

FEMINISM AND PORNOGRAPHY

Manan Jain¹

Abstract

this paper deals with the jurisprudential question regarding pornography and the modern day viewpoint of feminism. Within this paper the researcher tries to analyse the competing claims in support of and against pornography from a feminist perspective. The researcher first starts with a narrative of the two viewpoints existing on pornography. The researcher analyses the Kantian perspective in support of banning pornography whilst analysing the counter claims put forth by sex positivist feminists. While the researcher understands the Kantian problems of objectification, he however, agrees with the sex positivist feminists owing to the arguments of the non unique harms and freedom of speech and expression.

Key Words: feminism, pornography, Andrea Dworkin, Mackinnon, Kant, objectification, freedom of speech, consent, free choice

Introduction

In order to understand the view of feminism on pornography we need to first understand what is pornography and then one can go towards an analysis of the feminist viewpoint on pornography. Pornography can have a variety of definitions each with its own positive and negative.² In order to study the feminist perspective on the same we need an understanding of the definition given to pornography under this ambit. Feminists such as Andrea Dworkin and Mackinnon defined pornography as anything *graphic sexually explicit subordination of women through pictures or words* which also includes any and every act which puts women in a position of servility and reduces them to body parts.³ This definition forms the core of feminist ideology on pornography.

At the outset I would like to lay down the structure of the paper. The paper will be divided into two parts. The first part will focus on a narrative of the two viewpoints feminism has on pornography and the second part will contain a critical appraisal of the arguments advanced. Under this I shall be dealing with the objectification argument and the free consent aspect

1 Department of Law , IVth Year Student, NLU Delhi

2 Michael C. Rea, *What Is Pornography*, 123, 2001, available at <<http://www3.nd.edu/~mrea/papers/What%20is%20Pornography.pdf>> accessed 22.08.2013. *One definition is that Pornography is anything that reduces women to body parts, See Dworkin/Mackinnon Minneapolis Ordinance. Another definition is that pornography is sale of sex for profit while others also maintain that pornography is nothing but obscenity.*

3 MacKinnon, *Not a Moral Issue*, in and “Francis Biddle's Sister: Pornography, Civil Rights and Speech”, in *Feminism Unmodified*, Cambridge, MA: Harvard University Press: 146–162

along with a cost benefit analysis of pornography, all of which will be elucidated in this paper.

The two perspectives with respect to pornography in feminism are the anti-pornography feminists and the sex positivist feminist. While the former focuses on a ban on pornography the latter makes no such claim.

Anti-pornography feminism

Today, most people in the world generally hold the belief that pornography is nothing but harmless entertainment and a mechanism to release stress. However, feminists believe to the contrary. As already mentioned above, feminism views pornography as an institution which leads to exploitation and oppression of women.⁴ From this we can gather that it is not the sexual content in itself that is abhorred by feminists but the consequential result of it which is reflected in society.

Generally there are three types of harms associated with working in the pornography industry. One, is the treatment of the people in the industry themselves who are often shown in demeaning circumstances and are many a times, gagged, beaten up, made to do painful things and pretend as if they are enjoying it.⁵ Two and the more severe impact is that on society. Flowing from the phrase ‘Monkey see, monkey do’ much of the acts shown in pornography are replicated in real life, leading to dire consequences.⁶ Pornography “sexualises rape, battery, sexual harassment, prostitution and child sexual abuse, it thereby celebrates, promotes, authorizes and legitimises them.”⁷ Third and this is one of the major arguments used by the anti pornography feminist, is that there is a complete lack of free consent on part of the women who are actors in pornographic films and all those who act in such films are either physically or economically coerced to do the same. This point will further be elucidated in the latter half of this paper.⁸

4 *Id.*

5 LOVELACE, L. & M. MCGRADY, ORDEAL (1980, Citadel Press); Helen E. Longino *Pornography, Oppression and Freedom: a Closer Look*, in TAKE BACK THE NIGHT: WOMEN ON PORNOGRAPHY (Laura Lederer, ed., 1980) 278.

6 Laurie Shrage, *Feminist Perspectives on Sex Markets*, in STANFORD EN. OF PHIL. (Winter 2012 Edition) available at <<http://plato.stanford.edu/archives/win2012/entries/feminist-sex-markets/>> accessed 22.08.2013.

