

PORNOGRAPHY, FEMINISM, AND THE FIRST AMENDMENT

Gail Oltmanns

(Gail Oltmanns is the Assistant Head of the Undergraduate Library, IU-Bloomington)

Pornography is a booming business. It has become more pervasive, intruding, and available than ever. It is a seven billion dollar a year industry and grosses more than the film and record industries combined. It has become more objectionable as the limits to acceptable pornography have expanded to include "hard-core" material formerly unimaginable to most people. Deep concern has arisen and is complicated by the many issues involved in the question of pornography. Feminists and moralists object to pornography for different reasons. Civil libertarians believe that it would be an infringement of First Amendment rights to restrict pornography purveyors. Local governments are considering ordinances that would make it possible for a woman to bring legal action against procedures and distributors of pornography on the premise that her civil rights have been violated. The Supreme Court has attempted to define pornography but has done so only in ambiguous terms.

In 1957 in *Roth vs. United States*, the Supreme Court held that a published work is obscene if it a) appeals predominantly to prurient interests; b) is patently offensive by contemporary community standards; and, c) is utterly without redeeming social value. While the Court held that "obscenity is not within the area of constitutionally protected speech or press,"¹ this definition was not very useful in identifying what should be censored. In fact, so many obscenity cases were on the Court's calendar that a further attempt was made to clarify the Court's position. In *Miller vs. California* in 1973, the court ruled that a work could be found obscene if "the average person applying contemporary community standards" would find that the work a) appeals to the prurient interest; b) depicts or describes offensive sexual conduct and, c) lacks serious literary, artistic, political, or scientific value. The most important feature of this new ruling was that the Court no longer accepted the "utterly without redeeming social value" test.²

Ten years after the Roth decision, Justice Potter Stewart said of pornography, "I can't define it, but I know it when I see it." Clearly, it is difficult to define pornography. What is considered obscene by some people is not necessarily obscene to others. Verbal or pictorial material which represents or describes sexual behavior that is degrading or abusive to one or more of the participants in such a way as to endorse the degradation is considered

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NOTES FROM THE EDITOR

Kristine Brancolini

(Kristine Brancolini is the Media Librarian and the Circulation Librarian of the Undergraduate Library, IU-Bloomington)

The InULA Publications Committee began planning this issue of *The Innuendo* last spring, at the time of "Politics of Information" conference. We agreed that the conference afforded a welcome opportunity to think about and discuss fascinating topics concerning censorship, freedom of expression, access to information, and related issues. Although all librarians condemn censorship of library materials, the widespread availability of violent pornography and child pornography concerns many of us. Do these materials deserve the same protection as *Catcher in the Rye* and the works of William Shakespeare?

In this issue of *The Innuendo* Gail Oltmanns explores "Pornography, Feminism and the First Amendment." Gail is Vice-Chair of ILA's Division on Women. At the ILA annual conference last May, the Division co-sponsored two programs, a screening of *Not a Love Story*, a powerful documentary film about the degrading world of pornography and the attitudes toward women that it fosters; and "Pornography and First Amendment Rights," a debate between Sheila Suess Kennedy, an opponent of the Indianapolis antipornography ordinance, and Dorchen Leidholtz, founder of Women Against Pornography. For those of us who were unable to attend these programs, Gail's article provides background information on attempts to censor pornography, a summary of the feminist argument in favor of legislative censorship, and a summary of the arguments against legislative censorship of pornography.

To accompany Gail's article, SLIS student Carolyn Tynan has prepared an annotated bibliography of books on pornography and the First Amendment available in the I.U. Libraries.

Remember to observe Banned Books Week, September 7-14. This year's theme is "Celebrating the Freedom to Read." The American Library Association has prepared a packet of materials, including lists of banned books. For more information, see Pat Steele. Read a banned book!

The InULA Innuendo is a publication of the Indiana University Librarians Association. Letters and comments should be addressed to Kristine Brancolini, Media Librarian, Library W121, Indiana University, Bloomington, Indiana 47405. Publications Committee: Kristine Brancolini, editor, Julie Bobay, Wendell Johnhting, Anne Rimmer, Pamela Sandstrom, Marilyn Shaver, Pat Steele.

Designed/Printed by Western Sun Printing Co. Inc., Bloomington, Indiana 47401.



SAMUEL CLEMENS

CENSORED!

