

FINAL REPORT OF THE ATTORNEY GENERAL'S COMMISSION ON PORNOGRAPHY. Michael J. McManus, ed.¹ Nashville, Tennessee: Rutledge Hill Press. 1986. Pp. i, 571. \$18.95.

UNITED STATES OF AMERICA vs. SEX. By Philip Nobile² and Eric Nadler.³ New York: Minotaur Press. 1986. Pp. 371. \$3.95.

THE QUESTION OF PORNOGRAPHY: RESEARCH FINDINGS AND POLICY IMPLICATIONS. By Edward Donnerstein,⁴ Daniel Linz,⁵ and Steven Penrod.⁶ New York: The Free Press. 1987. Pp. xiv, 274. \$24.95.

SEVEN DIRTY WORDS AND SIX OTHER STORIES. By Matthew L. Spitzer.⁷ New Haven, Connecticut: Yale University Press. 1986. Pp. xii, 163. \$15.00.

PORNOGRAPHY: MARXISM, FEMINISM, AND THE FUTURE OF SEXUALITY. By Alan Soble.⁸ New Haven, Connecticut: Yale University Press. 1986. Pp. x, 202. \$23.00.

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On the afternoon before he died in Florida's electric chair, serial murderer Ted Bundy was interviewed by James Dobson, a psychologist and broadcaster based in Pomona, California, and an erstwhile member of the Attorney General's Commission on Pornography. During this unusual interview, Bundy linked his pathological life to violent, hard-core pornography. Had Attorney General Edwin Meese been attuned to Nancy Reagan's astrological source of timing, he might have postponed the release of the *Final Report* of his commission to coincide with the public attention that

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visited the execution of the deranged Bundy. Instead, that document was made public in July, 1986, and, predictably, was greeted by intense controversy.

In 1970, the only other presidential commission charged with a similar task—appraising the effects of pornography on anti-social conduct—had reached quite different but equally controversial conclusions. Chaired by Dean William B. Lockhart of the University of Minnesota Law School, that earlier commission concluded that exposure to explicit sexual materials could not be significantly correlated with anti-social behavior and hence recommended the repeal of all laws proscribing the sale of pornography to consenting adults. The Lockhart Commission report was roundly condemned by religious leaders, by the president himself, and (sixty-five to five) by the United States Senate.

Sixteen years later, the Meese Commission documented a significant link between violent pornography and aggression against women. This conclusion, however, received little publicity and was largely submerged in a torrent of predictable reactions from, on one side, libertarian critics who dismissed the *Final Report* as a silly, tendentious enterprise conducted for political purposes, and, on the other side, equally dogmatic conservatives who indiscriminately supported censorship. As with the Lockhart Commission, the politics of pornography precluded a judicious response to the Commission's conclusions.

I

Since 1957, censorship of pornography has been one of the most difficult (“intractable,” in the view of Justice Harlan) constitutional problems. Spanning the juridical range from Justice Hugo L. Black's ostensibly carefree “absolutism” to the painstaking case-by-case application of uncertain standards and definitions of obscenity and pornography, the Justices have labored diligently in this field without satisfying liberals, conservatives, or legal scholars.

To begin with, the Court has never provided a satisfactory justification for withdrawing constitutional protection from this form of expression. It has merely asserted that the first amendment was not intended to protect pornography, a proposition that does not distinguish it from libel, and that porn has no redeeming social value, a contention that—even if true—does not distinguish some other forms of protected speech. The Court has never officially recognized any alternative explanation for denying constitutional protection—such as the feminist theory that pornography perpetuates discrimination, and even violence, against women.

The Court's pornography holdings can be reduced essentially to two phases: implementation of the Warren Court's *Roth* test (1957-1969) and the Burger-Rehnquist Courts' reformulated test announced in *Miller* and applied from 1973 to the present. Without expressly ruling on the matter, prior to 1957 the Justices had always assumed that pornography was unprotected expression. In *Roth v. United States* (1957) the Court squarely held that such expression was beyond the pale of the first amendment. The *Roth* opinion tried to define this unprotected expression with a test that plagued the Court for over a decade. The issue, said the Court, is whether "to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest." Such material, said the Court, is undeserving of constitutional protection because it has no redeeming social value. Whether the material created a "clear and present danger" of anti-social conduct was deemed an irrelevant inquiry; that test, the Justices said, applies only to protected types of speech.

