

Reevaluating Anti-Pornography Arguments: Definitions and Ramifications

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Defense Date: April 1, 2024

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Thesis submitted in partial fulfillment of the requirements for the degree of
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ABSTRACT

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Abstract

In this essay, I reexamine the anti-pornography argument put forward by feminist scholars such as Catherine MacKinnon and Rae Langton in the contemporary context from a culturally distinctive perspective. In my analysis, I take issue with two problems in the anti-pornography argument: its arbitrary distinction between pornography and erotica, and its oversight of how the regulation of pornography could potentially reinforce women's subordination. As such, I conclude that the regulation of pornography is neither pragmatic given its prevalent digital distribution in the contemporary world, nor beneficial to its cause. As an alternative, I propose that we open to the possibility of feminist pornography, which potentially enables women to express their sexuality and regain control of their bodies.

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1. Introduction

The regulation of pornography has been a major source of scholarly debate since the late 1980s. Key questions in this debate center on whether pornography constitutes harm and silences women, and whether its prohibition can be justified without infringing on the principles of free speech. The anti-pornography camp, led by feminist scholars such as Andrea Dworkin and Catherine MacKinnon, advocated for legal restrictions against pornography, arguing that pornography represents a violation of women's civil rights as it subordinates, dehumanizes, and objectifies women.¹ However, despite its efforts to characterize pornography as a wrongful action and to address concerns regarding free speech, the MacKinnon-Dworkin Ordinance was ultimately found unconstitutional by the district court in 1985, on the basis that it violates First Amendment rights.² In light of this legal defeat, Rae Langton reconstructed the MacKinnon/Dworkin anti-pornography argument using J. L. Austin's speech act theory.³ By demonstrating that pornography, as an illocutionary speech act, silences women, Langton framed the anti-pornography argument as a fight for women's equal rights to free speech, thereby circumventing the contention surrounding free speech censorship.

The anti-pornography arguments, as previously described, were heavily influenced by their historical, cultural, and political contexts. The forms and distributions

¹ See the MacKinnon-Dworkin Ordinance, 1983.

² *American Booksellers Association, Inc. v. Hudnut*, 771 F.2d 323 (7th Cir. 1985).

³ Rae Langton, "Speech Acts and Unspeakable Acts," *Philosophy & Public Affairs* 22, no. 4 (1993), 293-330.

of pornography, as construed in these arguments, differ significantly from what they are today. In the contemporary world, the digital distribution of pornography has not only made it more readily accessible but also given rise to a variety of forms, some of which are non-violent, lack a male-dominant perspective, and thus more friendly and appealing to a female audience. In addition, the emergence of social media platforms like OnlyFans not only shifts the adult entertainment industry but also challenges traditional perceptions of pornography. On these platforms, women can create and monetize their content through subscriptions or pay-per-view models.⁴ These platforms arguably allow women to have greater agency in determining how their bodies are portrayed in sexualized content, as well as in setting its price. In this case, the argument that pornography inherently exploits women seems less compelling, considering that women on these platforms consciously choose to produce pornographic content and have ownership of their labor and production. Moreover, both MacKinnon's and Langton's arguments are specifically tailored to address challenges related to the First Amendment right to free speech. This situates them within a legal and political context that is uniquely American and, arguably, within a social and cultural context that is predominantly Western-centric. As such, these arguments fall short of evaluating the ramifications of pornography regulation in non-Western contexts, some of which still treat sex as a taboo and prohibit all sexually explicit content. They also fail to consider the potential impact of U.S.

⁴ Note that not all content on OnlyFans is sexualized, but the platform is mostly known for attracting sex workers and displaying sexualized content. For details regarding content ownership, subscription, and pay-per-view models, see *Terms of Services*, ONLYFANS, <https://onlyfans.com/terms>.

regulations on pornography industries in other countries, given that pornography is digitally and globally distributed in the contemporary world.

In other words, the specificity of these historical, cultural, and political contexts limits the applicability of the anti-pornography arguments proposed by MacKinnon and Langton in the contemporary context as well as across diverse cultural settings. Recognizing these limitations, this essay attempts to reevaluate the anti-pornography arguments by situating them within a contemporary context and taking into account a culturally distinctive perspective. In what follows, I will first outline the anti-pornography arguments as formulated by MacKinnon and Langton. I intend to show that while Langton refines MacKinnon's approach by applying the speech act theory, her conceptualization of pornography remains consistent with that of MacKinnon. I then critically assess their shared definition of pornography, focusing specifically on the distinction they draw between pornography and erotica. I argue that this distinction is not only ambiguous but also problematic for understanding and conceptualizing sexuality in society, since it inadvertently reinforces the stereotypes associated with male and female sexuality and reaffirms gender dualism. Following this, I will examine the anti-pornography arguments within distinct cultural and social contexts, focusing specifically on non-Western settings. My analysis centers on two aspects. First, I argue that regulatory measures might be ineffective in eliminating pornography and addressing female subordination. Second, and more importantly, I demonstrate the stakes of such regulations, illustrating how they could potentially regulate women's desire, restrict their sexual agency, and further diminish their control over their bodies. Finally, I evaluate

alternative forms of pornography as opposed to the male-dominant, violent, hard-core form. This includes assessing the possibility and implications of feminist porn. With this analysis, I do not intend to articulate a standard for determining and categorizing feminist porn; rather, I suggest that it is crucial to stay open to possibility of feminist porn, since it provides us with an opportunity to transform the pornography industry towards a less violent and more liberating direction.