**BANNED BOOKS
WEEK—
CELEBRATING
THE FREEDOM
TO READ**

InULA PEOPLE

Wendell Johnting

Dana McDonald has been the Head of the Medical Library in Indianapolis since November 1983. A self-styled Hoosier, raised near Columbia City, she has two grown sons who both live in California; one is a private pilot, and the other is a student at the University of California at Irvine. Her previous work experience includes positions as Acquisitions Librarian/Bibliographer Trainee at the University of Tennessee at Memphis Health Center Library, Medical Librarian at the Science Library of Southern Illinois University at Carbondale, Head of the Branch Library at the University of Illinois at Rockford College of Medicine, and Director of the Southern Illinois University School of Medicine Library at Springfield.



Dana McDonald

Dana sees her main strength as being able to get along with people as evidenced by the spirit of cooperativeness now noticed in the Medical Library. All clientele, not just medical personnel, are being served, and the whole impetus of public services is on trying to become more and more helpful to users. Library hours have been extended to 96 hours a week. Interlibrary Loan, one of the busiest departments of the Library, has seen an increase of 50% in transactions this past year; 15,000 items were lent, and 3,000 borrowed.

In the past the Medical Library has been underfunded. Dana, however, is optimistic that this situation will be corrected. A new library is being planned as part of the soon to be constructed Clinical Research Building. Floor space will triple from the current 16,000 square feet to 48,000 square feet. There have also been recent increases in the materials budget with an aim to building up the collection, especially in journals.

Overall, Dana views her tenure to date in the Medical Library as a very positive experience. She is encouraged by the indications of increased support from a new administration, and she is grateful for librarians of very high caliber and a good support staff.

pornographic to most feminists. Women are represented as passive and dependent upon men. The satisfaction of male desires is seen as the ultimate goal of sex for women. In violent pornography, women are tortured, bound, raped, or even killed. Women are shown to enjoy the abuse and torture that accompanies the subordinate role. Groups such as Women Against Violence in Pornography and Media and Women Against Pornography have organized to combat the proliferation of pornography. These feminists believe that pornography perpetuates the male dominance myth so pervasive in contemporary culture and that legislation must be passed to protect the civil rights of women.

Feminist thinking is split on this issue, however. Some feminists are concerned that to favor legislation against pornography is to take a traditional, moralist stand against sexuality itself. There are others who join the civil libertarians and argue that this is a First Amendment issue and that any restriction of pornography would be an infringement of First Amendment rights. A *Ms.* magazine article quotes a brief filed for the ACLU in Indianapolis: "As with Nazi rantings about Jews or racist trash spread by the Ku Klux Klan, speech graphically depicting the sexual humiliation and subordination of women is protected by the First Amendment because we have learned as a free people that it is impossible to censor speech we hate without imperiling the system of free expression upon which our political and social structure rests."³

Three arguments are used to show that controlling pornography violates constitutional rights. 1) it interferes in the private lives of individuals, 2) production and distribution is protected by the First Amendment, and, 3) the rights of those who want pornography will be violated.

Helen Longino refutes the first argument by pointing out that the production and distribution of pornography is done quite publicly and involves many people. What is done privately in one's own mind or home is one thing, but when it becomes public "it is no longer protected by the same rights that protect activities in the private sphere."⁴

In order to accept the second argument, one must consider the right to freedom of speech an unqualified right. But there are several types of speech not protected by the First Amendment, including the incitement to violence, perjury, slander, and libel and obscenity.

The third argument expresses the concern that to curb pornography is to restrict freedom by imposing censorship. To accept this argument one must be willing to accept that there should be no restrictions to freedom. The basis of the argument to control pornography lies in its libelous nature.

People are more likely to argue against censorship than in favor of pornography. Arguments in favor of pornography generally are made by publishers or distributors. Al Goldstein, publisher of *Screw* spoke in favor of pornography in *Harpers Forum*: "I am convinced it serves a useful purpose. Pornography helps us free ourselves from the puritanical attitudes about sex that have long dominated our society."⁵ Other arguments in favor include that it has educational

The First
Congress shall make no law
respecting an establishment of religion,
or the exercise thereof; or abridging
the freedom of speech, or of the press,
or the right of the people to assemble,
and to petition for a redress of grievances.

Amendment
There shall be no law respecting an
or prohibiting the free
ing the freedom of speech,
it of the people peaceably,
on the Government for

value, encourages a wider range of heterosexual activity, and that it serves a cathartic purpose.

