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**INTRODUCTION:
WOMEN, CENSORSHIP, AND "PORNOGRAPHY"**

LEANNE KATZ*

The illusion that supporting feminism means advocating the censorship of sexual materials is a dangerous one. Substantial numbers of feminist writers, lawyers, artists, therapists, educators, sex industry workers, scholars, and activists believe that the censorship of sexually related expression *threatens* women. We realize that women's rights and sexual free speech are indivisible.

Many of us are a part of the National Coalition Against Censorship's Working Group on Women, Censorship, and "Pornography." Members of the Working Group have varied experiences, interests, and views regarding sexuality and its representations, including what we may individually refer to as erotica or "pornography." All of us oppose censorship on the principle that it always brings harm to women.

We place the word "pornography" in quotation marks to indicate the ambiguous, contestable status of the term. "Pornography" is frequently—and incorrectly—used as if there were widely agreed upon legal and/or common definitions. In fact, neither is true: the term is not used in American law, and it is considered by most legal scholars and critics even more vague than the legal concept "obscenity," long infamous for its lack of clarity.¹ The term "pornography" is ordinarily used for sexually explicit words and images whose sole purpose is sexual arousal.

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1. See, e.g., *Paris Adult Theatre I v. Slaton*, 413 U.S. 49 (1973) (Brennan, J., dissenting). For sixteen years after he wrote for the majority in *United States v. Roth*, 354 U.S. 476, *reh'g denied* 355 U.S. 852 (1957), Justice Brennan led the Court in efforts to put a class of material called "obscenity" outside the protection of the First Amendment. In his dissent in *Paris Adult Theatre I*, Justice Brennan explained why he had changed his mind: "Although we have assumed that obscenity does exist and that we 'know it when [we] see it,' . . . we are manifestly unable to describe it in advance except by reference to concepts so elusive that they fail to distinguish clearly between protected and unprotected speech." *Paris Adult Theatre I*, 413 U.S. at 84.

On "pornography" generally, see Nadine Strossen, *A Feminist Critique of "The" Feminist Critique of Pornography*, 79 VA. L. REV. 1099, 1103-04 (1993) ("the term 'pornography' is so vague, subjective and expansive that it could apply to all sexually oriented speech. . . . [p]ornography is not a legally recognized term of art.").

But *when* to so characterize expressive materials certainly is and has been arguable. And "pornography" is frequently the label used to attack—and censor—expression vital to women.² Censorship opens a Pandora's box of suppression that threatens art and literature, makes lesbian and gay culture illicit, denies access to knowledge about reproduction, abortion, and AIDS, and acts to stifle ideas, exploration, information, and images that are crucial to women's healthy sexual attitudes and practices. Campaigns for suppression may at times be well-intentioned but are often inspired by sex panics and have historically been used against the interests of women.³

Recently, "pornography" has been employed by some feminists in such a way as to promote the notion that sexually explicit expression is *inherently* "subordinating"⁴ or "degrading"⁵ to women (and as though

2. *Our Bodies, Ourselves* and *Ms.* magazine, for example, have been frequent targets of those seeking to rid schools and libraries of "pornography." See *Books on Trial, A Periodic Report* (National Coalition Against Censorship, New York, N.Y.). Other widely publicized charges of "pornography" have been leveled against important works in the "feminist canon" such as Betty Friedan's *The Feminine Mystique*, Margaret Atwood's *The Handmaid's Tale*, and Aristophanes' *Lysistrata* which was accusingly called "women's lib." See *Books on Trial, supra*.

See also *Virgil v. Columbia County School Board*, 862 F.2d 1517 (11th Cir. 1989), *aff'd* 677 F. Supp. 1547 (M.D. Fla. 1988) (upholding the dismissal of a challenge to a Florida school board's banning of Chaucer's *The Miller's Tale* and Aristophanes' *Lysistrata*); Dena Kleiman, *Parents' Groups Purging Schools of 'Humanist' Books and Classes*, N.Y. TIMES, May 17, 1981, at A1; *Banned In Classrooms, Book is Put in Library*, N.Y. TIMES, Nov. 24, 1977, at A15 (reporting that a school committee in Massachusetts voted to return a copy of *Our Bodies, Ourselves* to the shelves of the high school library when officials withdrew the book after parents complained about its explicit treatment of sexual intercourse). *Our Bodies, Ourselves*, authored by the Boston Women's Health Collective, has "been attacked as being pornographic by the Moral Majority and other conservative groups." Carol Lawson, *Women's Health: Boston Collective Reflects on Gains*, N.Y. TIMES, Apr. 11, 1985, at C1. For a comprehensive discussion of censorship in the schools, see generally HERBERT N. FOERSTEL, *BANNED IN THE U.S.A.: A REFERENCE GUIDE TO BOOK CENSORSHIP IN SCHOOLS AND PUBLIC LIBRARIES* (1994).

