THE SEXUAL LIBERALS AND THE ATTACK ON FEMINISM by Dorchen Leidholdt & Janice G. Raymond, eds, (New York: Pergamon Press, 1990)

I. INTRODUCTION

Whether it be democracy, aristocracy, oligarchy or monarchy it is still all "cockocracy". Thus the term is coined by Mary Daly in a wild and truly ecstatic flurry of thoughts entitled "Be-Witching: Recalling the Archimagical Powers of Women".[1] The dishevelled tone of Daly's piece, which appears in the final section of the collection, is by no means characteristic of the whole, but the notion of cockocracy, as distinct from patriarchy, is central to the unified purpose of this gathering of feminists. Indeed, the word perhaps ought to have taken on a grander significance in the context of this conference.[2] The ways in which it is a better, more accurate word than patriarchy explain the essential point of all the voices in the anthology.

The word patriarchy, when used by feminists, broadly refers to a hierarchical ordering of social, political, economic, familial, and sexual relations where men are on the top and women are on the bottom. Feminists are against it. But there is something about the word patriarchy that is misleading or at least incomplete. It conjures up images of "Father Knows Best", and of the kind of subordination of women that we associate with the fifties and those who cling to the values of the fifties like Marabel Morgan and Anita Bryant. The denunciation of patriarchy puts feminists into the ring with right wing ideas of how and why women must be subordinated. It is a direct hit to traditional family values and traditional conceptions of what it means to be a good woman. What it misses is the extent to which the liberal left may be every bit as much of an enemy and a threat to feminists as is the conservative right. The notion of patriarchy perhaps lulls feminists into a false sense of security about the extent to which they can trust the flower child boy of the sixties who seemed to be every bit as much against the rule oriented domination of the patriarch as they were.

In one of the more analytically well structured pieces in the collection entitled, "Liberals, Libertarianism and the Liberal Arts", Susanne Kappeler develops this idea. She notes that within the patriarchal family the father is empowered over his wife, his daughters and his sons. The son knows that he may one day ascend to the preeminent position of father. Coming into his own, he may take a conservative route and accept the repressive nature of the ordering of the patriarchal society. Or he may, as a liberal, remain faithful to his identification with the unruly son and seek more freedom to indulge the impulses of male youth. Liberalism, then, can be personified in the role of "the adolescent boy who attempts to free himself from parental control and to reduce that authority in favour of increased personal liberty and self-determination."[3]

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1. In Dorchen Leidholdt & Janice G. Raymond, eds, *The Sexual Liberals and the Attack on Feminism.* (New York: Pergamon Press, 1990) [hereinafter referred to as *Sex. Lib.*] at 218.
2. The book is a collection of essays which originated as speeches at a conference on April 6, 1987 at the New York University Law School.
3. *Sex. Lib.* at 177.

But, for both the patriarchal father and the liberal youth there is no conception of the good that does not involve male domination of women.[4] The conservative patriarch sets up rules against prostitution, pornography, homosexuality, abortion, surrogacy and other innovations of reproductive technology because he views them all as a threat to the structure of the family which is the source of his control over women. The liberal youth seeks emancipation from this set of restrictions because he wants to secure for himself greater choice in the exercise of his autonomy. Allowing licence in these areas makes the sexual liberal a freer consumer of women (or men) as the objects of his desires and projects. In "Confronting Liberal Lies About Prostitution", Evelina Giobbe writes "...both the conservative right and the liberal left collude to teach and keep women in prostitution: the right by demanding that women be socially and sexually subordinate to one man in marriage, and the left by demanding that women be socially and sexually subordinate to all men in prostitution and pornography."[5]

Thus, we begin to come to an understanding of who is the "sexual liberal" that this book is about and against. He or she[6] is someone who wants increased freedom in the sexual arena and who is likely to argue for that freedom using the rhetoric of autonomy and self-actualization. He or she is someone who will argue that prostitution, pornography, surrogacy, and even sadomasochism should not be prohibited. If the sexual liberal is a woman then it is likely that the reason she believes that these things should not be prohibited is that women's experience of them may be positive. Women must be given the choice to be prostitutes, pornographic models, consumers of pornography, surrogate mothers, and either dominant or submissive participants in sadomasochistic sexual encounters because these experiences may turn out to be enlightening, liberating and educational for them.[7] To deny women these choices is to treat women as children. It is to impose upon them paternalistic restrictions which have at their root the dangerous assumption that "woman", at some immutable level, equals "victim".[8]

