

Is the Censorship of Pornography Good for Gender Equality?

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ABSTRACT

This thesis reviews some of the main arguments of the right or not to pornography in order to defend that censoring pornography would bring many negative consequences for women and minorities. The thesis will argue that a ban on pornography would make women and minorities more exposed to exploitation, would ignore other forms of hatred towards women in media, would threaten women's autonomy over their bodies, and would neglect the possibility of educating towards consensual values through pornography.

Moreover, this thesis also advances that promoting female participation in the production of pornography and ensuring minimal working conditions for sex works could avoid many of the exploitation there is in mainstream pornography.

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Preface

This thesis came into being as a consequence of my interest for gender equality and women's rights.

As a feminist, pornography and women's liberation are things which go hand in hand.

This year, I have attended the festival *InQueerSections*, one of the biggest inspirations for this thesis topic. There, I have met sex workers, feminists and activists and it was there where my interest in pornography started to grow and I became invested in writing about women and the consequences of censoring pornography.

Throughout the process of writing, I have faced many challenges. I was still getting used to living in a new country, which I now love, and sometimes I was afraid I would not be able to finish this thesis successfully. During the months of writing, many people who asked me what was I writing about seemed not to understand the importance of debating pornography and gender equality together; perhaps for many of them it was not relevant. However, the more I read for this thesis, and the more people asked me about my thesis topic, I became more and more aware of the importance to write about women and pornography.

I would like to thank my thesis supervisor Dr. Vrousalis, for providing me feedback on my drafts, and for helping me in shaping my ideas and arguments. Also, I am thankful to my parents, Maria José and Nelson, for being very supportive. I am deeply thankful to my partner, Nick Adriaans, who heard my ideas many times and helped me through the most difficult times of writing. He provided insightful and useful comments to my drafts and has supported me unconditionally. Finally, I would like to thank my friend Katrine Smiet, for always being there for me when I needed feedback and good criticism.

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1. Introduction

In private, the women still sexually service the male, for whose pleasure they are called into existence. The pleasure of the male requires the annihilation of women's sexual integrity. There is no privacy, no closed door, no self-determined meaning, for women with each other in the world of pornography.
(Dworkin, 1989, p. 47)

For many, sexual equality is inhibited by the production, distribution and consumption of pornography. Radical feminists have held this position, arguing that pornography poses a serious challenge to equality. Simultaneously, many other scholars have attempted to deconstruct this reasoning, demonstrating that pornography needs not pose an obstacle for gender equality.

In this master thesis I propose to address the debate of the right or not to pornography. Through an analysis of the most prominent scholars who have approached pornography and gender equality together, I will provide an answer to the question: Is the censorship of pornography good for gender equality?

Radical feminists have made a strong case against pornography arguing that it creates and perpetuates gender inequalities. In the words of Mackinnon (1986), "A critique of pornography is to feminism what its defense is to male supremacy" (p. 63). Others, such as Andrea Dworkin, argue that pornography is no less than the depiction of male power, of the dominance of the man over the woman, the submission and humiliation of the latter (1989). The feminist argument entails the assumption that pornography silences women, as Hornsby and Langton argue (1998), and should therefore be restricted or even banned. Because pornography as depiction of male power silences women, the feminists defend that pornography itself should be censored.

Ronald Dworkin, a liberal scholar, has fought against the idea of the censorship to pornography,

since the silencing of women does not offer them the right to silence other practices because they feel offended by them (Dworkin, 1981). Only the harm principle, then, could justify to liberals the censorship of pornography. This principle holds that “(...) the only good reason to restrict speech (or conduct) is to prevent harm to vital social institutions or nonconsenting third parties” (Scoccia, 1996, p. 779).

However, other feminists have also questioned the radical feminist notion that pornography was at the center of women's inequality; many of these debates arose during the so-called *Sex Wars* in the 80's¹, which reflected divisions among the feminists concerning divergent opinions about pornography and female sexuality (Abrams, 1995).

For the purpose of this thesis, I will think of pornography as potentially harmful, taking mainly into account the contributions of Andrea Dworkin and Catherine MacKinnon, but I will argue, contra these authors, that censoring pornography would not contribute positively to gender equality. The two authors were involved in the drawing of the Minneapolis and Indianapolis ordinances, which advocated for a strict regulation of pornography in the two cities, given the harms that pornography would inflict on women and minorities. Despite their efforts, the courts have ruled the ordinances unconstitutional, believing that such ordinances would threaten freedom of speech, value which is protected under the First Amendment of the United States.

As we shall see, the feminists consider that pornography conflicts with equality, because the depictions in pornography convey a wrong message about women. Pornography, according to this view, humiliates women on screen and validates the violent treatment of women.

1 See Duggan (1993): "In the mid-1980's, an acrimonious split developed in the feminist movement after anti-pornography feminists began drafting and campaigning for legislation directed at regulating pornographic expression" (p.25).

It is hard to assess whether there is a direct link between pornography and violence towards women, and this thesis will take for granted the assumption that much of the misogyny and sexism that women face nowadays is perpetrated by mainstream pornography. However, this thesis will argue that the censorship of pornography is not a desirable mean of achieving gender equality, because it entails many risks for women and minorities in the industry. Thus, this thesis will also argue, that more ethical pornography could provide better alternatives to mainstream pornography, if women and other minorities are implicated in pornography production, and if pornography is understood as a form of sex work. It will be also advanced that this could bring many possibilities for women and minorities, who could use pornography as a means of sexual education, fighting against the narratives of mainstream pornography.

Thus, to answer the research question, I propose the following organization: first, I will define pornography, with the help of radical feminist scholars and others who have presented objections to the radical conception (chapter 2); After that, I will review some of the literature concerning the radical feminist argument of the silencing of women and some of Ronald Dworkin's objections; In the same chapter, I will review the Ordinance attempts at regulating pornography (chapter 3); Subsequently, I will present my argument: that the censorship of pornography does not solve our concerns with gender inequalities, because it would involve many negative consequences for those who are most affected by the dangers of the pornographic industry; Here, I will briefly introduce and discuss two alternatives to the censorship of pornography: more female-made pornography and more working conditions for sex workers (chapter 4); Finally, I conclude that the censorship of pornography would affect women and minorities negatively (chapter 5).

2. Conceptualization: What is Pornography?

As we shall see, defining pornography is not an easy task. The purposes of this chapter will be to analyze the conceptions of pornography that the radical feminists and other scholars have attempted, in order to understand why the debate around censoring pornography is still much alive. Next to that, this section will address the criticisms that have been pointed out to the feminist definitions, to propose that they present serious challenges to the goal of gender equality.

In the work *Pornography and Civil Rights – A New Day for Women's Equality* (1989), Andrea Dworkin and Catherine MacKinnon provide the definition of pornography which they have delineated in the Minneapolis ordinance. They define pornography as:

...the graphic sexually explicit subordination of women through pictures and/or words that also includes one or more of the following: (i) women are presented dehumanized as sexual objects, things, or commodities; or (ii) women are presented as sexual objects who enjoy pain or humiliation; or (iii) women are presented as sexual objects who experience sexual pleasure in being raped; or (iv) women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt; or (v) women are presented in postures or positions of sexual submission, servility, or display; or (vi) women's body parts – including but not limited to vaginas, breasts, or buttocks – are exhibited such that women are reduced to those parts; or (vii) women are presented as whores by nature; or (viii) women are presented being penetrated by objects or animals; or (ix) women are presented in scenarios of degradation, injure, torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes those conditions sexual (p. 36).

This passage presents a very detailed definition of pornography. Here, pornography is conceptualized as sexual violence towards women, in a context which intent is to provide sexual arousal to its audience precisely by humiliating women physically hurting them. In another work,

Andrea Dworkin (1989) goes on a more literary style, and refers to pornography in the following manner: "Pornography reveals that male pleasure is inextricably tied to victimizing, hurting and exploiting; that sexual fun and sexual passion in the privacy of the male imagination are inseparable from the brutality of male history" (p. 69).

Based on these definitions, pornography is conceptualized as very damaging to women, because it is a reflection of male power within society. For Dworkin, the women in pornography are "whores". The author states that the literal meaning of pornography derives from the ancient Greek "writing about whores" (p. 199), to argue that "whores" exist only in the context of male domination in society. Thus, according to Dworkin, men created "whores" (1989). For her, women are whores at the same time that women are not persons (Dworkin, 1989); women are objects which are at the disposition of male's pleasure.