2. Defining Pornography: What it is and What it Does

2.1 MacKinnon: Pornography Subordinates Women

In “Francis Biddle’s Sister,” MacKinnon defines pornography as “the graphic sexually explicit *subordination* of women through pictures or words that also includes women dehumanized as sexual objects, things, or commodities.”⁵ This definition is rooted in her characterization of pornography that:

Pornography sexualizes rape, battery, sexual harassment, prostitution, and child sexual abuse; it thereby celebrates, promotes, authorizes, and legitimizes them. More generally, it eroticizes the dominance and submission that is the dynamics common to them all. It makes hierarchy sexy and calls that “the truth about sex” or just a mirror of reality. Through this process pornography constructs what a woman is as what men want from sex. This is what the pornography means.⁶

In other words, MacKinnon contends that pornography creates a sexual reality where women are portrayed as sexual objects accessible to men. By constructing male sexuality as the possession and consumption of women as sexual objects, while depicting female sexuality as being possessed and consumed, pornography imbues sexuality with male supremacist connotations.⁷ As such, MacKinnon concludes that pornography inherently subordinates, objectifies, and degrades women by institutionalizing male supremacy and gender inequality.

It is worth noting that MacKinnon defines pornography in terms of what it does rather than what it is. She states that “The definition does not include all sexually explicit

⁵ Catherine A. MacKinnon, “Francis Biddle’s Sister: Pornography, Civil Rights, and Speech,” *Feminism Unmodified* (Cambridge: Harvard University Press, 1987), 176.

⁶ *Ibid*, 171.

⁷ *Ibid*, 173.

depictions of the subordination of women. That is not what it says. It says, this which does that: the sexually explicit that subordinates women.”⁸ This articulation is thoughtfully crafted. On one hand, it avoids categorizing the sexually explicit content that intends to disclose and resist female subordination as pornography. On the other hand, by adopting a structure that articulates ‘this which does that’—namely, the sexually explicit material that subordinates women—MacKinnon effectively highlights the actions and consequences of pornography without having to specify its exact contents and boundaries. This allows MacKinnon to emphasize the actlike, rather than thoughtlike, nature of pornography, supporting her claim that pornography is not merely an expression of idea through pictures and videos, but a wrongful action that inflicts harm upon women.

MacKinnon's approach, though ambitious, is inadequate. As Robert Scott Stewart points out, MacKinnon’s definition “is guilty of begging the case by assuming what it is supposed to prove; namely, that porn is guilty of all the things this definition *stipulates* at the outset.”⁹ In other words, pornography is not afforded the presumption of innocence until proven guilty in MacKinnon’s analysis, since its crime is prescribed in its definition from the very beginning. By defining pornography as ‘the sexually explicit that subordinates women,’ MacKinnon presupposes the very subordination of women she needs to substantiate, thereby conflating her conclusion with her definition. While I understand that this approach might be intentional, reflecting MacKinnon’s concern about substantive sexual inequality and her critique of neutrality and abstraction, her definition

⁸ Ibid, 176.

⁹ Robert Scott Stewart, “Is Feminist Porn Possible?” *Sexuality & Culture* (2019), 261.

of pornography unfortunately falls short. It becomes insubstantial precisely because it is deeply embedded in the context of radical feminism and detached from real-world perceptions of pornography. Ronald Dworkin is astute to highlight this point of detachment in his critique of MacKinnon's work. He contends that MacKinnon's characterization of pornography exaggerates sexual reality. Dworkin states: "Sadistic pornography is revolting, but it is not in general circulation, except for its milder, soft-porn manifestations. It seems unlikely that it has remotely the influence over how women's sexuality or character or talents are conceived by men, and indeed by women, that commercial advertising and soap operas have."¹⁰ Drawing a distinction between hard-core and soft-core pornography, Dworkin suggests that the former does not have as profound an impact on shaping the perceptions of women in reality as MacKinnon claims. In contrast, the latter—soft-core pornography—is not only more pervasive in popular culture but also tends to be less violent, aggressive, and harmful, which makes the argument for its regulation less compelling and harder to substantiate.

Dworkin's critique exposes the inherent ambiguities in MacKinnon's definition of pornography, especially regarding its content and effects. By treating all kinds of pornographic content indiscriminately, MacKinnon fails to address how various types of pornography might subordinate women in distinct ways and cause different levels of harm. In fact, MacKinnon's description of pornography ranges from the hard-core, violent, sadistic type that portrays women as "enjoying pain or humiliation or rape" and "being tied up, cut up, mutilated, bruised, or physically hurt," to the milder, more

¹⁰ Ronald Dworkin, "Liberty and Pornography," *The New York Review* (1991), 4.

common variant that depicts women as being “in postures of display” and “reduced to body parts.”¹¹ While both types might involve a male-dominant perspective and thus be subordinating, their effects vary, as does their potential for transformation. However, because MacKinnon defines pornography in stipulative and overly broad terms, it is impossible to distinguish between hard-core and soft-core porn according to her definition. Consequently, it is unclear whether ‘the milder, soft-porn manifestations’ could be categorized as pornography under MacKinnon’s framework and how they might subordinate women. If MacKinnon considers soft-porn as pornography, then Dworkin’s criticism becomes particularly relevant—the impact of pornography might indeed be exaggerated. Although MacKinnon seeks to demonstrate the causal role of pornography in sexual abuse through experimental research, it remains challenging, if not impossible, to exclude or measure the influence of other factors that contribute to women’s subordination. As a result, it is more plausible that pornography reinforces, rather than constructs, a sexual reality where female subordination has already been coded and normalized. On the other hand, MacKinnon might reject the categorization of soft-porn as pornography, suggesting that what Dworkin describes as soft-porn falls under her definition of erotica. In this case, I argue that the distinction between pornography and erotica is even more problematic, a point I will explore in greater detail in the subsequent sections.

