

PANEL DISCUSSION: EFFECTS OF VIOLENT PORNOGRAPHY

SYLVIA LAW, MODERATOR

SYLVIA LAW: We have six panelists here today: four feminists and two lawyers. I guess my function is to bridge the gap. (Laughter.) We are going to begin hearing from the two feminists who did not speak this morning. Phyllis Chesler is a psychologist and the author of several books including *Women and Madness*, and Florence Rush is a social worker and a therapist who specializes in the problem of sexual abuse in children. Then we are going to hear a response to their statements from Paul Chevigny, who is a former NYCLU lawyer, a novelist, and a professor at this law school, and David Richards, who is a prolific writer on such subjects as law and morality and particularly moral issues that relate to sex, and is also a professor in this law school. Then Andrea Dworkin and Leah Fritz, whom you heard this morning, will respond to them. Then we are going to open it up to an exchange among the panel, and finally, we will open it up for questions and comments from the floor.

OPENING STATEMENT OF FLORENCE RUSH:* We do not have a history of a taboo against the sexual use of children. Until recently, children were a paternal property and could be legitimately exploited, sold, or even killed by their masters. And since minors were also a sexual property, sex between male adults and children has been sanctioned, or at the very least tolerated, in our institutions of marriage, concubinage, slavery, prostitution, and pornography.

Today we expect the adult world to protect the young from sexual exploitation, but because we have neglected to simultaneously deprive men of their sexual privileges, our prohibitions represent the same confusion as do all laws and attitudes which arise from a double standard. Recently I heard a woman protest the marriage between a man of twenty and a woman of thirty. "The bride is a cradle snatcher," she said. When the protester was reminded of a male friend of seventy who was living with a woman of thirty, she spontaneously approved with "Good for John. I'm glad the old boy still has it in him." This common approbation of sex between young females and older males is also reflected in the law. In 1962, the American Law Institute recommended that the legal age of consent to sex (now between sixteen and eighteen, depending upon the state) be uniformly dropped to age ten. And until the legal age of consent in the state of Delaware was changed in 1972, if a man of forty had sex with a child of seven or over, he did so legally.

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There is little doubt that men are sexually attracted to children, and that entrepreneurs and advertisers attempt to capture this market. A good huckster will associate his product with a longed-for desire. Image-makers assure a man that if he uses the right shaving cream, a sexy woman will appear and obligingly demand that he "take it all off." And for those attracted to females of smaller dimensions, our media transforms the most nonsexual items into an erotic garden of childish delights. Bell Telephone at one time circulated a picture of a twelve-year-old girl standing on a phone book reaching for something unseen. The caption read, "Are you using your phone book properly?" The message ostensibly instructed that the phone book is for finding numbers rather than adding height, but by posing the little girl with provocatively exposed buttocks, the picture made a direct appeal to male sexual interest in little girls. The indirect message was so obvious that a group of women lawyers finally had the picture removed. Today, underwear companies have tots and teens modeling "demure briefs" and "sensuous thongs." Caress soap pushes its product with a tee-shirt on which the word "caress" invitingly covers a pre-teen bosom. In popular periodicals one can find a full-page picture of a child about eight years old made up to look like Marilyn Monroe and holding a teddy bear with the promise that Baby Soft Cosmetics will give you that "clean irresistible baby smell grown up enough to be sexy." The teddy bear is often used as a symbol of the sexy woman-child. In his day, Elvis Presley gyrated as he sang "Let Me Be Your Teddy Bear." In the sixties, Romania Power (Tyrone's daughter), age fourteen, became the model of high fashion, and Twiggy, age seventeen, stood five feet, six inches but weighed no more than ninety pounds; small, infantile and childish was beautiful. Women who shopped at Bloomingdale's and Lord & Taylor could no find clothes long enough to cover their private parts. Today, *Harper's Bazaar* says: "Just look at the movies. The kids are taking over Hollywood . . . Tatum O'Neal and Jodie Foster are already femme fatales and Chastity Bono is sure to be the tiny terrific of TV land."

But if the little girl is to be a sexual commodity, the rift between common decency, male desire, and the profit-motive must somehow be reconciled. Many devices to mitigate this rift are used. One is the naughty but sophisticated dirty joke. William Burroughs, in his book *Naked Lunch*, had one child molester say to another, "May all your troubles be little ones." Weather forecaster Tex Antoine, after hearing a report of the rape of an eight-year-old, quipped, "Confucius say: if rape is inevitable, relax and enjoy it." The coast-to-coast "Mary Hartman Show" made an exhibitionistic, flasher grandfather (flashers usually expose themselves to children) both funny and loveable. Another strategy employed to make the sexual use of children more palatable is art—preferably rebellious art. In the late nineteenth and early twentieth centuries, western society was obsessed with the image of the pure, innocent, sexless little girl. Several men of letters and art, who had never before made a political statement, suddenly found a cause. In opposition to her idealistic, unreal representation, they portrayed the female child as excessively carnal. Cinderella kept a clean house, and Alice-in-Wonderland had excellent manners, but Lolita was preferred. Dostoevski, the prominent photographer O.D. Rejlander, paint-

ers Pascine and Balthus, and the currently popular photographer David Hamilton, all portray the female child as either sexually aggressive, wantonly exuding sex, or depraved and harlot-like. And then, of course, there is "Pretty Baby."

"Pretty Baby" is an invention of the French film director, Louis Malle. It is the story of a twelve-year-old prostitute, Violette, who was born and raised in a New Orleans brothel in the early twentieth century. On her twelfth birthday the child's virginity was auctioned off to the highest bidder. Unaware of any other existence, Violette took her initiation into "the life" with pride and equanimity. When the brothel was closed by irate citizens, she moved in with the bearded photographer Belloq whom she seduced. Critic Vincent Canby saw the film as a "parable about life and art." But despite his enthusiasm for "art," he managed to ignore the skill of Brooke Shields, the twelve-year-old actress who played the leading role. "I have no idea whether Brooke Shields can act in any real sense," said Canby. But to Canby, as well as Malle, her skill (or lack of it) was irrelevant. Shields was a sex object and nothing more. "She has a face that transcends the need to act," said Canby. Judith Crist, on the other hand, found "Pretty Baby" to be visually beautiful, but "pointless"—especially the gratuitous flashing of "the heroine's prepubescent nudity." For all its artistic trappings, I found the film no more than a pandering to pedophilic interests.