3. For explorations of sex panics and their consequences for women, see *WOMEN AGAINST CENSORSHIP* (Varda Burstyn, ed. 1985); *PLEASURE AND DANGER: EXPLORING FEMALE SEXUALITY* (Carole S. Vance ed., Pandora Press 2d. ed. 1992); *POWERS OF DESIRE: THE POLITICS OF SEXUALITY* (Ann Snitow et al., eds. 1983).

4. See, e.g., CATHARINE A. MACKINNON, *Pornography: On Morality and Politics*, in *TOWARD A FEMINIST THEORY OF THE STATE* 197 (1987) ("The feminist critique of pornography . . . proceeds from women's point of view, meaning the standpoint of the subordination of women to men.").

these terms are themselves not subject to intense disagreement). But there is a vast body of sexually explicit writings and images, new and old, of "high" and "low" culture, lesbian and gay and heterosexual, that is designed, variously, to educate, disgust, entertain, sexually arouse, shock, inspire, and much more. Texts, images, ideas, and certainly people are all complex; the closest of friends can endlessly discuss whether a particular, perhaps violent, movie scene is valid and essential to the integrity of the work or seriously exploitative, whether and how it is sexist, and what kinds of effects it may have. A very wide range of feminists shudder at the suggestion that we turn decisions about these issues over to any arm of the state.

The intense battles around the control of sexuality have always been fought on the terrain of women's bodies. Women have long been barred from access to knowledge and information on sexuality, including reproduction, and have been excluded even from viewing or creating representations of their own bodies. And now, just when feminism has scored at least a few victories in these arenas,⁶ we must contend with a drive which would again enlist the power of the state on behalf of suppression and would fuel the demands of the Right for censorship.

Recent events have underscored the dangers of pro-censorship anti-"pornography" feminism. In 1992, the Canadian Supreme Court adopted the censorship theories of Catharine MacKinnon and Andrea Dworkin in its *Butler* decision,⁷ an obscenity case. The court held that sexually explicit expression that depicts violence or is "degrading" or

5. See, e.g., CATHARINE A. MACKINNON, *ONLY WORDS* 17 (1993) ("[w]ith pornography, men masturbate to women being . . . degraded . . ."). For a discussion of the legal history of terms like "degrading" and their consequences to women, see Nan D. Hunter & Sylvia A. Law, *1985 Brief Amici Curiae of Feminist Anti-Censorship Task Force, et al.*, in *American Booksellers Ass'n v. Hudnut*, 21 MICH. J.L. REFORM 69 (1988).

6. See Michiko Kakutani, *Helpful Hints for an Era of Practical Feminism*, N.Y. TIMES, Dec. 3, 1993, at C29 (book review) (listing several recent victories for feminists, including the passage of the Family Medical Leave Act, which allows women to take off up to 12 weeks for the birth or care of a child, and the reversal of the gag rule in pregnancy counseling, wherein workers in federally-funded clinics were forbidden to mention abortion as an option available to pregnant women).

7. *R. v. Butler*, [1992] 1 S.C.R. 452 (Can.). Catharine MacKinnon, with two others, wrote the legal brief for the Woman's Legal Education and Action Fund (LEAF), whose arguments were adopted by the Canadian Supreme Court. See Karen Busby, *LEAF and Pornography: Litigating on Equality and Sexual Representations* 1 n.1 (Oct. 1, 1993) (unpublished manuscript, on file with the *New York Law School Law Review*; originally made available at the Toronto conference, *Politics of Desire: Pornography, Erotica, and Freedom of Expression*, Oct. 1, 1993).

"dehumanizing," is illegal because of the public belief that it "harms" women.⁸

Since the *Butler* decision, we have repeatedly seen the sad answer to the oft-asked question: "Who decides?" The Canadian government—including the police (through Project Pornography, a joint vice squad of the Toronto and Ontario police departments), Canada Customs, and the courts—have attacked, seized, threatened, fined, and banned a variety of feminist, lesbian, and gay materials and people involved with such materials.⁹

8. The Canadian Supreme Court found no evidence of "harm," but claimed, nonetheless, to be acting on behalf of women. See *Butler*, 1 S.C.R. at 452-56. This was much like the United States' Meese Commission on Pornography, notorious for its domination by conservative, "pro-decency" forces, which had also been unable to find evidence of the "harm" it asserted. See U.S. DEP'T OF JUSTICE, ATTORNEY GEN.'S COMM'N ON PORNOGRAPHY, *The Question of Harm*, in FINAL REPORT 315-320 (1986).

