185-98 (reviewing theories of repression and taboos and outlining the complex role of sexual suppression in constituting sexuality).

458. This is especially true of sexual experiences. It is telling that there is no word to describe women actively “engulfing” men when engaged in genital sex, let alone language to describe women’s various other sexual roles, activities, and feelings. “There aren’t even words to describe female self-stimulation. Jerking, wanking, and beating off all involve a penis, not a clitoris.” Palac, supra note 176, at 88. See SPENDER, supra note 370, at 177-78 (contending that heterosexual activity has focused on the role of the male, whereas women lack a language to describe sexual experiences from their perspective); see also Maggie Anwell, Lolita Meets the Werewolf, in THE FEMALE GAZE, supra note 25, at 76, 76-84, 85 (describing “[t]he struggle to speak female desire”). For additional discussion of how language is used to silence women, see generally TANNEN, supra note 450.

459. My Feminist Jurisprudence students repeatedly tell stories about patriarchal views even within modern families, including not being listened to by fathers, being urged to be ballerinas rather than to go to college, and being denigrated when not blocked in their efforts to obtain educational advancement.

460. For women, the permissible depends enormously on family definitions, whether expressed by parents, in-laws, or husbands. Thus, the permissible in religious families can be quite narrow and “silencing.” See LOVELACE & GRADY, supra note 134, at 13 (explaining that in her childhood household, sex was a sin and was never discussed).

461. Cf. MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 171-74 (arguing that pornography reinforces male dominance by depicting women as objects incapable of speech and desiring subjugation).

462. See BARBARA EHRENREICH, THE HEARTS OF MEN: AMERICAN DREAMS AND THE FLIGHT FROM COMMITMENT 146-47 (1983) (commenting on the male rebellion against the feminist movement and noting that its primary impact concerns male abandonment of his duty to family); FALUDI, supra note 74, at 46-72, 454-60 (describing the origins and effects of the backlash against the feminist movement).
far, seemed to silence women. Indeed, "it is precisely since the 1970s, and the explosion of pornography in the West, that women have been most vociferously—and successfully—objecting to men's violence against them."

Finally, the little evidence available seems to suggest that women in cultures where sexuality and its imagery are suppressed are far more silenced in every way than women in cultures where sexual discourse, including porn, is uninhibited. While it is extraordinarily risky to draw conclusions about the significance of suppression in vastly different cultures, it is highly suggestive that when a repressive dictatorship suppresses porn, it springs to life with a vengeance as soon as the regime falls. In Muslim countries, which suppress porn and attempt to avoid commodification of women's bodies by requiring them to be entirely covered, women seem as sexually abused—yet far less sexually free—as elsewhere.

In sum, porn simply is not the powerful force that anti-porn advocates imagine. It may often be sexist, vulgar, violent, and horrific. The wish to be rid of it is surely understandable. But there are no easy ways to be rid of imagery that portrays women in ways we might wish women not be portrayed—nor, especially, be treated—and suppressionist quick-fix strategies do more harm than good.

463. This is not to say that the ideas women express are not shaped by Western erotic culture. But that is hardly the same as silence. Thus, while neither feminist porn-suppressionists nor I may agree with Sally Potter's suggestion in her film version of Virginia Woolf's Orlando that women are (and should be) on a path to androgynous equality with men, Potter's voice is surely "authentic" and powerfully present in the already widely acclaimed and popular film. ORLANDO (Sony Pictures Classics 1993).

464. SEGAL, SLOW MOTION, supra note 8, at 227. Segal points out that "in the staid and censurous fifties where there was little explicit pornography openly available, there was no public outcry against wife-beating, marital rape, [or] child abuse." Id. at 227-28.

465. See id. at 228 (noting that in many parts of the world, women's suppression is based on class, race, and patterns of dominance rather than on the availability of pornography); Edwards, supra note 434, at 142-44 (describing Muslim Malaysia as far more silencing than pornography-prone Japan).

466. See, e.g., Russia's First Sex Shop Opens, CHI. TRIB., Mar. 1, 1992, at 22 (discussing how the lack of education and public debate on sex led to ignorance, poor sexual hygiene, and a high incidence of venereal disease in Russia); Joby Warrick, In Post-Communist Hungary, Pornography "Gone Beserk," UPI, Oct. 6, 1990, available in LEXIS, News Library, UPI File (reporting that there has been a "sex-plosion" since the collapse of communism).