"Pretty Baby" was patterned after an actual child prostitute who lived in an actual brothel and suffered the ravages of venereal disease, drugs, and bodily abuse. Malle preferred fantasy to reality and insisted that in this brothel world there was neither a victim nor a violator. And if a depiction of a child prostitute can be presented without a victim or a violator, then the statement, however artistic, can be no more than a legitimization of a man's right to purchase a child for sexual use. The poet Christina Rossetti said of the artist that he paints the female "not as she is but as she fills his dream." And if the creator of the female child refuses to acknowledge the power of one sex over the other and of the mature over the immature, then whether the little girl is fashioned as an objet d'art or a slut, or by an artist or a hack pornographer, her representation can be nothing more than an insulting reflection of her creator's mind's eye.

And when in the name of humor, art, or the rebellious spirit, sex remains a metaphor for power, the step from humor, art, or the rebellious spirit to pornography is a short and easy one. The illustrator Aubrey Beardsley, Felix Salten (author of *Bambi*) and Guy de Maupassant have all contributed to child pornography. In *The Colonel's Nieces*, for example, de Maupassant has a father assist his son in raping a child: "'Give it to her,' muttered the father who was feeling the lad's balls . . . 'Ain't she a beauty? What a tight little cunt she's got!'" And if the step from the eroticization of children in art and humor to pornography is short, the distance from pornographic fantasy to acting out the fantasy as a real life experience is negligible. Sex biographers such as Casanova, Frank Harris, and the anonymous author of *My Secret Life*, Walter, all boasted of seducing children. Today these men are acclaimed for their courage and honesty. Honest, perhaps. Courageous, hardly. Casanova suggested

that a child could be more easily seduced in the presence of someone she trusted—an older sister perhaps. Frank Harris recommended India “as the happy hunting ground for little girls.” There he found a widow of twelve who “didn’t enjoy it much but was afraid to complain,” and Walter found a plentiful supply of “young quims” among the hungry children who wandered the London slums. The Marquis de Sade, currently resurrected as a philosopher and revolutionary, even in fantasy never inflicted his atrocities upon equals; he reserved his sexual torture for women, children, and members of the lower classes. But if de Sade’s life did not match his imagination it was not for lack of effort. He was finally arrested for sticking young girls with knives, feeding them aphrodisiacs, whipping them, and other such delights.

And as our threshold for shock diminishes and we become more and more immune to the dangers of pornography and pornographers, we conjure up all sorts of rationales to perpetuate this voracious industry. In England in 1966, Pamela Hansford Johnson, who covered the trials of the sex mutilator and murderer of children Ian Brady and his assistant Esther Hindly, was impressed by the fact that over fifty volumes of sadomasochistic material was found in Brady’s room with the Marquis de Sade as his major hero. In Johnson’s opinion, mine, and many others, the violence found in pornography is “suggested to us, even urged upon us.”

In 1974, the media uncovered a pornographic industry operating from a suburban Long Island home. Eugene Abrams and his wife put an ad in *Screw* offering two hundred dollars for girl models between the ages of eight and fourteen for a one-day session of nude shots. Mothers and dads, together or singly, brought their daughters. The money is easy, good, and just as any other business, pornography soon becomes quite routine. Many runaways learn to survive by posing for porno shots. Father Ritter, director of Covenant House, a shelter for runaways, said: “These children cannot go home, cannot find jobs, nor take care of themselves. First they are approached to pose in the nude and it is a quick progression to engage in sexual acts for movies or in strip joints along Eighth Avenue for one hundred dollars for four performances.”

One might ask about our anti-obscenity and anti-pornography laws. The fact is that anti-obscenity and anti-pornography rulings have existed since the eighteenth century, but have rarely been enforced, and if enforced at all, it was usually for political rather than moral reasons. Actually it was not until the early twentieth century when women began agitating for sexual equality, the right to control their own bodies and reproductive functions, that obscenity laws were seriously executed. Margaret Sanger, Annie Bessant and Marie Stopes were all imprisoned for writing and distributing “obscene” literature on birth control. But while women and some men were persecuted for advocating sexual equality, no one prevented the American and European markets from being flooded with hard-core pornography. Actually, men like Henry Miller, Frank Harris, and D. H. Lawrence were innocent victims of censorship. They never favored female emancipation and when it became clear that both creative writers and hack pornographers never intended the “sexy” female to be a sexual equal, censorship relaxed.

By the mid 1950's, a series of Supreme Court decisions resulted in progressively lenient attitudes towards sexually explicit material, and in 1970 the National Committee on Obscenity and Pornography published a report which concluded that pornography is not harmful, it is even educational, encourages frank discussions between parents and children, releases "inhibitions," is "not a factor in the causation of crime" and therefore "not a matter of public concern."

But nothing could better illustrate the Commission's lack of moral interest than its refusal to deal with the exploitation and victimization of vulnerable children in pornography. The Commission reported such gross inaccuracies as, "Pedophilia is outside the interests of pornography," or in stag films "the taboo against pedophilia remains inviolate" and "the use of pre-pubescent children is almost nonexistent." It really takes very little to know that as soon as the camera was invented dirty post cards of breastless hairless children and of pregnant, naked child prostitutes, appeared. And from the liberated sixties until today, available avant-garde publications advertise such films as "Infant Love," "Children and Sex," "Little Girls," where one can see "a girl with no hair on her tasty vagina" or children from six to thirteen "sucking on a good hard tool." I have personally never even found it necessary to browse in 42nd Street sex shops for my research. From San Francisco to New York, in every airport, train and bus station, the most respectable book stores and newsstands carry titles such as *Uncle Jake and Little Paula*, *The Child Psychiatrist*, *Lust for Little Girls*, *Adults Balling Children*, *ad nauseum*. With little difficulty one can easily obtain *Lollitots* in which you can get introduced to Patti, "the most exotic ten-year-old you'll ever meet," or *Little Girls*, which offers pictures of ten- and twelve-year-olds in intercourse with adult males. For \$45 one can purchase a film in living color and see a nine-year-old getting fucked by two Arab boys, then by an adult and "can experience in every detail how her little cunt gets misused in different ways."