The unrewarding job of explaining what *Roth* meant cast the Court in the following ten years in the humiliating role of screening sexually oriented films, books, magazines, and photographs in hopeless efforts to ascertain who was the "average person," what were "contemporary community standards," whether "prurient interest" was aroused, and whether this movie or that book had any redeeming social value. While the Court seemed highly sympathetic to defendants' arguments in the pornography cases of that period, no observer could possibly explain case results without reference to the idiosyncratic views of the individual Justices. One could hardly ever discover an "opinion of the Court." Thoroughly unable to agree as to any appropriate constitutional rationale, the Court in a 1967 *per curiam* opinion acknowledged the legal disorder. Explaining the range of views among the brethren, the Court reversed convictions in three cases with this un-lawyer-like statement: "Whichever of these constitutional views is brought to bear upon the cases before us, it is clear that the judgments cannot stand." Thereafter, the Court repaired to routine summary reversal of general obscenity convictions that did not implicate any of three valid state interests that apparently appealed to a majority of the Justices: concern for juveniles, the privacy of unconsenting individuals, and restraint against commercial "pandering."

Thus it seemed the Court was indirectly demanding a stronger justification for suppression than pornography's power to excite lust. In a rare demonstration of solidarity in this realm, the Court in *Stanley v. Georgia* (1969) seemed implicitly to reject the idea that

pornography is generally harmful, even though continuing to assert that *Roth* remained good law: "We hold that the First and Fourteenth Amendments prohibit making mere private possession of obscene material a crime." *Roth* and its legacy, the opinion claimed, dealt only with commercial distribution of pornography.

Yet the reasoning in *Stanley* hardly comports with the foundations of *Roth*. For example, *Stanley* maintained that the "right to receive information and ideas, regardless of their social worth, is fundamental to our free society." *Stanley* quoted from *Winters v. New York* (1948), where the Court had invalidated state regulation of commercial distribution of certain crime magazines because "although we can see nothing of any possible value to society in these magazines, they are as much entitled to the protection of free speech as the best of literature" Yet *Roth* had quite clearly ignored *Winters* by assuming that pornography is unprotected precisely because it is "utterly without redeeming social value." Responding to the state's claim that it had authority to protect an individual's mind from the effects of pornography, the *Stanley* Court exclaimed that such an "assertion . . . is wholly inconsistent with the philosophy of the First Amendment." Suddenly the first amendment *was* applicable to pornography, and the pillars holding up *Roth* seemed to collapse, despite the Court's unpersuasive effort to distinguish that case.

Reacting to the state's final argument, that exposure to pornography may induce anti-social conduct, the Court, in another departure from *Roth*, conceded that such a rationale for regulation might be valid, but concluded that "there appears to be little empirical basis for that assertion." In the context of *private* possession, however, *Stanley* (quoting Brandeis's opinion in *Whitney v. California*) indicated that even if such a connection could be established, "among free men, the deterrents ordinarily to be applied to prevent crimes are education and punishment for violators of the law," not suppression of speech.

The Court's *per curiam* orders reversing convictions based on general anti-pornography laws paralleled the 1970 commission's recommendation to repeal these laws. Both the Court and the commission recognized legitimate governmental interests in keeping pornography from children and from unconsenting adults who found it offensive, while rejecting all justifications for total suppression.

The political objection to this disposition eventually led to doctrinal changes. The membership of the Court had changed between 1969 and 1971, when the Court reversed its position and upheld the

general suppression of pornography in three cases. By 1971, President Nixon had replaced four of the nine Justices, and in *Miller v. California* (1973) a sharply-divided (5-4) Court announced a new set of standards:

The basic guidelines for the trier of fact must be: (a) whether "the average person, applying contemporary community standards" would find that the work, taken as a whole, appeals to prurient interest . . . ; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

These "community standards," said the Court, were not uniform, national criteria, but rather the local standards of the various communities within which prosecutions for pornography would take place.