9. Two days before the *Butler* decision was published, a Project Pornography sergeant warned a Toronto restaurant, La Hacienda, that he considered 12 homoerotic photographs on display "degrading and dehumanizing." Owner Tom Patterson removed the art. See Clare Barclay & Elaine Carol, *Obscenity Chill: Artists in a Post-Butler Era*, FUSE, Winter 1992/1993, at 18-19. Almost immediately after *Butler*, police targeted the lesbian magazine *Bad Attitude*. See Mary Williams Walsh, *Chill Hits Canada's Porn Law*, L.A. TIMES, Sept. 6, 1993, at A16. A small lesbian and gay bookstore in Toronto, Glad Day, was successfully prosecuted for carrying the magazine. See *R. v. Scythes et al.*, (Ontario Ct., Provincial Division, Feb. 16, 1993) (called the *Bad Attitude* decision). This was the first post-*Butler* obscenity conviction. Subsequently, the new *Butler* standard was relied on in a case which upheld the pre-*Butler* Customs' banning of several gay comics. See *Glad Day Bookshop, Inc. v. Deputy Minister of Nat'l Revenue for Customs and Excise*, 1992 Ont. C.J. LEXIS 1296, *1, *26 (July 14, 1992). This, the *Hayes* decision, found the comics "degrading" and "dehumanizing" mainly because of the appearance of gay sex.

Since *Butler*, Canada Customs has "detained," "prohibited," and "inadvertently destroyed" a wide variety of materials, including works by Susie Bright, Pat Califia, Kathy Acker, Kate Ellis, David Leavitt, John Preston, R. Crumb, Matt Groening, Art Spiegelman, Tom of Finland, Charles Bukowski, the Marquis de Sade, and Andrea Dworkin. See Toshiya Kuwabara, *Customs Detains Another Shipment of Gay Literature*, and *Customs Monitor*, CENSORSTOP NEWS, Nov. 17, 1993 (a publication of CENSORSTOP, on file with the *New York Law School Law Review*); Jacques Boivin, *Asterix and Tintin Held 93 Days Under Suspicion of Obscenity* and "Inadvertently Destroyed:" *Canada Customs Scores 3 Out of 3* (1993 communiqués, on file with the *New York Law School Law Review*); Tim Kingston, *Canada's New Porn Wars*, SAN FRANCISCO BAY TIMES, Nov. 4, 1993, at 4.

There has been confusion about Customs' seizure of copies of two books by Andrea Dworkin. For example, Catharine MacKinnon said that Customs "encountered" two books by Dworkin, and then "found to their embarrassment within about a week" that her books were not "bad." Catharine A. MacKinnon, Speech at the National Press Club Luncheon, Nov. 22, 1993 (transcript on file with the *New York Law School Law Review*).

Almost ten percent of Catharine MacKinnon's book, *Only Words*¹⁰ is devoted to praise for what she believes is Canada's breakthrough

But, according to its official notices, Customs "detained" shipments of Dworkin's *Woman Hating and Pornography: Men Possessing Women*, officially "determined" them to be "prohibited" under the "degrading" and "dehumanizing" standard, and, approximately three months after the books were originally shipped—one week after intense publicity—released them without following any of their own re-evaluation processes. See Jacques Boivin, "Seized and Banned" or "Briefly Detained"? (Feb. 22, 1994 communiqué, including Customs' notices and other documents, on file with the *New York Law School Law Review*).

Dworkin, MacKinnon, and their followers claim that Customs' actions are unrelated to *Butler*. (See, e.g., Catharine A. MacKinnon, Speech at the National Press Club Luncheon, *supra*, at 19: "Customs in Canada has a particular set of rules. The Canadian obscenity law is another set of laws.") But *Butler* and Canada Customs are closely connected: *Butler* interpreted the Criminal Code; Canada Customs enforces it. Specifically, Customs enforces the part of the obscenity section of the Criminal Code (sec. 163), which was at question in *Butler*. (For this reason, LEAF, the advocacy group which made the anti-"pornography" argument in *Butler* with MacKinnon's assistance, concedes that Customs legislation "referentially incorporates" *Butler*. See Busby, *supra* note 7, at 17 n.45.) After a 1987 court decision on *The Joy of Gay Sex*, in *Glad Day Bookshop v. Deputy Minister of the Dep't of Nat'l Revenue*, D.C. Ontario, Mar. 20, 1987, Customs Ministerial Memorandum D9-1-1 was revised so that gay materials per se were not excluded. In fact, Customs has consistently reviewed its regulations with every relevant court decision. See, e.g., Barclay & Carol, *supra*, at 26 ("Revenue Canada will follow any direction given by the courts as it relates to Custom's administrative policy regarding obscenity." (quoting letter from Otto Jelinek (July 30, 1992))); see also letter from D.J. LaBelle, Senior Communications Advisor, Canada Customs to Harvey Blackman (Sept. 24, 1993) (on file with the *New York Law School Law Review*.) But it wasn't necessary for Customs to revise or clarify its regulations after *Butler* since they already used the "degrading" or "dehumanizing" standard which *Butler* said was so important. See CANADA DEP'T OF NAT'L REVENUE (CUSTOMS AND EXCISE) NOTICE NO. N-198, Administration of Code 9956 (Feb. 11, 1988) (clarifying the interpretation of the terms "degradation" and "dehumanization" for Customs officials).