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4. Kathleen A. Lahey, "Women and Civil Liberties" in *Sex. Lib.* at 199. In setting the theoretical groundwork for a discussion of the anti-feminist positions of both the American Civil Liberties Union and the Canadian Civil Liberties Association Lahey says "men have never been able to imagine 'liberty' without assuming the oppression of women."
5. In *Sex. Lib.* at 76.
6. The book resonates with resentment towards the women, some of whom were members of the A.C.L.U., who put together the F.A.C.T. brief (Feminist Anti-Censorship Task Force) in an effort to defeat the feminist legislation spearheaded by MacKinnon and Dworkin prohibiting pornography defined from a feminist view point and providing a cause of action for women who had been harmed by pornographers, *An Ordinance for the City of Minneapolis*, Amending Title 7, Chapter 139 of the Minneapolis Code of Ordinances relating to Civil Rights, section 139.10 et seq., reprinted in Dworkin and MacKinnon, *Pornography & Civil Rights: A New Day for Women's Equality* (Minneapolis: Organizing Against Pornography, 1988) The substance of the fundamental disagreement between the FACT women and the authors is discussed in text below associated with notes 48-60.
7. Catharine A. MacKinnon, "Liberalism and the Death of Feminism" *Sex. Lib.* at 8-9.
8. See Janice G. Raymond, "Sexual and Reproductive Liberalism" in *Sex. Lib.* at 107 where she quotes Lori Andrews a lawyer for the American Fertility Society arguing in favour of surrogacy as follows: "Great care needs to be taken not to portray women as incapable of responsible decisions".

The authors represented in this collection respond to the sexual liberal's thinking with a resounding and unified – NO. At many points in the book we see the juxtapositioning of liberal theory of consent, choice, autonomy, privacy and gender neutrality with the brutally violent and stark reality of women's lives. The authors appeal to the horror of the experiences of women who have suffered through sexual abuse as children[9], through beatings and rapes by pimps and clients in prostitution,[10] through humiliation by husbands and lovers whose support is contingent upon a willingness to enact pornographic fantasies steeped in the ideology of domination,[11] and through violence at the hands of gynaecologists who prey on the desire to experience motherhood using them as the objects for manipulative experimentation[12].

The appeal of the collective voice of the conference to the incalculable pain experienced by women makes the reading of the book an emotionally exhausting experience. It is a work that demands unconditional allegiance. It is a work that is both inspiring to and condemning of those feminists who, notwithstanding their theoretical allegiance to ideas of equality, "will not get their asses out on the street to do something for the women who are being hurt."[13] It is a work that exposes abstract liberal theory as a ruse that hides, legitimates, and perpetuates the exploitation of women.

The book is divided into six parts. The first part, headed Feminism and Liberalism, deals with the basic points of conflict between radical feminist[14] and liberal theory. It draws primarily on the issue of pornography to illustrate the ways in which the two positions are at odds. The second part is entitled "Family Structures: The Patriarch and the Pimp". This section deals with family violence, incest, and prostitution. The third section is entitled "The New Reproductive Liberalism" and contains essays on surrogate motherhood, in vitro fertilization, and abortion.

The fourth section is on "Sexuality" and it is here that we find the only hint of dissension in the otherwise allied tenor of the collection. Not surprisingly, it is on the issue of whether a "detoxified"[15] female sexuality is possible. The Southern Women's Writing Collective delivers a disarmingly frank essay in which it is argued that no sexual relations are possible in this society, even between radical feminist lesbians, that are not

9. Louise Armstrong, "Making an Issue of Incest" in *Sex. Lib.* at 43; and Valerie Heller, "Sexual Liberalism and Survivors of Sexual Abuse" in *Sex. Lib.* at 157.
10. Giobbe, *supra*, note 5 at 67.
11. Dorchen Leidholdt, "When Women Defend Pornography" in *Sex. Lib.* at 125; and Sheila Jeffreys, "Eroticizing Women's Subordination" in *Sex. Lib.* at 132.
12. Gena Corea, "The New Reproductive Technology" in *Sex. Lib.* at 85; and Raymond, *supra* note 8 at 103.
13. Dworkin, "Resistance" in *Sex. Lib.* at 136.
14. My use of the term "radical" feminists is perhaps not altogether accurate here. Nevertheless, as a shorthand formulation I shall refer to the feminist view represented in the book as "radical feminism" to distinguish it from the view of liberal women who will also refer to themselves as feminists, i.e., the signatories to the FACT brief.
15. Wendy Stock, "Toward a Feminist Praxis of Sexuality", in *Sex. Lib.* at 154.

