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AN HISTORICAL OVERVIEW*

LISA DUGGAN**

I'm not going to give you a standard history lesson this morning. Instead, I want to talk about why feminist historians, as a group, have been highly critical of anti-pornography legislation and the politics underlying it.

In the mid-1980s, an acrimonious split developed in the feminist movement after anti-pornography feminists began drafting and campaigning for legislation directed at regulating pornographic expression. This faction, which had until then often stated that its members opposed censorship as a remedy for pornography's misogyny,¹ proposed ordinances in Cambridge,² Los Angeles,³ Minneapolis,⁴ and in

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1. See, e.g., CATHARINE A. MACKINNON, *"More Than Simply a Magazine": Playboy's Money*, in FEMINISM UNMODIFIED 134, 140 (1987) ("[N]o one has yet convinced me that extending the obscenity prohibition, liberalizing its application, would do anything but further eroticize pornography. Suppressing obscenity criminally has enhanced its value, made it more attractive and more expensive and a violation to get, therefore more valuable and more sexually exciting. Censoring pornography has not yet delegitimized it; I want to delegitimize it.").

2. In 1985, voters in Cambridge, Massachusetts, were presented with a ballot question which defined pornography as:

[T]he graphic sexually explicit subordination of women through pictures and/or words that also includes one or more of the following, among others: women are presented dehumanized as sexual objects, enjoying pain or humiliation or rape, tortured or maimed, penetrated by objects or animals, or in postures of sexual submission, servility or display.

(On file with the *New York Law School Law Review*.) The initiative, which aimed to classify certain types of pornography as sex discrimination, was defeated 13,031 to 9419. *Anti-Pornography Law Defeated in Cambridge*, N.Y. TIMES, Nov. 12, 1985, at A16.

3. Drafted by Catharine MacKinnon and Gloria Allred and largely modeled after the Indianapolis ordinance, see *infra* note 5, the Los Angeles ordinance was proposed in February 1985 by the County Commission for Women. See Rich Connell, *County to Explore Adoption of Tough Pornography Law*, L.A. TIMES, Feb. 27, 1985, § 2, at 1, 2. The proposal was considered by the local Board of Supervisors, two members of which argued for immediate approval, but was rejected when a third and deciding vote was not forthcoming. See *id.* The proposal characterized pornography as "the graphic sexually explicit subordination of women" in pictures or words that "dehumanize women, present them as sexual objects, or present them in 'postures of sexual submission, servility or display.'" Cathleen Decker, *Coalition Sees Plan as Threat to Free Speech: Feminists Resist Pornography Law*, L.A. TIMES, Mar. 16, 1985, § 2, at 1. The proposal would

Indianapolis,⁵ where the proposal was enacted. This split was found among all different kinds of feminists and in all different kinds of locations. Within the National Organization for Women, among lesbian

have provided women who alleged they were victimized by pornography with a cause of action. *Id.* Under the proposal, actionable depictions included "graphic pictorial depictions of sexual abuse and debasement of human beings which encourage, incite or instruct in acts of sexual violence or debasement." (On file with the *New York Law School Law Review.*)

4. See, e.g., Minneapolis, Minn., Ordinance (Dec. 30, 1983; July 13, 1984) (amending MINNEAPOLIS, MINN., CODE OF ORDINANCES tit. 7, ch. 139); Minneapolis, Minn., Ordinance (Dec. 30, 1983; July 13, 1984) (amending MINNEAPOLIS, MINN., CODE OF ORDINANCES tit. 7, ch. 141). Although vetoed by the mayor, the special findings of the City Council of the City of Minneapolis, contained within the proposal, were that:

pornography contributes to creating and maintaining sex as a basis for discrimination. Pornography is a systematic practice of exploitation and subordination based on sex which differentially harms women. This harm includes dehumanization, sexual exploitation, physical injury, intimidation, and inferiority presented as entertainment. The bigotry and contempt it encourages, with the acts of aggression it promotes, diminish opportunities for equality of rights in employment, education, property, public accommodations and public services; promote rape, battery and prostitution and inhibit just enforcement of laws against these acts; contribute significantly to restricting women in particular from full exercise of citizenship and participation in neighborhoods and other civil life, damage relations between the sexes; and undermine women's equal exercise of rights to speech and action guaranteed to all citizens under the constitutions and laws of the United States and the State of Minnesota.