¹¹ Catherine A. MacKinnon, “Francis Biddle’s Sister: Pornography, Civil Rights, and Speech,” *Feminism Unmodified* (Cambridge: Harvard University Press, 1987), 176.

2.2 Langton: Pornography Silences Women

Building on MacKinnon's standpoint, Langton puts forward a more robust argument, asserting that pornography not only subordinates but also silences women. By adopting J. L. Austin's speech act theory to characterize pornography as an illocutionary speech act, Langton effectively shifts the anti-pornography debate from a struggle between the values of freedom and equality to a contention over the freedom of expression itself. This transition significantly strengthens the anti-pornography stance, especially against criticisms that concern its violation of First Amendment rights.

In *How to Do Things with Words*, Austin introduces the concept of illocutionary act, which he defines as the "performance of an act *in* saying something as opposed to performance of an act *of* saying something."¹² Illocutionary force is essential for the performance of an illocutionary act. As Langton articulates it, "an utterance has illocutionary force of a certain kind when it satisfies certain felicity conditions, [which] are typically set by conventions, written or unwritten, and typically require that the speaker is intending to do something with his words."¹³ Pornography, for Langton, is an illocutionary speech act because it possesses such illocutionary force, a force primarily derived from and sustained by the authority of its speakers in the discourse on sex. Focusing on the illocutionary force of pornography, rather than its locutionary content or perlocutionary effect, Langton bypasses the challenges MacKinnon encountered in

¹² J. L. Austin, *How to Do Things with Words* (Oxford: Oxford University Press, 1962), 99.

¹³ Rae Langton, "Speech Acts and Unspeakable Acts," *Philosophy & Public Affairs* 22, no. 4 (1993), 301.

establishing the causality between pornography and its effects, and more directly demonstrates how pornography subordinates women as a speech act merely in its utterance.

Moreover, Langton contends that pornography silences women by disabling them from performing illocutionary acts in the domain of speech about sex. This kind of silencing is caused by what Langton calls *illocutionary disablement*. Illocutionary disablement occurs when “the appropriate words are uttered, with the appropriate intention, [but] the speaker fails to perform the intended illocutionary act.”¹⁴ In other words, Langton suggests that pornography deprives women’s speech of its intended illocutionary force in the language games of sex. For example, a woman experiences illocutionary disablement when her utterance of “no” is taken as a “yes” during a sexual advance.¹⁵ In this context, the utterance “no” loses its illocutionary force and fails to be recognized as a refusal. This is because its primary felicity condition—authority—is not met; it is significantly undermined, if not demolished, by the depictions of pornography, where women’s refusal is often eroticized or eliminated altogether. As such, Langton concludes that pornography silences women by destroying their authority and making refusal unspeakable for them.

So far Langton has made a compelling case against pornography, demonstrating how pornography subordinates and silences women as an illocutionary speech act. Nevertheless, I contend that Langton’s account inadequately addresses the following

¹⁴ Ibid, 315.

¹⁵ Ibid, 321.

questions: 1). What illocutionary force does pornography hold and where does its authority come from? 2). What kinds of pornographic content amount to the illocutionary subordination and silencing Langton describes? The first question has been extensively explored in scholarly debates. Leslie Green, for instance, points out that pornography does not have the authority of monopoly as Langton posits; it must compete with other putative social authorities like the state, the family, and the church in shaping social norms, which, in turn, considerably weakens its illocutionary force.¹⁶ In a similar vein, Nancy Bauer argues that pornography has only the power to influence people's beliefs and attitudes, rather than to fix social conventions; by asserting that pornography wields the latter form of power, Langton fails to acknowledge the individual agency and responsibility in recognizing and adopting the norms that pornography prescribes.¹⁷ I concur with Green and Bauer on this matter. However, I will not delve deeper into the discussion of authority, since it lies beyond the primary focus of this essay, and I have no additional insights to contribute.

Discussion on the second question has been comparatively limited. It brings us back to where this section begins—the definition of pornography and the effects of pornographic content. While we might accept Langton's view that pornography, as an illocutionary speech act, takes effect in its mere utterance, we must also recognize that the effect of pornography—the uptake it secures—is anchored in its content. Therefore, it

¹⁶ Leslie Green, "Pornographizing, Subordinating, and Silencing," *Censorship and Silencing: Practices of Cultural Regulation* (Los Angeles: The Getty Research Institute, 1998), 196.

¹⁷ Nancy Bauer, *How to Do Things with Pornography*, (Harvard University Press, 2015), 79-80.

is essential to examine what Langton's notion of pornography encompasses and whether different types of pornography hold distinct illocutionary forces in her framework. Langton's definition of pornography closely aligns with MacKinnon's. In fact, she uses MacKinnon's definition to illustrate the illocutionary nature of pornography. Langton states that "MacKinnon has a striking list of illocutionary verbs: 'Pornography sexualizes rape, battery, sexual harassment...and child sexual abuse; it... celebrates, promotes, authorizes and legitimates them.' These descriptions bear on the claim that pornography subordinates."¹⁸ In other words, Langton's argument is essentially built upon MacKinnon's definition of pornography, demonstrating how pornography, as defined under MacKinnon's terms, subordinates as an illocutionary speech act. This renders Langton's theory susceptible to the same problems that I previously identified in MacKinnon's argument, namely, its ambiguities.