In another work, MacKinnon argues:

Pornography is a means through which sexuality is socially constructed, a site of construction, a domain of exercise. It constructs women as things for sexual use and constructs its consumers to desperately want women to desperately want possession and cruelty and dehumanization. Inequality itself, subjection itself, hierarchy itself, objectification itself, with self-determination ecstatically relinquished, is the apparent content of women's sexual desire and desirability (1989, p. 327).

Here, MacKinnon asserts that pornography defines women by determining that women's desires relate to their humiliation; pornography says what women are and defines what women want: women want to be submissive and humiliated, objectified, and powerless towards men.

Vadas (2005) provides another definition of pornography, also placing objectification as a central concept in pornographic depictions. Pornography, in her words, is:

Any object that has been manufactured to satisfy sexual desire through its sexual consumption or other sexual use as a woman or child, or as a man, or transsexual, or as part or parts of combination of these, or variations of these. (p. 177)

Again, according to Vadas, women that are in pornography are not persons; women are manufactured into objects, not because that creation is the end of pornography itself, but because they are manufactured to produce pleasure in the male audience; that pleasure is theirs to provide.

At best, the previous conceptualizations declare that pornography involves a certain degree of violence towards women; at worst, they implicate that pornography *is* necessarily in itself hatred towards women. Nonetheless, the radical feminists conceive that depictions of arousal – not necessarily sexually explicit - need not need to involve violence, under the conceptualization of erotica. This idea will be matured in some paragraphs below.

Vadas (1987) categorizes Andrea Dworkin and Catherine MacKinnon's definition of pornography as the civil rights view, in which, if pornography is the subordination of women, then it would follow that pornography subordinates women. The author differentiates their conceptualization from what she considers to be the reasonable view, which says that "Pornography is sexually explicit material – pictures on paper or film, or words on a page" (p. 490). For Vadas, the normative implications of the reasonable view will be different from the Dworkin/MacKinnon's (1987): although the reasonable definition may suggest that pornography involves violence towards women, it does not imply that the depiction of sexual images subordinates women (1987).

However, the reasonable view does not capture what pornography is, since not all sexually explicit material could count as pornographic (Rea, 2001). As the author argues, hardly one could classify Michelangelo's David as pornographic, and the same could be said about the Bible (2001). Rea

identifies six major categories of common pornography definitions², one of which Dworkin and MacKinnon fall into: definitions which define pornography as in relation to oppression (2001). According to Rea, in the feminist definition, something only is pornographic if someone is being subordinated (2001); second, Rea continues, "one might well doubt whether it is even *possible* for a mere depiction to subordinate someone" (2001, p. 130). The author argues: according to Dworkin and MacKinnon, it is not clear whether a woman showing her genitals in a pornographic magazine would count as pornography, because it is not clear whether a woman is being subordinated or not. Thus, someone being subordinated is a necessary condition for something to be pornographic (2001).

Perhaps the distinction between pornography and erotica could provide an answer to Rea's doubt; under the concept of erotica one could place sexually explicit materials which would not subordinate women; the question then is, how sexually explicit material subordinates women, and why does erotica not subordinate women in contrast to pornography. In the words of Andrea Dworkin;

Feminists have made honorable efforts to define the difference, [between pornography and erotica] in general asserting that erotica involves mutuality and reciprocity, whereas pornography involves dominance and violence. But in the male sexual lexicon, which is the vocabulary of power, erotica is simply high-class pornography: better produced, better conceived, better executed, better packaged, designed for a better class of consumer (1989, p. 9-10).

It is unclear where to allocate materials which would be considered pornographic, but which would not be considered erotica either: Sadomasochist practices, for example, might involve consent from

2 See Rea (2001): - "sex-for-profit" definitions, "bad art" definitions, "as/as-only/only-as" definitions, 'obscenity' definitions, "oppression" definitions and intention/effect definitions.

both partners, but might also be violent: imagine that a woman would be dominating the man, for instance, and both would be fully consenting of such activity. Perhaps it might involve reciprocity and mutuality, but because it is violent, it would be considered pornographic.

In this thesis, I will use the concept of pornography to describe sexually explicit images, in the sense that Andrea Dworkin and Catherine MacKinnon did.

The implications of the radical feminist view on pornography are not only normative, but empirical as well, so they argue. As Dworkin demonstrates (1989), pornography is a depiction of the societal sexual inequalities, but it also creates inequality because it validates women's submission through images and words. As we have seen, pornography shows that women like to be physically hurt, and further legitimizes violence and hatred towards women.

However, it has also been argued that the definition which the radical feminists provide somehow constitutes a closed definition of sexuality and women's desires. For them, sadomasochist practices would be considered humiliating, and they are also proximate to traditional and conservative views on sex, which can be stigmatizing for sexual minorities and other sexual practices (Ferguson, 1984).

Wolfson (1994) argues that defining pornography always depends on some subjective judgment: "Pornography is a concept that cannot be defined without taking a particular ideological, religious or moral position on fundamental views of life. Any attempted definition of pornography contains a philosophical viewpoint of what compromises an ethically acceptable society" (p. 1041). Further on, he asserts: "The dispute over the definition of pornography involves the deepest view possible about the nature of the good (or evil) of society" (1994, p. 1042).

Moreover, views on sexuality, among other divisions, separated radical feminists and libertarian feminists (1984) during *The Sex Wars*. A libertarian feminist would disagree with Dworkin and

MacKinnon on their view about pornography, because libertarians would place a much more (positive) emphasis on the concepts of consensuality and pleasure, trusting a woman's capacity to freely make choices (1984). The radicals, on the other hand, wonder if a woman could ever decide freely from socioeconomic constraints: because women are at a more disadvantage position compared to men, several of them, coming from poor socioeconomic backgrounds, do not have many options available but to choose to work in the sex industry (Dworkin & MacKinnon, 1989). Thus, they question whether the participation of women in pornography is really a free choice.

At this point, although it is hard to find a definite definition of pornography, we should have an idea of what pornography constitutes. In this chapter, I have presented some of the radical feminist notions of pornography, and I have also presented objections posed to MacKinnon's and Dworkin's definition of pornography. In the following chapter will review some of the most relevant literature concerning the censorship of pornography; Furthermore, the next chapter will also analyze one the legal attempts at regulating pornography designed by Andrea Dworkin and Catherine MacKinnon.

3. Literature review

3.1. Introduction

The preceding section presented one of the central concepts of this thesis. In this chapter, I will review one of the arguments in favor of the censorship of pornography, which has been developed by the radical feminists, and would implicate the censorship of pornography on the basis of pornography colliding with the free speech of women. I will also present some of the objections presented by Ronald Dworkin against the censorship of pornography. Finally, I will present Andrea Dworkin and Catherine MacKinnon's attempts for the regulation of production, distribution, and consumption of pornography.

3.2. *The Silencing Argument Against Pornography*

As we saw on the preceding chapter, pornography seems to hurt women by humiliating them on screen. Pornography, then, appears to be a violent act against women.

Hence, as we shall see, efforts to regulate pornography first derive from the premise that pornography hurts women. This section will advance that the dangers of pornography are more complex than a depiction of violence on screen. If we consider the definitions provided in the last chapter, it is reasonable to argue that pornography, by depicting violence towards women, not only hurts them on screen, but legitimizes further violence "in real life". In this section, I will review some of the most prominent feminist ideas against pornography, which explains to what extent pornography hurts women and minorities.

Dworkin and MacKinnon have battled for the censorship of pornography as a form of gender discrimination; according to the authors, pornography creates sexual inequalities because it depicts

and legitimizes women's submission to men. Dworkin (1989) argues that pornography is a demonstration of the male power in society, which she calls "male supremacy". Pornography provides to men the idea that the existence of women is for the male's own pleasure; men's pleasure, pornography demonstrates, can only exist when women are submissive to men. Thus, according to Dworkin, pornography teaches that men's sexual pleasure entails the objectification of women; those are the "whores" that men create through pornography. For the author, "whores" only exist in the context of male domination.