467. Women who defy sexual norms by, for example, seeking to drive or wearing Western garb are harassed or even threatened with expulsion or death. See Ellen Goodman, In the Driver's Seat, BOSTON GLOBE, Apr. 25, 1991, at 15 (reporting that during a "drive-in" staged by Saudi women to protest their inability to drive, one Saudi teacher explained that "driving could lead to temptations that would hurt the sanctity of women"). In Jordan, for example, unmarried women in the company of men are frequently picked up by the police and taken to medical officers; if the women's virginity is not intact, both families are told to negotiate a marriage. KANAN MAKIYA, CRUELTY AND SILENCE: WAR, TYRANNY, UPRISING, AND THE ARAB WORLD 290-95 (1993).
IV. Conclusion

Central to the institutionalization of male dominance, pornography cannot be reformed or suppressed or banned. It can only be changed.

—Catharine MacKinnon

People have (with the help of conventions) oriented all their solutions toward the easy and toward the easiest side of the easy; but it is clear that we must hold to what is difficult . . . .

—Rainer Marie Rilke

How, then, do we change the vision of women reflected and institutionalized in Western culture? First and foremost, feminism needs to reassert its grounding in a critique of social, economic, and political forces that reaches far beyond the specifically sexual constitution and treatment of men and women and focuses as much on institutionalized practices as on cultural conditioning. Without doubt, the constitution of the sexual has played, and continues to play, an important role in creating the conditions and reality of women's—and, indeed, of other outcast groups'—oppression. But the deeply gendered ways of categorizing, thinking, and acting that undergird women's unequal status go far beyond the specifically sexual.

And while what bell hooks has called the “racialized pornographic imagination” permeates—indeed, dominates—the entire cultural continuum from advertising to film, it is neither peculiar to porn nor influential apart from its embodiment in laws, institutions, and social practices. Anti-porn feminists not only accord too much power to porn, but too much to the cultural realm altogether.

468. MACKINNON, FEMINISM UNMODIFIED, supra note 1, at 146.
470. This is precisely the question that feminists have been trying to answer for the last two decades. See Introduction to THE FEMALE GAZE, supra note 25, at 1, 1-7.
471. The anti-pornography effort grows out of a theory that sees the construction of male and female sexuality as the centerpiece of women's oppression. To paraphrase MacKinnon, sex, for (radical) feminism, is to patriarchy what economics, for Marx, was to capitalism. See MACKINNON, FEMINIST THEORY OF THE STATE, supra note 15, at 3.
472. HOOKS, RACE AND REPRESENTATION, supra note 20, at 72.
473. Laws that lend power to porn's imagery of male aggression and violence are not merely those that govern sexual practices—such as rape, abuse, or sexual harassment—nor those that address male-female relations directly—such as marriage, divorce, custody, or support—but also those that accord employers the power to control workforces increasingly composed of women, that give welfare bureaucracies (whose rules and funding remain in the hands of mostly male legislators) power over the lives of poor women, that give landlords power over tenants (which can lead to sexual abuse), and so on.
Yet culture is important, and feminists have not been shy about taking it on. But how best to do so? For feminist porn-suppressionists, the answer is cultural cleansing. Since women do not control the media or the other institutions that foster misogynist conceptions, the best that can be done is to join the conservative call for governmental suppression of sexist sexual depiction.

But for literally thousands of writers, artists, filmmakers, scholars, and activists who have for decades been exploring the interstices of Western culture and using available tools of critique to “[m]ak[e] a space for the transgressive image, the outlaw rebel vision,” the process of transformation, of “coni[ng] to voice” is rather more complex and demanding and is not furthered by sexual censorship. It begins with acknowledging the difficult dilemmas involved in re-imagining and recreating Western ways of seeing and looking.