Take the illocutionary disablement of women's refusal for example. In contexts of sexual advance, Langton suggests that pornography prevents women's utterance of "no" from taking effect and being recognized as a refusal, thereby silencing their speech and legitimatizing rape. Given that the illocutionary force of pornography hinges on whether it successfully secures its uptake, and since this uptake is determined by its content—specifically, how women's refusal is depicted in pornography—a crucial question arises: Do all types of pornography portray women's refusal as insignificant or sexually arousing? Langton's position is affirmative. However, my perspective diverges. Admittedly, the nature of pornographic content makes it difficult for refusal to be uttered

¹⁸ Rae Langton, "Speech Acts and Unspeakable Acts," 307.

explicitly—except in violent, hard-core scenarios, where women’s refusal is eroticized—because explicit refusal will negate the possibility of subsequent sexual scenes. Nevertheless, I contend that it is not only possible but also critical for consent to be clearly expressed in pornography. This can be achieved in various ways: by explicitly stating the consent of both performers and their characters at the beginning of a video, incorporating expressions of consent into the dialogue, and including warnings that remind the audience to seek consent in real-life sexual encounters. It is important to note that the manifest expression of consent is not inherently at odds with the locution of pornography or its intended perlocutionary effect of sexual arousal. In fact, the articulation of consent only seems impossible in Langton’s description of pornography because she stipulates its absence. While I acknowledge that consent might still be largely absent in much of today’s pornography, maintaining such a stipulation limits the potential to incorporate consent in future works, thereby precluding the possibility of any positive transformation within the pornography industry. Again, I anticipate that Langton might respond that sexually explicit material with expressed consent falls under the category of erotica, not pornography. However, I suggest that this distinction is neither clear-cut nor useful for understanding sexuality. I shall elaborate on this in the following sections.

3. The Distinction Between Pornography and Erotica

So far, I have examined how pornography is defined and construed in MacKinnon's and Langton's arguments. My goal is to demonstrate that both arguments focus on what pornography does rather than what it is. This approach is strategic. By shifting focus away from a content-based definition of pornography, MacKinnon and Langton aim to underscore how pornography subordinates and silences women by legitimatizing sexual violence, degrading women as sexual objects, and reinforcing sexual inequalities. Despite its normative appeal, I contend that this approach steers us away from the commonly perceived notion of pornography, further blurring the distinction between pornographic and non-pornographic materials in both legal and social contexts. Moreover, the arbitrary definition of pornography posited under the MacKinnon/Langton framework precludes the potential to distinguish different types of pornography, especially those that are non-violent and non-aggressive. Granted, MacKinnon/Langton might argue that there is only one kind of pornography—the one that subordinates women. What I describe as a distinction between hard-core and soft-core pornography might be, in their view, a distinction between pornography and erotica. Therefore, it is imperative to further examine how erotica is distinctly conceived from pornography according to MacKinnon and Langton.¹⁹ In my subsequent analysis, I intend

¹⁹ My following analysis will focus primarily on MacKinnon's work, since Langton's argument mainly addresses the linguistic aspect of pornography and lacks a detailed examination of its content. Given that Langton's argument is essentially built upon MacKinnon's framework, it stands to reason that her definitions of pornography and erotica closely align with MacKinnon's.

to show that this distinction is not only ambiguous and ill-founded, but also restrictive to our conceptions of male and female sexuality, and counterproductive to the feminist objective of advocating for sexual equality.

While the distinction between pornography and erotica is doing much work in MacKinnon's argument, MacKinnon spares little effort in defining erotica. Following her definition of pornography, she simply posits that: "Erotica, on the other hand, is defined by distinction as not this, might be sexually explicit materials premised on equality."²⁰ Put differently, for MacKinnon, the fundamental difference between pornography and erotica rests on their distinct premises: the latter is built upon the notion of sexual equality, whereas the former presupposes sexual inequality. However, this raises the following questions: What does it mean for sexually explicit materials to be produced on the premise of sexual equality? Is such production even possible in a sexist culture, where our perceptions of sexuality are essentially shaped and distorted by substantive sexual inequalities? MacKinnon provides no further explanation. In fact, I suspect that MacKinnon might not have a definitive answer to these questions, as she occasionally struggles to differentiate between pornography and erotica herself. She once asserted, "For me that obliterates the line, as a line at all, between pornography on one hand and erotica on the other, if what turns men on, what men find beautiful, is what degrades women."²¹ That is to say, it is meaningless to distinguish between pornography and erotica if we, as a society, are predisposed to reify women as sexual objects. If female

²⁰ Catherine A. MacKinnon, "Francis Biddle's Sister," 176.

²¹ Catherine A. MacKinnon, "Sex and Violence: A Perspective," *Feminism Unmodified*, 91.

subordination is already implied and deeply ingrained in male sexuality, then any sexually explicit material intended for men's sexual arousal becomes dehumanizing and demeaning to women.

MacKinnon's claim effectively bolsters my argument about the inherent ambiguities in the distinction between pornography and erotica. However, my investigation does not end here, as we have not exhausted all the possibilities. By suggesting that any sexually explicit content that turns men on might degrade women, MacKinnon leaves us with one last resort to disentangle the conception of erotica from pornography: erotica might be considered as sexually explicit content designed to stimulate women's sexual desire. As such, erotica might be grounded in sexual equality because it equally values and celebrates women's sexual gratification. While men can be aroused by erotica, this arousal does not stem from a form of power asymmetry that stipulates women's inferiority. Erotica, construed in this sense, seems appealing and merits a closer examination. Due to the limited descriptions of erotica in MacKinnon's work, I turned to the reference in her notes, which led me to Gloria Steinem's *Outrageous Acts and Everyday Rebellions*. In this book, Steinem explicates the conception of erotica and elucidates how it is normatively distinct from pornography. By looking into Steinem's analysis, I hope to gain a better understanding of what MacKinnon might mean by erotica.