Miller signaled a shift in the Court's stance, but the ambiguity of the Court's standards left plenty of room for interpretation: phrases like "serious . . . value" and "patently offensive" were too abstract to furnish much guidance. This became painfully clear a year later when the Court unanimously reversed a state criminal conviction for showing the award-winning movie *Carnal Knowledge*, which apparently had been deemed patently offensive under the community standards of Albany, Georgia.

Later, elaborating the content of "prurient interest," the Court in another case explained that it applies only to "sexual responses over and beyond those that would be characterized as normal." Lust was now a constitutionally acceptable reaction to pornography, if manifested in "only normal, healthy sexual desires," which, presumably, elderly judges were prepared to discern.¹⁰ In yet another case, the Court emphatically stated that the "literary, artistic, political, or scientific value" factor in *Miller* could not be calibrated in terms of varying community standards. In a separate opinion, freshman Justice Antonin Scalia thought that this turn of events warranted a reconsideration of *Miller*: "Just as there is no arguing about taste, there is no use litigating about it. For the law courts to decide 'What is Beauty' is a novelty even by today's standards."

II

The *Miller* standards did not obviate the need for unseemly and burdensome case-by-case judicial review of pornography decisions. Indeed, some features of *Miller* are perhaps more nebulous than the *Roth* test. Yet the twists and turns of constitutional doc-

10. *Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491, 498 (1985).

trines about pornography may be less important than several nonlegal developments. Of these, the most fundamental—and ironic—is the fact that, despite the brakes applied in *Miller*, hard-core pornography has proliferated. Apparently, the Court's *volte face* closed the barn door after the horses had escaped. The difficulty of obtaining convictions under general obscenity statutes was not reduced by the *Miller* modifications; laissez-faire seems to have survived in fact, though not in law, as pornography has become a multi-billion dollar industry, infiltrated substantially by organized crime.

Instead of trying to prohibit pornography through protracted, troublesome, and often unsuccessful criminal prosecutions, many local governments have resorted to their zoning powers. Ordinarily, such "time, place, and manner" regulations, when applied to constitutionally protected expression, must be content-neutral. The government can, of course, go to court to prosecute legally obscene materials; but the goal of zoning is to avoid litigation over borderline cases, and instead to lump together all "adult" expression, regardless of whether it could constitutionally be proscribed. Over the objection of dissenting Justices, the Court has occasionally relaxed its requirement of content neutrality, to accommodate zoning schemes designed to cope with a rising tide of pornographic materials.¹¹ This approach has appealed to numerous jurisdictions, no doubt because it is less replete with the legal problems that attend direct, and apparently futile, attempts to suppress pornography.

Another development has been the increase of violence in photographs, magazines, films, and videotapes in which sexual preoccupations are either explicitly or implicitly featured. Rampant aggression against women has been crafted into a new genre of visual expression, in the form principally of "slasher" films, for example *Toolbox Murders*, in which a naked woman masturbates in a bathtub and then is killed by a man with a power drill. These inexplicably alluring films are not necessarily pornographic under the *Roth* or *Miller* standards; they tend not to include explicit depictions of genitalia, and are therefore "R-rated" instead of "X-rated."

Meanwhile, the pornography issue has been reshaped by a revolution in technology. Cable television and video players have encouraged the growth of sexually oriented representations in the mass media. Federal regulations prohibit the showing of X-rated films on cable television, but violent "slasher" films like *The Texas Chain Saw Massacre* are commonly aired. This raises a host of

11. See, e.g., *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *City of Renton v. Playtime Theatres*, 475 U.S. 41 (1986).

problems, such as the justification for stricter regulations of the content of broadcasting, as compared to print, media.

Finally, attitudes toward pornography have been affected by feminist writings, and particularly the theory that pornography helps to perpetuate male supremacy.

When the Lockhart Commission published its findings in 1970, these sociological developments had scarcely begun. The Meese Commission, on the other hand, undertook its investigations within a socio-political environment that was much more conducive to pro-regulation conclusions.