The Commission's ability to ignore child pornography can only stem from a conscious or unconscious determination to tolerate male sexual interest in children and not to interfere in the lucrative industry of child pornography. The Commission managed to rationalize this determination by assuming that legal restraints on pornography could be justified only by proving bad effects upon the consumer. Admittedly pornography does not harm its all-male consumer population. It harms the items consumed. Unlike hair dyes and cigarettes, the items consumed in pornography are not inanimate objects but live women and children who are degraded and abused in the process. By adopting a "consumer beware" attitude, however, the Commission satisfied itself with the fact that juveniles rarely purchase explicit materials. Therefore, once such materials are labelled "for adults only," or "parental guidance recommended," the Commission felt its obligation to the young was over.

Some members of the Commission produced studies, testimony, and authoritative evidence establishing that pornography was physically dangerous to the young, encouraged child molestation and rape, and destroyed the public and the self-image of children. The Commission, however, paid little heed to

these protests from a minority of its members and recommended the repeal of laws restricting the sale of pornography.

By 1973, the Supreme Court abandoned a national standard definition of obscenity and allowed individual states to establish their own guidelines. Many people, in the name of freedom, jumped on this strange bandwagon and currently our most progressive and radical elements prefer to defend pornographers rather than organize against them. Others have argued that if "forbidden fruit" is available, prurient material would soon become boring and interest would wane. Nothing could disprove this more than our current avalanche of child pornography. In 1977, Judith Densen Gerber unleashed a crusade against this overwhelming onslaught and collected 250 publications dedicated to sex with children age three, four, and five. She discovered, however, that putting this industry out of business was not easy. The Supreme Court ruling that permits communities to determine what is obscene allows individual judges to translate the sexual use of children as liberating and educational. The child pornography industry is today in excellent health.

It is estimated that 1.2 million children under sixteen are yearly involved in commercial sex, either prostitution, pornography, or both. Those who have been in the struggle for a woman's right to a legal abortion have said that if men could become pregnant abortion would be a sacrament. And if women and children were the prime consumers of pornography and men the objects to be degraded and endangered, would the Commission on Obscenity and Pornography not then have declared pornography to be a crime? I think it would!

OPENING STATEMENT OF PHYLLIS CHESLER: I am never nervous before I speak, but I am in some distress and my heart is beating faster than usual now and yours should be, too. If it is not, then I do not think we are going to find a solution to this problem here. I am that child Florence has just spoken about, and I am also a grown woman who cannot protect that child. I want to share two major ideas about the psychological sources of pornography. In *About Men*, my most recent book, I have a picture of an early Venus fertility figurine, 2300 B.C. Right next to it I have a picture of a headless torso from the twentieth century, done by a sculptor named Hans Belmar. I suggest that this is precisely what has happened to woman as mother, as goddess, as sacred, as our mothers: we have become the disembodied go-go dancers topless in the pornographic movies in Times Square.

What I have to say about that has to do with matricide. I will read from the beginning of the section of my book about mothers and sons. Because this indeed is what it is about:

What, oh what do men want? Their mother's body, Eden's forbidden fruit. For nine months they eat of it and are born guilty. A son had already 'made it' with his mother. A son has already been sheltered and cradled in the arms of the tree. A son is already blinded at birth by his mother's blood. The blinding of Oedipus comes much later and needlessly. A mother's son must avoid all that floods him with memory of paradise and of paradise lost. What, oh what do men want? To forget, to deny, to relive

the rape, the dismemberment, the murder of the original parents. Matricide, not patricide, is the primal and still unacknowledged crime. Father-killing comes later and need only happen once, if at all, to be remembered, regretted, resolved. Mother-killing must be repeated again and again and again. Expiation for what cannot be undone. Mother, mother, why have I forsaken thee?

Those are very heavy thoughts and I leave them with you. The other thing that pornography legitimizes, signifies, is female disobedience of the incest taboo. Little girls are supposed to fall in love with daddy, be seduced by him, flirt with him, sit on daddy's lap, be molested by him. Then when we grow up we are supposed to marry father figures, men who are older, taller, hopefully richer, and presumably wiser than ourselves. This is incest. All women do this. We are supposed to do this. In fact, when we marry younger than ourselves, we are told, "Ah ah, that's a no-no." Men do not marry their mothers. As Freud said, and I agree with him, men cannot break the incest taboo. And I will leave that thought with you for a moment, too.

There are no older women in pornography. The largest female complaint in the liberal sector about men is not that men are brutal, violent, sadistic, or even traffickers in pornography. The big female complaint is that men at home in bed are emotionally passive. They are not there. They are somewhere else. They are distant. They are imagining someone else, someone much younger with no hair, someone with no flaws, not an adult female. Men are not with us. I do not know for sure whether this leads to pornography or pornography leads to this. I do know that it leads to the enormous psychological suffering of women.

When I walk out on the street, and I pass a newsstand, I have to pretend that the magazines are not there. I have to avert my eyes and make no trouble because I cannot battle every battle, because if I did I would be in jail all the time. I am still denying reality. This means that I am going to be a little bit of a softer touch when I deny being discriminated against at work. Or deny that the rape really did not matter that much, it did not hurt me, I'm not dead, it could be worse, so that I will get practice in suppressing anger, caused by being surrounded by pornography, and yet, not doing anything about it.

I think that the suppression of anger in women could lead to chronic depression. Maybe we ought to have a class action law suit based on presumed female mental illness. Maybe it leads to dysmenorrhea. Maybe it leads to female frigidity. Maybe it leads to existential despair. Maybe it lead to pelvic cancer, but I'm not kidding, I'm serious. Another psychological effect that pornography has on me, as a woman, is that it is a warning that I have to try harder, that I have to make up for either being against that or not looking like that. Perhaps I will allow more pornographic-like sexual or psychological practices to exist in my life. Maybe I'll keep a cleaner house. Maybe that is how I'll make up for it. Maybe I'll get breast augmentation surgery and die a year later so that he can replace me with somebody much younger with no hair. Perhaps pornography leads to this.

Another thing that pornography is about is that men are impotent with grown women sexually, over a long period of time. They flee from intimacy with anyone who becomes a mother with whom they live under the same roof. And I am punished sexually by their withdrawal. They are not punished because they can run out to be turned on in strange, dark places by strange young women. Why are men impotent, why are men angry, other than having to give up one's mother or older women?

