

DEFENDING PORNOGRAPHY

DANNY FREDERICK

INTRODUCTION

What follows is a defence of pornography as an aspect of freedom of expression. I consider the four main types of anti-pornography argument. I argue that, even if the contentions of these arguments were true, they would not justify prohibiting or censoring pornography. Indeed, on one interpretation, they would not even amount to a serious criticism of pornography. I then argue that the contentions of all these anti-pornography arguments are false.

WHAT IS PORNOGRAPHY?

My copy of the Concise Oxford Dictionary (1983) defines “pornography” as *explicit description or exhibition of sexual activity in literature, films, etc., intended to stimulate erotic rather than aesthetic feelings*. The Williams Committee on Obscenity And Film Censorship similarly defined “pornography” as *sexually explicit representation which has the function or intention of sexually arousing its audience*.¹ Similar definitions have been put forward by other official committees or commissions on pornography in Canada and America.² Pornography is thereby distinguished from sexually explicit material which is not intended to be sexually arousing, e.g. medical texts; and also from material intended to be sexually arousing but which is not sexually explicit, e.g. seduction scenes in mainstream cinema.

A piece of pornography may be a book, a magazine, a segment of writing or speech, a painting, a photograph, a se-

quence of images, a film, a sculpture, a theatrical play, or some other combination of words and images.

WHY DEFEND PORNOGRAPHY?

Written or spoken pornography is an instance of speech, and all pornography is an instance of expression. A defence of freedom of speech, or of freedom of expression, is therefore implicitly a defence of the freedom to produce and consume pornography. Anyone who supports state prohibition or censorship of pornography is by that token supporting suppression of freedom of speech or expression.

Why are freedom of speech and expression important? There seem to be three types of reason, which we might classify as ethical, instrumental and pragmatic.

First, freedom of speech, and freedom of expression generally, are important *in principle* because they are prerequisites of personal development and human flourishing. They follow from the right of adults to run their own lives, to pursue their own conception of the good life in their own way. They are fundamental human rights.

Second, freedom of speech and expression are *beneficial* to fallible creatures like us because they are the means through which we discover the truth and better (or different) ways of living. We cannot know beforehand which uses of freedom of expression will result in net benefits — and not only to people with an immediate interest in those uses of freedom

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www.libertarian.co.uk email: admin@libertarian.co.uk

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Danny Frederick studied Philosophy for the B.Sc. Economics at the London School of Economics, and he obtained an M.Phil. in Philosophy from Birkbeck College, London. He has also taught Philosophy (specifically, Logic, Metaphysics, and Philosophy of Mind) at King's College, London. He is currently working as a management consultant in local government, where one of his concerns is the improvement of efficiency and effectiveness through the introduction of market disciplines.

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FOR LIFE, LIBERTY AND PROPERTY

but also (perhaps indirectly) to the majority in society. For example, no doubt a lot has been learned (or transmitted) about sex through the making of pornographic films, and some of this knowledge may end up (through an indirect route) being of benefit to someone who has never seen — and has no wish to see — such a film. And who knows what other discoveries, unrelated to sex and of more general benefit, have been made fortuitously in the production of pornographic films?

Third, one who would deny freedom of expression is committed to the creation of the machinery of censorship and suppression. This machinery is a loose cannon: once it exists, it can be commandeered by one's political opponents. So even if it is currently being used to suppress speech or expression that you do not like, there is no guarantee that it will not later be used to suppress things you do like. For example, in Canada feminists succeeded in getting an anti-pornography law passed. The law has since been used against an anti-pornography book, *Pornography: Men Possessing Women*, by Andrea Dworkin, a leading anti-pornography feminist.³

All speech is expression, but some forms of expression (e.g. moving images) are not speech. Consequently, as freedom of expression is broader than (but includes) freedom of speech, I will henceforth sometimes speak only of freedom of expression.

FREEDOM OF EXPRESSION AND CRITICISM

Advocacy of freedom of expression does not mean abjuring criticism. Far from it. Criticism is itself a part of freedom of expression, and it is a vital part from the point of view of utility, because it is through criticism that knowledge grows. It would therefore be perfectly consistent to demand freedom of expression for pornographers while at the same time denouncing all pornography and trying to persuade people not to produce or consume it. There is a world of difference between saying that something is false, bad or pernicious and saying that it ought to be banned or censored.⁴

IS FREEDOM OF EXPRESSION INVIOLEABLE?