Id. § 139.10(a)(1) (typeface altered).

5. Indianapolis and Marion County, Ind., General Ordinance No. 24, 1984 (Apr. 23, 1984) (amending INDIANAPOLIS AND MARION COUNTY, IND., CODE ch. 16, §§ 16-1 to -28); Indianapolis and Marion County, Ind., General Ordinance No. 35, 1984 (June 11, 1984) (further amending INDIANAPOLIS AND MARION COUNTY, IND., CODE ch. 16, §§ 16-1, -3, -16, -17, -26, & -27). The City-County Council of Indianapolis and Marion County, Indiana, found an ordinance was necessary because:

[p]ornography is a discriminatory practice based on sex which denies women equal opportunities in society. Pornography is central in creating and maintaining sex as a basis for discrimination. Pornography is a systematic practice of exploitation and subordination based on sex which differentially harms women. The bigotry and contempt it promotes, with the acts of aggression it fosters, harm women's opportunities for equality of rights in employment, education, access to and use of public accommodations, and acquisition of real property; promote rape, battery, child abuse, kidnapping and prostitution and inhibit just enforcement of laws against such acts; and contribute significantly to restricting women in particular from full exercise of citizenship and participation in public life, including in neighborhoods.

Id. § 16-1(a)(2).

feminists, and among various feminist scholars, a heated, intense, and rancorous debate ensued, lasting until about 1986 or 1987, when most feminist opinion came to oppose the use of this kind of legislation in anti-pornography campaigns.⁶

But even during this period—sometimes referred to as “The Sex Wars,” which is the casual, although bitter reference people use for this period—there was no debate among feminist historians. Feminist historians, almost completely to a woman, almost without exception, opposed this legislative strategy and criticized the political analysis underlying it. Almost immediately, well-known historians, such as Judith Walkowitz,⁷ Ellen DuBois, and Linda Gordon,⁸ wrote to explain why

6. See, e.g., Amicus Brief of the Feminist Anti-Censorship Taskforce, American Booksellers Ass'n v. Hudnut, 771 F.2d 323 (7th Cir. 1985) (No. 84-3147), reprinted in Nan D. Hunter & Sylvia A. Law, *Brief Amici Curiae of Feminist Anti-Censorship Taskforce, et al.*, in *American Booksellers Association v. Hudnut*, 21 MICH. J.L. REF. 69 (1987/1988). The Seventh Circuit held that the Indianapolis ordinance, *supra* note 5, was a content-based restriction and, therefore, violative of the First Amendment. See *American Booksellers Ass'n v. Hudnut*, 771 F.2d 323, 325 (7th Cir. 1985), *aff'd*, 475 U.S. 1001 (1986). The brief was signed by a diverse and vast array of feminists, including Kate Millett, author of *Sexual Politics* (1970); Adrienne Rich, lesbian feminist poet and writer, whose books include *Of Woman Born: Motherhood as Experience and Institution* (1976), and *The Fact of a Doorframe: Poems Selected and New 1950-1984* (1984); Ellen Willis, Professor, New York University Journalism School, and author of *Beginning to See the Light: Pieces of a Decade* (1981); and Susan Estrich, Professor of Law and Political Science, University of Southern California, and author of *Dangerous Offenders: The Elusive Target of Justice* (1984) and *Real Rape* (1987).

7. See Judith R. Walkowitz, *Male Vice and Female Virtue: Feminism and the Politics of Prostitution in Nineteenth-Century Britain*, in *POWERS OF DESIRE: THE POLITICS OF SEXUALITY* 419 (Ann Snitow et al. eds., 1983). The author treats the history of the feminist campaigns against prostitution as a cautionary tale:

We must struggle to live our lives freely, without humiliation and violence. But we have to be aware of the painful contradictions of our sexual strategy, not only for the sex workers who still regard commercial sex as the “best paid industry” available to them, but also for ourselves as feminists. We must take care not to play into the hands of the New Right or the Moral Majority, who are only too delighted to cast women as victims requiring male protection and control, and who desire to turn feminist protest into a politics of repression.