Another source of violent pornography is that men are pretty angry with other men. In order to cut down the amount of fratricide, the deadly hatred of men by men, homicides, men do femicide instead. Women are easier to get at, and men get shorter sentences and they get let out on the street faster and they can rape and kill again. And we say, "Gee, we'll overlook it, we'll forgive them, they didn't mean it, we're not that important. Better they should beat us than kill another man." Most pornography suggests that men are potent when they are not, that men are active when they are not, and suggests something more important, that men are brothers, which they are not. In pornographic films men do not compete for women with other men as they do in real life. This is all a lie. There is no brotherhood really, only in this escape fantasy. One of the things I learned when the movie "Snuff" opened in Times Square several years ago was that the majority of the people coming as couples, men and women together or men with each other, were from very poor neighborhoods. They were black, they were Puerto Rican, they couldn't express their anger Monday morning at City Hall or in the factory or on the job against the boss. They came to a pornographic film. That's an easier opiate than fighting class warfare. It's a much easier and safer opiate than shooting up with heroin, but that's indeed what it is for men. My assistant, Lori Youngert, suggested that maybe we could enact legislation under the auspices of the feminist government in exile, which would at least stamp on every piece of pornographic material, "Warning: The Minister of Mental Health has determined that reading this material is hazardous to your psychological health."

In general, I'm very uncomfortable speaking about pornography in a reasonable tone. To me, it is like a Jew discussing reasonably Hitler's *Mein Kampf*, or a black person talking reasonably about some Ku Klux Klan manifesto, or an American Nazi Party manifesto. To discuss this subject *reasonably* in a kind of entertaining and intellectual fashion is morally equivalent, psychologically equivalent, to talking reasonably about lampshades made from human skin, and concentration camps. I don't want to be too entertaining when I talk about pornography. I don't like some of the experiences I've had when I've been dated by intellectual men to see whether I, the feminist, can be made not to blow my cover or blow my cool and keep talking about pornography in very reasonable tones. I cannot. I do not usually talk about it for that reason.

OPENING STATEMENT OF PAUL CHEVIGNY: I am going to try to keep this brief. I am going to take a hard line here. I take the position, and I will defend the position, that there is *nothing* to be said, nothing *rational* to be said, for any government censorship of any writings that relate to sex. There is nothing to be said for it. It would be an inexcusable interference with the freedom of everyone in this room and everyone in this country. I do not take this position be-

cause I don't think that pornography is bad for women. I do not take this position because I am not in favor of women's rights, nor because I don't think that women are an oppressed class.

I think I am in favor of women's rights. I do think women are an oppressed class. I do think pornography is bad for women. Nevertheless, I disagree with the Supreme Court's view on obscenity; I do not think that the law has any right to control writings with respect to emotions about sex. My reason is because I respect speech. I think speech *is* effective. I think it does change people's minds. I think that when it is powerful, it sometimes hurts people. No one here has said any of the things I thought we were going to hear about effects of pornography. I did not hear anything about any specific effects. *Not a syllable*. Nothing. (Murmurs from the audience.)

Nevertheless, I would concede that there are occasions when pornography has been bad for women. Specific connections could probably be shown. A good example is the famous television case. Even if there were not such cases, I would concede that pornography is a form of propaganda with respect to women; that it creates an atmosphere which is degrading to women, and is unpleasant to them as indeed it is unpleasant to me. Even if it cannot be shown to lead to violent action, it creates a degrading atmosphere. I would be willing to concede that speech in that respect is effective. In fact, it is because I think speech is effective that I do not think there should be any control, because words are very important to us.

Let's talk about what theory could be used to help women with this problem. If the law could really make a tight distinction about words, about what really hurts women, and what is really pornographic, then one could draw a hard and fast line. In this society, if we passed such a law, do you think that it is the oppressed people upon whose behalf it would be enforced? Of course not! Censorship laws are always enforced on the side of the most powerful people. It has been said here that censorship, ridiculous as it may seem, was never used for the "right" reason; it was always used for political reasons. *Of course* it was always used for political reasons. It is used by the oppressor to oppress the oppressed. If you are an oppressed class in society, the last thing you want are laws controlling speech. That is the most illogical position for an oppressed class to take. It is exactly like the Left saying, "We ought to have laws controlling speech that is insulting to blacks." To think that laws which control speech would not be used first against the Left is absurd!

If, indeed, women are an oppressed class, then the last thing they want is censorship with respect to speech about women. You do not suppose that the government of the City of New York would enforce such laws to promote the rights of women. I do not suppose so.

The point is that that kind of hard and fast distinction cannot be made, particularly with respect to matters that relate to human emotions. We express our thoughts and feelings in writing, and in particular, we talk about relations between men and women. Practically every artistic expression since the beginning of civilization and before relates to relations between men and women. But which of them are said to be harmful to men or harmful to women? We are shown this fertility symbol. It is a statue of a woman. And we see a modern

statue which is apparently copied from it. I may point out to you that throughout history, statues have been made that were primarily fertility symbols. There were statues made of women showing their sexual parts. There were statues of men who were virtually walking phalluses.

PHYLLIS CHESLER: They were worshipped, however.

PAUL CHEVIGNY: Yes. Do you know for a fact . . .

PHYLLIS CHESLER: I don't know . . .

PAUL CHEVIGNY: May I make my point? I did not interrupt you, and I insist on making my point. (Applause.) If I am not to be heard here, I will not talk. I will be heard, or else . . .

AUDIENCE COMMENT: This is not "Kojak."

AUDIENCE COMMENT: A little order. Don't yell at us.

PAUL CHEVIGNY: I am not yelling. I talk like this every day in class. (Laughter.) The point is this: with respect to these statues, we really do not know what they stand for, and we want to know what they stand for. It is the discussion with respect to their meaning that is important. It is the discussion of the meaning of the relations between men and women that is important. And every item with respect to the relations between men and women is an important input into the emotional relations between men and women. There was talk here about why the works of Maupassant were not suppressed. There is talk here about works which relate to debauchery of young girls. I may point out to you that the most famous of the books which relates to the debauchery of young girls is *Lolita*. The novel is in some ways horrifying, but the problem is that if there be drives, and indeed there are in the hearts of people, those drives must be discussed. If they have to be discussed by psychoanalysis, fine. If they have to be discussed in the public forum, fine. But if the minds of people with regard to sexual relations are to be changed, they must be changed through open discussion.