7 MacKinnon, *supra* note 2 at 171, 172.

8 CATHARINE MACKINNON, ONLY WORDS (1993) 20.

Many feminists such as Andrea Dworkin and Catherine Mackinnon belong to this school of thought. Mackinnon holds the view that pornography reinforces the patriarchal setup of society and accentuates the existing gender inequality.⁹ Pornography which is more female oriented than male¹⁰, shows women being subservient to man and therefore shows women to be on a lower pedestal in society as compared to man.¹¹ Much the same sentiment is echoed in the writings of Dworkin as well. Dworkin maintains that pornography portrays an image in which a woman is subservient to man and that is used as a tool by the society to define a woman's place and role in society.¹²

This brings me to my second point of objectification of women. In order to discuss objectification it is essential that one refers to Kant as he is the father of modern day anti-pornography feminism. Much of Andrea Dworkin's and Mackinnon's work is based on the Kantian view on sexuality and objectification.¹³ Kant was a firm believer in monogamous marriage and held that if anyone indulges in sexual activity outside marriage then that leads to objectification as then the person is just using the other for his/her sexual appetite and treats the other as a thing which can be used and then cast away.¹⁴ Further, Kant holds that the act of using a person only to satiate one's sexual desires outside the bonds of marriage makes them lose their humanity and that reducing them to an object solely made for the purpose of sexual gratification.¹⁵

It is exactly this sentiment which is proposed by feminists as an ill effect of pornography on society. Pornography by portraying women as subordinate to man, subservient to his needs and only as an object of sexual gratification, creates a sentiment in society that men and

9 Mackinnon, *supra* note 2 at 172. Her other idea that Pornography is essentially rape has been dealt later on in this paper as the consent argument or lack thereof has been dealt later on.

10 This is to say that men are generally the target audience of the pornographic industry and therefore have more female actors to serve the demand of the majority heterosexual male population of the world.

11 *Supra* Note 8.

12 ANDREA DWORKIN, *PORNOGRAPHY: MEN POSSESSING WOMEN* (1989, Penguin Books Ltd.).

13 Evangelia Papadaki (Lina), *Feminist Perspectives on Objectification*, in STANFORD EN. OF PHIL. (Winter 2012 Edition) available at < <http://plato.stanford.edu/archives/win2012/entries/feminism-objectification> > accessed 22.08.2013.

14 IMMANUEL KANT, *LECTURES ON ETHICS* (Louis Infield, trans., 1963, Harper & Row Pub.) 163.

15 *Id.* 163, 164.

women are unequal and that the latter occupies a lower position in society. Not only pornography but media today does the same and that can be noticed in all the item numbers actresses do in Bollywood today. Songs such as ‘*Fevicol se,*’ ‘*Sheila ki Jawaani,*’ ‘*Munni Badnaam hui*’ are just a few examples which portray women as objects for sexual gratification.

It is this sub human treatment and objectification of women which reinforces the patriarchal setup of society and it is for these reasons that anti- pornography feminists feel that pornography should be banned. It is not the sexual act in itself but the under currents which point towards male domination, female mistreatment and subjugation and objectification¹⁶ which is antithetical to women’s civil right to freedom of speech and expression.¹⁷

None of this however stands ground if one can prove that the woman consented to it. And this is the main bone of contention between the sex positivist and the anti- pornography feminists which will be analysed later in the paper. Anti-pornography feminists believe that women are forced into this and that there is no concept of consent. According to them even if consent is present it is coerced and not free in nature.¹⁸ “Money is the medium of force and provides the cover of consent.”¹⁹

Pornography much like prostitution is not a matter of choice but a matter of compulsion. Recently, an advertisement was made by stopthetraffik.org which also echoed that every year many women are shown the dreams of being rich and successful and then forced into prostitution.²⁰ This further substantiates the proposition that consent in such areas is never ‘free’ but is simply coerced, physical or economic.²¹ This finally ties into the argument given by Mackinnon as to how pornography is essentially rape. The reason of her saying so is that for women doing porn it’s always some or the other form of coercion, visible or invisible, and

16 Wendy Mcelroy, *A Feminist Defence Of Pornography*, 17 (4) FREE INQUIRY MAG., available at <<http://jlampl.net/A%20Feminist%20Defense%20of%20Pornography.pdf>> accessed 22.08.2013.

17 *Supra* note 2 at 173.

18 *Supra* note 12.

19 CATHARINE MACKINNON, ONLY WORDS (1993) 28.

20 *Dancers Star in Hard Hitting Anti Trafficking Ad*, available at <<http://www.youtube.com/watch?v=e9YU-6WXGdQ>> accessed 22.08.2013.

21 *Supra* note 18 at 20.

that essentially obviates the existence of consent. This in turn ties into the definition of rape as rape is also nothing but sexual intercourse with a woman without her consent. This is one of the most important arguments put forth by Mackinnon as it goes to the extreme of saying that all pornography is essentially a crime and the evidence of this can also be seen in her work in drafting the *Minneapolis Ordinance* which aimed at criminalising pornography.