Ideology never fully vacates any field of social inquiry, and the 1986 commission could not escape ideological division. In some ways, in fact, the origins, as well as the assignments, of that commission betray preconceived conclusions. In May, 1984, President Reagan in his re-election year called for the establishment of such a commission. Whereas the earlier panel had been furnished with a healthy budget of \$2,000,000 and given sufficient time to conduct original empirical research, the Meese Commission was charged with a twelve-month mission and only allotted \$400,000 (more than \$6 million in 1985 dollars would have been needed to match the budget of 1970). Perhaps this helps to explain why critics were generally predisposed to dismiss the entire enterprise as nothing more than a political maneuver by the Reagan administration.

The Meese Commission divided sexually oriented expression into four categories. The first embodies sexual scenes with explicit violence in which women are ultimately shown deriving pleasure from this violence—raped women brought to orgasm, for example. The second, and probably the largest commercial category, was considered nonviolent, but degrading or humiliating insofar as women are depicted as subservient to the sexual pleasures of men. The third comprises explicit displays of various forms of non-degrading, “consensual and equal” sexual intercourse. The fourth consists of unprovocative nudity without strong sexual overtones.

The Commission tried to weigh the harmful impact of each of these kinds of expression on three scales: 1) hard, scientific, experimental evidence; 2) the totality of the available evidence (including the testimony of witnesses who appeared before the Commission); and 3) moral, ethical, and cultural considerations.

The Commission’s conclusions can be succinctly stated: sexually violent and degrading materials (the first and second classes) tend to promote aggression toward women; expressions of consensual and equal sexual behavior, as well as simple nudity, on the other hand, are not harmful unless children are involved. Some

members, such as Dr. James Dobson (who interviewed Ted Bundy), regarded graphic presentations of sex as *per se* degrading and thus harmful, but the *Final Report* itself did not adopt this theory; it recommended, not new laws, but that existing regulations be more conscientiously enforced.

The Commission found statistically reliable social science data to support the proposition that violent depictions of sex are harmful. Concerning the second type of materials (scenes of degradation, humiliation, domination, or subservience), the Commission's evidence was concededly sketchy and "tentative," and the conclusions of harm were drawn "with somewhat less" assurance than the unanimous judgment about violent pornography. But even this documented connection between violence and aggression toward women was obscured by the chorus of ridicule that greeted the *Final Report*. The Commission surely, if inadvertently, encouraged exactly this reception in resorting to "moral, ethical, and cultural" criteria in assessing social harm. With a Commission as obviously stacked as this one, such patently subjective and conservative-sounding criteria were a red flag to commentators whose ideology differed from that of the commissioners.

In *United States of America vs. Sex*, Nobile and Nadler capitalize on the obvious vulnerabilities of a presidential commission charged by a conservative administration with the duty of defining pornography and assessing its ramifications when loosed upon a modern, pluralist society. No serious reader would treat their book as a scholarly response to the Commission's conclusions. Indeed, the bias of these authors is as blatant as the bias they attribute to nearly every member of the Commission. The sardonic grind of their narrative does not let up, even temporarily to recount the testimony of pitiful victims of sexual abuse. Nevertheless, the book does offer an amusing tale of the tribulations of the Meese Commission.

In a very sobering and scholarly volume, Professor Edward Donnerstein, an important witness for the Meese Commission, and Professors Daniel Linz and Steven Penrod, who collaborated in compiling the work in *The Question of Pornography*, corroborate with repeated and substantial experimental research, the most important and the only scientifically persuasive finding of the *Final Report*—that depictions of sexual violence *do* contribute to aggression against women. The impetus behind their book was "that so much attention was being paid to the possibly damaging consequences of exposure to pornography that the more pervasive and more troubling combination of sex and aggression in the media were being ignored. We contend that violence against women in

some types of R-rated films shown in neighborhood theaters and on cable TV far exceeds that portrayed in even the most graphic pornography.”