Id. at 434 (citing Rosalind P. Petchesky, *Antiabortion, Antifeminism, and the Rise of the New Right*, 7 FEMINIST STUD. 206 (1981)).

8. See Ellen C. DuBois & Linda Gordon, *Seeking Ecstasy on the Battlefield: Danger and Pleasure in Nineteenth-Century Feminist Sexual Thought*, in *PLEASURE AND DANGER: EXPLORING FEMALE SEXUALITY* 31 (Carole S. Vance ed., 1984). The authors write:

Today, there seems to be a revival of social purity politics within feminism, and it is concern about this tendency that motivates us in recalling its history.

this was a problematic strategy for feminism. Given the magnitude and bitterness of the debate, the question arises: why was there no debate among feminist historians? Why was there such widespread agreement that this was a bad course of action?

Given that the legislation was presented as an historical achievement in the campaign against violence against women⁹ and as a legal breakthrough for feminists,¹⁰ you would think that feminist historians would at least have had some two-sided conversation about this. Feminist historians had been working very hard for several decades to re-evaluate women's reform campaigns such as the nineteenth- and early-twentieth-century temperance and social-purity campaigns;¹¹ they had treated those campaigns seriously to counter the way in which mainstream historians and even progressive male historians had treated them as trivial, comic, or simply Puritanical.¹² Feminists had worked to show that there were serious issues at stake and real feminist angers underlying these campaigns. So, given the similarity between the 1980s' anti-pornography campaign and these earlier campaigns, and the vigorous attempts by feminist historians to get people to take these kinds of reforms seriously, why then would feminist historians be so uniformly critical of the campaigns in the 1980s?

As in the nineteenth century, there is today a feminist attack on pornography and sexual "perversion" in our time, which fails to distinguish its politics from a conservative and antifeminist version of social purity, the Moral Majority and "family protection movement."

Id. at 43.

9. *See, e.g.*, Artists Confronting Lies & Underhandedness, *Artists Expose American Civil Liberties Union's Lies About Dworkin, MacKinnon, and Pornography*, (Oct. 9, 1992) (news release, on file with the *New York Law School Law Review*) (hailing the anti-pornography legislation drafted by Catharine MacKinnon and Andrea Dworkin as "[c]ivil-rights legislation" designed to "extend a speech right to women, men, children, and transsexuals" that they did not have before: the "presently illegal" right to bring civil suits against pornographers).

10. *See id.*

11. *See, e.g.*, BARBARA L. EPSTEIN, *THE POLITICS OF DOMESTICITY: WOMEN, EVANGELISM, AND TEMPERANCE IN NINETEENTH-CENTURY AMERICA* 107 (1981) (examining temperance as an important issue for women in late nineteenth-century America because "men's drinking symbolized so many of the injustices that women felt" at that time); RUTH ROSEN, *THE LOST SISTERHOOD: PROSTITUTION IN AMERICA, 1900-1918*, at xiii (1982) (explaining that women of the nineteenth century felt they must protect their purity by challenging prostitution as a source of exploitation of women).

12. *See, e.g.*, Robert W. Gordon, *Law and Disorder*, 64 *IND. L.J.* 803, 822 (1989) (citing the purity crusades to abolish alcohol and prostitution as just one example of early twentieth-century American attempts to impose "a regime of extraordinary conformity on political culture").

The answer has four parts. Four major issues motivated feminist historians to mobilize opposition to this strategy and this political analysis.