Butler has negatively affected two court cases involving seizures of mail destined for small community bookstores specializing in lesbian and gay materials, Toronto's Glad Day Bookshop, and Vancouver's Little Sisters Book & Art Emporium, respectively. See *Glad Day Bookshop, Inc. v. Deputy Minister of Nat'l Revenue for Customs and Excise*, 1992 Ont. C.J. LEXIS 1296, *33 (July 14, 1992), known as the *Hayes* decision; *Little Sisters Book & Art Emporium v. Minister of Justice and Att'y Gen. of Canada and Minister of Nat'l Revenue*, B.C. Sup. Ct. No. A901450 (Sept. 27, 1993) (adjourning the trial on defense's motion, due to its addition of expert reports and 19 witnesses, and because the trial would take more than 20 days; no new trial date was set).

10. CATHARINE A. MACKINNON, *ONLY WORDS* (1993).

approach to helping women by restricting "pornography."¹¹ Anti-censorship feminists reject the notion that feminism should support suppression. We opposed the *Butler* decision, worried about how it would be used, and agreed with Canadian sociologist Thelma McCormack when she said, "The *Butler* decision belongs to the Right. The Supreme Court of Canada doesn't give a damn about gender equality. It is concerned about control, and was pleased to have a feminist gloss put on it."¹²

In the United States, the pro-censorship campaign by some feminists fortunately was thwarted in 1986 when the Supreme Court affirmed a decision that the so-called model ordinance drafted by Andrea Dworkin and Catharine MacKinnon¹³ violated the First Amendment.¹⁴ An

11. See *id.* at 97-106. For one feminist critique of the book, see Nadine Taub, *A New View of Pornography, Speech, and Equality or Only Words?*, 46 RUTGERS L. REV. 595 (1993).

12. NATIONAL COALITION AGAINST CENSORSHIP, *THE SEX PANIC: WOMEN, CENSORSHIP, AND "PORNOGRAPHY"* 5 (1993). See also Thelma McCormack, *Censorship in Canada*, 38 N.Y.L. SCH. L. REV. 165, 180 (1993).

13. See INDIANAPOLIS & MARION COUNTY, IND., CODE, §§ 16-1 to 16-28 (1993) (hereinafter INDIANAPOLIS CODE). Versions of the "model" ordinance have been considered or passed in Suffolk County, N.Y., Minneapolis, Minn., Madison, Wis., Cambridge, Mass., Bellingham, Wash., and Los Angeles County, Cal. and the Massachusetts State Legislature. See *Anti-porn Law Axed in Federal Ruling*, SEATTLE TIMES, Feb. 10, 1989, § NW, at 3 (reporting that an anti-pornography ordinance was ruled unconstitutional by a federal judge; the City Council later refused to validate the results of the referendum enacting the ordinance); *Anti-Pornography Law Defeated in Cambridge*, N.Y. TIMES, Nov. 12, 1985, at A16 (reporting that the ordinance, which would have made it a civil rights violation to "traffic" in pornography, and would have permitted civil lawsuits against "traffickers," was rejected in a referendum vote of 13,031 to 9,419); Cathleen Decker, *Coalition Sees Plan as Threat to Free Speech; Feminists Resist Pornography Law*, L.A. TIMES, Mar. 16, 1985, Metro, at 1 (reporting that an anti-pornography ordinance in Los Angeles would have allowed women who alleged injuries caused by pornography to seek relief through litigation; the proposal was never enacted by the Board of Supervisors); *Indiana Porn*, WASH. POST, May 12, 1984, at A14 (editorial) (reporting that Minneapolis mayor, Don Fraser, vetoed a bill that would have made pornography a civil rights violation, despite the fact that women's groups strongly backed the measure).

14. *Hudnut v. American Booksellers Ass'n., Inc.*, 475 U.S. 1001 (1986), *aff'g* 771 F.2d 323 (7th Cir. 1985). In Indianapolis, support for the ordinance came almost exclusively from conservatives; the ordinance was sponsored by a conservative legislator, Beulah Coughenour, who had been a strong opponent of the ERA. *Hudnut* is often mentioned by Dworkin, MacKinnon, and their followers as though only the Seventh Circuit Court of Appeals acted on the case, and as though the Supreme Court did not act at all. See, e.g., Catharine A. MacKinnon, *Liberalism and the Death of Feminism*, in *THE SEXUAL LIBERALS AND THE ATTACK ON FEMINISM* 11 (Dorchen Leidholdt & Janice G. Raymond eds., 1990). In fact, by affirming the Seventh Circuit's finding of

extraordinary array of feminists opposed the proposed ordinance, including Betty Friedan, Kate Millett, and Adrienne Rich, as well as numerous artists, writers, scholars, and activists.¹⁵ It is remarkable that this repressive and untenable legislation is seriously proposed again today.