Freedom of expression is a fundamental human right. Some people may say that, therefore, it is inviolable, i.e. that under no circumstances must freedom of expression be denied. It is more common, however, to admit certain circumstances (e.g. war or some other emergency) in which the government of a free society would be justified in curtailing freedom of expression, for the greater good. If we admit this, then a slide into arbitrary dictatorship can be prevented only if any measure suppressing freedom of expression (or any other fundamental human right) has to meet strict conditions. Among these conditions, I would suggest, are the following:

- (a) the objective to be achieved by the measure must be of momentous importance to justify suppressing a fundamental human right;
- (b) the government's pursuit of the objective must be consistent with it being the government of a free society;
- (c) it must be reasonable to expect that the measure will achieve its objective;

- (d) there must be no alternative measure which could also achieve the objective but at less sacrifice of fundamental human rights.

Unless *all* of these conditions are satisfied, any measure involving an infringement of freedom of expression (or of any other fundamental human right) should be rejected as being inconsistent with the principles of a free society. Otherwise, we are on the road to oppressive despotism.

ARGUMENTS AGAINST PORNOGRAPHY

There are four main types of argument against pornography, which I will label and summarise as follows.

- (a) *The deprave-and-corrupt argument.* The contention of this argument is that the production and the consumption of pornography deprave and corrupt those who participate in them. To be depraved and corrupted means to be *devalued* in some sense. (It might also be held that a person who has been depraved and corrupted is more likely to commit sexual or other offences; but this moves us on to the second argument.)
- (b) *The harm-to-others argument.* The contention of this argument is that consumption (and perhaps also production) of pornography makes those who engage in it more likely to commit sexual offences.
- (c) *The harm-to-children argument.* The contention of this argument is that children are harmed if they consume pornography or are used (as participants) in its production.
- (d) *The degrades-women argument.* The contention of this argument is that pornography degrades women by portraying them as subservient to, or inferior to, men.

I will evaluate each of these types of argument in the following manner. I will first suppose that the contention of the argument is true. On that supposition I will argue that the contention provides inadequate grounds for suppression of freedom of expression. Next, and still supposing that the contention of the argument is true, I will consider its weight as a criticism of pornography. After that, I will go on to argue that the contentions of these arguments are in fact false.

SUPPRESSING FREEDOM OF EXPRESSION?

First, suppose the contention of the deprave-and-corrupt argument were true. It could not justify prohibition or censorship of pornography. For the objective of this prohibition or censorship would be to prevent consenting adults from entering into some activities which devalued them. But a government's pursuit of this objective would be flatly inconsistent with it being the government of a free society, which respects the rights of its citizens to pursue their own conceptions of the good life (so long as they do not violate the rights of other citizens). Further, it would be difficult to argue that the objective of preventing one kind of devaluation of people (due to pornography) justified the surely more important kind of devaluation of people involved in denying them their human rights.

Second, suppose the contention of the harm-to-others argument were true. It would certainly not follow that pornography should be prohibited or censored. For the objective of such prohibition or censorship would be to reduce the incidence of sexual offences. This is an objective that can

be pursued through other measures. A preventive measure would be to improve education, e.g. better sex education or better teaching of the importance of respect for people and property. A more obvious measure would be better law enforcement and stiffer penalties for offenders. Surely, everyone but the criminals would agree that tougher action against offenders is preferable to suppression of a fundamental human right?

Third, suppose the contention of the harm-to-children argument were true. Again, it would not follow that freedom of expression should be suppressed, since there are other ways of dealing with the matter which do not suppress fundamental rights. There are many things which are harmful to children, e.g. alcohol, tobacco, medicines, sharp implements, guns, etc. It is the responsibility of adults to see that children do not come into contact with these things (or to see that the children's use of them is properly supervised). There are also sanctions against adults who negligently or wilfully bring children into dangerous contact with such things.

Fourth, suppose the contention of the degrades-women argument were true. This would not justify prohibiting or censoring pornography. For — given that *harms* to women come under the harm-to-others argument — the objective of the prohibition or censorship would be *purely* to suppress an *opinion* (viz. that women are subservient to, or inferior to, men). Such an objective could not be entertained by the government of a free society. And it could not be achieved simply by prohibiting or censoring pornography, since the opinion in question could still be expressed in non-pornographic representations.

In short, even supposing that the contentions of all four anti-pornography arguments were true, they would not, in a free society, supply legitimate grounds for suppressing freedom of expression.