According to Steinem, erotica is described as: "images of people making love; really making love. Those images may be very diverse, but there is likely to be a mutual pleasure and touch and warmth, an empathy for each other's bodies and nerve endings, a

shared sensuality and a spontaneous sense of two people who are there because they want to be.”²² Pornography, on the hand, presents “images of sex in which there is force, violence, or symbols of unequal power. They may be very blatant: whips and chains of bondage, even torture and murder presented as sexually titillating, the clear evidence of wounds and bruises, or an adult’s power being used sexually over a child.”²³ In her description, Steinem draws a stark contrast between erotica and pornography: erotica manifests love, mutuality, and empathy, whereas pornography embodies violence, sadism, and asymmetrical power relationships. While it is tempting to distinguish pornography and erotica based on Steinem’s characterizations, I suggest that they are inherently fallible and potentially misleading. To begin with, Steinem’s conception of erotica does not amount to the notion of sexual equality, nor does her depiction of pornography invariably lead to sexual inequality. While erotica is characterized by terms like ‘love,’ ‘warmth,’ and ‘empathy for each other’s bodies’ in Steinem’s account, it remains unclear how these characteristics relate and attest to the principles of sexual equality. While concurring that equality and mutual respect are crucial in any sexually explicit content or sexual encounter, I question whether these factors necessarily engender a certain level of emotional connection in either the perception of such content or the activity itself. In other words, it is entirely plausible that scenes or interactions predicated on equality might be viewed as purely sexual or strictly professional, if we

²² Gloria Steinem, *Outrageous Acts and Everyday Rebellions* (Holt Paperbacks, 1995), 479.

²³ *Ibid.*

were to take equality as to mean the equal display of nudity, the absence of a male dominant perspective, and the explicit inclusion of consent in this context.

Moreover, Steinem's description of pornography features tokens typically associated with sadomasochism, including the use of whips and bondage, and the display of bruises and wounds. Nevertheless, it is not axiomatically true that sadomasochism endorses sexual inequality or perpetuates female subordination. In fact, the feminist discourse remains largely divided on sadomasochism. On one hand, radical feminists maintain that sadistic pornography not only legitimatizes violence against women but also institutionalizes and reinforces the system of male domination and female subordination. On the other hand, pro-sex feminists, along with sadomasochism advocates, argue that sadistic pornography is substantially misconstrued and misrepresented by the anti-pornography movement. They claim that sadomasochism is not inherently misogynist or anti-feminist, nor does it condone or support violence against women.²⁴ In fact, some practitioners of sadomasochism, who also identify as feminists, view and participate in these practices as acts of rebellion against patriarchal norms and conventional sexuality.²⁵ While this debate extends beyond the scope of this essay and is far from being settled, I simply propose that the depictions of violence or sadomasochism scenes are not necessarily founded on the premise of sexual inequality, and that it is possible for these practices to be a site of resistance.

²⁴ Patrick D. Hopkins, "Rethinking Sadomasochism: Feminism, Interpretation, and Simulation," *Hypatia* 9, no. 1 (1994), 122-123.

²⁵ Pat Califia, "Feminism and Sadomasochism," *Public Sex: the Culture of Radical Sex* (Cleis Press, 2000).

In sum, I have demonstrated that Steinem's characterizations of pornography and erotica are fallacious and unsubstantiated. In her analysis, pornography and erotica are portrayed and distinguished on the basis of what women desire from sex and what men desire from sex, rather than on the principles of sexual equality. My objection here is not to the notion of catering to women's sexual desires, but rather to the problematic association of violence with male sexuality and sentimentality with female sexuality. According to this binary perspective, women enjoy sex because they are 'making love,' whereas men enjoy sex because they take pleasure in the torture, humiliation, and the subordination of women. Consequently, love and empathy are imprinted in the gendered and sexual experiences of women, just as violence and aggression are in the construction of male sexuality. As such, Steinem establishes a false dichotomy between male and female sexuality. This dichotomy is particularly troubling, because it not only compels us to perceive and understand sexuality solely through the lens of gender experiences but also reinforces gender dualism and gender stereotypes, offering little benefit to the understanding or potential transformation of our conceptions of sexuality.

Regrettably, MacKinnon's perspective closely aligns with that of Steinem. By positing that "pornography turns primarily men on," Mackinnon implies that erotica, defined as the antithesis of pornography, predominantly stimulates women.²⁶ However, this raises some critical questions: Why is it assumed that pornography cannot arouse women? Why is women's sexual desire construed as inherently antithetical to that of men? Why should female sexuality be considered separately from male sexuality in the

²⁶ Catherine A. MacKinnon, "Sex and Violence: A Perspective," *Feminism Unmodified*, 91.

pursuit of equality? I contend that the opposition between male and female sexuality, as reflected in the distinction between pornography and erotica, is essentially unhelpful, if not counterproductive, to the feminist agenda of promoting sexual equality. Given that the prevailing discourse on sexuality is largely shaped by heterosexual, male-dominant perspectives, the advancement of women's sexual equality necessitates disrupting, resisting, and contesting this discourse. However, the separation of female sexuality from male sexuality is likely to result in its marginalization, thereby preventing it from effectively participating and potentially transforming the dominant discourse surrounding male sexuality. Moreover, by conceptualizing gender as in the heterosexual male pornography she analyzes, where “the subject positions of male and female are depicted as relentlessly dualistic and absolute, figured literally, not metaphorically or qualifiedly, as subject and object, person and thing, dominant and subordinate,” MacKinnon inadvertently mirrors, rather than deconstructs, the heterosexual male pornography she sets out to criticize.²⁷ Therefore, while I am eager to celebrate female sexuality, I aim to do so without confining it to the traditional conception of romantic sex, positioning it as the antithesis of male sexuality, or treating it as separate yet ostensibly equal. In this regard, I find the binary distinction between pornography and erotica, as advocated by MacKinnon and Steinem, unconstructive and problematic.