Sex Positivist Feminism

The antithetical view to the anti-pornography feminism is provided by the sex positivist feminism. Sex positivist feminism defends women's right to choice. They contend that as long as consent is present there should be no problem with women participating in pornography.²² Quite to the contrary to the view maintained by the anti-pornography feminists, sex positivist feminists hold that pornography provides women with an avenue for "solitary enlightenment," provides for "a panoramic view of the world's sexual possibilities, and is equivalent to free speech in the sexual realm."²³

Ann Ferguson, a libertarian feminist argues that one should "repudiate any theoretical analyses, legal restrictions, or moral judgments that stigmatize sexual minorities and thus restrict the freedom of all."²⁴ She further goes on to point that "sexual freedom requires oppositional practices, that is, transgressing socially respectable categories of sexuality and refusing to draw the line on what counts as politically correct sexuality."²⁵ Therefore in light of this we can see that according to the Sex Positivist Feminist having a sexual desire, a rape fantasy or anything that goes against the traditional or conventional rules of the society is not only not wrong, but is also essential as that is a woman's true expression of her freedom which cannot and should not be restricted.

Sex positivists feel that pornography is a boon rather than a bane. Pornography for them is like a therapy, a safe sexual outlet and something that prevents people from going out and committing some heinous wrong out of sheer desperation.²⁶ Lastly, and most impertinently, as

22 *Supra* note 15.

23 *Id.*

24 Ann Ferguson, *Sex War: The Debate Between the Radical and Libertarian Feminists*, available at <http://www.kmu.edu.tw/~gigs/enrollment/doc/The_Feminist_Sexuality_Debates.pdf> accessed 22.08.2013.

25 *Id.*

26 *Supra* note 21.

already mentioned above, pro-sex feminists contend that by restricting pornography one is restricting their freedom of speech and expression and that the law needs to legitimize pornography as it is only then that women who are in the pornography industry will be brought into the mainstream and will not be shunned away by society.²⁷

Analysis of Competing Claims

In light of the arguments put forth by both the schools of thought we can see that there are the following broad themes of arguments. One, whether pornography leads to objectification or not? Two, whether there exists a possibility of free consent and if yes, then whether consent absolves pornography from any kind of wrong? And finally three, whether the consequential harms as stated by anti-pornography feminists exist or not and if they do then whether the costs outweigh the benefits put forth by the sex-positivist feminists.

Coming to the first question of whether pornography leads to objectification or not. As mentioned earlier we see that for Kant, Dworkin and Mackinnon the premise behind 'objectification' was that it is something wrong and degrading to women. I cannot accept this contention as we can see that finding objectification to be degrading is something that is highly subjective in nature.²⁸ The 21st century western world as portrayed in movies stresses on the easy going, "no strings attached" conceptions of sexual relations which even though might be exaggerated, shows that people today generally accept that kind of behaviour. What might be degrading for me might not be degrading for you. Similarly, anti- pornography feminism completely dismisses the concept of right to choice of a woman. If a woman likes being objectified, likes being treated as object, given that, that is her choice, then there should not be any problem.

This brings us to the next point of debate which is the alleged existence and non existence of free consent. Consent as a whole is something that has not been explained properly by either side. One tends to agree with the anti pornography feminists on this point. It is a well documented fact that most women enter into this profession either by physical or by economic coercion.²⁹ However, there are multiple points of rebuttal to this statement. One,

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Supra* note 7 at 21.

that physical coercion or economic coercion is not something that is unique to pornography. Many jobs such as manual scavenging in India, working as labour in a waste disposal plant, or simply working in a McDonald's after or during college is done because of economic coercion. Two, physical coercion is already governed under different laws and therefore that is not a harm that has to be considered in this debate.

However, the bigger harm such a blanket assertion causes is that now all those women who by choice go in this profession cannot do so, lest they be branded as victims or delinquents. This is antithetical to the feminist cause as the end result is nothing but women being submissive to the society and women being prevented from voicing their opinions and their choice in their own life.

This does not mean that I am completely oblivious of the human trafficking and the coercion that happens in the pornography industry. However, drowning out the voice of a free consenting minority for the sake of an allegedly coerced majority is not a solution to this problem. The solution to that is a better system of checks, better implementation of the law against physical coercion, better unemployment benefits to counter economic coercion.

Anti-pornography feminists contend that a major side effect of pornography is that people start doing the same things in real life, start gagging, raping, hurting women in real life. if we are to accept this reasoning then following the same logic one should also ban movies which show murder, war and any and every other thing that is considered wrong by society. Yet we don't ban action movies, books on war, scientific study on weapons technology development etc. Also, we already have laws against any kind of physical abuse such as rape or harm to one's body etc. and therefore in light of this the anti-pornography contention does not stand any ground.

In conclusion, one can see that provided that we have a better system of checks and balances to prevent harms against women, pornography should not be banned and that banning pornography (the anti-pornography feminist thought) will lead to inhibiting the right of freedom of expression, right to choice which antithetical to the feminist cause in the first place.