On the one hand, Dworkin (1989) argues that pornography demonstrates that humiliating and beating women is acceptable; on the other hand, because these actions are shown to be admissible, it reinforces the power of men over women. More broadly, pornography provides men an idea of what sex is and what its purpose is: pornography's purpose is to show that sexual relations are about male pleasure, which is achieved by humiliating women and coercing them to sex. In this sense, pornography affects how society (men, but also women), see sex: sex between a man and a woman implicates that the needs of the latter are inexistent, because her only purpose is to provide pleasure to a man:

The insult pornography offers, invariably, to sex is accomplished in the active subordination of women: the creation of a sexual dynamic in which the putting-down of women, the suppression of women, and ultimately the brutalization of women, *is* what sex is taken to be (Dworkin, 1985, p. 9)

Accordingly, pornography gives a false idea of what sex. MacKinnon also considers the implications of demonstrating this sexual dynamic of dominance towards women in pornography. In her words,

Gender is sexual. Pornography constitutes the meaning of what sexuality. Men treat women as who they see women as being. Pornography constructs who that is. Men's power over women

means that the way men see women defines who women can be. Pornography is that way
(MacKinnon, 1986, p. 65).

Thus, pornography constructs a wrong image of women and sex. For Dworkin and MacKinnon, the harms of pornography are not solely what pornography says, but what it does (1989). They write: "Pornography sexualizes inequality and the hatred of women so that men get sexual pleasure from hurting women and putting women down" (Dworkin & MacKinnon, 1989, p. 73). On this account, women are used to produce pornography, which disseminates that women must be hurt in order to produce pleasure, and what goes on-screen legitimates real-life violence. Thus, pornography harms women and validates hatred towards them, as it teaches men that women must be humiliated and hurt.

Based on this harms that pornography inflicts to women within pornography and in society more broadly, both Dworkin and MacKinnon defend that pornography is a form of sexual discrimination (MacKinnon, 1993), (Dworkin, 1989) and (Dworkin & MacKinnon, 1989).

Moreover, women are powerless in the hands of pornographers to refuse to participate in pornography: "Pornographers promote an image of free consent because it is good for business" (Dworkin & MacKinnon, 1989, p. 43). The authors argue that women in pornography are coerced to participate, because women's disadvantage in society already presents them fewer economic possibilities; however, women are also coerced when pornographers persuade them to do pornography, and manipulate them in exchange for money (1989). It is in this sense that pornography silences women. The subsequent section will present some developments related to this idea.

3.3. Implications for the Free Speech of Women

Langton matured the argument that says that pornography silences women:

In arguing that pornography harms, or subordinates, or silences women, feminists argue that pornographers' freedom to speech must be weighed against the harm it causes to women, or the threat it poses to women's equality, or the threat it poses to women's freedom to speak (1999, p. 116).

In another work, Langton and Hornsby try to demonstrate how, exactly, does pornography silence women, by recurring to the speech acts theory. The authors draw an analogy between pornography as form of speech and the speech acts theory developed by the philosopher J. L. Austin (1962). This theory states that three processes are crucial for communication: when someone utter words (locutionary act) there is a meaning attached to it (illocutionary act), followed by a consequence of the illocution (perlocutionary act) (Langton and Hornsby, 1998). When someone speaks, they say more than enunciating sounds; so, in the illocutionary process, when the speaker utters words, the hearer must be able to listen to them and recognize their meaning (1998); this, they argue, makes language a communicative process (1998). It can also happen that some utterance needs context to provide the desired meaning. Langton and Hornsby provide the example of the sentence "I do": the hearer acknowledges two words as an utterance, but, say, in the context of a wedding, the words mean that one accepts to get married. Without understanding that context, "I do" would not have the same connotation.

As language is a communicative process, Langton and Hornsby stress that the hearer must recognize that the speaker is trying to say something with their words, and that understanding (what the authors call reciprocity) is enough for the speaker to perform an illocutionary act (1998).

For them (1998), what happens in the context of pornography is that the reciprocity needed for a

"no" to mean what it means, is absent: imagine that a woman in a pornographic depiction is trying to refuse sex. She utters the word "no", but the hearer (man) does not recognize that no as a refusal; in this case, the woman tried to refuse, but her words were not more than a locution, because the hearer does not recognize it as so. This is the illocutionary disablement that pornography contributes to. Thus, a woman is able to say "no", but the pornographer has the power in his hands to determine whether her words are listened to, and whether that no counts as a "no". As Langton wrote in another piece (2003): "Let them [the powerless] speak. Let them say whatever they like to whomever they like, but stop that speech from counting as an action. More precisely, stop it from counting as the action it was intended to be" (p. 299). Thus, the woman is not silenced by being physically prevented to utter words, but she is silenced by obscuring the meaning she wants to convey.

Bird (2002) notes that the argument above does not precisely say how pornography silences women. However, the author concedes that the illocutionary disablement is performed through pornographers convincing the audience that women enjoy violent sex and that they fantasize about rape; her "no" is taken as "part of the game" (2002).

Jacobson (1995) criticizes Langton's application of illocutionary disablement to pornography. For Langton, women are disabled at the illocutionary level because their utterances are not taken for what they mean, this is, and their "no" is not understood as a "no". From here it follows that the ability to refuse sex relies on the hearer and their recognition of a woman's attempt: if a woman says "no", meaning to refuse sex, she is dependent on the hearer to understand the message. If she was, in fact, disabled at the illocutionary level, she had not refused, although she attempted to; Langton and Hornsby recall Austin's "uptake" as a condition for a fulfilled illocutionary act (1998). If the hearer is not able to acknowledge the meaning behind the utterances, the speaker failed at refusing.

Transporting this into sex and pornography: a woman might have attempted to say "no" to sex, but she did not refuse it. This means, according to Jacobson (2005), that no one would ever know whether sexual encounters are ever consensual. For Jacobson (1995), if there is not a refusal, this means that there cannot be rape either: Jacobson argues that illocutionary speech acts do not need to secure uptake, otherwise women would be dependent on men to codify the meaning of their words. For Jacobson, this implicates that on Langton's account, the rape of women would be impossible.

Intuitively, if communication is a process involving reciprocity, perhaps we must accept that uptake is indeed necessary; Langton and Hornsby have responded to Jacobson by arguing that the author considers that *only* the uptake would be necessary to a woman being able to refuse (1998); which, as we saw above, is not only what Langton and Hornsby argue for; The context of pornography also contributes to obscure the meaning behind women's words.

The importance of the silencing argument in the context of censoring pornography is that if a woman's "no" is taken by a "yes" in pornography, it would be extremely hard to assess whether a woman is consensually participating in pornography. Indeed, as Langton and West argue (1999),

Women often find themselves unable to alter the score of language games in the ways that they intent and find themselves altering the score in ways they did not intent – in both public and private sexual conversations, conversations whose score includes the presupposition, introduced and reinforced by pornography, that a woman's no often means yes. (p. 314)

Thus, women in pornography are not in control of the message it creates, and because they fail at refusing, pornography perpetrates the idea that women might say "no", but what they mean is "yes". Further on, Langton and West (1999) explain this idea:

Pornographers...are liars, or background liars, or background blurrers. Presuppositions are introduced by pornography, authors innocently or otherwise fail adequately to indicate the line between fiction

and background, readers innocently or otherwise take fiction for background, and accordingly come to believe certain rape myths. Women, as participants in conversations where rape myths are presupposed as a component of conversational score, are silenced and subordinated (p. 318).

If pornography sexualizes inequalities as Dworkin and MacKinnon proposed (1989), it seems to be this way that pornography creates further inequalities and endorses hatred towards women. On this account, pornography lies to its audience, which mistakenly takes that lie as truth; and women, the victims of that lie, are not able to change neither the message of pornography: "Pornography makes moves which subordinate and silence women, moves which women, as subordinate and silent, cannot then adequately challenge" (Langton & West, 1999, p. 318).

Braddon-Mitchell and West (2004) also believe that reciprocity within speech is necessary for free speech. For them, free speech demands not only distribution of speech in society, but also comprehension from the hearers. In their words,

When we want free speech for ourselves, we want to be able to utter meaningful sentences, not because we fetishise the property of having a meaning in some language L, but rather because we expect that property to assist in our thoughts being communicated (2004, p. 447).