ultimately infected with the social construction of sex as masculine dominating feminine.[16] Thus, it is argued that sexual relations must be stopped by the adoption of radical celibacy for at least as long as it takes to create an environment in which eroticization of domination and subordination is no longer pervasive. Wendy Stock counters on a slightly more optimistic note in "Towards a Feminist Praxis of Sexuality" and argues that with a heightened feminist awareness, passionate equality between sexual partners is possible even before the overthrow of male dominated institutions.[17]

The fifth part is entitled "The Male Backlash" and is a miscellaneous collection of essays about male response to radical feminism ranging from a discussion of lobby groups seeking equal rights for men to a discussion of some homosexual men's opposition to the feminist position on pornography. In an interesting piece entitled "You Can't Fight Homophobia and Protect the Pornographers at the Same Time: An Analysis of What Went Wrong in *Hardwick*" John Stoltenberg argues that homophobia is a direct consequence of misogyny.[18] The misogynist message of pornography is that men must dominate and debase women. If a man allows himself to be dominated by another man in sex he partakes of the debased female submission and therefore he is to be despised along with women. Indeed, he is even more loathsome because his sex act is a profanity against the sacred ordering of man above woman. So, Stoltenberg argues that attempts to counteract homophobia which do not recognize the essential connection of homophobia to misogyny and the connection of pornography to misogyny are doomed to failure. Misogyny fosters homophobia, pornography fosters misogyny, therefore it is in the interest of gay men to be against both misogyny and pornography.[19]

The sixth part is headed "Politics and Possibilities" and it aims at infusing a sense of hope and vitality into the scenario. Fittingly, the book closes with a piece by Janice Raymond which is a reminder of the healing and revitalizing power of female friendship.[20] She notes that misogyny internalized by women has been a barrier to the development of resilient female friendships. Women are taught to distrust one another and to view one another as rivals for male attention. Misogyny keeps women isolated from one another and ensures that their anger is directed towards themselves and other women rather than towards men and male institutions. Overcoming internalized misogyny opens up vast new reserves of energy and sustenance to be found in female friendship.

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16. "Sex Resistance in Heterosexual Arrangements" in *Sex. Lib.* at 140.
17. Stock, *supra*, note 15 at 155.
18. In *Sex. Lib.* at 184.
19. Stoltenberg's argument seems essentially instrumentalist in so far as he is offering a strategic rather than a moral reason for gay men to oppose misogyny. To that extent the argument is somewhat hollow.
20. "Not a Sentimental Journey: Women's Friendships" in *Sex. Lib.* at 222.

II. LIBERAL IDEOLOGY AND RADICAL FEMINISM

I shall now look at a number of strands of liberal thinking that are identified in this collection and illustrate the ways in which those theoretical positions are applied by sexual liberals to arrive at policies that are at odds with those adopted by radical feminists. As I have shown, the book is structured on the lines of individual women's issues. By contrast, the following analysis is structured on the lines of the liberal tenets that are opposed.

A. PATHOLOGY

Liberals like to pathologize. In a liberal theory of responsibility there is a great deal of room for relieving the individual of responsibility for action by defining that action as a manifestation of illness. Liberals are much more comfortable with the notion of sick behaviour than they are with the notion of evil actions. The notion of evil itself grates against the liberal sensibility which has at its core a certain moral relativism. This moral relativism is most prevalent in the area of sexual morality.[21] Peoples' likes and dislikes about sex are their own business and the right to moral self-determination militates in favour of tolerance of all sexual preferences.

What sort of a practical answer do we get when we take this theoretical position about sexual preferences and apply it to the problem of incest?[22] Feminists say that incest is evil, wrong, harmful, and criminal. Incest involves the father's appropriation of the sexuality of his children as well as their capacity for trust. It is a vicious action which causes irreparable harm to children. So here the liberal is caught in a dilemma. He wants to broaden the range of sexual object choice[23] by granting fuller sexual freedom. However, the harm to the child and the child's limited capacity for consent pose a problem even within liberal theory.[24] The solution — pathology. Make the desire and act of having sex with your children into an illness instead of a crime. Construct the fathers who rape their daughters as figures deserving of sympathy, treatment and expert help rather than as criminals deserving of punishment. By eliminating the threat of punishment you keep the object choice as broad as possible while still paying lip service to the other interests at stake.