As Margaret Marshment has trenchantly shown, no matter what critical stance feminists take, we risk misinterpretation, error, or marginalization. Critiques and alternative portrayals that emphasize women’s strong, active, and independent natures and that highlight the fact that women possess traits traditionally valued as masculine, risk suggesting that women are “just like” men and that these traits are more important than those associated with femininity. But to emphasize traditionally female roles, traits, and values is to risk reifying gender dichotomies in the opposite direction. And, unfortunately, creating “a new regime of representation which might redefine, or even abolish, gender boundaries and structures” is likely to have limited impact. Indeed, the most powerful transformative representations of this sort are all too likely to be co-opted as soon as they are made widely available. Yet feminists cannot allow our inevitable frustration over the difficulty of avoiding “having our ideas and fantasies reduced and manipulated—even travestied—by the underlying market forces” to direct us into dead-end paths, especially

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475. Id. at 80.
477. See, e.g., Marcus et al., supra note 79, at 21-22 (quoting Catherine MacKinnon as saying that “to make issues of gender turn on the so-called gender difference is, ultimately, to take a male perspective”).
478. Marshment, supra note 476, at 27.
479. These sorts of non-traditional portrayals, by their very nature, are likely to reach only a “very restricted elite audience.” Id. Regarding similar limits and difficulties of sports critique, see Messner, supra note 286, at 149-72.
480. For a vivid example of this process, see Anwell, supra note 458, at 76-85 (describing the manner in which the central, sexually liberating vision of Angela Carter’s re-telling of the Little Red Riding Hood story is transformed in the film version into typical Victorian fare).
481. Id. at 76.
those of sexual suppression. Rather, feminists must bring to the fore and demand a close look at female desire and sexuality—as it has been constructed, as well as the ways in which it may be biologically delimited.

Another important task is to break through the "wall of denial consumers of images construct so as not to face that the real world of image-making is political—that politics of domination inform the way the vast majority of images we consume are constructed and marketed." "Fierce critical interrogation" is necessary; and it must address not merely or even mainly the marginal, but must take on the mainstream, including Hollywood film and television, music video, romance literature, and advertising. Indeed, establishing a Feminist Board of Critics to rate mainstream film, music, and television—to give awards like the Oscars (to the least) or the Golden Fleeces (to the most) sexist, racist, homophobic, or class-stereotyped films, soap operas, sitcoms, and advertisements—could extend feminist analysis beyond the academic world and, if well promoted, do far more to create public discussion of sexist depiction than censorship strategies. Instead of blanket condemnation, the Board could offer alternative ratings by a variety of feminist critics to demonstrate that differences in point of view about culture exist even among like minds.

In addition, feminists should not only encourage mainstream film and television reviews to address issues of race, class, and gender consistently, but also seek to establish columns and television roundtables of our own.

482. Although sexual representation is among the most dangerous arenas of expression because it is so easily transformed into dominant ideology and practice, it is, for the reasons elaborated earlier, crucial to any effort at change. See supra subpart I(E).

483. Anne McClintock, Gonad the Barbarian and the Venus Flytrap: Portraying the Female and Male Orgasm, in SEX EXPOSED, supra note 8, at 111.

484. HOOKS, RACE AND REPRESENTATION, supra note 20, at 5. For contrasting explorations of this process, compare HOOKS, RACE AND REPRESENTATION, supra, at 28-30 (condemning a recent Tweeds catalog for exploiting a "primitive" Egyptian setting to set off their white models) with Holly Brubach, Mail-Order America, N.Y. TIMES, Nov. 21, 1993, § 6 (Magazine), at 54 (celebrating the diverse fantasy worlds of the J. Crew, L.L. Bean, J. Peterman, Spiegel, International Male, and Victoria’s Secret catalogs). For an excellent analysis of the meaning and role of imagery in contemporary culture, see generally EWEN, supra note 350.

485. HOOKS, RACE AND REPRESENTATION, supra note 20, at 5.

486. Thus, silly soap and toilet advertising and portrayals of liberated women as psychotic murderers, e.g., FATAL ATTRACTION, supra note 145, or of working women as self-centered prima donnas dangerous to their children because their time is divided between work and home, e.g., THE HAND THAT ROCKS THE CRADLE (Hollywood Pictures 1992), should be as much targeted for critique as are pictures of women penetrated by objects or sexually dominated.