The authors remark yet another way in which someone's speech might be interfered with: the speaker utters words, they were recognized by the hearers, but their words are simply dismissed (2004). It could be that dismissing someone's views after hearing them and recognizing them might also be applicable to the argument that pornography interferes with the free speech of women. Dismissing someone's ideas, for example, happens when one ridicules the speaker (2004): "This is, we think, the grain of truth in the politically correct thought that ridiculing the powerless and oppressed is bad, but ridiculing the establishment is permissible or even desirable" (2004, p. 451). Thus, it could be that not only men fail at recognizing a woman's refusal, but they also dismiss their

refusal by ridiculing it.

So far, we have seen the ways in which women are prevented from consenting to participate in pornography. If they are silenced by pornography, as it seems so far to be case, there is a conflict between the free speech of women, and the free speech of pornographers.

However, the First Amendment of the United States protects pornography as a form of free expression:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. (U.S. Const. amend. I)

When pornographers produce sexually explicit material, they are making use of their right to free expression, to produce something that intends to create arousal in its audience. But as we saw earlier, pornography may also be harmful to women; by humiliating them and creating more inequalities, and by discriminating a group of people given a condition given at birth (Dworkin, 1989). Thus, it can also be argued that the right to pornography collides with the Fourteenth Amendment of the United States³, which recognizes the right to equality (Langton, 1993).

Furthermore, MacKinnon (1991) considers pornography to be a form of defamation: "Pornography does purvey an ideology about all women; too, pornography of women and men of color sexualizes racism. It is in this sense defamatory" (p.803). In the same piece, MacKinnon asserts that pornography is a form of discrimination. She argues,

3 "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." (U.S. Const. amend. XIV)

In the discrimination context, verbal expressions are actionable per se or are evidence of actionable practices, not protected speech; they are smoking guns, not political opinion. No sexual harassment defendant to my knowledge has ever claimed his sexually harassing remarks were protected expression (p.805).

Thus, if pornography collides with women's freedom of speech, if there is a conflict between the right to speech between two groups (women and pornographers), it needs to be weighted which group's right to speech should be protected against the prejudice of the other (Maitra, 2009).

I believe this is the problem that liberal scholars pose to the censorship of pornography: until what extent should the state restrict pornography, under the claim that it might constitute an obstacle for the free speech of women. Thus, in the following section, I shall present Ronald Dworkin's objections to the censorship of pornography.

3.4. Dworkin's Objection Against the Censorship of Pornography

In "Is There a Right to Pornography?" (1991), the liberal Ronald Dworkin argues that, if there are reasons to censor pornography, they should not be related to freedom of speech; For him, "[But] we should be suspicious of that claim, because the strongest arguments in favor of allowing *Mein Kampf* to be published hardly seem to apply in favor of the novel *Whips Incorporated* or the film *Sex Kittens*" (p. 177). For Dworkin, censoring political speech and censoring sexually explicit images are different matters, because, for him, pornographic films or novels do not prevent anyone for contributing for the political exchange of ideas.

This allows Dworkin the possibility of developing two strategies in favor of the regulation of pornography which do not involve the direct justification of protection women's freedom of speech.

These strategies are the goal-based strategy, and the rights-based strategy. The first strategy supports that censoring pornography would be much more dangerous compared to the alternative of not censoring. The rights-based strategy defends that even if pornography makes society worse off, it would be wrong to censor pornography, because it would violate the rights of those who do not oppose to censorship (1991).

The author criticizes goal-based arguments, because he believes that it would be highly speculative whether or not censorship would make society better off in the long run; In other words, goal-based strategies compel us to allow more speech, which we might now agree with, at the same time that we would not be sure whether or not in the bigger picture, the prevalence of other ideas, would contribute positively to society (1991). Dworkin writes, "This argument has the weakness of providing contingent reasons for convictions that we do not hold contingently" (p. 193). However, Dworkin continues,

But the parallel arguments in the case of most pornography seem silly, and very few of those who defend peoples' right to read pornography in private would actually claim that the community or any individual is better off with more pornography rather than less (p. 193).

Then, Dworkin analyzes the rights-based strategy, through what he considers to be the putative right to moral independence. Through this approach, the state should not prohibit the private consumption of pornography; the state should have a permissive position concerning pornography, if there was no clear evidence linking private consumption of pornography to violence towards women. In this situation, those who oppose to pornography would not have to see in public environment, and pornography consumers could still have access to pornography. According to Dworkin, this strategy would be contra utilitarian, because this strategy assumes that pornography should not be censored even if the whole of the community would be better off with it in the long

run (1991). In Dworkin's words,

If someone is denied liberty of sexual practice in virtue of a utilitarian justification that depends critically on other peoples' moralistic preferences, then he suffers disadvantage in virtue of the fact that his concept of a proper life is already despised by others (p. 207).

Therefore, for Dworkin, no one should be prohibited of following what they consider to be the good life for them, unless there is real reason to prove that, in this case, pornography is the link between sexual images and violence of women. Otherwise, those who want to consume pornography would be prejudiced considering their views of the good life.

Dworkin is in favor of the rights-based strategy, as he believes that individuals should be free to pursue their own view of the good life, and should have the right to make their own choices, even if the majority of society disagrees with them (1991).

Based on this, Dworkin also dismisses the feminist argument which says that pornography silences women; for him, that argument would not be sufficient to censor pornography, because what is at stake are not free speech concerns, but rather, for Dworkin, moralistic views about the good life and pornography (1993). In his words, "Because those who want to forbid pornography know that offensiveness alone does not justify censorship, however, they disguise their repulsion as concern that pornography will cause rape, or silence women, or harm the women who make it" (1993, p. 2). Thus, for Dworkin, the radical feminists are much more concerned with moral values against the depiction of sexually explicit images, than with the harm pornography that may cause.

3.5. Attempts at Regulating Pornography: The Minneapolis Ordinance

Catherine MacKinnon and Andrea Dworkin first attempted at regulating pornography by proposing

and anti-pornography ordinance to the City Council of Minneapolis:

In 1983, the Minneapolis City Council convened hearings on a new zoning law that would prohibit all pornography in the city. The council invited MacKinnon and Dworkin to testify against the harms caused by pornography. The noted feminists proposed eliminating pornography via an alternative to zoning (Rubin & Alexander, 1996, p. 81).

Brest and Vandenberg write (1987) that, given that Minneapolis had already an ordinance against sex discrimination, MacKinnon proposed to extend the ordinance to make pornography subject to lawsuits based on the harms it infringes to women. For this, Dworkin and MacKinnon organized hearings with victims of pornography to testify against its dangers: "They [the victims] spoke of pornography being forced on them in ways that gave them no choice about seeing the pornography or later performing the sex" (Dworkin & MacKinnon, 1989, p. 34). In their words, "The Ordinance, unlike the pornography and its defenses, was written in the speech of what has been their silence" (p. 34).

According to Dworkin and MacKinnon, the Ordinance had four causes of action: "coercion into pornography", "having pornography forced on you", "being assaulted because of particular pornography", and for "trafficking in pornography" (1989). Thus, the person injured by pornography in one or more of the following manners could seek legal consequences. According to Brest and Vandenberg (1987), the injured coerced to pornography would have the right to demand damage compensations and an injunction; those who were assaulted because of pornography could sue the "producers, distributors and exhibitors" (p.619); and, against the trafficking in pornography, women could sue "anyone in the pornographic business" (p.619).

Consequently, the enforcement of the Ordinance that Dworkin and MacKinnon draw could be done through lawsuits, damages or injunctions (Dworkin & MacKinnon, 1989). This is, the injured could

demand monetary compensations or demand the prohibition of the distribution of certain material, if that affected them in one of the four ways mentioned above.

The Minneapolis City Council passed the Ordinance, yet the mayor vetoed it (Brest and Vandenberg, 1987). According to the authors, the mayor's concern related to First Amendment core values: "Foremost among the mayor's specific objections was the ordinance's effect on free speech: The law was too vague to provide adequate guidance for legitimate booksellers and theater operators" (1987, p. 645).

Nonetheless, a similar ordinance, whose definition of pornography restricted it to sexual violence, was passed in Indianapolis City (Dworkin & MacKinnon, 1989). However, the ordinance was found unconstitutional:

In 1985, in a lawsuit brought by a media group (some pornographers, most not) against the City of Indianapolis for passing the Ordinance, the U. S. Court of Appeals for the Seventh Circuit found that the Ordinance violated the First Amendment guarantee of freedom of speech (1989, p. 58).

In these sense, Andrea Dworkin and Catherine MacKinnon consider that the courts chose to favor pornographer's right to continue to practice discrimination against women and their right to speak over women (1989).