CRITICISING PORNOGRAPHY?

Let us still suppose that the contentions of all four anti-pornography arguments are true. What sort of *criticism* of pornography would they amount to?

Note that the harm-to-children contention would not be a criticism of pornography at all: it would just be a warning to keep children and pornography separate. In the case of the other three contentions, the strength of the criticism of pornography would depend upon how pornography is supposed to achieve its alleged effects. There seem to be two possibilities.

First, pornography might be supposed to achieve its alleged effects through the message conveyed. (The degrades-women contention seems explicitly to find fault with pornography because of the *message* it allegedly conveys.) In this case, the three contentions could not be considered to be criticisms of pornography *as such*, but only criticisms of the pornography that happens to exist. For, even if true, the contentions would not imply that pornography is *inherently* at fault. It could be just that the messages contained in much (or some) *currently available* pornography are to blame. After all, pornography is just sexually explicit material intended to arouse sexually: it is a medium rather than a message. There is nothing to stop this medium being used to convey an uplifting message or, indeed, any message at all. For example, Pasolini's *Salò* is, apparently, an extreme

form of sado-masochistic pornography used to convey a message about the abuse of political power (I say "apparently" because I have not seen the film — it is banned in this country).

Since pornography portrays sex in an arousing way, it is arguable that it must carry at least the minimal message that it is okay to enjoy sex. But that indisputably innocuous message is surely the only message that is *inherent* to the medium; and any other message may be combined with it. Pornography could even be used to convey the message that it is *not* okay to enjoy sex — since pornographers are (like the rest of us) perfectly able to contradict themselves.

So, if the anti-pornography contentions depend upon the messages allegedly conveyed by pornography, then, even if the contentions were true, they would not show that there is something *inherently* wrong with pornography. They would at most amount to a call for *better* pornography.

Second, it might be supposed that what is wrong with pornography is not the message but the medium itself, i.e. that the alleged adverse effects of pornography arise purely through its being sexually explicit material which is intended to arouse sexually. So suppose that the anti-pornography contentions were true, and that the fault lay with the medium. Would this amount to a serious criticism of pornography? I believe that it would.

REBUTTING THE CONTENTIONS

So far, I have argued that *if the contentions of the anti-pornography arguments were true*, then:

- (a) if it were the *message* of pornography that were at fault, the contentions would amount only to a criticism of (some) currently available pornography (rather than being a criticism of pornography *as such*);
- (b) if it were the *medium* of pornography that were at fault, the contentions would amount to a serious criticism of pornography;
- (c) in neither case would the contentions justify prohibiting or censoring pornography.

But *are* the contentions of these arguments true? I think they are all false.

First, note the *strangeness* of the anti-pornography contentions. For, if people are not adversely affected by sexually explicit material (like certain medical texts) or by sexually arousing material (like certain scenes in mainstream cinema), why should they suddenly go awry when exposed to material which is both sexually explicit and sexually arousing? If women are not degraded by material which has *either* the feature of being sexually explicit *or* the feature of being sexually arousing, why should they be degraded by material which has *both* features? It requires explanation why anyone should think the anti-pornography contentions are true. The onus should certainly be on proponents of those contentions to make their case, i.e. the contentions should be presumed false unless shown to be true.

Second, insofar as a reason is offered for the deprave-and-corrupt contention that pornography devalues its consumers and producers, it seems to be along these lines, namely: that sexual activities are properly private, but pornography makes them public and thereby "desensitises" those who come into contact with it.⁵ Of course, this begs the ques-

tion. For in saying that sex is properly private, the case against pornography is assumed. The question is: what reasons can be given for thinking that sex is properly private?

However, I want to go further than saying merely that no reasons are given for believing the deprave-and-corrupt contention and that it should therefore be *presumed* false. I want also to give some reasons for saying that it *is* false. For sex and sexuality can be immensely important in human life and happiness. People should be free to explore and enjoy them without inhibitions (so long as they are not forcing themselves on to other people). One way of doing this, or rather a part of doing it, is to produce and consume pornography, which is, after all, merely a celebration of the fun of sex for its own sake. On this view, far from devaluing people, pornography contributes to the personal development and fulfilment of those people who enjoy it (not all people do). Denying pornography to these people puts an obstacle in their way; and insofar as it succeeds in obstructing their self-realisation, it is *that* which devalues them.