487. Many feminist critics would be available to staff such shows. New York Times critic Caryn James and columnists Anna Quindlin, bell hooks, Laura Mulvey, Susan Suleiman, Michelle Wallace, Darcy Grimaldo Grigsby, Ann Kaplan, Susan Bordo, Susan Gubar, and Linda Nochlin are but a few. The proliferation of cable stations, as well as the increased presence and influence of women in the mainstream media, make such shows real possibilities.
Critique should continue to be leveled at sexual practices and imagery (including porn) that foster acceptance of phallocentric norms of masculinity and present disempowering conceptions of femininity and women's roles. But feminist critique must be careful to avoid simply replicating pervasive views about the inevitability of male sexual aggression and domination, views derived from nineteenth-century sexology's view of male sexuality as defined by the overpowering and unbridled male sex drive. We need to analyze and reform this ideology and the institutions which foster it, not replicate it. "If patriarchy fuses gender and sexuality, the analytic task of feminism is to take them apart," which requires not merely a critique of imagery, but basic institutional and social reform.

Feminists should especially target the places in which ideologies of masculinity are most centrally forged and practiced, and where the association between masculinity and abuse of women is earliest and most deeply inculcated. Sports is one such realm. Feminists need to develop a transformative sports curriculum, one which not only alters the terms of defeat and victory, but changes the very language we use to describe them. Meanwhile, we should challenge the "locker room mentality" and use economic and political power to encourage sports leagues to levy heavy penalties, including expulsion, for sexist conduct by sports

488. For examples and defenses of critiques of Madonna, of Spike Lee's films, of rap music, of Hollywood film, of romance literature, of advertising and beauty industry representation, see supra notes 238-40 and accompanying text. See also HOOKS, RACE AND REPRESENTATION, supra note 20, at 21-39 (critiquing contemporary attempts by mass culture to exploit racial and sexual difference only as a means to contrast or explain a facet of the dominant majority); Grigsby, supra note 92, at 83-102 (surveying contemporary artists who critique popular concepts of female roles through multi-media, polemic art).

489. See SEGAL, SLOW MOTION, supra note 8, at 208, 209.


491. For example, Messner describes models of competition in which bettering one's performance, rather than defeating others, is stressed. Though hard to achieve, a shift to such a norm could reduce drug and steroid abuse, as well as sports violence. Messner also describes the Gay Games as an example of inclusionary practices in which even the "losers" are lauded. See MESSNER, supra note 286, at 46-47. Victory or awards might be accorded to the best all-around "sportspersons" rather than simply athletes, so that those with the fewest number of fouls—or at least fouls indicating "un SPORTspersonlike" behavior—or perhaps even injuries, would get points added to their scores. And awards might be given for effort—as was done in my all-girls camp—rather than merely for results. Teams could be rated and accorded places in playoffs on the basis not merely of victories, but of overall sports behavior, with demerits given for the use by team members of sexist or racist epithets, or for behavior abusive to women. If Olympic skaters can be rated for grace as well as technical skill, ball players can be rated for sportsmanship.

492. Not only are new terms needed to describe new values, like bettering one's own best, but negative associations with language identified as "feminine," such as "soft" as a pejorative term, must be uncoupled.

493. See William Douglas, At St. Johns, Seminars in Responsibility, NEWSDAY, Oct. 4, 1990, at 4, available in LEXIS, News Library, NEWSDAY File (reporting that students were required to attend mandatory seminars after six members of a lacrosse team allegedly sexually assaulted a young woman).
Similarly, feminists should challenge the norms of military masculinity—in Hollywood portrayal as well as in actual practice.\footnote{494} Moreover, it is essential to deconstruct the way in which “romance ideology” and the forms of its institutionalization in modern marriage are or can be disempowering to women. Although the romance ideology of contemporary film and fiction is often far more varied and complex than that exemplified by its Victorian and 1950s predecessors—and much of it has been updated to reflect changes in women’s status and roles—all too often plots still end with female protagonists walking into the sunset with their magically encountered perfect loves or portray sinfully sexual women threatening the stability of monogamous marriages and families.\footnote{495} Honest debate about the relation of pleasure to peril, passion to power, aversion to arousal, fascination to repugnance, and guilt to temptation is sorely lacking.