3.6. Conclusion

In this section, I have reviewed some of the literature that analyzes pornography, freedom of speech and censorship together. I have also reviewed Dworkin and MacKinnon's attempt at regulating pornography in the Minneapolis and Indianapolis ordinances.

The debate between the feminists and Ronald Dworkin represents a dispute between the right to

free speech of women, which feminists believe is compromised with pornography, and the freedom of expression liberals consider to be fundamental. It could be said to be a dispute between equality and the liberty to do and consume pornography; in the case of the ordinances, it seems that the right to free speech of pornographers has prevailed;

If one must choose between equality and liberty, considering the issue at stake, I believe that the concern for equality should prevail, since women and minorities are the main victims of mainstream pornography. However, I am skeptical about the feminist claim that state regulation could protect women and minorities by censoring pornography in the way the ordinances attempted, because that kind of regulation may entail many risks for those who are already vulnerable in the hands of pornographers.

Therefore, in the following chapter, I will analyze some of the negative consequences that the censorship of pornography could bring to women and minorities, supported by other scholars who have argued against a ban on pornography.

4. Argument: Censoring Pornography Would Not Solve Concerns with Gender Equality

4.1. Introduction

Hardly one could deny that pornography does not any harm to women and society more broadly; pornography, as Dworkin and MacKinnon have demonstrated, creates an imaginary image of what sex is, and legitimates that it is acceptable to hurt a woman in exchange for sex. We have also seen how the free speech of women (more precisely, the capacity of a woman to refuse to have sex) might be obscured in the context of pornography. Shortly: pornographic depictions transform a woman "no" into a "yes", by teaching that a woman that in the sexual context, that is "part of the game" (Bird, 2002). Since the man does not recognize her refusal, the woman fails at consenting.

We have also seen one of the liberal arguments against the censorship of pornography, represented by the work of Ronald Dworkin. Furthermore, the previous chapter analyzed the Ordinance that Andrea Dworkin and Catherine MacKinnon proposed, in an attempt to regulate pornography and ban violent sexually explicit material from Minneapolis and Indianapolis.

Now, in this chapter, I propose to argue against those restrictive policies to pornography, because they would affect women and minorities negatively. To be precise, I will argue against the kind of strict regulation that MacKinnon and Dworkin advocated in the Minneapolis and Indianapolis ordinances. Thus, I will argue against censoring pornography as in banning or making it illegal. I will defend that, although the argument that pornography silences women is a strong one, censoring pornography is not desirable: Accepting the claim that the free speech of women is restricted with the production, distribution and consumption of pornography, I will argue that the censorship of sexually explicit material does not guarantee that the free speech of women is protected. In other words, I intent to demonstrate that, even if we hold the claim that pornography is harmful to

women, there are good reasons to believe that censoring pornography would have a negative impact on women's lives, and would restrict their capacity of refusal even more.

I will divide my argument in four parts. I will argue that censoring pornography, as means as protecting women's free speech, could worsen the economic situation of women in the industry, thus leaving women more vulnerable and willing to participate in illegal pornography; then, I will demonstrate that focusing on pornography as a central agent in gender inequality leaves aside other crucial forms of misogyny present in media; I will also argue that censoring pornography would threaten women's autonomy over their bodies; Lastly, I will argue that pornography has the potential to promote a more ethical kind of sexual education, challenging many of the mainstream pornography misconceptions.

4.2. The censorship is not desirable because it provides no economic alternative for women in pornography, making women more vulnerable to coercion and exploitation

The purpose of this section is to argue that if women are prevented from refusal because of the way in which mainstream pornography operates, a formal ban on pornography would not resolve the concerns with women and minorities' well being, because it would not prevent pornographers from exploiting these two groups. Thus, I propose that we discuss the negative consequences of censoring pornography, taking into account the way in which the radical feminists said pornography would harm women.

As we saw previously, Dworkin and MacKinnon consider that women are coerced into pornography, because they have fewer possibilities than men. So, if we consider women in pornography as sex workers which were, in Dworkin and MacKinnon's terms, coerced into the

industry, which alternative could the censorship of pornography provide to them? In asking this question, I am not asking if society would be better-off without pornography (Dworkin, 1991), but rather, if the women depicted in pornography would be better-off outside the industry. I am interested in assessing whether the living conditions of women and minorities would improve if pornography was banned.

Some scholars have been arguing against the censorship of pornography because they consider that censoring pornography would harm even more the rights of women in the industry. Some of these authors consider that the future of the women in pornography would not be any better (if not worst) if pornography was to be censored.

Nadine Strossen is one of the authors that hold this position. She argues (1996) that the censorship of pornography is not desirable, because free speech has traditionally been one of tools at the disposition of those who have been the most discriminated. She argues that, "As even censorship advocates recognize, any censorship scheme would not prevent the production of all pornography, but rather, would drive that production underground" (1996, p. 461).

Grey (1988) has argued that MacKinnon is mostly concerned with the second group of women which pornography might hurt – not the pornography actresses, but all women in society; for him, this makes it possible to MacKinnon to defend the censorship of pornography without addressing the ways in which the women in pornography are exploited. Although I partially disagree with this position (considering what was presented in the literature review chapter), Grey (1988) points out a relevant criticism to the censorship of pornography worth examining:

MacKinnon's solution would, at best, remove the opportunity for exploitation, only to leave the victims susceptible to virtually certain exploitation in another context. Her solution is therefore neither necessary nor sufficient to address the very real, pressing, and particularized harm she has identified

(p. 1600).

On this account, banning pornography would not provide a solution to women in pornography. As presented in the last chapter, I believe that Ronald Dworkin would defend a similar position (1993).

Thus, on these terms, considering that many women in pornography come from disadvantaged backgrounds, pornography at least provides to them the means to survive; if pornography was to be censored or strictly regulated, then, many of these women would be exploited anyways by different people or forms of work. If, as Strossen (1996) suggests, pornography would go underground, it is possible that women and minorities would be willing to accept even more precarious working conditions, harmful for their bodies and sexual health, in exchange of money or other benefits. This would mean that the censorship of pornography could put women in such a vulnerable position that women's capacity of refusal would be even lower.

Furthermore, if the pornographic industry goes more underground, and if this implicates that a woman's bargaining condition would dramatically decrease, then this would also affect negatively how women in pornography are seen, further contributing to their stigmatization. Borrowing the words of Shrage (1994), "Because sex work violates conventional norms of sexual morality and female respectability, sex workers are vulnerable to social subordination, disrespect, and pity" (p. 62). If this is the situation of women in pornography, it is possible that these scenarios would be amplified if pornography was made illegal, marginalizing women and minorities on pornography. Not only would they be much more vulnerable to be coerced into pornography, but also because society could see these sex workers even more negatively, damaging their self-esteem. This is important, because probably their self-esteem could influence the prospects of leaving the industry if they wish to do so. Ironically, although women in pornography are the most socially stigmatized, they have much more visibility than the ones who oppress them, the pornographers. Thus, banning

pornography would contribute negatively to those who are already powerless, without marginalizing those who use women and minorities to make profit out of them. I believe that the sort of regulation that the Minneapolis ordinance requested, would not work in favor of women in pornography, because it provides no other alternative to them. Although they could sue pornographers, and ask for compensations of damage, they would not have an alternative after pornography. Nonetheless, the compensations that the Ordinance proposed could reimburse women for the pain caused (Dworkin & MacKinnon, 1989), at the same time that it could also work as an incentive for women to leave pornography.

Although the aim of censoring pornography is to protect those who are depicted, and the women in "real life" who suffer from pornography, it is hard to believe that creating restrictions to its production and distribution would stop pornographers from doing it; If the respect for women's bodies would not be enough for them not to produce such content – and if human trafficking and rape are a reality - it would be naïve to expect that the pornographers would respect the rule of law.

Thus, I am afraid that such strict regulations to pornography could hurt even more women and minorities. The situation of women and minorities in the industry may not improve, but rather decline; they would be much more exposed to exploitative conditions, and thus would not benefit if pornography would go underground. It could happen that those who watch pornography would also be at disadvantage, because they view of the good life is already socially stigmatized (Dworkin, 1981).