²⁷ Wendy Brown, “The Mirror of Pornography,” *States of Injury: Power and Freedom in Late Modernity* (New Jersey: Princeton University Press, 1995), 88.

4. Pornography and Regulation

Having thoroughly examined the conception of pornography and rejected its arbitrary distinction from erotica, I now shift focus to investigating another critical aspect of the anti-pornography argument—the implications of regulating pornography. The legal framework is pivotal in considering the anti-pornography claim. While it stands separate, it is deeply intertwined with the social and political contexts, both influencing and being shaped by these aspects. Due to its unique nature, even feminists who sympathize with the cause of anti-pornography movement might resist legal restrictions on pornography. Drucilla Cornell, for one, finds the legal approach to pornography ineffective. She posits that “Law is, at least in part, a force for accommodation to current social norms, even if it also provides us with a critical edge in its normative concepts such as equality. But feminism expresses an aspiration to struggle beyond accommodation, beyond those symbolic forms that have been deeply inscribed in and by the structures of gender.”²⁸ In essence, Cornell suggests that the legal framework is inherently limited by the historical and social constructions of femininity. In the very stipulations of the legal statute, there exists a risk of reducing women to the object, the subordinate, and the victims in need of protection. As such, Cornell argues, legal regulations fall short in advancing women’s struggle towards equality.

I concur with Cornell that social, cultural, and political contexts play a significant role in the struggle for women’s equality. It is in the specificity of these contexts that

²⁸ Drucilla Cornell, “Pornography’s Temptation,” *Feminism & Pornography* (Oxford: Oxford University Press, 2000), 151.

we understand how women's gendered and sexual experiences have been constructed, and strive to dismantle and challenge these constructions. However, the anti-pornography argument, as put forward by MacKinnon and Langton, fails to address the specificity of different social and cultural contexts, along with their production of distinct social norms surrounding gender and sexuality. As Wendy Brown insightfully points out in her critique of MacKinnon's theory, "differences among women dissolve when sexuality is grasped as the universal axis of subordination."²⁹ Recognizing the Western-centric perspective of the anti-pornography narrative, I aim to explore the ramifications of regulating pornography in non-Western contexts. In my analysis, I seek to demonstrate that such regulation might institutionalize control over women's bodies and sexual desires, mirroring MacKinnon's claim that pornography institutionalizes women's subordination.

I begin by clarifying what I mean by non-Western contexts and acknowledging the limitations of my own perspective in this analysis. Given that the anti-pornography movement originated in a distinctly Western context, it might naturally overlook the prevalent norms of gender and sexuality in East Asian contexts—norms profoundly influenced by the cultural heritage of Confucianism. Essentially, "this cultural heritage has shaped the context in which East Asian sexualities are lived and understood and in which feminists seek to advance their cause: Confucianism is thus often cited in Eastern feminist writings as a major barrier to gender equality and women's sexual autonomy."³⁰

²⁹ Wendy Brown, "The Mirror of Pornography," 88.

³⁰ Stevi Jackson, Jieyu Liu, and Juhyun Woo, *East Asian Sexualities: Modernity, Gender and New Sexual Cultures* (Zed Books, 2008), 9.

Despite the significant and continuous impact of Confucianism on East Asian cultures, I am nonetheless aware of the diversity of experiences across East Asian societies, as well as the various schools of Confucian thought that have evolved over time. That said, my analysis will focus on the norms prominently featured in Confucian scriptures, without delving into the nitty-gritty of its political and philosophical ideologies. I also recognize that my perspective is inherently limited, as it is grounded in the context of mainland China and might not fully represent the unique social and culture experiences of Japan and Korea. Nevertheless, I maintain that it is meaningful to examine the perceptions of sexuality and pornography in East Asian contexts, while being mindful not to obscure the differences among them.

Confucianism is regarded by East Asian feminists as an impediment to gender equality with good reason. Under Confucian scriptures, a woman is assigned three roles in her lifetime: “the sexual object and possession of the man, the child-bearing tool to carry on her husband’s family name, and the servant to the whole family.”³¹ While the reification of women as sexual objects and their reduction to mere reproductive functions are also prevalent in Western societies, I propose that the emphasis on women’s chastity, as prescribed by Confucianism, has a distinct and enduring impact on the conceptions of sexuality in East Asian contexts. As Lin points out, “Worship of chastity, which [Confucian scholars] so highly prized in women, became something of a psychological obsession, and women were henceforth to be responsible for social morals, from which

³¹ Xiongya Gao, “Women Existing for Men: Confucianism and Social Injustice against Women in China,” *Race, Gender & Class* 10, no. 3 (2003), 118.

the men were exempt.”³² According to Confucian doctrines, it is considered honorable for women to commit suicide or keep widowhood following their husbands’ deaths, while remarrying is viewed as immoral or met with contempt.³³ Although the explicit worship of chastity is no longer a dominant narrative in contemporary East Asian societies, its influence remains deeply embedded within their cultures, continuing to govern women's bodies and sexuality. This cultural norm casts women as the passive participants in sexual encounters and restricts them from expressing sexual desires.³⁴ It also imposes shame on the female body, making it not only an object of sexualization but also a subject of cultural taboo. While men are permitted to make unsolicited comments about female bodies, it is deemed shameful for women to publicly discuss sex, menstruation, and contraception. This feeling of shame begins early in a woman’s life, marked by a lack of sex education and the reticence surrounding menstruation. It persists throughout her life, manifesting in the form of slut-shaming and victim-blaming in incidents of rape and sexual harassment. Consequently, the female body remains constrained and stigmatized in East Asian societies, with its sexuality being suppressed and under-acknowledged.