The content, meaning, and potential consequences of the ordinance are not well understood. The Dworkin/MacKinnon ordinance's *central* elements are: (1) a definition of "pornography" (with stunning subjectivity, vagueness, and overbreadth) grounded in the "graphic sexually explicit subordination of women;"¹⁶ (2) then (with another great leap) the designation of "pornography" as a civil rights violation;¹⁷ and (3) (the greatest leap of all) the provision that anyone may bring suit against "traffickers" in "pornography."¹⁸ *No other "harm" need be claimed.*

"Trafficking" conjures images of drugs and "white slavery." But the ordinance would permit suits for civil rights violations against artists, filmmakers, writers, bookstore owners, and even book and video store clerks, among others (any of whom might, of course, be feminists), because they write, create, or make available words or images a plaintiff alleges to be "pornography."

The ordinance would provide a legal avenue not only for anti-"pornography" feminists, but for suits by the "pro-decency" forces on the Right against the innumerable novels, art, films, textbooks, and other works they incessantly assault as "pornography." And, of course, it would bring the profound cultural self-censoring that always accompanies the prospect of such suits—a chilling of discussion, exploration, and experimentation with sexual expression—as many believe its proponents intend. Was censorship's danger to women ever better illustrated?

A great number of women and men see old censorship forces at work in these "new" tactics. We are astonished that some view the theories behind these tactics as progressive, when in fact they are reactionary: whatever their intent, such theories ultimately impose traditional controls over women's bodies, women's sexuality, and women's lives.

Over the past decade, the mainstream press has reported opposition to anti-"pornography" censorship campaigns from free-speech enthusiasts, but it has repeatedly failed to report the significant opposition by feminists

unconstitutionality, the Supreme Court secured the binding authority of *Hudnut*.

15. For a list of the 77 feminists who signed the FACT brief in *Hudnut*, see Hunter & Law, *supra* note 5, at 89-98.

16. INDIANAPOLIS CODE, *supra* note 13, § 16-3 (q).

17. *See id.* § 16-3 (g) (4)-(7).

18. *See id.* § 16-17 (b).

from widely diverse perspectives and disciplines.¹⁹ This vacuum has lent force to the extraordinary name-calling tactics of anti-“pornography” feminists against feminists who oppose them. Our opposition to their activities is called “slander,” and “hate campaigns.”²⁰ We are charged with being manipulated by “pimps,” with being the mouthpieces of “pornographers.”²¹ We are accused of being indifferent to violence against women, and with being the Uncle Toms of the patriarchy.²² Anti-“pornography” strategists falsely present themselves as providing the one authentic voice for women, by discrediting or denying all feminist opposition to their movement.

These tactics, pursued with great passion and anger, succeed in intimidating many women. Feminism is distorted, for the general public, and for young people. In short, these tactics stifle informed debate on matters of vital importance to the society as a whole, and to women in particular.

In March 1993, the University of Chicago Law School hosted a two-and-one-half day conference, *Speech, Equality and Harm*, featuring numerous speakers, both academics and activists. Most addressed themselves to advocating legal restrictions on “pornography,” but leading theorists for restrictions on “hate speech” also participated.²³ Despite the

19. See, e.g., David Gates et al., *Free Speech—Or a Hostile Act?*, NEWSWEEK, Jan. 17, 1994; *The First Amendment: Under Fire from the Left*, N.Y. TIMES, Mar. 13, 1994 (Magazine). For a discussion of law journals’ treatment of the feminism and “pornography” issue, see Strossen, *supra* note 1. The Sex Panic Conference received no mainstream press coverage.

20. See, e.g., Tamar Lewin, *Pornography: Not Speech But Action*, N.Y. TIMES, Mar. 13, 1987, § 7 (Book Review) at 51 (reporting MacKinnon’s characterization of assertions by her opponents that anti-“pornography” feminists are supported by the right as “political slander”); Letter from Catharine A. MacKinnon to Leanne Katz, executive director, National Coalition Against Censorship (Nov. 11, 1993) (on file with the *New York Law School Law Review*) (referring to the coalition’s “hate campaign”).

21. See David Margolick, *At the Bar*, N.Y. TIMES, Nov. 5, 1993, at B11 (quoting MacKinnon justifying her decision not to debate anti-censorship feminists: “It is my analysis that that is the pimps’ current strategy for legitimizing a slave trade in women. I do not need to be sucked into the pornographers’ strategy, period.”).

22. See Catharine A. MacKinnon, *Liberalism and the Death of Feminism*, *supra* note 14, at 12 (“[T]he Black movement has Uncle Toms and Oreo cookies. The labor movement has scabs. The women’s movement has FACT.”).

23. Like “pornography,” “hate speech,” in this context, must be put in quotes. The legal convention of “hate speech” stands for a very limited part of what many would so describe and denounce, but not attempt to censor.