This book not only comprehensively reviews the experiments and findings of other researchers but also describes original laboratory experiments undertaken by the authors to test the validity of earlier works and popular assumptions. The first chapter introduces the reader to the methodology of social-psychological experiments designed to measure whether exposure to certain stimuli causes certain human behavioral reactions. The familiar criticisms of scientific laboratory attempts to discern causality are candidly acknowledged, yet the most prominent—and standard—objections raised by the critics seem persuasively countered by Donnerstein *et al.*, though they conclude the chapter by saying that readers, after having read the caveats, should formulate their own assessment.

Research findings (as well as the critical and political responses) produced by the 1970 pornography commission are discussed at length in the next chapter which concludes with the recognition that much of the sexually oriented material saturating the market today is very different from that which was prevalent in 1970.

Unlike many feminist critics of pornography, the authors of this book conclude “that the data, overall, do not support the contention that exposure to nonviolent pornography has significant adverse effects.” This corresponds to the general assessment made by the 1970 presidential commission. Moreover, contrary to one of the conclusions (one not based on scientific data) of the Meese Commission, Donnerstein *et al.* argue that “evidence supporting the contention that so-called degrading [but not violent] pornographic materials . . . are harmful is sparse and inconsistent.”

A very different appraisal follows experiments with violent pornography which conveys the message that women find force or aggression pleasurable. This message seems to influence male perceptions and attitudes about rape, though the evidence suggests “that exposure to aggressive pornography is not necessarily ‘causing’ calloused attitudes about rape, but rather reinforcing and strengthening already existing beliefs and values.” Laboratory experiments demonstrate that “normal college age males [the usual subjects] become sexually aroused to violent pornography, especially if it contains the message that women enjoy being raped.”

Although violence in adult oriented materials has become more prominent since 1970, this trend is due to violence in R-rated movies in which no explicit sex is shown. Moreover, as one major

study has demonstrated, in X-rated films and videotapes (traditionally defined as pornographic because sexual activity is explicitly presented), levels of violence have decreased while scenes of “mutual” and “egalitarian” sex have become more common.

Donnerstein, Linz, and Penrod ask the inevitable question: is it the *sex* or is it the *violence* that is significantly correlated with aggressive attitudes and behavior toward women? The scientific evidence appears to point the finger at the violence. Furthermore, the idea that women desire rape is “so pervasive in our culture that it is myopic” to call it “the exclusive domain of violent pornography.” In fact, the most violent depictions—the “slasher” and “splatter” films—are the most readily available; they can be found across the country in drive-in movies and regularly on cable TV. Research studies “strongly suggest that violence against women need not occur in a pornographic or sexually explicit context to have a negative effect on viewer attitudes and behavior.” “The important point is that much of the evidence for stating that sexually violent pornography is harmful (i.e., leads to calloused attitudes and perceptions) is based upon materials that probably are not sexually explicit enough to be judged obscene by most standards.”

To focus concern primarily on *pornographic* images of violence against women is therefore misguided. The main problem lies elsewhere. According to at least one laboratory study, even women themselves, when repeatedly exposed to nonpornographic slasher films, become desensitized to violence against women.

Moreover, the rating system utilized by the motion picture industry yields a bizarre irony: People under 18 years of age are forbidden to view X-rated films, even those without violence, yet films with far less restrictive ratings, to which they do have access, frequently contain nonexplicit but very violent sexual messages of rape and other aggression against women. “The message to young people in our society may be that sexual violence is permissible, but nonviolent sexual relations are not.”

If these generalizations are not wildly off the mark, it appears that the Supreme Court’s preoccupation with “patent depictions of sexual conduct” is largely irrelevant to the pressing concerns of the contemporary debate about pornography and social harm. In this respect, the Meese Commission was ahead of the Court: though some of its panelists were fixated principally on explicit genital interaction, the *Final Report* recognized the mounting and greater danger in “slasher” and “splatter” depictions of violence.

Donnerstein, Linz, and Penrod do not recommend renewed efforts to suppress violent expression, even when it is sexually ex-

plicit. They caution that the evidence of harm is drawn only from laboratory experiments. As an alternative to censorship, they suggest education ("debriefing") as the most efficacious and responsible way to cope with materials by which they admittedly are "personally and morally deeply offended." In this respect, they disagree with the Meese Commission.