Now I want to make some distinctions. We have seen exhibits and heard discussion of pornography that is essentially focused on perversion. Now, there is a problem with expressions of perversion; expressions, as many of us would say, of a disordered mind. It is very difficult for me to understand how perversion could be extricated from anybody's mind by the suppression of photographs. It is quite impossible for me to see that. So I do not understand what conceivable purpose would be served by the type of controls that is advocated.

The last thing I want to say is this: that pornography and certain items which some people may consider pornographic, have unquestionably, at various times in history, been found liberating. One example that was much discussed in recent years was the movie "Last Tango in Paris." Now there is a movie which many people thought liberating. I personally did not. I thought it was rather perverted. The fact remains that because it was at the frontier of relations between men and women, and expressed something new about them, supposedly, people found it sexually liberating. It is arguable that the movie

was not degrading to women, but in fact expressed a kind of equality between a man and a woman. But the point is that I hear no one here claiming that the movie was degrading to women! So who is to decide? There *is* no way to decide.

With respect to the relations between men and women, I can imagine no way that a government could draw any conceivable kind of line that would not control all speech with respect to sexual relations. That, I suggest, would be extremely bad for the liberation of women and for the liberation of anyone else because the discussion that will lead to equality of relations between men and women would be destroyed by that kind of control. And it would be destroyed by a government in whose interest it is to maintain women in subjugation. (Applause.)

OPENING STATEMENT OF DAVID RICHARDS:* I have found myself very deeply moved by various statements made by speakers this morning and this afternoon. I found much that seemed to me extreme in the statements of Leah Fritz, Andrea Dworkin, and Phyllis Chesler. I found myself very moved by their descriptions of the hatred of women that is prevalent in our society and the difficulties in trying to extirpate it. I am sympathetic to some of their anger. But I also find myself opposed to their views on the first amendment, and I want to explain why that is so, and why I think it is unwise for this line to be pursued by feminists.

Why do civil libertarians believe that the values underlying the first amendment debar people like me, otherwise sympathetic to feminist arguments and policies, from allowing the prohibition by law of pornographic depictions alleged to be degrading to women? That is the issue I would like to discuss.

I could give you a narrow legal answer, and several of the speakers this morning gave us very boring narrow legal answers to that question. I could say, "It is because it would involve the regulation of the content of speech rather than permissible regulation of time, place, and manner." But I regard that response, though legally correct, as morally question-begging. We are addressing here a question of political morality. We want to know what is morally right regarding the use of the first amendment. I would like to explain with some sense of historical perspective why I think the first amendment stands unalterably opposed to proposals of censorship. I think we have lost perspective on what the first amendment is about.

LEAH FRITZ: Point of information. I understood that this session was to be on the effects of pornography on women and that there is another room where first amendment is being discussed. And I respect—(Uproar from the audience.)

PAUL CHEVIGNY: Well, why don't you talk about the effects—

*For fuller statements of Professor Richards' position on obscenity law and the first amendment, see D.A.J. Richards, *Free Speech and Obscenity Law: Toward a Moral Theory of the First Amendment*, 123 U. PA. L. REV. 45 (1974) and *The Moral Criticism of Law*, 56-77 (1977).

LEAH FRITZ: If these gentlemen have nothing to say on this subject, and are wrongly in this room, and they're saying—

SYLVIA LAW: Now wait a minute. They are rightly in this room, and when David is done speaking I hope that you will be able to make a response.

DAVID RICHARDS: I do intend to direct my remarks to that question.

LEAH FRITZ: Thank you, sir.

DAVID RICHARDS: I hope you see that after this very brief presentation. I think one cannot understand the relevance of effects until one takes into account what the first amendment is about. Historically, I think, one has to remind oneself that the first amendment is quite a radical departure in the moral view of language, the individual, and the state. Previously, the conventional view of most pre-republican states was that the state could legitimately—indeed had a moral imperative to—define the structure and content of human speech and the emotions expressed by that speech. On that view, the state had a legitimate interest in outlawing seditious libel, heresy, and blasphemy. All of those forms of speech and thought were supposed to be incompatible with decent social community. The view of traditional political theory is that the state could not be neutral about the content of those types of speech and thought because such neutrality would undermine the concept of social unity (which rested on specific ideological commitments) which had to remain unquestioned and unquestionable. For example, a communication about the injustice of certain laws or policies, the thought that the Anglican book of prayer is specious rubbish, the statement that Christ is not God: all of these were objects of criminal prohibition, on the theory that the state could not survive without ideological unity. In the United States today we have great difficulty even understanding the point of view which legitimated such prohibition. For us it is self evident that the lack of such prohibitions, far from promoting social disorder, is indissolubly connected to the liberal social contract which enables people to define their identities as individuals, both against the tyranny of the state and the tyranny of the majority (which is much more oppressive). We reject the idea that social unity rests on the unquestionable and unquestioning ideological unity which those traditional prohibitions facilitated.

I believe that obscenity law is the last residuum of that point of view in the United States. Obscenity law, though it has been curtailed in this country, still allows the prohibition of certain contents of communication on the ground of community offense. Such prohibitions are impermissible in the other areas of seditious libel, blasphemy, heresy, and the like. There is simply no consistent way to allow prohibition of obscenity and to adhere to the moral rationale which bars prohibition of seditious libel, etc. There is no more reason to suppose that decent social community requires ideological unity on matters of sexual and erotic taste than it requires political or religious unity of the kind now barred by the first amendment. So pornography, far from being a principled exception from the moral rationale of the first amendment, falls squarely within the scope of first amendment protection. On some views, pornography commu-

nicates a certain vision of sexuality, of sensual freedom and fantasy in abundance, one which is not rigidly marital or procreational, or otherwise conventionally legitimate. But what, you may say, about violent or sado-masochistic pornography which is currently at issue here? I frankly do not see how mere offense at content is enough to permit its prohibition. Susan Sontag has noted that violent pornography expresses something about the sometimes extreme nature of sexual ecstasy and the fantasies we experience in having sex. It enables some of us more frankly to acknowledge and deal with the integrity of our sexual selves, not in terms of some puritan model of proper sexual life, but in terms of unique selves and life histories. From this point of view, pornography could be prohibited if there were some evidence that would connect it to actual violence in nonconsensual sex, for example, rape. But in all my studies of the literature I find no such substantiation. Moreover, it seems to me that there is no greater connection between pornography and rape than there is between other forms of communication in our society, such as romantic movies, novels, advertisements, and religious literature, and rape. I would have thought the cult of the Virgin Mary is one of the most insidiously degrading views of women ever seen. (Applause.) Indeed, we have learned from Freud, and from various students of sexual fantasy in this century, that sexual fantasy sometimes has quite an oblique relationship to action in life. After all that, I really do not understand how people can persist in supposing that certain forms of sexual fantasy and the literature which stimulates them, can be *per se* condemned. There is much literature to show that such fantasies often fit into a life of some decency and, I believe, some gentleness.