In vividly demonstrating the inadequacy of speech codes as a remedy for racism, Henry Louis Gates compares an example of what might be defined and restricted as “hate speech” (“Out of my face, jungle bunny”), with an example of what would likely not be

plurality of feminist perspectives promised in the conference subtitle, "Feminist Legal Perspectives on Pornography and Hate Speech," the conference delivered just one: to be a feminist, one must support measures for censorship. Feminists who disagreed were brushed aside and insulted away. For example, despite repeated requests by the University of Chicago's own Gender Studies program, conference registration materials were provided to them only after the registration deadline had passed.²⁴

The intense emotionalism of the conference and its one-sidedness led many to compare it to a revival meeting.²⁵ Law professor Cass Sunstein spoke about prospects for legal restrictions on "violent pornography," but it soon became clear that for him, as with other anti-"pornography" activists, the very term "pornography" may be synonymous with "violence." Catharine MacKinnon asserted at length her belief that "sooner or later, in one way or another, the consumers want the pornography to go into the third dimension."²⁶ She called questions about the difficulty of distinguishing among sexually explicit materials "what can I still have?" questions, implying that any concern for free expression is a prurient interest.²⁷

There were frequent taunts and hisses at "liberalism," a label meant to brand as evil the defense of individual rights and free expression (as if free expression were the opposite of equality and one must choose one or the other). There was no mention, by any speaker, of the dangers from the Right, which at the time was enjoying a very high profile in American political life, just as there has been silence from these same academics and activists about the Right's attacks on the arts, on lesbians and gays, and

so defined but would in fact be much more damaging ("LeVon, if you find yourself struggling in your classes here, you should realize . . . it's simply that you're the beneficiary of a disruptive policy of affirmative action that places underqualified, underprepared, and often undertalented black students in demanding educational environments like this one."). Henry Louis Gates, Jr., *Let Them Talk*, NEW REPUBLIC, Sept. 20 & 27, 1993, at 45.

24. Elizabeth Freeman, *Right Wing Feminism Hits the University of Chicago*, revised version of article from CHICAGO MAROON, Mar. 9, 1993, at 1, 2 (on file with the *New York Law School Law Review*).

25. See Stephanie B. Goldberg, *1st Amendment Wrongs*, CHI. TRIB., Mar. 17, 1993, (Tempo) at 1 ("At times, the gathering took on the tone of a revival meeting, with women stepping up to the mike to testify."); Isabel Wilkerson, *Foes of Pornography and Bigotry Join Forces*, N.Y. TIMES, Mar. 12, 1993, at B16.

26. MacKinnon's speech to the conference, *quoted in* OFF OUR BACKS, v. xxiii, number 4, April 1993, at 16.

27. The scornful turn of phrase "what can I still have?" questions" is used by both Andrea Dworkin and Catharine MacKinnon. See *id.* at 17.

on our schools and public libraries, where its demands for censorship are so numerous.²⁸

Although their ordinance had recently been found unconstitutional by the Supreme Court, and although they had failed to gain a consensus among feminists, MacKinnon and Dworkin reiterated their beliefs about "pornography" as the central reason for discrimination against women, and said that they will renew efforts to reintroduce their ordinance. They will argue for it again within the province of public policy, a venue in which too many powerful members of the legal and government communities believe that women want censorship and that it is "best" for women.

That the public and much of the legal community still lack an awareness of the multiple, informed, and historical feminist perspectives that oppose censorship is a great danger. Today we watch as groups which traditionally oppose all measures for women's rights again and again appropriate the language and the strategies of Catharine MacKinnon, Andrea Dworkin, and their followers.²⁹ The Senate's 1992 near passage of a misnamed Pornography Victims Compensation Act;³⁰ proposed

28. See, e.g., *Censorship News*, Issues 1-53, Newsletter of the National Coalition Against Censorship.

29. Many groups with a Religious Right base, including the American Family Association, Focus on the Family, and the Christian Coalition, have added rhetoric about "degradation," "victimization," and "violence against women" to their appeals for "family values"—all accompanying demands for censorship.

The quoting of Catharine MacKinnon and Andrea Dworkin to further the traditional agenda of the Right has become commonplace. The national press release for "Enough is Enough!," a project of the conservative "morality" group National Coalition Against Pornography, boasts of a "New Woman's Movement." Enough is Enough!, *New Woman's Movement Seeks to Reduce Sexual Violence by Eliminating Hard-Core, Illegal and Child Pornography*, Nov. 19, 1992 (press release). Enough is Enough!, in a nationwide billboard campaign, prominently displays a quotation from Andrea Dworkin. In Guilderland, N.Y., Andrea Dworkin was quoted as part of an argument to have Pat Conroy's *The Great Santini* banned from a high school class. See Melissa Hale-Spencer, *Committee to Release Book Challenge Decision Today*, ALTAMONT ENTERPRISE, June 24, 1993 (reporting that a pro-censorship statement before a school's Book Challenge Committee "quoted feminist Andrea Dworkin on her own sexual abuse and how rape devalues women"). In Downer's Grove, Ill., demands that the public library restrict children's access to "objectionable" books were recently defended by quoting Catharine MacKinnon's *Only Words*. See Minutes of the Regular Meeting of the Board of Trustees of the Downer's Grove Public Library, at 7-8 (Mar. 8, 1994) (on file with the *New York Law School Law Review*).