The slasher genre of pathological eroticism is a big business and is readily available in the mass media market, especially via broadcasting, a medium that is legally more susceptible to federal regulation than are other forms of mass communication. Matthew L. Spitzer's *Seven Dirty Words and Six Other Stories* develops an argument designed to undermine the traditional legal distinction between regulation of print and of broadcast, a distinction that he regards as "the central anomaly" of the system of freedom of expression in the United States.

Spitzer summarizes the three principal arguments ordinarily advanced to defend the federal government's greater regulation of broadcasting: "(1) to achieve economic efficiency; (2) to limit sexually harmful conduct caused by people's exposure to sexually explicit or violent material; and (3) to prevent children's exposure to a variety of material that may cause them harm." In Part I of this book he demolishes each of the various economic rationales for the print-broadcast distinction. Nor does he find adequate justifications for governmentally imposed levels of access and diversity in broadcasting, regulations ostensibly designed, according to an argument that Spitzer destroys, to promote the values of the first amendment.

Part II deals with the impact on viewers of sexually explicit and/or violent expression disseminated through radio and television, particularly with respect to accessibility of these materials to children. Many have assumed that broadcasting, especially television, is extraordinarily persuasive. Spitzer believes that the evidence in support of this proposition is at best contradictory and inconclusive; there is "no general difference between persuasion in print and in broadcasting that will support differential regulation of content."

Confronting next the sensitive topic of sexually explicit presentations, he recognizes the "strong intuition that film is more arousing than print," but he contends that the available research does not support that supposition. If anything, the evidence tends to show that print may be slightly more potent than video and film. At any rate, "the evidence regarding bad effects of sexually explicit materials on adults cannot justify differential regulation of print and broadcast."

When he discusses violence on television, Spitzer's position becomes more ambiguous, because there are studies that document undesirable effects of violent broadcasting. He admits that the greater accessibility of TV violence to children "might suggest stricter regulation of broadcast than of print," such as channeling or segregating that material into certain frequencies or times of the day. That is all he will concede.

There are at least two important problems with this analysis. One problem is that uniform treatment of the media would not necessarily lead to deregulation; it could just as logically lead to content regulations of books and newspapers, at least when the subject matter involves violence. Another problem emerges from Spitzer's chapter examining the effects of sexually explicit materials on aggressive behavior. Like many other investigators, Spitzer finds no solid data to support the assumption that graphic sexual depictions encourage aggressive conduct; he thus finds, on this front, no reason to regulate broadcasting differently. Unlike other researchers, however, Spitzer does not appear to include slasher and splatter films in arriving at this assessment; yet, as noted earlier, this bizarre genre has been frequently and significantly linked with the reinforcement of calloused attitudes toward victims of rape and other aggression.

Perhaps the most divisive issue in the contemporary debate is whether pornography degrades and helps to subjugate women. Conceivably, under its powers to enforce the fourteenth amendment, Congress could proscribe pornography as a reasonable means of eliminating, or at least reducing, sex discrimination.¹²

Whether a statute could be drafted along these lines that the Court would uphold despite its rejection of the feminist ordinance that Indianapolis adopted, is unclear. Although the *Final Report* of the Meese Commission repeatedly quotes Andrea Dworkin to the effect that pornography is an instrument of male domination, hardly any empirically persuasive evidence exists to support the notion that nonviolent, but sexually explicit, portrayals of women as objects of men's pleasure actually encourages aggression against women or makes denigration of women socially acceptable.

Although most feminists are rightly critical of depictions of violence perpetrated against women, the rage of radical feminists has at times been directed against heterosexuality itself. For example, Alison Jaggar has written: "From the radical feminist perspective

12. The constitutionality of such federal legislation could be derived from the combination of arguments developed by the Supreme Court in *Katzenbach v. Morgan*, 384 U.S. 641 (1966); *United States v. Guest*, 383 U.S. 745 (1966); and *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968).

... most heterosexual relations are indistinguishable from rape."¹³ Before assuming her duties as advisor to the cities of Indianapolis and Minneapolis, Dworkin postulated that even male homosexuality insults women, because one of the men, according to Dworkin, usually plays the subservient, dominated "female" role. She also voiced the unusual conclusion that heterosexuality is an acceptable practice only if the man's penis is not erect.