The first reason comes under the rubric of displacement. I'll give you an historical example and then a current example of what I mean. Much of the rhetoric of the temperance movement in the late-nineteenth and early-twentieth centuries addressed the problems of domestic violence and all-male social spaces such as saloons.¹³ But the temperance campaign focused its efforts on *banning* alcohol. Although there were serious problems related to the consumption of alcohol, the notion that the banning of alcohol would address the problem of domestic violence or do anything about all-male social spaces was a very mistaken, displaced strategy. The real issues were not attacked directly because of social and cultural taboos.¹⁴ Instead, energy was displaced onto a campaign to ban alcohol, a campaign that ultimately was a fruitless, counterproductive political strategy. And because feminist historians have looked at these campaigns so closely, they immediately recognized the same kind of displacement when they looked at the anti-pornography campaign.

For a more recent example, let me take you to Suffolk County, New York, in 1984, where a hearing was conducted on whether an anti-pornography ordinance modeled on the MacKinnon-Dworkin ordinance should be passed.¹⁵ The initiative had been organized by a right-wing

13. See EPSTEIN, *supra* note 11, at 102 (indicating that temperance supporters accused men of spending leisure time in saloons, rather than in the home, and saw alcohol as a drug that caused normally gentle men to become violent).

14. See *id.* at 103 (explaining that women in the late nineteenth century did not blame men or the structure of the family directly as causes of the vulnerability that they felt in the home as a result of excessive drinking, but rather blamed the alcohol itself because that was an easier and more socially acceptable form of attack).

15. See John Rather, *Pornography Bill Stirs Furor in Suffolk*, N.Y. TIMES, Oct. 7, 1984, § 11 (Long Island Weekly), at 1, 21. The proposal, which was ultimately enacted, SUFFOLK COUNTY, N.Y., CODE §§ 367-1 to -5 (1993), focused on the display of obscene material, rather than on the inherent baseness of pornography itself, as had other local legislative proposals, see *supra* notes 2-5. The ordinance states:

[T]he unobstructed display of sexual materials in the County of Suffolk which portray obscene sexual performance, deviate sexual performance or simulated sexual conduct, poses a threat to the health, safety, morals and general welfare of the people of the County of Suffolk because it can encourage and promote anti-social behavior. It is further declared that the prominent display of such obscene materials in public areas poses an intrusion upon individual privacy and constitutes a threat to impressionable young people who are indiscriminately exposed to such material.

SUFFOLK COUNTY, N.Y., CODE § 367-1(A).

person and had a lot of right-wing support.¹⁶ I went to these hearings, where there were mobs of people lined up to speak—and close to fifty percent of those who spoke were men. It seemed that they had come to confess. They would come to the microphone and confess that they had battered their wives, had raped their daughters, but that pornography had made them do it. They would use language like, “pornography came into my home and made me do it.” And so, the remedy for these problems was not battered women’s shelters. The remedy for these problems was not more aggressive prosecution of rape and sexual assault. Their remedy was an anti-pornography law. They confessed their acts of violence, but did not hold themselves accountable. Instead, they displaced responsibility for their acts onto pornography in exactly the way that is so familiar to people who have looked closely at the temperance campaign. Feminist anger, women’s anger at the conditions in their households was displaced onto a campaign for an anti-pornography law instead of being directly applied to things that might have been more useful.

The second reason feminist historians object to anti-pornography campaigns comes under the rubric of alliances and how alliances work. An historical example is the social-purity campaigns in the United States and England, which worked to strengthen anti-prostitution laws at the turn of the century.¹⁷ The feminists who were engaged in the campaign to strengthen anti-prostitution laws were concerned about the economic and sexual vulnerability of young women in the cities.¹⁸ But these feminist campaigners allied themselves with conservatives whose goal was to

16. See Rather, *supra* note 15, at 1, 21 (reporting that the bill was proposed by conservative Republican County Legislator Michael D’Andre of Smithtown, New York, who was quoted as saying: “Everyone hides behind the First Amendment . . . but when we have a decadent society, I don’t see how we are infringing when all we want is a set of morals [—]a far cry from censorship.”).

17. Social-purity campaigns, in Britain and the United States, which began as protests against certain degrading regulations and laws dealing with prostitution, became feminist movements directed toward sponsoring legislation and pushing for legal action to “help victimized” women. See generally DuBois & Gordon, *supra* note 8 (discussing the major concerns of the feminist movement for the past 150 years); Walkowitz, *supra* note 7 (explaining the social-purity movement in England as centered on a woman-as-victim viewpoint).