But because sexuality remains so complex and contested a realm, one so in flux, feminists should tread softly in invoking law to achieve reform in that sphere. Legal intervention should be sparingly used to achieve narrow, concrete goals in ways that do not grant to still largely male and conservative legislatures and courts broad power to delineate “good” sex from “bad.” This is not to say that women should never use the legal system to redress sexual harms, but rather that feminists should be wary of using that system as a means by which to define those harms before arriving, if not at consensus, at least at a majoritarian progressive view after a full airing of the issue in feminist fora. Legislative hearings held

\footnote{494. Players are expelled for drug abuse; they should be expelled for sexual abuse as well. Ball players are thrown out of leagues for gambling; they should also be thrown out for beating wives. See Murray Chass, Rose Is Out: But He Says Wait Till Next Year, N.Y. TIMES, Aug. 25, 1989, at A1 (describing baseball star and manager Pete Rose’s permanent expulsion from baseball for gambling).

495. Military teaching and practice regarding sex [should] be wholly revamped. No longer should it be understood that “a good soldier is a sexually satisfied soldier;” no longer should the military confine its education to teaching ‘safe sex’ with prostitutes. We can design mandatory sex education—education about sexual harassment, sexual equality, laws concerning rape, battery, child support, equality—for all members of the military, top to bottom. The new administration can change rules that leave prosecution of sex crimes by military personnel to local jurisdictions where, for economic reasons, prosecutions for battery, rape, even murder of prostitutes are rare. It can enforce child support garnishment of military pay for every soldier who fathers or has fathered a child by a prostitute, and thereby help the estimated 50,000 Amerasian children in the Philippines alone find a way out of destitution and future prostitution.

Meyer, supra note 42, at 118-19 (citations omitted) (emphasis in original).

496. See SINGLE WHITE FEMALE (Guber-Peters Entertainment Co. 1992); BASIC INSTINCT (Carolco Pictures 1992); see also FALUDI, supra note 74, at 117-23 (describing the evolution of Fatal Attraction from a vaguely feminist film to a story demonizing the female professional).}
in alliance with anti-sex conservatives are not the places within which to determine whether, for example, to create a civil harm for street whistling. Neither are they the place to determine whether it is rape, as MacKinnon suggests, whenever a woman "has sex and feels violated." Legal definitions of sexual harm should be generated based on strong feminist agreement, forged among those who share common minimum goals concerning women’s sexual freedom and reproductive control.

Critique must also be accompanied by presentation and praise of alternative imagery—new scripts, stories, films, television programs, recordings and the like. This creation of alternative imagery should be complemented by efforts to open up television and other media to constituencies willing to present such imagery, as well as by efforts to increase government funding for alternative media. Inducing producers and publishers to make non-sexist music, film, and stories available—especially for children—is vital. Teachers and parents need to encourage and join with children to analyze and be critical of toys, programs, and advertising, and to enlist youth and the youth culture to engage in self-critique.

497. Cf. Kennedy, supra note 122, at 1318 (arguing that construction workers may easily embarrass women on the street without committing assault or intentional infliction of emotional distress as currently defined by law).
499. Cf. Constance L. Hays, If That Man Is Following Her, Connecticut Is Going to Follow Him, N.Y. TIMES, June 5, 1992, at B1 (describing stalking laws passed in several states with the organized support of entertainment figures and victim-support groups). The legal system must, of course, continue to be used to prevent conservative assaults against women’s right to self-determination and to extend to all classes of women sexual and reproductive access and control, as well as to claim for women a voice in the public arena. Cf. Hope v. Perales, 595 N.Y.S.2d 948 (App. Div. 1993) (holding that New York's medical coverage system for low-income persons violates the state constitution's guarantee of reproductive freedom by funding prenatal child care but not medically necessary abortions), rev’d, 634 N.E.2d 183 (N.Y. 1994); Metro Broadcasting, Inc. v. FCC, 497 U.S. 547 (1990) (upholding FCC preferences to minorities in awarding broadcast licenses as substantially related to legitimate governmental purposes).
500. My own observations indicate that few children’s videos present leading female characters in non-traditional roles; those that do almost never present women (or men) in other than stereotypical supporting roles. Even Sesame Street has been criticized because most of its featured animal characters have male voices and personas. Carter, supra note 375, at A1. Television networks recently canceled the few children’s programs that featured female leads, claiming that surveys show that most boys will not watch them, while girls allegedly will watch boy leads. Id. Women should make abundantly clear to the media that we will not hesitate to use our control over the amount and content of television our children watch to respond to the media’s failure to accommodate feminist critique.
501. See Katz, supra note 377, at 7, 15 (arguing that children tend to be accepting of culture and need parents’ help to develop critical approaches; that parents should help by “sitting with them in front of the VCR, comparing differences in animation, plot, character development and humor” and stating that “my wife changed my daughter’s perception of the early Disney movies considerably when she pointed out that the women in them seemed to always need rescuing”); Nancy Signorile et al., Gender Stereotypes in MTV Commercials: The Beat Goes On, J. BROADCASTING & ELECTRONIC MEDIA, Winter 1994, at 91, 91-92 (discussing the gender stereotypes present in advertising on children’s television).
502. Indeed, some have already begun this process. See Olmstead, supra note 211, at 23
Critical interrogation is necessary not only to challenge dominant viewpoints, but also to imagine a future. As Annette Kuhn has written, "[F]eminist analysis of mainstream images of women . . . may . . . teach us to recognize inconsistencies and contradictions within dominant traditions of representation, to identify points of leverage for our own intervention: cracks and fissures through which may be captured glimpses of what might in other circumstances be possible . . . ."