Louise Armstrong's discussion of the injustice of liberal tolerance of incest is made the more poignant by her documentation of the cases of Dorrie Singley and Karren Newsom, two American women who where jailed and forced into hiding for refusing to allow

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21. See R.M. Dworkin, "Do We Have a Right to Pornography?" in *A Matter of Principle* (Clarendon Press, Oxford 1986.)
22. See Armstrong and Heller, *supra*, note 9.
23. Kappeler, *supra*, note 3 at 179.
24. John Stuart Mill, *On Liberty and Utilitarianism* ed. by M. Wornock (Glasgow: Fount Paperbacks, 1962) at 135 where in *On Liberty*, almost immediately after explicating "the very simple principle", Mill adds: "We are not speaking of children, or of young persons below the age which the law may fix as that of manhood or womanhood. Those who are still in a state to require being taken care of by others, must be protected against their own actions as well as against external injury."

visitation rights to their former husbands who had been sexually abusing their children. These stories, as they are told by Armstrong, leave little room for any inference other than that the courts were directly involved in the protection of the interests of the incestuous father over those of the children.[25]

In as much as liberals are prepared to use pathology to protect incestuous fathers, they are also prepared to use it as a way of gaining freer sexual access to women's bodies. This is done by pathologizing women's rejection of male defined sex. A woman's refusal to be objectified and dominated sexually by men is another unfortunate illness – commonly known as frigidity.[26] This also calls for treatment by experts but somehow doesn't quite rate on the sympathy meter the way that male incestuous desire does. At the very least, a woman's failure to view the act of intercourse with the "joyous anticipation" advocated by Eustace Chester[27] and other liberal sexologists is cause for a trip to the psychology counter of the nearest book store to pick out the appropriate self-improvement book to be read in a humble and honest effort to get better.[28] For feminists who oppose sexual liberalism, women's rejection of a male defined sexual practice is an expression of their refusal to be owned and subordinated by men.[29] It is not an illness.[30]

B. CHOICE AND CONSENT

The notions of choice and consent figure prominently in liberal ideology. The theory is individualistic and focuses on the autonomy of the person as the ultimate good. Freedom of choice is necessary to the development of autonomy. Personal autonomy is of ultimate value. Thus, anything that restricts choice is bad and calls for strong justification. It is through autonomous decision making that we become the authors of our own lives. The rhetoric is compelling. However, radical feminists argue that, applied in the context of women's issues, the rhetoric of autonomous choice is hollow since it ignores the reality of the disempowered position of women. It glorifies as self-authorship, choices that are made under conditions of extreme inequality of bargaining power.[31] The outcome of the negotiating process cannot be seen to respect the individual autonomy of all parties to the transaction in a society which is socially and economically structured in such a way that the only negotiating chip a woman has is the right to control over her body.

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25. Armstrong, *supra*, note 9 at 46-49.
26. Sheila Jeffreys, "Sexology and Anti-feminism" in *Sex. Lib.* at 23.
27. *Ibid* at 24.
28. Florence Rush, "The Many Faces of Backlash" in *Sex. Lib.* at 171.
29. On this point see also, Dorchen Leidholdt, "When Women Defend Pornography" in *Sex. Lib.* at 125; Sheila Jeffreys, "Eroticizing Women's Subordination" in *Sex. Lib.* at 132; Andrea Dworkin, "Resistance" in *Sex. Lib.* at 136; Southern Women *supra* note 16; Stock *supra*, note 15; Heller, *supra* note 9.
30. The notion of "therapeutic abortion" and abortion as necessary to preserve the health of the pregnant woman is another area in which pathology is inappropriately used by some liberals to distort the true nature of the issue.
31. Raymond, *supra*, note 8 at 105.

The rhetoric of consent and choice are central to the sexual liberal's response to the issues of prostitution, surrogacy, reproductive technology and domestic violence.[32] It is argued that if we prohibit prostitution, surrogacy or in vitro fertilization, we deprive women of choice and treat them as incapable of looking out for their own interests and acting as autonomous agents. At all of these points the authors respond that the liberal concepts of consent and choice are morally empty and serve the interests of men when applied to issues which essentially concern women's transfer of control of their bodies to men.[33] It is argued, for example, that prostitution is not a real career choice. It is a life that is chosen in desperation when no other avenues of survival are available. In her essay on prostitution, Giobbe quotes a study done by WHISPER (Women Hurt in Systems of Prostitution Engaged in Revolt) which showed that 90% of prostitutes had been sexually or physically abused as children, that 79% had been beaten by their pimps and that 74% had been assaulted by customers and 71% were victims of multiple customer assaults.[34] The appeal to the reality of prostitutes' lives again stands in stark contrast to what appears as either hopelessly naive or insidiously self-serving rhetoric of autonomy and choice.