18. See Walkowitz, *supra* note 7, at 422 (noting that nineteenth-century feminists believed that many women were “forced” into prostitution because they were unable to earn adequate wages from industrial employment, and that, therefore, prostitution was seen as a “paradigm for the female condition, a symbol of women’s powerlessness and sexual victimization”); DuBois & Gordon, *supra* note 8, at 33 (explaining that, in the 1860s and 1870s, feminists believed economic pressures forced women into earning their living as prostitutes).

enforce morality—not to protect women.¹⁹ These alliances worked to address the immediate problems because conservatives had more social, cultural, and political clout than the feminists involved in these campaigns, and it was the conservatives who ultimately shaped the laws and the ways the laws were enforced—not the feminists.²⁰ So, the alliance of feminists with conservatives in social-purity campaigns (which is something that Judith Walkowitz has written quite extensively about²¹) displaced the energy onto campaigns to suppress prostitution, rather than to do things that actually would work to give women more economic and social resources.

The contemporary example of how forming an alliance can misdirect efforts can be seen in Indianapolis in 1984, where Catharine MacKinnon, who drafted the original anti-pornography ordinance with Andrea Dworkin, worked with Beulah Coughenour,²² a Stop-ERA activist, and Phyllis Schlafly of the Eagle Forum to pass the ordinance.²³ MacKinnon also worked with the Rev. Greg Dixon, who was the national secretary of the Moral Majority.²⁴ So, this “feminist law” was passed by the

19. See Dubois & Gordon, *supra* note 8, at 37 (describing how feminists campaigned to enforce moral standards through organizations such as the Women’s Christian Temperance Union).

20. See Walkowitz, *supra* note 7, at 432-34 (concluding that by the 1880s “feminists had lost considerable authority in the public discussion over sex to a coalition of male professional experts, conservative churchmen, and social purity advocates,” who changed the focus of the movement from one directed against state regulation to one that used the instruments of the state for repressive purposes, such as “crusades against prostitution, pornography, and homosexuality”).

21. See generally *id.* (arguing that, while feminists were able to arouse anger among women aimed at control by men, the fact that men and conservatives dominated politics prevented feminists from improving the social and economic status of women). For a more in-depth historical account of this subject, see JUDITH R. WALKOWITZ, *PROSTITUTION AND VICTORIAN SOCIETY: WOMEN, CLASS, AND THE STATE* (1980).

22. Beulah Coughenour, a conservative Republican member of the Indianapolis and Marion County City-County Council, was recruited by Mayor William Hudnut to introduce the ordinance locally. See Lisa Duggan, *Censorship in the Name of Feminism*, *VILLAGE VOICE*, Oct. 16, 1984, at 11, 12.

23. For an excerpt of the ordinance, see *supra* note 5. For a thorough account of the local—and national—politics surrounding the ordinance, see Duggan, *supra* note 22.

24. Duggan, *supra* note 22, at 11, 17 (stating that the Rev. Greg Dixon, pastor of the Indianapolis Baptist Temple, was closely allied with Phyllis Schlafly of the Eagle Forum in that both believe that women, as the “upholders of morality,” should be the leaders in the fight against pornography). The Moral Majority is a conservative lobbying group founded by the Rev. Jerry Falwell. See, e.g., Robert D. Hershey, Jr., *Falwell’s Gospel Hour Fined for Political Activity*, *N.Y. TIMES*, Apr. 7, 1993, at A16.

overwhelmingly Republican city council.²⁵ It was opposed locally by feminists,²⁶ by black politicians,²⁷ by the gay community,²⁸ and by the few Democrats on the city council.²⁹ But in their accounts of the events in Indianapolis, MacKinnon and others insist that there was no intent to form a coalition with conservatives.³⁰ They say this was a feminist law, that this was a feminist campaign. But the statement that the feminist anti-pornography movement has never collaborated with the right wing is possible only by reinterpreting Beulah Coughenour's motives as feminist, which is—to put it mildly—a stretch. So, the same problem of collaboration with conservatives, whose agenda is explicitly anti-feminist and misogynist, reappears. The problem has to do with the shaping of the law, the meaning of the law, and the understanding people give the law, as well as how the law is enforced and how it is interpreted by judges.