So I want to say that pornography is, with respect to feminism, not a significant issue. If I may be permitted to comment on it, and I do it with some reluctance since I am not a woman, the significant issues seem to me to be family and occupational structure, sex roles, and the like. Of course, one should attack those on all fronts; one should inform men of how one feels about these fantasies that they find natural. This colloquium is an example of the way in which feminists should combat this. Make men like me feel guilty and ashamed as I have recurrently felt throughout the course of the day. (Laughter.) But that is to invoke the benefits of reciprocity and dialogue, not of censorship. I do believe Paul Chevigny is right that censorship would ultimately be used against women as it was used against Sanger and contraception, against abortion, and against family planning. In these cases obscenity law was used against women. To persist in the argument of prohibiting pornography of this kind trivializes feminism, links it to puritan moralism when it is a much richer, deeper, and I think more profound social analysis. Thank you.

OPENING STATEMENT OF LEAH FRITZ: Can everyone hear me on this microphone? I'm afraid I don't have as loud a voice as the gentlemen.

I did not come here to speak about the first amendment. Or to speak about the Bill of Rights, or to speak about any part of the social contract that I have had no say in, nor have my foremothers, nor has anyone on that side of my family. (Laughter.)

I also did not come here to speak about the first amendment because I'm not a lawyer and that is not my area of expertise. My area of expertise is what happens to women, what happens to me every day on the street; my civil rights are my area of expertise.

The gentlemen who are lawyers must find a way to protect my civil rights. I will go to them as I would go to a doctor and I will say it hurts here and it hurts there, and it hurts elsewhere. What are you going to do to help me? And I do not expect the doctor to say, "Well, it is against the first amendment for me to help you." I expect the doctor to offer a suggestion. If he does not know to set up laboratories to develop answers that will save my life, I expect him to invest money to save my life. I expect him to set up clinics and hospitals to save me. If he does not do this, he is worth nothing in his profession. And this is true of lawyers, too. All they can tell me is, "I am sorry, lady. I can't protect you. I can't help you. My laws, which I wrote and which I interpret, don't assist you even when they are used supposedly on your behalf." I have heard about Margaret Sanger not being protected by the first amendment. I know that James Joyce was. I really would like to know why.

If we are not being protected by the first amendment, if it is useless to us, it is because these men are not protecting us. (Applause.) I want my abortion rights protected. I want my rights to talk about birth control. I want my rights to talk about rape. I want my rights to talk about my body and my sexuality. I want all of these rights.

They should not have the right to talk about how they are going to kill me for their pleasure. (Applause.) As far as I can see, that speech is inciting to riot, inciting to murder, a clear and present danger. I don't know anything about the law and I'm just quoting, okay? So that's it. (Applause.)

OPENING STATEMENT OF ANDREA DWORKIN: You know, we women really have one terrible problem, which is called in feminist literature, very euphemistically, "female invisibility." We have been here all day discussing the issue of pornography, and very few among us have been discussing government censorship: banning anything or anyone. We have not been speaking reactively to your obsessions. (Laughter.) We have been articulating our social situation as women. (Applause.) And the fact is that it didn't take, did it? I mean, it never takes. No matter how many books are written, no matter how often we explain rape to the rapist, we explain woman battering to the woman batterer, we explain pornography to the pornographers or the consumers of pornography, we explain that law is usually a weapon used against us to the lawyers, no matter how often we explain it reasonably in a realm of rational discourse, within which we are told to stay, it doesn't take.

There are a few facts that I want to make clear, and I say the *facts*, not interpretations. Fact: I lost count at about number ten in counting the times Mr. Chevigny used the words "hard and fast." (Laughter.) Mr. Richards also is very concerned about "hard evidence." (Laughter.) Now, what I am telling you is that there is no area, there is no level of life or discourse, in which these are not the values that men hold and men propagate. And every woman in this room knows the threat behind those words.

Fact: There is another amendment which is not part of the Bill of Rights. Some of you may have read about it. It is called the Equal Rights Amendment. Remember? And it hasn't been passed in this country in the year 1978 and the Bill of Rights doesn't have a damned thing to do with women. (Applause.)

Fact: Women are denied freedom of speech by rape, by battering, by medical butchery, by violence on every level, by sexual harrassment on the job, by being unable to make the decent living that gives one the freedom to speak one's mind. The pornographers have empires. We are lucky if we can get one bloody page of whatever we manage to write published anywhere after having worked eight or twelve hours a day and done the housework. And every woman in this room can testify to the fact that when you talk about freedom of speech you had *better* be talking about *access*: *access* to media and communications. (Applause.)

Now I just want to say one thing more. I am a writer and I am a woman. Everything in my life has conspired, not through subtlety, to keep me silent. I will tell you what the threat to my freedom of expression is. And if you are serious about freedom for everyone in this country, then you will listen because you, the men over there and the other men in this room, you have the power. And when I tell you that pornography silences me, that pornography makes me sick every day of my life, and Phyllis Chesler has testified to it, and Leah Fritz has, and Florence Rush has, and women all over the country have, and we are told that we haven't said anything about the effects of pornography on women, then we understand that we are operating in a moral vacuum. And that's all I have to say. (Cheers and applause.)

SYLVIA LAW: Thank you. Now before we open things up to questions, I would like to make a comment of my own. (Laughter.) I think that there are obviously a lot of differences in the points of view expressed here, but I think that the difference may not be as between the dichotomies posed by the program today, between the degradation of women versus free speech. I think that Andrea has just made a very significant statement in saying that we have not heard any of the feminists calling for censorship but rather calling for all of us to take seriously the degradation of women that is in pornography. And I think that the difference of opinion is between people who take that seriously and people who do not. In taking this problem seriously, feminists do not necessarily leap to the conclusion that they want a big brother state to deal with the pornography problem. They are saying that they want lawyers to work with them, and to think about how they can use the law to deal with that problem. I do not think that implies that feminists want to create a new kind of state censorship, but rather they want to figure out ways in which they can use the law to get people to take seriously the degradation inherent in pornography. Feminists can do the kind of guerrilla actions that people have done against movies like "Snuff" without being subjected to criminal laws that are brought to bear against people who take direct action against that sort of degradation. I think lawyers can suggest many solutions that do not have anything to do with calling upon the government to institute a program of censorship. Let's open the discussion for questions.