In relation to surrogate motherhood contracts, the sexual liberal argues that respect for women's capacity for self-determination through consent requires that we both allow and enforce these agreements. The response of Phyllis Chesler is to say firstly, that the desire of infertile women to buy control over other women's bodies is no more to be respected and accommodated than is the same desire held by a man.[35] Secondly, she argues that the consent of surrogate mothers is given under conditions of economic duress. But, most importantly, she points out that, in the business world, people break contracts every day. They renegotiate and buy out agreements that are no longer appealing to them when the time comes for performance. Only in the rarest of circumstances are these contracts enforced through orders of specific performance. Certainly, specific performance would never be ordered in a case that would smack of involuntary servitude. Classical contract theory, which of course has at its core the notion of consent, holds that respect for the autonomy of persons engaged in commercial activity militates against wide spread use of the specific performance order.[36] Why then are liberals so certain that a surrogate mother must be held to the strict terms of her bargain if there is to be any hope for her autonomy?[37]

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32. Pornography is another issue where liberals will invoke the notion of consent, usually in the context of pointing to the consent of women involved in the making of pornography. I deal with pornography in a separate section below at 519 et seq.

33. In "Sexual and Reproductive Liberalism" *supra*, note 8 at 111 Janice Raymond argues that sexual liberals reinforce "the notion that female freedom is in having 'the right' to give up our freedom, our control over our bodies."

34. *Supra*, note 5 at 73.

35. "Mothers on Trial: Custody and the 'Baby M' Case" in *Sex. Lib.* at 96.

36. See G.H. Treitel, *The Law of Contract* (London, Stevens & Sons, 1983) at 771; P.S. Atiyah, *An Introduction to the Law of Contract* (Oxford, Clarendon Press, 1961) at 229.

37. *Supra*, note 35 at 101.

The same argument from consent is used by the sexual liberals in the area of reproductive technology. It is argued that women must be given autonomous decision making power in relation to their reproductive destiny and, therefore, must be free to consent to procedures such as in vitro fertilization. Gena Corea argues that consent in these cases is rarely informed. Women are misled by the medical profession as to the success rates of procedures such as in vitro fertilization as a means of obtaining their consent to a humiliating, physically painful and emotionally excruciating experimentation.[38] Women who are socialized into motherhood are vulnerable to allow themselves to be used as "the raw material for a new manufacturing process."[39]

Similarly it is argued that the rhetoric of autonomy is used by liberals to perpetuate and hide domestic violence.[40] Anne Jones, in a radical critique of the family, argues that male supremacist structures must protect batterers since they are the "home guard of male supremacy." She argues that all women living within the structure of a family are at some level influenced by the psychological threat of male violence against them or their children.

C. PRIVACY

Another concept that figures prominently in liberal ideology is that of privacy. Liberals think that there is a private sphere of life in which the government has no business. Regulation in the public sphere is permissible but, within the private sphere, the individual must be allowed complete self-determination.[41] The notion of privacy is a double-edged sword for feminists.[42] On the one hand, the idea that the government has no business in certain private matters can be of benefit to women in so far as it argues for freedom to choose abortion. The decision to reproduce is within the private sphere of life therefore the state must keep out of that decision making process. Indeed, it was the argument from privacy which ultimately carried the day in *Roe* v. *Wade*[43] where the United States Supreme Court held the criminalization of abortion to be unconstitutional. On the other hand, the adoption of the notion of privacy has dangerous ramifications for feminists in other areas of concern.

In as much as the notion of privacy can be used to defend abortion rights for women it can also be used to defend the right to pornography for men.[44] Twiss Butler argues

38. "The New Reproductive Technologies" in *Sex. Lib.* at 90.
39. *Ibid* at 92.
40. Anne Jones, "Family Structures" in *Sex. Lib.* at 61.
41. R.M. Dworkin, "Liberalism" in *A Matter of Principle*, *supra*, note 21 at 181.
42. Twiss Butler, "Abortion and Pornography: The Sexual Liberals' 'Gotcha' Against Women's Equality" in *Sex. Lib.* at 114.
43. 410 U.S. 113 (1973).
44. It is also argued that liberal men are in favour of choice in abortion because it secures freer sexual access to women, in *Sex. Lib.* at xv.

that sexual liberals are prepared to support abortion rights for women only in so far as women are prepared to give up their fight against pornography.[45]
She accuses sexual liberals of holding abortion rights as hostages for the rights of pornographers.[46] Abortion, then, should be approached as an issue of sex discrimination rather than one of privacy or choice.[47]

III. PORNOGRAPHY

The subject of pornography figures prominently in the collection and surfaces in almost all of the discussions in the book. For many radical feminists pornography plays a very central role in understanding misogyny in our society. Pornography is the celebration of male power. It makes male domination of women erotic and therefore, in our society, good. It graphically advocates the degradation and dehumanization of women through sex. The making of pornography involves actual violence against women. The consumption of pornography causes actual violence against women. Furthermore, pornography promotes the view that women are deserving of violence and that they enjoy it. It is for these reasons that radical feminists oppose pornography and advocate its prohibition.