This problem leads us to the third reason why feminist historians think critically about anti-pornography campaigns and legislative strategies: they inevitably harm women. Among the more appalling examples are the practical applications of the anti-prostitution laws that I just mentioned. Those laws operated to penalize primarily women. Women were arrested

25. See Duggan, *supra* note 22, at 16 (reporting that all the Republican councilmembers voted in favor of the ordinance).

26. See *id.* at 12 (discussing, for example, how Sheila Sues Kennedy, a local Republican attorney and a public advocate for women's equal rights, spoke out against the ordinance and was angered by the fact that anti-women's rights politicians used the opportunity to present themselves with a feminist gloss).

27. See *id.* at 12, 16 (noting that many members of Indianapolis's black community feared that efforts to litigate against pornography would overload the Equal Opportunity Board, which was already burdened with a vast number of race and sex discrimination cases).

28. See *id.* at 12 (noting that Kathy Sarris, president of Justice, Inc., an Indiana statewide lesbian and gay rights advocacy organization, strongly opposed the ordinance).

29. See *id.* at 16 (reporting that although all 24 Republican councilmembers supported the ordinance, all five Democratic members voted against it).

30. See Catharine A. MacKinnon, *Letter to the Editor*, N.Y. TIMES, Mar. 11, 1990, § 7 (Book Review), at 34 (criticizing a book review and stating that "[a]mong the many legislators with whom we worked on the [Indianapolis] ordinance, one [was] a political conservative" and that wherever such ordinances are introduced "liberals and conservatives vote both for it and against it"); see also Dorchen Liedholdt, *Introduction to THE SEXUAL LIBERALS AND THE ATTACK ON FEMINISM* at ix, xiv-xv (Dorchen Liedholdt & Janice G. Raymond eds., 1990) ("Political reality notwithstanding, sexual liberals floated the rumor that feminists had formed an alliance with conservatives to fight pornography. It didn't matter that the sexual liberals were unable to muster any evidence to support their allegations.").

under those laws.³¹ Women, not men, were harassed under those laws. And those laws ended up making the lives of women in cities more dangerous, more difficult. A recent example is the help that MacKinnon has given to the Canadian judiciary in interpreting their obscenity law.³² Under this "feminist" interpretation the first prosecution was of a lesbian publication.³³ An earlier example is the collaboration of the social-purity movement with figures such as Anthony Comstock to produce laws that resulted in the persecution of Margaret Sanger.³⁴ The anti-pornography campaigns in some sense helped to motivate and legitimate the notion that obscenity was dangerous, which led the National Endowment for the Arts to discontinue funding several lesbian and gay and feminist artists.³⁵

The fourth reason why feminist historians uniformly criticize this strategy concerns the historical analysis underlying it: pornography causes

31. See, e.g., ROSEN, *supra* note 11, at 19-20, 25 (reporting that judges in the late-nineteenth century sent female sexual offenders to reformatories or to county workhouses); Gail Pheterson, *Not Repeating History*, in A VINDICATION OF THE RIGHTS OF WHORES 3 (Gail Pheterson ed., 1989) (discussing the repression of prostitutes on an international scale).

32. See Karen Busby, LEAF and Pornography: Litigating on Equality and Sexual Representations 1 n.1 (Oct. 1, 1993) (unpublished manuscript, originally presented at the Toronto conference *Politics of Desire: Pornography, Erotica, Freedom of Expression*, on file with the *New York Law School Law Review*) (stating that the Women's Legal Education and Action Fund's (LEAF) factum in *R. v. Butler*, [1992] 1 S.C.R. 452 (Can.), was written in three weeks by, among others, Catharine MacKinnon). The Canadian Supreme Court in *Butler* held that sexually explicit material that is "degrading" or "dehumanizing" is illegal in Canada because of its potential to harm women. See 1 S.C.R. at 505.