³² Yutang Lin, *My country and my people* (New York: John Day Company, 2010), 141.

³³ For reference, see *The Biographies of Exemplary Women*.

³⁴ Stevi Jackson, Jieyu Liu, and Juhyun Woo, *East Asian Sexualities: Modernity, Gender and New Sexual Cultures*, 17.

Unsurprisingly, pornography still prevails in societies where sex is considered a cultural taboo.³⁵ Despite its prevalence, research on pornography and sexuality remains scarce and is often met with challenges. This scarcity can, in part, be attributed to the perception of such topics as undignified or rebellious in universities. Additionally, the reluctance of individuals to discuss their personal consumption of pornography further complicates research efforts.³⁶ This stark contrast between the widespread consumption of pornography and its limited academic studies sheds light on the distinct gendered and sexual experiences of women in East Asian societies, characterized by shame, suppression, and a sense of invisibility. That is to say, the powerlessness of women in these societies is manifested not only in the depictions of their subordination within pornography, but more profoundly in the overwhelming reticence, if not absence, of discourse on female sexuality. This inflicts a twofold oppression upon women: On one hand, women's bodies are objectified and consumed through pornography; on the other hand, they are reduced to mere reproductive functions, when the pornographic desire is dismissed or concealed under a veil of shame. As such, the challenge of realizing sexual equality in East Asian societies extend beyond the objectification of women in pornography; it lies more prominently on the lack of recognition of women's objectification, caused by the interplay of shame and cultural taboo. The pervasive

³⁵ Despite their shared cultural heritage, I acknowledge that the treatment of pornography varies across East Asian societies, largely influenced by their respective political and legal settings. For example, while pornography is legal in Japan and Taiwan, it is prohibited in mainland China and South Korea. However, irrespective of the legal regulations in place, pornography remains widely accessible in these societies, particularly through online platforms.

³⁶ Katrien Jacobs, Thomas Baudinette, and Alexandra Hambleton, *East Asian Pornographies and Online Porn cultures* (Taylor & Francis, 2023), 250-257.

silence surrounding the discourse on sexuality not only exacerbates the difficulties in confronting women's exploitation in the pornography industry but also hinders women from understanding and expressing their sexuality, as well as taking control over their bodies. Therefore, it is imperative to disrupt this silence to address women's oppression. This entails empowering women with the epistemic capacity to articulate their struggles in public discourse, enabling them to assert sexual agency over their bodies, as well as dismantling the shame and taboo traditionally associated with the discussion of sexuality.

However, I contend that the regulation of pornography is not only ineffective but also potentially harmful in achieving these critical endeavors. Consider that female subordination persists in regions with strict legal restrictions on pornography. This suggests that pornography more likely reflects the existing subordination of women, influenced by oppressive cultural norms and entrenched patriarchal structures, rather than being its root cause. Therefore, regulating pornography could merely obscure and bury these deep-seated issues without truly resolving them. Moreover, when enacted by male-dominant political institutions, legal regulations of pornography might align with and even embody the patriarchal power and oppression. By regulating the discourse on sexuality, female sexuality in particular, such regulations institutionalize control over women's bodies, instill shame into their perceptions of sexuality, and thus contribute to their alienation and oppression. Fundamentally, these regulations cater to the interests of those in power, reinforcing patriarchal dominance by denying women sexual agency and reducing their bodies to objects for sexual gratification and reproduction. Consequently, in these specific contexts, I suggest that regulatory measures might impede the liberation

of women's bodies and sexuality. On the other hand, a more permissive stance on pornography might not only facilitate the recognition and normalization of women's sexual desires but also contribute to demolishing the enduring cultural remnants of oppressive norms rooted in Confucian traditions. I shall further explore this perspective in the subsequent section.

5. Alternative Proposal

To this point, I have established that the anti-pornography argument falls short, particularly in its arbitrary binary distinction between pornography and erotica, and its oversight of the ramifications of regulating pornography in non-Western contexts. Acknowledging these limitations, I now propose an alternative approach that seeks to address these specific concerns. First, I suggest that it is more useful to make a distinction between hard-core and soft-core pornography, rather than between pornography and erotica. I then explore the implications of my proposed distinction. I aim to show that this distinction is meaningful and pragmatic, since it opens up the possibility of women-friendly or feminist porn, a genre that could potentially transform pornographic content towards a less violent and male-dominant direction, as well as provide diverse avenues for women to express and explore their sexuality in various contexts.

To effectively distinguish between hard-core and soft-core pornography, it is essential to begin anew with a definition of pornography that is clear, non-prescriptive, and in line with how pornography is commonly perceived. In this respect, I find Michael Rae's definition to be both sufficient and useful. According to Rae, Pornography is defined based on two key conditions:

Part 1: *x* is *used (or treated) as pornography* by a person *S* 5_{DF} (i) *x* is a token of some sort of communicative material (picture, paragraph, phone call, performance, etc.), (ii) *S* desires to be sexually aroused or gratified by the communicative content of *x*, (iii) if *S* believes that the communicative content of *x* is intended to foster intimacy between *S* and the subjects of *x*, that belief is not among *S*'s reasons for attending to *x*'s content, and (iv) if *S*'s desire to be sexually aroused or gratified by the communicative

content of x were no longer among S 's reasons for attending to that content, S would have at most a weak desire to attend to x 's content.