30. See 62 Cong. Rec. S5298 (daily ed., Apr. 25, 1991). Sen. Mitch McConnell, introducing the bill, described it as "provid[ing] victims of sex crimes [with] a civil cause of action against pornographers if the victim can prove a link between the crime and specific sexually explicit material. The bill does not dictate what pornographers may

language in the Violence Against Women Act which assumes there is a link between “pornography” and violence;³¹ the profusion of attacks on books with sexually related content in public schools and libraries;³² inappropriate and devastating charges of “child pornography” against visual artists;³³ the suppression of urgently needed sex education³⁴—all are now presented in the name of “helping” women or, often, “protecting

produce, it simply holds them liable for it.” *Id.* For a discussion of the Pornography Victims Compensation Act (S.1521), see Leanne Katz, *A Startling and Ludicrous Bill*, NEW DIRECTIONS FOR WOMEN, Sept.-Oct. 1992 (on file with the *New York Law School Law Review*). The bill was favorably reported by the Senate Judiciary Committee but was not voted on as Congress rushed to adjourn.

31. H.R. 1133, 103d Cong., 1st Sess. (1993) Subtitle B, § 412 (20) and S.11, 103d Cong., 1st Sess. (1993) Subtitle A, § 511 (20). These provisions would have authorized grants for the education and training of judges and court personnel in state courts on “current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.” *Id.* These provisions were later deleted and the legislation was passed as part of the 1994 Crime Bill.

32. *See, e.g.*, Michael Granberry, *Besieged by Book Banners*, L.A. TIMES, May 10, 1993, at A1 (listing various book censorship controversies concerning, among other works, *I Know Why the Caged Bird Sings*, by Maya Angelou (based on a sexual assault against the author as child, which left her mute for close to ten years); one book in the children’s series *Where’s Waldo?* (image of a woman with a partially exposed breast found hidden in a crowded beach scene); *As I Lay Dying*, by William Faulkner (“obscene passages refer[ed] to abortion and used God’s name in vain”); *Catcher in the Rye*, by J.D. Salinger (profanity and sexual references)). For updates on current school and library censorship battles, see publications of the National Coalition Against Censorship: *Censorship News*, *Censorship Matters*, and *NCAC Books of the Month*.

33. *See, e.g.*, Kenneth Cole, *Nude Pictures of Child Forces Mother to Fight Abuse Charge*, DETROIT NEWS, Feb. 4, 1994, at 1A (Wayne State University Art Professor Marilyn Zimmerman, raided by University police, had 12 boxes of negatives, photos, and other work seized and delivered to the County Prosecutor office; the prosecutor ultimately did not press charges); Philip Hager, *U.S. Grand Jury Refuses to Indict Photographer*, L.A. TIMES, Sept. 17, 1991, at A3 (federal grand jury refused to indict Jock Sturges, a “prominent fine arts photographer,” subject of a 17-month child pornography investigation).

34. *See, e.g.*, Maia Davis, *Dispute Over Sex Education Booklet Grows*, L.A. TIMES, Feb. 25, 1993, at B1; Brenda Day, *East Ventura County Focus; Simi Valley; Parents Protest Sex Education Plan*, L.A. TIMES, Oct. 14, 1993, at B2; Jon Hilkevitch, *School Sex Education Targeted*, CHI. TRIB., Aug. 31, 1993, at N1; *News Briefs: Sex Education Hearing*, HOUS. CHRON., Sept. 8, 1993, at A16. *See generally* The Community Action Kit to Support Comprehensive Sexuality Education of the Sex Information and Education Council of the U.S. (SIECUS), which documents over 100 sexuality education controversies in 1992 and 1993.

women and children.”³⁵ While the pro-censorship feminists profess a different agenda, they welcome these allies. The result is that, together, they know what ideas, fantasies, words, and images should be permitted, for themselves and for every single one of us. Many women, many feminists, are determined to dispel the myths that censorship is good for women, that women want censorship, and that those who support censorship speak for women.

With this and much more as background, it was not surprising that several feminists suggested the formation of a Working Group on Women, Censorship, and “Pornography” within the National Coalition Against Censorship, and that the Working Group organized a conference³⁶ to make their many perspectives more widely available.

Four major themes emerged from *The Sex Panic* conference and are sounded in this Symposium: (1) sex panics are not new, and they are never good for women; (2) our opponents want to protect, not free women, and—surprise!—this is a wildly popular idea; (3) sexually related imagery and speech can be good for everybody—for women, for men, even sometimes for kids; and (4) we’re fighting back—for free speech and freer women.