AUDIENCE QUESTION: Professor Paul Chevigny, I understand you are against pornography. I saw you this morning walking out of Andrea Dworkin's speech, furious. Why?

PAUL CHEVIGNY: Furious? No, I wasn't furious.

SYLVIA LAW: I have been asked to repeat the question. The question is: Why did Paul walk out of Andrea Dworkin's speech furiously, (laughter) and is Paul seriously opposed to pornography?

PAUL CHEVIGNY: Analytically speaking, I am not opposed to pornography because I find it personally unpleasant, but because *the law has no power to control it without controlling the speech that you wish to have heard*. I walked out on Andrea Dworkin's speech because I wanted to xerox a case to prepare for an exam. (General noises of disbelief from audience.) I also thought it extremely repetitive. How about that? All right?

AUDIENCE QUESTION: What are laws for and who makes them? Who makes laws? Are they given from above?

PAUL CHEVIGNY: I am going to try and answer that because I think that it is a very serious point. The laws are written in language, and language is always subject to interpretation. Laws are not given from above. They are not written in stone. They are written in very ambiguous words. And laws that relate to speech about sexual relations are written in the most completely ambiguous words possible. And therefore, those laws cannot be enforced in an even-handed manner. In an oppressive state, they must be enforced by the oppressor against the oppressed. We try to control the discretion of that oppressor by making the law as precise as possible. But when you make a vague law, as is inevitable in the case of writing about sexual relations, it is going to be used against literature. With respect to Ms. Fritz's statement that a lawyer should solve a problem as a doctor cures a patient, well . . . legal and political institutions are not like medical facts because they are done in language and they must be interpreted through linguistic means and that interpretation will lead to a distortion which will disfavor the cause of women.

PHYLLIS CHESLER: Paul, are you suggesting that women would write the laws more clearly than men are ever going to be able to do?

PAUL CHEVIGNY: No. No one will ever write a law that says anything more clearly than anybody else.

PHYLLIS CHESLER: How do you know?

PAUL CHEVIGNY: They've tried for thousands of years! Are you suggesting that the women—

PHYLLIS CHESLER: We are not on television. (Much cheering.)

PAUL CHEVIGNY: I want to say one thing with respect to specificity. I came here and I was criticized for not having said anything about the effects of por-

nography on women. I didn't hear *one word* (banging on the table) about the effects of pornography.

ANDREA DWORKIN: Paul, why are you so angry?

SYLVIA LAW: I'm going to exercise my prerogatives here and move this along to a new question.

AUDIENCE QUESTION: Paul, when you were speak—

SYLVIA LAW: Wait a minute. Ask a question of somebody other than Paul.

AUDIENCE: Why!?

SYLVIA LAW: Because I think—

AUDIENCE COMMENT: Fragile male ego!

AUDIENCE QUESTION: This has to do with separating words and writing from photographs and movies.

PAUL CHEVIGNY: I'll be very brief because I really do not want to monopolize this. I do not resent the fact that I am being made the target of audience derision because I am perfectly willing to defend this position. Believe me, this is what I came here for. Yes, I distinguish between photographs and writings, particularly with respect to the child pornography issue. It seems to me that writing about the thing and making a film of it that actually uses a minor are two extremely different things, and that the second one is controllable. In the *Screw* case that you mentioned, the parents and the solicitor could have been arrested for impairing the morals of a minor. There are child pornography cases in which I concede it is very difficult to enforce the law. But I do not doubt that warrants can be served, the names of the children can be obtained, it can be proven that they are in fact minors, and the people who take those photographs or use those children can be prosecuted for impairing the morals of a minor. And I think it should be done.

FLORENCE RUSH: So why isn't it being done?

PAUL CHEVIGNY: Because the state does not favor the rights of women!

AUDIENCE COMMENT: Right on.

FLORENCE RUSH: I would just like to say something very briefly. You say child pornography is bad, but we have a Constitution so we have to uphold it. It makes no sense to me. We all hate pornography. We do not like to see women and children abused in pornography. But you say that people have the right to be pornographic and abuse women and children in pornography. It makes *no* sense! What are we talking about? I cannot argue with this logic. It's not debatable. So I say to the gentlemen here: to each his own opinion.

ANDREA DWORKIN: It's so mind-boggling. Every time we try, and we really do try very hard to make ourselves understood, we are then told by some men, as

they dismiss what we say, that there is some overriding consideration that is more important than whatever it is we are trying to articulate. Most of the politically involved lawyers that I know, and I think Paul is among them, are very concerned about civil rights legislation. There is a double standard that one hears in the legal world. Whatever they are willing to do on another issue for another group of people, a group of people that they can control by numbers, they are not willing to do for women. When the movie "Snuff" opened in Times Square, there is not a thing in the world that I would not have done to close it. And going to the district attorney was the sweetest, nicest, kindest thing I could think of. So part of what we are dealing with here is the fact that when women are not protected by law, then they have absolutely no stake in upholding the law. We are told constantly to "guard the gates of the city. The city is very important. Guard those gates, but goddammit, don't you come in." (Applause.)

AUDIENCE COMMENT: I think it is very condescending of men to assume that because I am a feminist and because I am against pornography, I am opposed to free speech. I would like to say that there are a multiplicity of ways of regulating pornography that have nothing to do with free speech. I would suggest to you, for example, that the way that male managers treat topless waitresses definitely violates certain labor laws. (Applause.)

AUDIENCE COMMENT: It seems that there are alternative ways of using law to remove this evil. I do not see why those means which do not trample on the first amendment are not being used more effectively. For example, women could run for district attorney and enforce the law their way.

LEAH FRITZ: There are certain alternatives. Some of them involve going to jail. You know, I cannot deal with that anymore. I have been to jail. I am not going to jail over this. You are going to go to jail over this for me. This is one time that I am turning to men and saying, "Damn it, you have promised me your protection ever since I was born. Now get out there and protect me, goddammit."