Nonetheless, my concern at this stage is not with the audience, but with the life conditions of those who suffer the most with the pornographic industry. If pornography went more underground, this could have a dangerous impact on the socioeconomic conditions of women and minorities in the industry, creating more conditions for their exploitation. Moreover, as argued above, measurements

to ban pornography could also lead to an increased stigma of women in pornography. This could have the consequence of women suffering even more discrimination, which I believe would not be in their best interest.

Considering that women and minorities have a central role in the debate around the censorship of pornography, it is crucial to determine whether their socio-economic situation would improve if pornography was made illegal. As we have seen in this section, censoring pornography may entail many risks for women and minorities, leaving them more defenseless in the hands of pornographers; Thus, perhaps, to protect those who are most affected by the pornographic industry, the censorship of pornography is not a desirable means to safeguard women, even if we consider that pornography silences women and harms society more broadly.

4.3. Placing excessive importance on pornography as the main agent in gender inequalities ignores other violent – but not always sexually explicit – content

As we saw in the previous chapter, the radical feminists consider pornography to have a very crucial role in the spectrum of gender inequalities: as Dworkin and MacKinnon argued, pornography sexualizes inequality, being itself a depiction of women's submission, and creating further submission of women on real-life, by providing an inaccurate image of women and their sexuality. As we saw, MacKinnon even considered this inaccurate image as a form of defamation towards women. If this is the case, pornography indeed plays an important role in the message it transmit about women, namely, that women are "whores" (Dworkin, 1989).

The Ordinance Dworkin and MacKinnon created does justice to the pervasiveness of pornography. However, other scholars have been criticizing the attention the two have attributed to pornography,

because it would ignore other forms of misogyny in society. Given these claims, I defend that focusing excessively on pornography as a form of inequalities leaves aside many other misogynistic messages the mainstream media provide. Moreover, I argue that it would be unrealistic to expect considerable advancements towards gender inequalities through the censorship of pornography.

Thus, assuming that regulatory efforts like the Minneapolis ordinance would succeed in suppressing pornography, I believe there are reasons to be skeptical about the contribution of the absence of pornography to society. Grey (1988) considers that hardly all misogyny would disappear along with pornography; Sunstein (1986) also defends this position: "If pornography were abolished, sexual inequality would hardly disappear" (p. 601).

Although pornography might be a powerful means of depicting violence toward women because it is explicit, other sexist and misogynistic views are also perpetrated in society by mainstream media, which might be more accessible to people than pornography. Duggan (1993) has a similar position, arguing that in the same way one criticizes misogyny in sexually explicit materials, one must also criticize and oppose to misogyny present in other forms of mainstream media. Moreover, "[but] it makes as much sense to organize a group called Women Against the Novel as it does to organize Women Against Porn. We're against *misogyny* in sexually explicit materials. We're not against sexually explicit materials per se" (1993, p. 34). Hence, perhaps censoring pornography may imply that because it is explicit content, it is somehow more dangerous than sexist and hatred practices in everyday life. Schrage (2005) argues in a similar fashion:

Some pornography is socially irresponsible although the same could be said of extremely violent and pointless films. I have argued that there is no reason to think that material that is sexually graphic is more powerfully degrading to women than non-pornographic material that valorizes sexist attitudes or other offensive views, such as racist or homophobic ones (2005, p. 63).

On this account, pornography would not be more dangerous than content in other media forms. There are other messages which also contribute negatively to society, and pornography is only one of them.

Searles (1994) even defends that sexist content outside pornography is more harmful: "[In fact], sexist images of women which occur outside pornography are all the more powerful than those within pornography because of their wide acceptance and validity" (p. 480-481). Indeed, although pornography is easily accessible, other media might have more impact on everyday lives; because of that, they are taken as more natural, and that is why much of the misogyny perpetrated outside pornography might be more harmful.

Moreover, Duggan, Hunter & Vance (1993) question the importance MacKinnon and Dworkin attribute to pornography as being the most importance force of women's oppression:

It need hardly be said that pornography did not lead to the burning of witches or the English common law treatment of women as chattel property. If anything functioned then as the prime communication medium for woman-hating, it was probably religion (p. 155)

The authors argue that the sexual explicitness of pornography is one of the major reasons that far-right forces and radical feminists aligned with the ordinances (1993). For them, other media images that are violent are not questioned in the same way pornography is. They write: "So far, those who have produced violent films have not been found blameworthy when third persons acted out the violence depicted" (1993, p. 162). If this would be the case, the authors believe that other forms of violence present in mainstream media should also be censored in the way the ordinances proposed; they argue that,

If this were to change [if one could blame a violent film producer because someone acted out the

violence], it would mean, for example, that the producer of the TV movie *The Burning Bed*, which told the true story of a battered wife who set fire to her sleeping husband, could be sued if a woman who saw the film killed her husband in a similar way. The result, of course, would be the end of films depicting real violence in the lives of women (1993, p. 162).

If other violent, but not sexually explicit movies, were to be censored because of their violence towards a group of people, even if that movie aimed at bringing the attention, say, to racist issues, one could not accuse the producer if a third party acted out on it (1993). But violent films are not censored in the same way the ordinances proposed that pornography would be, and it would be very hard to prove that the depiction of violence was the cause of harm (1993, p. 162).

So, perhaps according to these authors, we could look at pornography as a form of oppression and silencing of a group of people, but not blame pornography as the most important cause for gender inequalities. If one is to censor violent pornography, then one is also to censor violent movies. Thus, to be congruent with the feminist goal of censoring material which is violent and misogynistic to women, one would have to censor much more images which are not pornographic, but are also violent.

This does not mean that MacKinnon and Dworkin do not condemn other forms of sexism and hatred in mainstream media, but it makes us wonder what would be the limits of censorship. For them, pornography is an important target, because the difference between pornography and other forms of misogyny in the media lies in the coercion of pornography, that does not happen in other media: "Indicators of the difference are that no one is coerced into performing for Calvin Klein commercials; no one is tied up in front of "The Secret Storm" and forced to enact its scenes later;".

Moreover, Meyer (1994) also argues against placing too much importance to pornography as form of hatred. For the author, the effect of pornography is also smaller compared to other forms of

represented hatred:

[Finally], the pro-porn suppression effort wastes valuable resources because, although porn may contribute to the notion that women are worthy targets of male domination and abuse, its impact is marginal in comparison with the myriad mainstream images and practices that influence societal attitudes towards women (p.1101).

Indeed, given the claims that other media might affect in a more dangerous way how the society perceives women, targeting pornography would leave aside other inaccurate depictions. And, although it could formally contribute against the discrimination of women, it is possible that efforts to regulate pornography would have a small impact on the broader picture of gender equality.

4.4. Censoring pornography would threaten women's autonomy over their bodies

In this section, I propose that banning pornography poses a challenge to women's autonomy over their bodies, considering feminist perspectives against patriarchy and male domination.

Although the radical feminists defend the censorship of pornography as means for the state to protect women from sexual discrimination, other scholars have argued that this would be an incongruence with feminist struggles against patriarchy: "One is tempted to ask in astonishment, how can this be happening? How can feminists be entrusting the patriarchal state with the task of legally distinguishing between permissible and impermissible sexual images?" (Duggan, Hunter & Vance, 1993, p. 134). Grey (1988) also criticizes the legal attempts MacKinnon has made towards the censorship of pornography. The author advances,

The notion that women must be protected from visual or aural representation of male sexual dominance ironically allows the (usually male) judge to play the far more insidious role of father-figure, protecting his weak charge from the hostile environment of the outside world (p. 1611).

The last passages strongly imply that the attack on pornography gives to a male-dominated body the power to decide over women's bodies and choices, which is to some extent contradictory to the feminists. On one hand, the radical feminists commitment to protect women's speech compels them to demand that women must be protected under the law in favor of the free speech of pornographers; on the other hand, in order to protect them, they give to the state (a patriarchal instance), the power to regulate pornography. Perhaps this is a small incongruence considering the dangers of pornography at stake, but it still is something worth considering in relation to what could be women's empowerment against male domination.

Furthermore, it has been argued, that censoring pornography would mean to censor women view's on sexuality, as well as censoring their will to participate in sexual experiences (Katz, 1993). According to the author, if we concede that women are entitled to the right of consuming pornography in the same way men are, we need to allow women to speak up for and against pornography, even if that entails more women producing, acting, distributing and watching to pornography: 'Many women, many feminists, are determined to dispel the myths that censorship is good for women, that women want censorship, and those who support censorship speak for women' (1993, p. 20). Thus, perhaps women want pornography, and perhaps many women would disagree with strict regulations to pornography. In the words of Ann Russo, "[Thus], liberation is, for women, to have sexual power and control, and, more importantly to be able to express and articulate their own desires and strategize for their own pleasure" (1987, p. 110).