33. See *International News in Brief: Canada*, ADVOCATE, June 2, 1992, at 27 (reporting that the first prosecution under Canadian obscenity law, *Glad Day Bookshop, Inc. v. Deputy of Nat'l Revenue for Customs and Excise*, 1992 Ont. C.J. LEXIS 1296 (July 14, 1992), involved a lesbian erotic magazine, *Bad Attitude*, sold at Canada's largest gay and lesbian bookstore).

34. See generally ELLEN CHESLER, *WOMAN OF VALOR: MARGARET SANGER AND THE BIRTH CONTROL MOVEMENT IN AMERICA* (1992) (discussing the life of Margaret Sanger, who was put in jail in 1917 for distributing contraceptives to women); MARGARET SANGER, *MY FIGHT FOR BIRTH CONTROL* (1969) (giving an autobiographical account of the author's struggle to supply women with contraceptives at the turn of the century).

35. See MARJORIE HEINS, *SEX, SIN AND BLASPHEMY: A GUIDE TO AMERICA'S CENSORSHIP WARS* 132 (1993) (discussing the National Endowment for the Arts's denial of grants to three homosexual artists, who used themes of gay experiences and homophobia in their work); Carole S. Vance, *Misunderstanding Obscenity*, ART AM., May 1990, at 49 (tracing the development and effect of the NEA legislation).

misogyny and violence against women.³⁶ That argument has absolutely no basis as an historical claim because the mass availability of pornography since World War II certainly cannot have caused violence and misogyny; they have existed for centuries. This argument has no merit as a cross-cultural claim because the status of women does not increase in societies that suppress sexually explicit materials³⁷—whether it's the State of Utah or Saudi Arabia.³⁸ There is simply no direct correlation between suppressing sexually explicit material and improving the status of women. So, on a very mechanical level, as a cross-cultural and historical claim, this causal analysis is much too simple.

This is not to say that misogyny and pornography or sexually explicit materials have no importance or that we shouldn't criticize them. Certainly we should, in the same way we criticize and organize against misogyny in television, in novels, in advertising. But it makes as much sense to organize a group called Women Against the Novel as it does to organize Women Against Porn. We're against *misogyny* in sexually explicit materials. We're not against sexually explicit materials per se.

In conclusion, I want to say that this is still very relevant; it isn't just about the 1980s or the turn of the century. Renewed efforts—from the Pornography Victims' Compensation Act³⁹ to local initiatives⁴⁰—are constantly popping up, attempting to regulate and suppress sexually explicit images and sexually explicit speech. In our strategies we need to carefully separate the question of sexual explicitness from the question of misogyny and the question of violence. We also need to think about what we mean when we casually throw around the word *violence* because much consensual sado-masochistic imagery is referred to as "violence," and distinctions need to be made. We don't always agree about what is or isn't sexist, and we need to talk about that as well. We need to very carefully make these distinctions in our political analysis and in our legislative

36. See Wendy Kaminer, *Feminists Against the First Amendment*, ATLANTIC, Nov. 1992, at 111, 114 ("The feminist case against pornography is based on the presumption that the link between pornography and sexual violence is clear, simple, and inexorable. The argument is familiar: censorship campaigns always blame unwanted speech for unwanted behavior . . .").

37. See, e.g., Michael S. Kimmel, *Does Pornography Cause Rape?*, VIOLENCE UPDATE (Sage Newsletters, Seattle, Wash.), June 1993, at 1 (noting, for example, that a study of six cities that had banned the sale of pornography showed no decrease in the incidence of rape, casting doubt on the theory that there is a correlation between rape and the sale of pornography).

38. See Kaminer, *supra* note 36, at 114 (noting that women are not necessarily safe in Saudi Arabia, although commercial pornography is illegal there).

39. S. 1226, 101st Cong., 1st Sess. (1989); S. 1521, 102d Cong., 1st Sess. (1991).

40. See *supra* notes 2-5 and accompanying text.

efforts because if we do not, we will end up being co-opted into and collaborating with right-wing efforts that are not now—and have never been—in the interests of women or of feminists.