Third, no good reason can be offered for the harm-to-others contention that pornography leads to sexual offences. There has been extensive empirical research into the effects of pornography on its consumers, but the results are inconclusive, inconsistent and unreliable. The Home Office has commissioned two official reviews of this research, both of which have concluded that the evidence does not support a causal connection between the consumption of pornography and anti-social behaviour.⁶ (I do not believe anyone has actually maintained that there is evidence that participating in the *production* of pornography makes people more inclined to commit sexual offences.)

Incidentally, this is not to deny the fact that some sexual offenders use pornography in the commission of their offences. It is also true that some of them use quotations from the Bible; that some use kitchen knives, or adhesive tape, or cigarettes, etc. *Anything* may be so used.

Fourth, the degrades-women contention, that pornography portrays women as subservient to, or inferior to, men is incoherent if interpreted as a criticism of the *medium*. For heterosexual pornography involves women *and* men, either separately (in some soft-core pornography) or together. Lesbian pornography involves only women, and gay pornography involves only men. Sado-masochistic pornography may involve men being subservient to women as well as vice versa. In short, there is no asymmetry between the sexes which is inherent to pornography. So if the medium of pornography degrades women, it degrades men too; but then the degrades-women contention must be false.

Accordingly, the degrades-women contention should be interpreted charitably as a criticism of the *message* contained in pornography. This would make it a much less serious criticism (for reasons explained above) if it were true. But, even on this interpretation, it is *not* true. For while pornography obviously portrays women as sexual creatures, the bulk of it portrays them as independent people in control of their lives who engage in sex because they enjoy it. And this is especially so for the sado-masochistic pornography which involves women dominating men.

Finally, is the harm-to-children contention true? There is no empirical evidence that exposure to pornography causes harm to children (for obvious reasons experiments have not been conducted). Given that sex is an everyday and pleas-

urable activity that the vast majority of children will eventually voluntarily engage in themselves, it is difficult to understand how representations of such activity *could* affect them adversely (unless there were something unusual or disturbing about the messages contained in the material, or about the circumstances in which they were introduced to it). Some psychologists venture that children are not even harmed by participating in the *production* of pornography, provided they are not coerced.⁷ But that is not to condone such participation.

CONCLUSION

I have considered the four main types of anti-pornography argument. The contentions of the arguments are that pornography depraves and corrupts, leads to an increase in the number of sexual offences, causes harm to children, and degrades women. I have argued that *even if these contentions were true*:

- (a) they would not justify prohibiting or censoring pornography;
- (b) they would not even amount to much of a criticism of pornography unless they were interpreted as criticisms of the medium rather than of the message;
- (c) the degrades-women contention cannot be interpreted as a criticism of the medium, on pain of incoherence.

I have also argued that *all of these contentions are in fact false*.

I have not attempted to cover explicitly every type of anti-pornography argument. There may be some types which are not easily reducible to arguments of the types I have discussed. I would suggest, however, that if they are put through the hoops of the systematic test to which I have subjected the four main types of anti-pornography argument, they too will fall down at one or (probably) more stages.

My conclusion, then, is that measures to prohibit or censor pornography could not legitimately be pursued by the government of a free society, or by any government which took human rights seriously. Yet, in Britain, our government boasts that we have the toughest anti-pornography laws in Western Europe. We are, indeed, on the road to despotism.

NOTES

1. *Report of the Committee on Obscenity And Film Censorship*, Her Majesty's Stationery Office, London, 1979, p. 103.
2. For a synopsis, see D. Howitt and G. Cumberbatch, *Pornography: Impacts and Influences*, Home Office Research and Planning Unit, London, 1990, pp. 1-5. These authors include in their synopsis radical-feminist stipulative definitions of "pornography" in terms of images that degrade, exploit, discriminate against, etc. women. The trouble with these revisionary definitions is that they raise the question of whether there is any pornography, of whether any pornography in the ordinary sense is also pornography in the revised sense. I ignore these stipulative and partisan definitions here.
3. I owe this example to Nettie Pollard, *The Modern Pornography Debates*, Libertarian Alliance, London, 1994.
4. When making this point it is customary to refer to the alleged quote by Voltaire: "I detest what you say, but I will defend to the death your right to say it". In fact, these words do not appear in Voltaire, but do reflect the temper of his views.
5. See the Williams Report (cited in note 1, above), pp. 96-98.
6. See notes 1 and 2.
7. See Williams Report, p. 90.