This way, women's liberation demands empowerment through sexuality; thus, the censorship of pornography could threaten the possibility of women expressing their sexualities through their consenting to participate in pornography.

Also, some authors argue that the radical feminists hold a conservative view on sexuality, which

may be stigmatizing for women and other sexual minorities (Strossen, 1996; Ferguson, 1984). Although they view sadomasochist practices as a form of violence towards women (Dworkin, 1989), those practices may be as well consented, and even involving the exchange of traditional gender roles:

Moreover, the norms and practices of S/M communities generally do not single women out for subordination or humiliation. Many men enjoy being "bottoms" or submitting to simulated sexual violation, and being a bottom or top is not restricted by gender. Sadomasochist pornography, which involves the filming or photographing of S/M scenes, also takes place in a context with rules that protect the participant's welfare (Shrage, 2005, p. 61).

Thus, Shrage (2005) argues that it is important to contextualize the violence one sees on screen, and that it is important to distinguish from acted violence, to real-life violence, because violence on screen a simulated kind of violence. The author argues that in correspondence to what happens in violent movies, the violence on screen is no real violence; and that if one knew that the violence in movies was real, then people would not enjoy watching those (2005).

Additionally, if pornography was made illegal, it is possible that it would lead to the stigmatization of female and minority consumers, who could feel that their sexual desires are socially disapproved, further contributing to their discrimination. In the words of Abrams (1995), "The attack on pornography obscured the sexual pleasure women had been able to achieve, even under oppressive conditions" (p. 305).

Moreover, Strossen (1996) emphasizes that censorship efforts have hidden important information concerning women's rights and sexuality. The author argues, "Of particular importance for the current pornography debate, laws permitting the suppression of sexually-oriented information have often been used to suppress information essential for women's rights, including reproductive

freedom" (p. 470). With this statement, Strossen aims to demonstrate that the censorship to pornography could also suppress material relevant to women about their sexuality and rights, which has been the case of United States' anti-obscenity laws (1996).

4.5. Pornography has the potential to promote a more ethical kind of sexual education, challenging mainstream pornography misconceptions

It has been suggested in the previous arguments that censoring pornography could implicate that other forms of sexual expression would be also regulated. Namely, the censorship of pornography could also ban other forms of sexual education concerning sexual health and consensual sexual relations.

The following passage exemplifies some of the ways in which pornography could contribute positively to:

Some examples of feminist concerns that could be harmed by restrictions on sexually explicit speech include working to overcome the virgin/whore dichotomy that constrains the way that women lead their lives and affects the way that women are perceived, providing better sex education to young adults to help them develop healthy sexual identities and to arm them with knowledge about sexually transmitted diseases, pregnancy, and sexual abuse, striving to distinguish between sex and violence, and breaking down sexual stereotypes and roles in all areas of society (Searles, 1994, p. 487).

This way, pornography could provide better sexual education, in an alternative to mainstream pornography. As it was previously remarked in this thesis, Andrea Dworkin (1989) contextualizes "whores" in the lexicon of a male-dominated society. Thus, promoting more pornography which could question this and other assumptions about women and gender roles could be a positive

contribute to elevate women's status through pornographic depictions. Also, as Shrage (2005) argued, it is important to contextualize violence on screen; This, I believe, should also be in the interest of the radical feminists, given that pornography works by obscuring this distinction. Moreover, promoting sexual health and raising awareness about sexually transmitted diseases, could also contribute positively to healthier sexual relations.

Given that women's sexuality is still a taboo nowadays, and given that pornography has the power to reach a wide audience, pornography should be treated as a tool to fight against sexist, misogynistic and racist speech. Again, in the words of Searles (1994), "One of the best ways to combat pornography and its effects is to use it to educate people" (p. 488).

Imagine, for example, feminist pornographers and women producing a kind of pornography in which women's and men's body parts are depicted, but in which women "teach" men about the importance of consent in sexual relations; imagine that this is a dialogue two heterosexual people are having while preparing for intercourse. Or, imagine, that in a given sexually explicit depiction, both women and men are actively consenting to participate in sex and that in the same depiction, it is obvious that at least one of them is using a contraceptive method; Following the idea that pornography is a form of sexual education, it could be used to depict sexual healthy practices, which would prioritize, say, active consent by both parts; This does not ensure that the actresses were not coerced in the radical feminist sense, but it might ensure that the audience retrieves the positive message of the depiction: that contraceptive methods matter, and that consent is essential. I believe that these examples could belong to the pornographic sphere (and not to the erotica sphere) as, if argued above, there is a contextualization of what is depicted; There could be violence, but it is crucial that the depiction distinguishes between disrespecting people's bodies without permission, and asking them for their active consent, in contrast to the idea that mainstream pornography seeks

the "free consent" of women that Dworkin and MacKinnon (1989) criticized.

Thus, in the same way that men and women learn about exploiting women's bodies in the kind of pornography the radicals were opposed to, they can also learn through pornography the importance of consent.

Nothing of this is, in fact, new. Feminist pornographers have been defending some of these ideas and have argued the importance of pornography in the context of sexual education, emphasizing the ways in which more pornography could contribute to sex-positive practices⁴. If we consider sexual expression as an important part of human life, not censoring pornography could provide minorities such as transgender people, the opportunity to create sexually explicit material friendly to the realities these groups of people may face. Not censoring pornography thus opens the possibility for other kinds of pornography, which aim is to educate its audience and can also provide a form of pleasure which intent is to be the less exploitative possible.

4.6. Discussion: Are There Alternatives to the Censorship of Pornography?

In the previous sections, I have presented some of the arguments against the censorship of pornography. They relate to the dangers censoring might bring for women and minorities, which could be prejudiced if measurements such as the ones the ordinances proposed were taken in place.

If the production and distribution of pornography denies women the freedom to speak, regulating pornography should ensure that women's speech is formally protected by law. However, as I presented in this chapter, given that strict regulations to pornography may also harm women and

4 As an example of this, the work *The Feminist Porn Book* (2013) reunites a collection of essays written by both by scholars and sex workers, about feminist and more ethical pornography.

minorities, regulations to pornography might not produce the desired effect.

I have argued that censoring pornography could promote the production of illegal pornography, which could leave women and minorities more exposed to dangerous situations, such as trafficking and rape. Moreover, if pornography was banned, women and minorities would be left with no other alternative or means to survive. I have also argued that censoring pornography would not guarantee that the hatred towards women would diminish; first, strict regulations such as the ones the Ordinance proposed could not guarantee that the distribution of pornographic material would stop; second, if these regulations could avoid that the material was circulated, it would only protect women from one kind of misogyny, but it would ignore the role that other media have in discriminating against women; Thus, this kind of regulation would have a small impact in society, considering all the other forms of misogyny in commercials or television. Too, I have argued that to be congruent with the feminist struggle against patriarchy, one would have to defend the censorship of a wider range of violent media materials; I have also demonstrated that the censorship of pornography would threaten women's autonomy over their bodies, by inhibiting forms of sexual expression, which are a fundamental part of human lives, and by providing the idea that all women despise pornography; Lastly, I have argued that pornography has the potential to promote healthy sexual practices and educate for consensuality in sexual relations, deconstructing many of the misconceptions of mainstream pornography, something which would not be possible if pornography was regulated.

Through the arguments which I have presented, I have left aside concerns related to the individual right to consume pornography that Dworkin defends (1981). I believe that, given that pornography is considered to threaten mainly two groups of people (women and minorities), it is important to focus on their oppression, this is, to focus on the ways in which censorship may be harmful to those

groups of people who are already discriminated against.

Andrea Dworkin and Catherine MacKinnon have presented very strong claims considering what pornography does to women; their arguments fit a society which is shaped by gender inequalities. With the authors, I share the idea that women indeed face many disadvantages considering men. However, contra Dworkin and MacKinnon, I am skeptical that censoring or banning pornography would do justice to the inequalities that women and minorities suffer. I agree that pornography creates a language which purpose is to obscure the message of women's refusal, and I understand that, under the law, women's right to free speech might be protected. But it remains unclear whether pornographers would respond positively the law, and if regulations to pornography would give a positive contribute to women's socio-economic situation. Also, I believe that the free speech of women could only be formally recognized; in practical terms, if pornographers would still disrespect the law and produce illegal pornography, how would a woman's capacity of refusal improve?