If pornography is the ideology of male supremacy, it seems to be remarkably ineffective. Coinciding with the tremendous explosion of the pornography industry in the last twenty years has been the emergence and success of the women's movement, including unprecedented judicial dismantling of archaic laws unfairly discriminating against women and the creation of new and sweeping state and federal legislation designed to increase equality of the sexes. In previous eras, when pornography was relatively hard to obtain, patriarchy was much more secure.

In the most provocative and intellectually complex book reviewed here, Professor Alan Soble confronts pornography, feminism (including its compelling, as well as its implausible, contributions), and Marxism. He explores the possibility of what he regards as a better world: a communist society that, unlike existing Marxist regimes, is replete with pornography. In the preface he gives evidence of the pervasive nature of sex in society, at least from his point of view:

I have been walking about in a daze of scholarly sexuality, in a world eroticized in a peculiarly Platonic way: mocked simultaneously by genital stirrings and philosophical amazement, stimulated by ubiquitous beauty into urges analytically perverse and perversely analytic. How did Ellis, Freud, and Kinsey survive? . . . The process was strenuous . . . because studying Marxist accounts of sexuality, feminist critiques, and pornography itself forced me almost daily to wonder about my own sexuality. Now, with the long-delayed orgasm of publication at hand, I want only to relax, to curl up with a good book that contains not the merest sexual innuendo. Fat chance. Even Descartes on mind and body feels different these days.

His two major theoretical obstacles are the orthodox Marxist view that pornography is a pathological derivative of capitalism and the radical feminist conviction that it is the propaganda of patriarchy. Applying Marxist themes in a field in which Marxists have been notably quiet, Soble's essay is a defense of pornography as desirable in a nonsexist, communist society. Unlike some liberal dogmatists who find nothing but subjective "blue-nosed" repression in any effort to circumscribe pornographic expression, Soble is careful to recognize that some contemporary pornography is undoubtedly

13. A. JAGGAR, *FEMINIST POLITICS AND HUMAN NATURE* 265 (1983).

and unrelentingly designed to degrade and humiliate women. On the other hand, unlike those feminists who attack biology, he candidly avows that sexuality, including erect penises, is healthy, and can be enjoyed by both sexes, as can pornographic representations of this sexuality. And, finally, unlike most Marxists who regard prostitution and pornography as products of the decadent capitalist society, and who predict the disappearance of both when communism prevails, Soble is confident that pornography, in a communist society, "will neither wither away nor be degrading."

The traditional Marxist urge to treat pornography as a social dysfunction rests on bourgeois perceptions of (or Victorian aversions to) sexuality. Orthodox Marxist assumptions considered users of pornography as displaced, disordered, or deprived men, retreating to dingy, dark theaters or their attics to masturbate. This deviant behavior would vanish in the communist society that would displace the oppressive weight of capitalism and all its ugly manifestations of alienation: prostitution, pornography, promiscuity, masturbation, and homosexuality, according to Wilhelm Reich, whose Freudian-Marxist thought Soble assesses in Chapter 2.

For Reich, capitalist relations of production repress sexuality, and therefore the elimination of capitalism would dispose of repressed sexuality in all of its supposedly deviant expressions. Marx believed that pornography was a product of economic coercion, and Freud contributed the notion that sexual repression generates the desire for pornography. Soble dismisses Reich's comprehension of natural human sexuality as too narrow: "it does not differ appreciably from the standard Roman Catholic view: genital heterosexuality is the natural form of human sexuality."

Because of the suppressive nature of capitalism, however, we cannot really know what the nature of sexuality really is until capitalism is supplanted and men and women are free to be themselves. This is the "agnosticism" of Frederick Engels from which Soble heavily borrows to deflate Reich's epistemological assumptions. Reich simply cannot know whether promiscuity, homosexuality, pornography, and so forth, are acts of repressed sexuality until general repression caused by the social condition is removed. This "view that human nature will express itself when people are free is so typically liberal that it is surprising to find it in Engels." But it is a premise that is indispensable to the first stage of Soble's argument. "Because the world has not yet experienced the new modes of production that constitute socialist and then communist society, there is no firm empirical basis on which to make reliable predictions about the desires and actions that these future relations of produc-

tion will generate. All such counterfactuals of the sort asserted or presupposed by the Reichian framework are as futile and as unscientific as astrology."