Aryeh Neier, former national executive director of the ACLU, states that there is no proven causal relationship between pornography and violence toward women. He points out that pornography is relatively unavailable in at least two countries where violence against women is common—Ireland and South Africa. On the other hand, violence against women is relatively uncommon in the Scandinavian countries where pornography is even more available than in the United States. In response to isolated incidents of violence that appeared to have been inspired by pornography, he says, "There would be few books left on library shelves and few films that could be shown if all those that had at some time provoked bizarre behavior were censored." He believes that feminists are acting as censors with regard to pornography and claims that "the new censors rationalize their efforts to suppress whatever offends them either by exempting it from constitutionally protected speech or by contending that special circumstances warrant exceptions." Freedom of speech is greatly threatened by this position.⁶

Recent research suggests that exposure to violent pornography might increase aggressive behavior. Edward Donnerstein and Neil Malamuth have shown that male subjects who view sexually violent films are more likely to accept aggression toward women, are less likely to vote for conviction in a simulated rape trial, and are more likely to believe that women enjoy aggressive sex. Most studies of this nature have been conducted to examine the question of whether erotica can influence aggressive behavior. The inclusion of the question of how these portrayals affect behavior toward women is fairly recent. It is important to note that violence in an erotica film produces more aggression than the sex in the film. It especially produces more aggression when the viewer is already angry.

What is most relevant to feminists is the available target's association with the victim of the observed violence. Perhaps because this association connects the possible target with the successful aggression shown in pornography, a person bearing the same characteristics as the victim of the observed violence tends to receive stronger attacks than those who would be labeled differently. In pornography, women are the victims.

The results of this kind of research have implications for the study of pornography and its effect on people. The addition of violence to an erotic film makes the consequences of aggression more likely. The depiction of women enjoying sexual assaults further complicates and sets the stage for aggression. But few conclusions can be drawn from the research about the effect of pornography on behavior. Donnerstein says, "We can show a causal link between exposure to porn and effects on attitudes; but no one can show a causal link between exposure to porn and effects on behavior."⁷

Because many feminists believe that certain attitudes are

formed by exposure to pornography and that attitudes do indeed shape behavior, they are fighting for legislation to control it. In 1983 Andrea Dworkin and Catherine MacKinnon wrote an antipornography ordinance for Minneapolis that was passed by the city council and vetoed by the mayor. An amended version of that ordinance was approved by the Indianapolis City Council and signed by Mayor Hudnut. A coalition of booksellers and publishers filed suit against the law. The Indiana Library Association supported the suit. Federal District Judge Sarah Evans Barker upheld the suit and the City of Indianapolis filed an appeal which is yet to be decided. Other cities are considering similar legislation.

The ordinance says that pornography is a form of discrimination on the basis of sex. It defines pornography as the explicit subordination of women, graphically depicted whether in pictures or in words that also includes one of nine categories: showing women as things, commodities or objects; and in scenarios of degradation, injury, abasement, torture; shown as filthy, or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual. A lawsuit could be filed under this ordinance for coercion into pornography, trafficking, forcing porn on others, and assault as a result of exposure to pornography. There is also a broad section stating that any woman can bring suit on behalf of all women.

Opponents of this legislation find the definitions far too broad and insist that artistic and literary works could be brought to trial under this law.

This question of pornography vs. the First Amendment is one that has inspired a great deal of heated debate. Both sides recognize that the question involves conflicting human rights—the right to freedom of speech and the right to human dignity. Legislation is only one way to deal with the problem. Perhaps the most important result of this debate will be that attention has been focused on a problem of significant concern to women in particular and that there will be a greater awareness among all people of the detrimental effects of pornography.

1 *Roth v. United States* 237 F.2d 796 (2d Cir. 1956)

2 *Miller v. California* 413 U.S. 15 (1973)

3 Mary Kay Blakely, "Is One Woman's Sexuality Another Woman's Pornography?" *Ms.* 37-47 (April 1985)

4 Helen E. Longino, "Pornography, Oppression, and Freedom: A Closer Look," in *Take Back the Night*, p. 36

5 Lewis H. Lapham, "The Place of Pornography," *Harper's* 31-45 (November 1984)

6 Aryeh Neier, "The First Amendment: Freedom of Speech versus Censorship," *Current* No. 225 45-49 (September 1980)

7 "The War Against Pornography," *Newsweek* 58-66 (March 18, 1985)

NOTES FROM InULA

Barbara Dewey, President

(Barbara Dewey is Director of Admissions and Placement, SLIS)

I have thoroughly enjoyed the opportunity and experience of serving as InULA President for the 1984-85 year. I would like to thank the board, committee chairpersons and persons, and everyone else who participated in making the various InULA events a success this past year. I believe that we met our goals of providing continuing education and professional support to members, as well as participating in various service activities. Kris Brancolini deserves special thanks for her excellent work as editor of *The InULA Innuendo*, one of our most important activities. We have received many compliments on the publication in its new version. Our booksale, headed by Emily Okada, was a great success and it continues to be the major fundraiser of the year. Special thanks to all who assisted in this huge undertaking.