35. “Womenandchildren” has long been summoned as a category that refers to a monolithic grouping of the defenseless. Sentimental rhetoric about “womenandchildren” has served to camouflage the power politics and the real interests—cultural, social, or military—of the status quo. See Cynthia Enloe, *Womenandchildren: Making Feminist Sense of the Persian Gulf Crisis*, VILLAGE VOICE, Sept. 25, 1990, at 29. Enloe, a feminist international relations theorist, describes how “womenandchildren” was used to manipulate military interests in the Gulf War.

36. *The Sex Panic: A Conference on Women, Censorship, and “Pornography,”* sponsored by the NCAC Working Group, the Women’s Center of the City University of New York Graduate Center, and the Vera List Center of the New School for Social Research; The Graduate Center of the City University of New York, New York, May 7-8, 1993.

This Symposium includes presentations from the National Coalition Against Censorship's Working Group On Women, Censorship, and "Pornography's" conference, The Sex Panic: A Conference on Women, Censorship, and "Pornography," sponsored by the NCAC Working Group, and co-sponsored by the Women's Center of the City University of New York Graduate Center, and the Vera List Center of the New School for Social Research, New York City, May 7-8, 1993. Also included are other papers commissioned by Leanne Katz and Nadine Strossen, and additional articles we believe provide further important perspectives.

**Working Group on Women, Censorship, and "Pornography"
of the National Coalition Against Censorship:**

Kate Baggott, producer and director; New York, NY
Dennis Barrie, director, Rock and Roll Hall of Fame and Museum; Columbus, OH
Nancy K. Bereano, publisher, Firebrand Books; Ithaca, NY
Lauren Berlant, associate professor of English, University of Chicago; Chicago, IL
Sara Blackburn, author and editor; Ghent, NY
Judy Blume, author; New York, NY
Lea Brilmayer, professor of law, New York University School of Law; New York, NY
Arlene Carmen, church worker; New York, NY (deceased)
Isolde Chapin, writers' association executive director; Washington, DC
Miriam Colón, actress; artistic director, Puerto Rican Traveling Theater; New York, NY
Karen DeCrow, attorney, former president, NOW; Jamesville, NY
Donna A. Demac, author, educator, journalist; New York, NY
Lisa Duggan, professor of American Studies, New York University; New York, NY
Kate Ellis, professor of English, Rutgers University; New Brunswick, NJ
Clarissa Pinkola Estés, author; New York, NY
Marilyn Fitterman, former president, New York State NOW; Sag Harbor, NY
Lesley Lee Francis, associate secretary, American Association of University Professors; Washington, DC
Arvonne Fraser, international feminist activist; Minneapolis, MN
Beth Freeman, doctoral candidate, University of Chicago; Chicago, IL
Nancy Friday, author; Key West, FL
Betty Friedan, feminist activist/author; New York, NY
Judith Kegan Gardiner, professor of English and Woman's Studies, University of Illinois at Chicago; Chicago, IL

Kathy Garmezy, executive director, Hollywood Policy Center; Culver City, CA

Henry Louis Gates, professor of English and Afro-American Studies, Harvard University; Cambridge, MA

Jewelle Gomez, poet, novelist, teacher, activist; San Francisco, CA

Debra W. Haffner, executive director, Sex Information and Education Council of the U.S. (SIECUS); New York, NY

Eleanor Heartney, art critic; New York, NY

Holly Hughes, playwright and performance artist; New York, NY

Susan Isaacs, author; Sands Point, NY

Molly Ivins, author/columnist; Fort Worth, TX

Erica Jong, author; New York, NY

Wendy Kaminer, author; Cambridge, MA

Barbara Kerr, member, Feminist Anti-Censorship Taskforce (FACT); businessperson; Plainfield, NJ

Jamaica Kincaid, author; North Bennington, VT

Nancy Langer, writer; specialist in reproductive rights; New York, NY

Sylvia Law, professor of law, New York University School of Law; New York, NY

Judith Levine, author, journalist; Brooklyn, NY

Ann F. Lewis, political analyst; Boston, MA and Washington, DC

Bobby Lilly, head, Californians Against Censorship Together; San Francisco, CA

Phyllis Lyon, professor emeritus, The Institute for Advanced Study of Human Sexuality; San Francisco, CA

Del Martin, author, *Battered Wives*; San Francisco, CA

Thelma McCormack, sociologist, director, Centre for Feminist Research, York University; Ontario, Canada

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Joyce Meskis, owner, Tattered Cover Bookstore; Denver, CO

Robin Davis Miller, executive director, Authors League of America; New York, NY

Peggy Northrop, senior editor, *Vogue*; New York, NY

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Barbara Pollack, artist and attorney; New York, NY

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Nanette M. Roberts, church worker, educator; Cleveland, OH

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