Here, the primary adversary is not the male sexual liberal but rather the feminist sexual liberal. The women who were behind the FACT brief, entered in opposition to the feminist legislation on pornography enacted in Minneapolis,[48] are characterized throughout the book as gender traitors. FACT women and their supporters likewise condemn the radical feminist position on pornography as involving a rancid alliance with the right.[49] They argue that the feminist position involves an anti-sex stance, that the censorship of pornography would ultimately be carried out by a male dominated police force and judiciary and would therefore be doomed to fail in its objectives,[50] and that feminists have everything to gain by allowing freedom in this area since one of the primary tasks facing feminism is to create a female defined sexuality. They argue that if we put in place structures for the censorship of pornography it is likely that those

45. On the same point see Catharine MacKinnon, "Privacy v. Equality: Beyond *Roe* v. *Wade*" in *Feminism Unmodified: Discourses on Life and Law* (Cambridge, Massachusetts, Harvard University Press, 1987).
46. *Supra*, note 42 at 120.
47. The rhetoric of privacy also poses a problem for feminists in the arena of domestic violence. Police are reluctant to interfere in cases of family violence because they view it is a private matter in which the state should not be involved. This point is not directly addressed by Jones, *supra*, note 40.
48. *Supra*, note 6.
49. I am borrowing this phrase from Catharine R. Stimpson, who was a signatory to the FACT brief.
50. Thelma MacCormack, "Must We Censor Pornography? Civil Liberties and Feminist Jurisprudence" forthcoming in the proceedings of the Centre for Constitutional Studies conference on "Freedom of Expression and Democratic Institutions". But see also Susan G. Cole "A View From Another Country" in *Sex. Lib.* at 191 where she argues that the over and under inclusiveness by the right wing administration of regulations prohibiting the importation of pornography into Canada is better than no prohibition at all.

structures will be used by men to shut down women's attempts to construct a new feminist sexual form.[51]

The conflict between the two positions is complex. On the one hand the feminist position on pornography is concerned not with explicitness itself but with explicitness involving domination and subordination.[52] But, even if it were conceded by the sexual liberal feminists that there could be a satisfactory system of regulation that would catch that which involves domination and subordination and leave that which does not, this would not provide for a common ground with radical feminists. This is because the sexual liberal feminist can see room for a pornography involving domination and subordination which is nevertheless of interest to women.[53] This is true firstly because the sexual liberal feminist is prepared to allow that women can be aroused by pornography depicting degradation of women and is not prepared to view that as categorically wrong.[54] Secondly, the sexual liberal feminist wants to at least leave the possibility open for a new pornography in which domination and subordination are eroticized but where the icon is one of female supremacy.[55]

The radical feminists, I think rightly reject both of these views. However, I suggest that the ramifications of those rejections are not fully addressed by the authors represented in the collection. Firstly, let us examine why the authors reject the argument that pornography should not be prohibited because women too can enjoy the eroticized depiction of the humiliation of women. The primary reason given for the rejection of this argument is that women have been taught by a male supremacist society to eroticize their own powerlessness. In so far as women are capable of finding depictions of violence against women to be sexually arousing it is because they have come to internalize their own oppression. This capacity in women, cultivated by a male world view, is not something to be nurtured or encouraged by feminists. Rather, in so far as we are able, we should seek to eradicate it.[56]

However, when it comes to questions of how that should be done, it would seem that the radical position must take us down a slippery slope to much broader censorship than is envisaged by the pointed attack on explicit pornography. Pornography is not the cause

51. For a full defense of the FACT brief against radical feminist criticism see: Mary Ellen Gale & Nadine Strossen: "The Real A.C.L.U." (1989) 2 Yale J. of Law and Fem. 161.

52. Cole, *supra*, note 50 at 196.

53. See MacKinnon, *supra* note 7 at 9 quoting the Brief Amici Curiae of Feminist Anti-Censorship Task Force et al. in *American Booksellers Association* v. *Hudnut*, (1988) 21 J. of L. Reform 69, which reads in part: "For women, as for men, it [pornography] can also be a source of erotic pleasure.... A women who enjoys pornography, even if that means enjoying a rape fantasy, is, in a sense, a rebel."