I am also skeptical that, after the ordinances, pornography could be restricted, because of the missing link between pornography and harm. Hence, I am interesting in assessing whether banning pornography is the only way to provide women and minorities a voice. Furthermore, I am interested in knowing if there are other alternatives to avoid the exploitation of women and minorities which do not involve a strict regulation of sexually explicit materials.

In my belief, one of those ways could be by promoting that more pornography is created by and for women and minorities, to challenge many of the misogynistic discourses created by mainstream pornography; as I have presented before, this is one of the intentions of the so-called feminist pornography. Although some of the anti-pornography arguments I have presented here may be very close to this kind of pornography, it is not my intention to develop its nature and implications

extensively.

Nonetheless, I propose that we consider that women participate in the production pornography, as means for them to represent their views on sexuality, and as means to fight back against the exploitative narratives of mainstream pornography. Furthermore, I believe that regulating pornography as a form of sex work could avoid the exploitation and violation of women and minorities: some degree of regulation of pornography as form of work is needed to ensure that, to some extent, no one was coerced in participating in pornography.

Women have the possibility of creating their own pornography, challenging the industry of mainstream pornography, and creating their own views on sexuality. Possibly, in the long run, if women create and produce more pornography, pornography need not be humiliation and degradation; Allowing women and minorities to take part in the process of making pornography could be a first step to represent their views on sexuality and consent. Even if, in the current state of arts, women's refusal is impeded with mainstream pornography, promoting their participation in decision making aspects of producing pornography could help elevating women's status in the industry.

If pornography is considered a male-dominated industry, we should reconsider whether it could benefit from women's participation in decision-making aspects of pornography production; It is also important that we reconsider the idea that women would only subjugate themselves to pornography if no other choice was available for them; many women may want pornography, and perhaps they should not be impeded of participating in the process.

Because pornography has disadvantaged mainly women, I believe women would be much more careful in the way they would depict sexual explicit content, even if violent. Women producing and

distributing more pornography could make visible women's perspectives on sexuality: "If women don't create their own erotic visions, their own sexual language, men will continue to do it for us and we'll never fully understand our own unique sexual nature" (Royalle, p. 68-69).

Promoting female-made pornography, however, would not suffice to protect women from the hands of pornographers. Duggan, Hunter & Vance (1993) argue that providing working conditions for those in the industry would be one of the most effective ways to ensure that women are not coerced to participate into pornography:

Women do not become pornography models because society is egalitarian and they exercise a "free choice", but neither do they "choose" this work because they have lost all power to deliberate volitional behavior. Modeling or acting for pornography, like prostitution, can be a means of survival for those limited options. For some women, at some points in their lives, it is a rational economic decision. Not every woman regrets having made it, although no woman should have to settle for it. The fight should be to expand the options, as well as to insure job safety for women who do become pornography models (p. 159-160).

This last stance represents what could be a better solution for women and minorities in pornography: create more female-friendly pornography, as well as insuring, at the same time, the minimal working conditions for pornography workers. This way, women's financial situation would not be neglected, thus allowing them to pursue another career and leave the industry if they wish to do so. Schrage (2005) argues that sex work must be treated as a form of work, in which the workers receive the same benefits they would do in another job. In her words, pornography demand other forms of regulation which do not include banning: "This means that sex workers must have a reasonably tolerant legal and social environment in which to work, health and safety protections, enforceable employment contracts, and so on" (p. 62).

In relation to prostitution as a form of sex work Zatz (1997) argues that women could only be prejudiced if sex work is not understood as such. In her words,

Exclusion from social benefits premised on employment (e.g., worker's compensation, disability and unemployment insurance, the earned income tax credit) and the added burdens of illegality undermine the possibilities for financial independence and encourage reliance on pimps and alliances with organized crime and drug trafficking (p. 304).

I believe that the same should be applied to pornography: it could avoid, to some extent that women would not be forced to enter in pornography, allowing them a relatively stable environment, thus providing them the means for more independence and even possibilities leave the industry. Moreover, as it was previously advanced, treating pornography as a form of work, could also contribute positively to the status of women, diminishing the stigma associated with women in pornography. Thus, it is possible that the two possibilities introduced here could perhaps empower women in pornography and provide them the means to leave the industry, while at the same time reducing the social stigma pornography workers face.

Nonetheless, the main focus of this thesis is not to determine in which ways pornography could be beneficial to those which it traditionally exploits, but to demonstrate that censoring pornography could worsen women's situation and thus contributing to more gender inequalities.

4.7. Conclusion

In this chapter I have argued against the censorship of pornography and have also attempted to outline two possible alternatives to the censorship of pornography that could empower women to appropriate themselves from pornography and create their own narratives.

The biggest challenge to what was proposed on this chapter, is what Langton considered to be the challenge to fight speech with more speech: "Whether women can fight speech with more speech depends on whether, and to what extent, women can speak" (1993, p. 314). This chapter focused on four negative impacts of censoring pornography, demonstrating in which ways censoring pornography could hurt women and minorities even more, and thus affecting their negotiating capacity of refusing to participate in pornography.

Thus, if censoring pornography would not entirely mean that women's voices were being heard, I have also suggested that we think of ways in which pornography could be beneficial to women.

I consider that, even if women are economically disadvantaged compared to men, an analysis of pornography should focus on solutions for the exploitation of women, and not leaving them more vulnerable to other forms of exploitation; Pornography may be a powerful vehicle for silencing women, but women must create more pornography to challenge the misogyny of mainstream pornography. Additionally, as I advanced here, women and minorities should have the conditions for the fulfillment of that task: sex workers must be treated as such.

5. Conclusion

This thesis aims to answer the research question: "Is the Censorship of Pornography Good of Gender Equality?".

In order to provide an answer to the question, I started by introducing some of the definitions of pornography, developed mainly by the radical feminists Andrea Dworkin and Catherine MacKinnon, to provide a better understanding of what pornography is, and to introduce some of the conflicts that pornography may pose for gender equality. After that, I reviewed some of the literature concerning the censorship of pornography, by presenting the feminist argument of the silencing of women, and also by reviewing Ronald Dworkin's objections to the censorship of pornography; I also addressed one of Andrea Dworkin and Catherine MacKinnon's attempts at regulating pornography through the Minneapolis ordinance; Then, I argued that a ban on pornography in the manners which the Ordinance planned would affect negatively women and minorities in the industry: in brief, it would create more conditions for their exploitation; it would ignore the importance of other media in perpetrating misogyny; it would also threaten women's autonomy over their bodies by denying them access to participate and consume pornography, and it would also remove the possibility of using pornography to educate its audience in a better way than mainstream pornography does; Finally, I briefly advanced two alternatives to the censorship of pornography in order to protect women's and minorities from the harms of pornography.

Considering what was provided in preceding chapters, I believe that censoring pornography would not fit one of its main purposes: to protect women and minorities from the dangers of pornography, mainly, of protect their freedom of speech. Thus, in answering the research question, I believe the censorship of pornography is not good for gender equality, because it cannot eliminate many of the misogyny from where it stems from. Banning pornography cannot change the narratives of

pornography; it can only formally suppress them, which does not guarantee that hateful messages about women do not reach the audience.

I have advanced that not regulating pornography in the way the Ordinance aimed to, may provide many possibilities in the spectrum of sexual education and respect for women and minorities' bodies; perhaps these measures could alter the meaning of pornography. In promoting more speech, female pornographers have the possibility of contributing to their views on sexuality, and have the power to counterbalance misogynistic views which exploit women.

Nonetheless, it should be noted that this thesis did not argue that a permissive police towards pornography would contribute positively to gender equality; this thesis argued that censoring pornography would not protect women in the way the radical feminists intended. Additionally, this thesis did not argue that neither banning nor tolerating pornography could protect the free speech of women; this thesis aim was to defend that censoring pornography could bring to women many undesirable consequences considering their socioeconomic status and disadvantage towards men.

Moreover, this thesis proposes that if, censoring pornography does not generate consensus concerning a right to pornography and the protection of women, further research should look more closely to other alternatives which could aggregate more proponents of such measures.

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