AUDIENCE QUESTION: I would like to ask the feminists to what extent they think that the problem that they are presenting can be controlled not by prohibiting publication of pornography, but by prohibiting the acts that are depicted in the photographs. In addition, if those laws were vigorously enforced, wouldn't the whole issue of the first amendment be irrelevant?

SYLVIA LAW: The question is: Couldn't the acts that are photographed be prohibited? Just for clarification, do you mean sodomy laws? Or something like that?

AUDIENCE COMMENT: Or laws prohibiting torture of women.

ANDREA DWORKIN: Rape has been against the law for a very long time, and it has also been mythicized and romanticized in male literature for a very long time. Yet it is practiced daily on the bodies of multitudes of women who sometimes are killed during the course of it. They sometimes go on with no forum in

which to express their rage, or to make the meaningful decisions that would change the circumstances of their lives. With every crime against women, you can see this pattern.

There is a certain kind of analysis that feminists use that no other group of political thinkers uses. When you have a situation in which something is prohibited by law, but the law does not stop the activity, you have to look to how men as a class benefit from the law. In other words, how does the law literally enable men to go on doing the proscribed activity? And every time you do that, in every area, you will not just come up with one fragment of an answer. You will see a whole tapestry of crimes against women. For instance, we know that there are laws against rape. However, none of those laws has had, until very recent reforms, an effect on the commission of rape as a crime and the fact that rape is valued in male culture as a signifier of manhood.

All right, now I will give you an example about male homosexuality. Why is there a taboo on male homosexuality? That's the initial question. Males as a class have the power. Men as a class can decide what is legal and what is not legal. There are laws against male homosexuality. One might notice that those laws function to protect men as a class from the aggression of other men. They are very useful in maintaining male supremacy. And I suggest to you that if you don't begin to take that kind of analytical approach to how law functions in male supremacist society, you will never understand the law, that you will then go out in the world and practice using it against people and not for them.

AUDIENCE COMMENT: It seems to me that you have presented the issue of pornography as the issue of an oppressed class against the oppressor. There are other problems as well. When I go to buy a magazine or newspaper, I also see what I consider to be pornographic magazines designed to cater to a female group. I think that the readers are as culpable as the publishers. Another point relates to what we discussed earlier about the couple involved in child molestation. I am just wondering if the problem is more one of morality than it is simply of man versus woman.

ANDREA DWORKIN: I would like to address that point. First of all, a serious attempt has been made to appeal to women in pornography. It has failed. I believe it was a group of men who opened up a sex shop someplace in the sex area, where men stripped and women were there. And there was a big to-do on television about it, where the women were throwing dimes and nickels and dollars and men were hooting and having a very good time. But the place closed down in a week. It was not a financial success. The fact is that ever since we can remember, practically, women sell sex and men buy it. There is no question but that this is an established pattern. Some men also sell sex. Male and female children sell sex. But it is men who buy sex. Men are the consumers of pornography and of prostitutes, whether the object is male or female. By the way, there are no successful pornographic magazines or plays or *anything* that bring in a female audience who will buy and pay for this thing. If they do buy and pay for it, it is because they are accompanying their husband or boyfriend.

AUDIENCE COMMENT: I was thinking of the couple who started their own pornography business where both were involved, both were indicted . . .

ANDREA DWORKIN: Oh, oh, well, okay, let me try to take care of that for you. Women sell sex. They sell their children. They make money off of it. Women are not without fault here. They are certainly criminals. I do not forgive them for what they have done. But they do it either to gain the favor of a man or to get money. Men profit much more than women do. It is true that in physical abuse of children, the offenders seem to include equal numbers of men and women. However, in the sexual abuse of children, it is men, it is men only, who sexually abuse male and female children.

PHYLLIS CHESLER: I want to just continue as a psychologist for the moment, not as a feminist, although I do not believe in mind/body splits. What I think happens is that most girls, more than boys, are sexually flirted with, abused, raped, diddled with by older brothers, fathers, grandfathers, uncles, and older boys on the block. You cannot tell anyone, not even your mother. She will not believe you. She cannot afford to lose the economic support given to her by the man in the home, so she will say, "You're lying." Your mother betrays and abandons you. She does not have the power to protect the female child.

Now once you have been sexually abused, not necessarily raped outright, perhaps not genital intercourse, but sexually abused, your eyes begin to lower. You stammer, you stutter, your ambition gets lower. You look for a life of servitude, which you call love of God or love of man, and hardly ever, love of woman. The sexual abuse of female children that is ideologically supported by pornography is what I suggest accounts for masochism, women's suicide attempts, and depression among adult women. (Applause.)

AUDIENCE COMMENT: What I want to hear more about is a more open acceptance of our sexuality. Not just our adult sexuality, but children's sexuality. I feel that if we finally get to the point where we can accept a little child's sexuality, then there is some chance that both men and women will be able to grow up to enjoy sex in a healthy kind of way.

FLORENCE RUSH: I would like to say that I am not a prude. I believe in sexuality. We all believe in happiness and motherhood. And I think that children are sexual. And we talk about children's liberation, and sexual liberation, and I am all for it. But we do not live in an environment where liberation and freedom exist. We live in a system of a power hierarchy and here today we are talking about the power of men over women. And men over women and children. The fact is that the free expression by children of their own sexuality can be dangerous to them, unfortunately, because their own sexuality is used to destroy them. It is used against them. It is used to shame them. It is used to degrade and humiliate and even murder them. So until we live in a utopian, free society, we must protect our children from sexual abuse. We should not restrain them from free sexual expression. I do not think we should put any holds on masturbation, on peer sexual play, on the recognition of sexual and sensual pleasure.

We also have to recognize that sex or sensuality for the child is really different from adult sex. And when a child is exposed to sex with an adult, what they get is not what they expect. You mentioned *Lolita*. Nabokov specifically

says in *Lolita* that although she was very seductive, when Humbert Humbert finally had sex with her, it was nothing that she was prepared for. She was totally traumatized by it. Totally. So because we live in an unsafe world, because we live in a world that oppresses children sexually, we unfortunately must caution them, teach them to be strong, teach them about the rights of their body and teach them to have dignities in their own body and their own sexuality. But to watch out. To be careful.

SYLVIA LAW: I am going to have to cut this off. Thank you very much.