54. *Ibid* and see Jeffreys, *supra*, note 11 at 133.

55. MacKinnon, *supra* note 7 at 9.

56. Jeffreys, *supra*, note 11 at 134.

of women's eroticizing of their own subordination.[57] Rather women's eroticization of women's subordination is caused by the mass media, by romance novels, by classical mythology, by soap operas, by classic operas, by advertising, by rock videos, by the great works of art in the Louvre, by the perfect romantic dream of the ballet, by the way that rape and murder of women is depicted on the six o'clock news. Obviously, I could go on. The point is, however, that women are taught not by pornography but by popular culture and by our entire cultural tradition to eroticize their submission.

That brings us to the question of whether and to what extent radical feminists are prepared to use the tool of censorship to eradicate all these other causes of women's identification with subservience as sexually exciting. This is obviously a difficult and complex question but it exposes the fact that it simply cannot be the case that radical feminists are concerned only, or even primarily, with explicit pornography that depicts oppression of women.[58]

The second argument of the sexual liberal feminists is that women may want to participate in the making and consuming of pornography not as the oppressed but as the oppressors.[59] The reasons for the rejection of this position are never really made explicit. The clearest glimpse that we get of the rationale behind the rejection is when MacKinnon responds to the FACT assertion that, by enjoying a depiction of rape, a woman may be "insisting on an aspect of her sexuality that has traditionally been defined as a male preserve."[60] MacKinnon counters: "A women's movement that aspires to inhabit rapist preserves is not a women's movement I want any part of."[61] This would seem to suggest that MacKinnon views the eroticization of domination and subordination to be categorically morally wrong. This statement, however, is, I think, inconsistent with MacKinnon's view, expressed elsewhere, that the feminist objection to pornography is a political and not a moral one.

In an article entitled "Not a Moral Issue" MacKinnon attempts to distance the feminist position on pornography from the objections to pornography espoused by the political right. For the right, pornography is an issue of morality; for the radical feminist it is an issue of power. MacKinnon writes:

> The feminist critique of pornography is a politics, specifically politics from women's point of view, meaning the standpoint of the subordination of women to men. Morality here means good and evil; politics means power and powerlessness. Obscenity is a moral idea; pornography is a political practice.[62]

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57. Indeed, it is argued that part of the method of protecting pornography is in keeping it hidden from women. In "Women Hating Right and Left" in *Sex. Lib.* at 33, Dworkin writes: "One of the ways the social structure has protected male supremacy has been the right-wing strategy of using obscenity laws to keep pornography a secret from women but to keep it available to men"
58. See also Carol Smart, *Feminism and the Power of the Law* (London, Routledge, 1990).
59. MacKinnon, *supra*, note 7 at 9.
60. *Ibid* at 10 where MacKinnon is quoting from the FACT brief, *supra*, note 6.
61. *Ibid.*
62. In *Feminism Unmodified*, *supra*, note 45 at 146.

This would seem to suggest that pornography, in its eroticization of the domination of women, is wrong, not in any abstract immutable sense, but only in so far as it exists in a society where, as a matter of fact, women are powerless. Why then would MacKinnon object to a concern to reserve space for the possibility of a pornography in which women are dominant?

One possible answer to this would be that in any sexual depiction of domination and submission within the context of this society, submissive reads female or feminine and dominant reads male or masculine. In other words, given our cultural conditioning, there can never be a rendering of sexual oppression, whether the actors be female oppressing male, female oppressing female or male oppressing male, that is not perceived as a code for male oppressing female.

Another possible answer is that the need for such a female supremacist pornography is trivial in comparison to the need to get rid of the multimillion dollar industry of pornography in which subordination of women is sold in bulk every day. That is to say that although it would not be objectionable to have a pornography in which women were depicted as dominant, such a goal ought reasonably to be sacrificed for the greater goal of stopping the mass exploitation of women in pornography.

MacKinnon's statement, however, seems to go beyond either of these alternatives. What she seems to be saying is that it is simply wrong to be an oppressor, a rapist or an exploiter. It is wrong to eroticize the subordination of others, not only because of the political ramifications of that representation, but because the representation itself objectifies, denies personhood, and endorses and promotes objectification. However, if we adopt the view that the eroticization of domination is morally wrong in this immutable abstract sense then the position on pornography begins to take on an apolitical character. Such a position is certainly distinguishable from a right wing 'moralistic' argument against pornography which has at its core a concern for the protection of traditional family values. However, it is indistinguishable from a Kantian moral argument against pornography which would have at its core the dignity of individuals.