Major resources were used in support of the "Politics of Information" conference, which was a great success. Both the program and the facilities were outstanding. It was a pleasure working with the BLFC Continuing Education Committee in this endeavor. This type of cooperation makes major conferences possible. Other activities included supporting InULA and library programs throughout the year, which were well attended. We participated in the WTIU PBS fundraiser and the SHALSA Arbutnot Lecture. The InULA Auction was a new event this year that we hope will be held annually. The proceeds from the auction will be used to support InULA member research projects. We are very excited about this new event.

I am very pleased to announce the officers for next year's InULA Board: Joanne Baily, President; Julie Bobay, Vice President; Kris Brancolini, Secretary; Marilyn Shaver, Treasurer; Sylvia Burbach, Barbara Halporn, Members-at-large; and Barbara Dewey, Past President. We all look forward to the 1985-86 year.

CAUTION!

SOME PEOPLE CONSIDER THESE BOOKS DANGEROUS

AMERICAN HERITAGE DICTIONARY • THE BIBLE • ARE YOU THERE, GOD? IT'S ME, MARGARET • OUR BODIES, OURSELVES • TARZAN
ALICE'S ADVENTURES IN WONDERLAND • THE EXORCIST • THE CHOCOLATE WAR • CATCH-22 • LORD OF THE FLIES • ORDINARY PEOPLE • SOUL ON ICE • RAISIN IN THE SUN • OLIVER TWIST • A FAREWELL TO ARMS • THE BEST SHORT STORIES OF NEGRO WRITERS • FLOWERS FOR ALGERNON • ULYSSES • TO KILL A MOCKINGBIRD • ROSEMARY'S BABY • THE FIXER • DEATH OF A SALESMAN • MOTHER GOOSE • CATCHER IN THE RYE • THE MERCHANT OF VENICE • ONE DAY IN THE LIFE OF IVAN DENISOVICH • GRAPES OF WRATH • THE ADVENTURES OF HUCKLEBERRY FINN • SLAUGHTERHOUSE-FIVE • GO ASK ALICE

BANNED BOOKS WEEK—CELEBRATING THE FREEDOM TO READ

BOOKS, ETC.

Carolyn Tynan

(SLIS Student)

Pornography has been a national issue in this country where attempts to regulate it are often found to be in conflict with First Amendment rights. This debate has continued and been brought to national attention by recent efforts by feminists in major cities to legally ban pornography on the basis that it is a form of discrimination. The I.U. Libraries have several current titles in their collections that deal with this subject, representing a wide variety of viewpoints.

Pornography and Sexual Violence by Gary McCuen presents opposing views on topics of current concern, such as pornography and its relationship to violence; pornography, censorship and free speech; child pornography; and pornography in foreign countries. The issues are addressed in a point/counterpoint format with articles chosen from both the political right and left in order to present a fair and balanced treatment allowing the reader to see all sides of the issue.

Editors Edward C. Nelson and Maurice Yaffe have compiled a series of essays by experts in the fields of psychology, psychiatry, law, education, medicine, art, and theater in *The Influence of Pornography on Behavior*, found in the Journalism Library. Antony Grey, in his essay "Pornography and Free Speech," states that the crucial issue is not whether pornography is harmful or whether it should be banned, but to what extent individual

members of society should be morally responsible for themselves. It is his belief that the practice of censorship is at least as harmful to society as the availability of pornography.

Pornography and Censorship, edited by David Copp and Susan Wendell, addresses both the ethical and moral issues of pornography in addition to whether the widespread availability of pornography has harmful consequences. The editors point out that a definitive answer to this last issue cannot yet be given.

Chapter seven of *The First Freedom Today*, edited by Robert B. Downs and Ralph E. McCoy, discusses the subject of obscenity in a book that is concerned with all aspects of censorship. This chapter devotes considerable attention to the findings of the Commission on Obscenity and Pornography, published in 1970, which concluded that there was no reliable evidence to support the belief that exposure to or use of pornography leads significantly to sex crimes. Also included in this chapter is the ALA statement prepared for the Commission.

The feminist viewpoint is found in *Take Back the Night: Women on Pornography*, edited by Laura Lederer, and available in the General Collection. This work is a collection of papers that presents the case against pornography from the viewpoint of such well-known feminists as Susan Brownmiller and Gloria Steinem.

Pornography continues to be a controversial issue and one that is gaining credibility as an area of research. As a result, more works on the various issues dealing with pornography should be forthcoming.

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1983 | Copp, David, and Susan Wendell, eds <i>Pornography and Censorship</i> Buffalo Prometheus Books, 1983 |
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1980 | Lederer, Laura, ed <i>Take Back the Night: Women on Pornography</i> New York William Morrow, 1980 |
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