Part 2: x is pornography 5_{DF} it is reasonable to believe that x will be used (or treated) as pornography by most of the audience for which it was produced.³⁷

Rae's definition of pornography stands in contrast to that of MacKinnon and Langton on two critical aspects. First, as indicated in condition (i) of Part 1, Rae emphasizes that it is the tokens, not types, that serve as the object of pornographic use or treatment. Second, as per conditions (ii) and (iv) of Part 1, along with Part 2, he posits that the intent of both producers and consumers is pivotal in identifying a token as pornography. This approach allows for the same token (for example, a nude photo of Marilyn Moore) to be considered as pornography in one context but not in another.³⁸ By focusing on the intended treatment and consumption of pornography, rather than its intrinsic properties, Rae's definition challenges the assertion espoused by the anti-pornography camp that pornography is ontologically different from other sexually explicit content or tokens, especially regarding sexual equality. As such, Rae's value-neutral definition paves the way for a more nuanced investigation into the relationship between pornography and women's subordination. It suggests that while some tokens of pornography are prone to degrade women as sexual objects and thus perpetuate their subordination, others might be more friendly to female audience and cater to their sexual desires. Consequently, this definition makes it possible for us to distinguish between hard-core and soft-core pornography, a distinction I propose

³⁷ Michael Rae, "What is Pornography?" *Noûs* 35 (2001), 134.

³⁸ *Ibid*, 135.

to be more beneficial than that between pornography and erotica. The reasons are as follows.

First, this proposed distinction dismisses the notion that pornography is inherently anti-feminist. Consequently, it opens up the possibility of women-friendly or feminist porn.³⁹ While its conceptions vary, I envision that feminist porn primarily:

uses sexually explicit imagery to contest and complicate dominant representations of gender, sexuality, race, ethnicity, class, ability, age, body type, and other identity markers. It explores concepts of desire, agency, power, beauty, and pleasure at their most confounding and difficult, including pleasure within and across inequality, in the face of injustice, and against the limits of gender hierarchy and both heteronormativity and homonormativity. It seeks to unsettle conventional definitions of sex and expand the language of sex as an erotic activity, an expression of identity, a power exchange, a cultural commodity, and even a new politics.⁴⁰

In other words, feminist porn could serve as a site of resistance against the heterosexual, male-dominant discourse on gender and sexuality. On one hand, it might resonate with female and queer audiences that socially and historically marginalized by such discourse, facilitating their sexual expression and liberation. On the other hand, it embodies the inherent diversity and fluidity of sexuality, constantly questioning, disrupting, and subverting the conventional narrative and norms around sex. As such, feminist porn holds profound cultural and social implications. It has the potential not only to counter the underlying issues of oppressive social norms and patriarchal structures often reflected in

³⁹ I propose that my definition of soft-core pornography entails what is typically understood as women-friendly and feminist porn.

⁴⁰ Tristan Taormino, Constance Penley, Celine Parrenas Shimizu, and Mireille Miller-Young, *The Feminist Porn Book* (The Feminist Press at CUNY, 2013), 9-10.

traditional pornography but also to provide a transformative lens through which we can reimagine and redefine the understanding of sexuality in contemporary society.

In addition to its cultural and social significance, the production of soft-core, women-friendly, feminist porn holds the potential to transform the pornography industry. The development of feminist porn might serve to not only challenge the dominance of hard-core pornography but also deconstruct the gender dualism prevalent in the industry, which typically casts men as consumers and women as sexual objects for consumption. Instead, embracing a feminist perspective could diversify narratives within pornography industry, effectively contesting and confronting the conventional pornographic gaze. After all, pornography is an industry driven by the monetization of sexual desires. While it undeniably influences our conceptions of sexuality, it is also shaped by our preferences as consumers—what we find desirable and what is considered profitable. Viewing pornography through the lens of its production and consumption thus opens the door to its reformation as an industry, whereas stipulating pornography as an inherently oppressive construct towards women precludes such dynamic and progressive possibilities.

Conclusion

In conclusion, this essay has offered a critical analysis of the anti-pornography arguments advanced by MacKinnon and Langton. I began by investigating their definitions of pornography, highlighting their inherent ambiguities and limitations. Subsequently, I examined the distinction between pornography and erotica as proposed in MacKinnon and Langton's framework. I contend that this division is not only arbitrary but also unconstructive to our understanding of sexuality, since it reflects gender dualism and reinforces the stereotypes associated with male and female sexuality. This examination points to the necessity of adopting a more transgressive approach to pornography in both legal and social contexts. Furthermore, my analysis extended to consider the ramifications of pornography regulation within non-Western contexts. I argue that in these specific contexts, regulatory measures against pornography may not only prove ineffective in addressing female subordination but also constrain women's sexual agency and regulate their sexuality. Following this, I shifted focus to proposing an alternative conception of pornography, particularly through the distinction between hard-core and soft-core pornography. I suggest that this distinction opens up the possibility of feminist porn, which holds the potential to not only transform the pornography industry but also contest and dismantle the conventional norms of gender and sexuality. Ultimately, this essay advocates for a nuanced and progressive understanding of pornography. It calls for an industry that adapts and evolves, promoting a discourse on sexuality that is inclusive, diverse, and empowering for women.

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