Kant argues that objectification of persons is wrong. He writes: "Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only."[63] If we apply this moral principle to the issue of pornography we derive an objection to pornography which shares in the feminist opposition to domination and subordination but which invites abstraction from a particular political context. To objectify a person sexually in a pornographic representation is to treat them as a means to an end. Therefore, pornography categorically is morally wrong.

One thinker who may be interpreted as opposing pornography on Kantian grounds is J.M. Finnis. One might assume that Finnis represents the objection to pornography espoused by the political right. However, that would be an oversimplification of his

63. Kant, *Foundations of the Metaphysics of Morals* (Indianapolis: Beck, 1959) p. 47.

position. Finnis' objection to pornography stems from his view that: "human sexual psychology has a bias towards regarding other persons as bodily objects of desire and potential sexual release and gratification and as mere items in an erotically flavoured classification (e.g. 'women'), rather than as full persons with personal and individual sensitivities, restraints, and life-plans".[64] The issue of pornography then, must be addressed with a view to ensuring that an "egoistic, impulsive or depersonalized sexuality" does not become predominant in our society.

Are MacKinnon and Finnis really at odds here? They are both arguing against the sexual liberal and in favour of censorship of pornography. They seem both to be arguing from a fundamental objection to sexual objectification of others.[65] Of course, MacKinnon and Finnis would define what constitutes objectification differently.[66] Furthermore, MacKinnon and her supporters will want to resist any association with a thinker like Finnis since there are so many other issues on which they are clearly at odds.[67] However, is the basic moral ground of their objection to pornography not essentially the same? Does the identification of the feminist position on pornography with a Kantian morality weaken or strengthen that position? I would argue that it strengthens the position and that it provides us with the most attractive interpretation of what MacKinnon means when she says that a women's movement that seeks to inhabit rapist preserves is not one that she would want to be a part of.

To reiterate then, I would argue that the feminists represented in the collection are correct in their rejection of the sexual liberal feminist position on pornography. However, I would point out that their reasons for that rejection have ramifications that are far reaching. Firstly, the concern to eliminate women's own eroticization of their own subordination takes feminists into a realm of censorship which extends far beyond explicit pornography. And, secondly, the rejection of the notion that women should reserve space for a pornography which celebrates subordination of men by women takes the feminist position on pornography beyond the purely political and into the moral realm.

IV. CONCLUSION

The general message of this book is that liberal views on women's issues are culpably blind to the reality of women's suffering in a male supremacist society. Liberals are left with two responses to the charge. The first response is: "We don't believe that women really are hurt in the ways that radical feminists say they are." On this score, the book could certainly be improved. The documentation of many of the factual statements made

64. J.M. Finnis, *Natural Law and Natural Rights* (Clarendon Press, Oxford, 1980) at 217.

65. It can, however, be argued that any representation of people is an objectification of them and, therefore, that the issue of objectification itself is of trivial significance from a moral point of view.

66. For an explanation of what Finnis would consider to be within the impermissible objectification of others see: "Legal Enforcement of Duties to Oneself: Kant v. Neo-Kantians" [1987] Columbia L. Rev. 433.

67. Finnis is an opponent of the right to abortion. See J.M. Finnis "The Rights and Wrongs of Abortion: A Reply to Judith Thompson"(1973) 2 Phil. Pub. Aff. 117.

in the book is weak. This, of course, goes to the need for more resources in the area of feminist empirical research. Furthermore, the nature of the book as a collection of speeches, to some degree, explains the lack of referencing and it is likely that stronger documentation of factual allegations made could be found elsewhere. The power of the book, however, would be greater if it were supported by stronger statistical evidence. Such evidence would foreclose the "We don't believe you" response.

The only remaining response then would be "We don't care." Such a response would, one would think, be very damaging to the credibility of a theory which purports to have at its foundation the ideal of equal concern and respect for all.[68]

Annalise Acorn*
Assistant Professor of Law
University of Alberta

68. Interestingly, the phrase is first used by H.L.A. Hart in *The Concept of Law* (Oxford: Clarendon Law Series, 1961) at 201. It then, of course, takes up focal significance in Ronald Dworkin's work, see *Taking Rights Seriously* (London: Duckworth 1977). The same basic idea is also at the centre of the theories presented in John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1971) and Robert Nozick, *Anarchy State and Utopia* (Oxford: Basil Blackwell, 1974).

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