Soble can thus liberate himself from Reich's rather narrow comprehension of sexuality, but Soble's Achilles heel is the same as Reich's: if we in a noncommunist society do not and cannot know what we, as free people, would really want, logically it is impossible to know if what we already have is, indeed, contrary to what we would want. Soble tries to circumvent this dilemma by simply asserting that "a Marxist historical view of human nature allows us to predict with some reliability that pornography will exist in communist society and that both its production and consumption will serve valuable functions, [though] I think it wise to avoid specifying all the content of that pornography."

Soble's speculations are often very plausible, deriving from realistic observations about male and female sexuality and how the division of labor under capitalism has intensified the inequality that might account for both the content of most modern pornography and men's use of it. In Soble's utopia, unburdened by the yoke of capitalism and the dullness of work, men and women will be freed from the repressive sexuality that is now imposed upon them; like the theater, pornography will become "sophisticated spectator enjoyment" to be appreciated by all the senses made full and free in a communist society. A completely liberated sexuality, he surmises, might also encourage experimentation with bisexuality.

Soble argues that the sprawling women's movement has been searching for a rallying cry that can cohere the divergent, and often contradictory, forces within. "Pornography becomes the central feminist issue in the same way that prostitution was the central issue in the late nineteenth century. . . . An explanation for the progressive vehemence of the feminist protest is now available: as the women's movement failed to attain its desired unification, and as issue after issue either created more internal dissension or was unable to produce unity, the need for an indisputable focus became stronger."

Pornography became a unifying issue because it was an easy target. Rape used to be the target, but it could not mobilize enough women, especially "right-wing" white women who suspected that many rape victims, by their "indecent" behavior, "asked for" rape, and who tended to have little sympathy for black women (who, compared to white women, are disproportionately raped). Contemporary pornography, however, solidifies the movement by attracting these right-wing women who are offended by its contents and also

by excluding liberal men “who profess feminist ideals but who back down when the ideals beat on their bedroom doors.”

But if the women’s movement, trumpeted with bra-burning and other symbolic protest, could not unsettle the cosmetics industry, “it will never be able to make a dent in rape or pornography.” Pornography is essentially a natural expression of human sexuality that will always exist.

Contrary to the radical feminists, Soble believes that, “Men use pornography as compensation for their dire lack of power; pornography is therefore not so much an expression of male power as it is an expression of their lack of power.” The women’s movement has been, in part, and especially since the mid-1970s, an attempt to liberate women from the obligation of accommodating male sexuality. As this movement has succeeded in changing the attitudes and behavior of many women, men have turned to “pornographic fantasy in which their sexual desires are satisfied by fully accommodating women.” Told by their radical sisters that men’s erections are revolting reminders of subjugation and degradation, and torn by normal heterosexual attraction to men and their awakened aversion to humiliation which they find in some pornography, some women refuse to accommodate and some men attempt to recoup a sense of lost power through masturbation facilitated by pornography.

If this is true, why then would pornography hold any appeal in an egalitarian communist society? If power were restored to men, or made equally available to both sexes, would not pornography (as a substitute for lost power) disappear? Soble’s answer is that sexuality is a normal and permanent attribute of life, and pornography has been an ever present manifestation of it. In a communist society, it will not disappear; it will instead be satisfying to both sexes—free, natural, and not degrading to anybody. “An obsessive interest in sexuality will vanish when people engage in self-satisfying labor and when full development of their capacities is no longer prevented by an oppressive division of labor. Sex will then occupy its own place in the rich lives of people who are happy in their work and who do not need to elevate in importance one aspect of that life to the detriment of others. In the full day of the communist person described by Marx in *The German Ideology*, sex and love and whatever else will fit nicely among doing philosophy, writing music, and hoeing the field.”

It’s a pleasant prospect.