Some argue that feminist analysis and condemnation of porn has contributed mightily to the very critique I propose. My objection is not to the deconstruction of the dominant messages of porn; that work is important and was well underway before legal suppression took center stage. But with its focus on explicit (and deviant) sex, the suppression strategy directs inquiry away from the subtleties of cultural construction and feminist analysis. In the words of Carol Smart, "The aim of 'fitting' feminist ideas on pornography into a legal framework that might be 'workable' (in narrow legal terms) or politically 'acceptable,' means that many of the subtle insights and complexities of feminist analysis are necessarily lost." Moreover, it has deflected inquiry into dead-end investigation of the degree to which porn images directly spawn violent acts against women and has transformed debate into questions of First Amendment doctrine—all at the expense of widening the reach of feminist insight concerning sexuality. Indeed, as I have tried to show, the underlying ideology of feminist porn-suppression undermines those insights, by merging with and fostering traditional, mainstream conservative ideas about sexuality.

Because the feminist porn-suppression effort is anchored in a theory which recognizes no cracks and fissures, it can imagine only instant revolutionary transformation—which is impossible as long as women lack

(chronicling the attempts of Reverend Calvin Butts to clean up rap, in which lyrics often refer to women as "whores" and videos often display scantily clad women).

503. To the extent feasible, we should make use of low-budget tools—home video, performance art, photography—to make our voices heard in media over which feminists have maximum control and the least tendency to mute the message.


505. "We could argue that since pornography symbolises men's power over women . . . , women's attacks on it symbolise women's resistance to men's power over them." SEGAL, SLOW MOTION, supra note 8, at 229 (emphasis in original). But, as Segal notes, symbolic resistance is one thing when it richly deconstructs imagery, and quite another when it ideologically and politically allies with conservatism in furthering "state control over all representations of sexuality." Id.; see also McCintock, supra note 483, at 115 ("[I]nstead of closeting porn behind the law, where male power proliferates out of reach of feminist intervention, [feminists] might do better to explore the myriad contradictions within pornography's changing regimes of pleasure and power.").


507. See id. (pointing out that "feminist work on pornography becomes increasingly collapsed into traditional discussions of how sex depraves or how representations of violence cause actual violence").
sufficient media/cultural power—or elimination of the supposedly worst imagery. Sufficient power to accomplish the latter can perhaps be mustered by alliance with conservatives who favor general sexual repression. Unfortunately, the latter strategy fosters sexual control of women and does little to reform patriarchal conceptions of masculinity or Western culture’s ways of looking at women.

Just as societal lust, lasciviousness, and immorality could not be eliminated by the famous “bruciamenti” of 1496 in which music, books, paintings, sculpture, and even lutes were burned, we cannot today eradicate pornographic ways of looking and seeing by enjoining production of “bad” images. Much as we might wish it otherwise, there simply is no quick fix by which Western erotica can be reformed or reconstituted.

508. See Freedberg, supra note 25, at 348.