

# Pornography and the Myth of Free Speech.

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In the United States, an individual's right to "free speech" is sacrosanct. Consider these examples of free speech: a little-known pastor of a small congregation in Florida, first, threatened to burn the Koran and, then, in spite of the huge outcry against such an action, did actually burn the Koran — and he did it in the name of free speech. He claimed he had a right to exercise his freedom of speech with no thought for possible consequences.

More recently, again in the US, an anti-abortion activist named Angel Dillard sent threatening and intimidating messages to a Kansas doctor who performs abortions, yet ultimately escaped punishment in court.

Let me share a few sentences from one of her letters to the Doctor. [She said](#): "*Thousands of people across the United States are looking into your background. They will know your habits and routines. They know where you shop, who your friends are, what you drive, where you live...You will be checking under your car everyday — because maybe today is the day someone places an explosive under it.*" In the presiding Judge's opinion, however, Dillard's actions were covered under freedom of speech. The Judge said: "*The First Amendment is the absolute bedrock of this country's freedom*" and, with that, this woman was able to get away with her incredibly threatening speech. There is something desperately wrong with the principle of freedom of speech when it is interpreted to mean, essentially, that anyone can say and do anything they like.

One more example that is particularly pertinent to my topic today: the degradation of woman in and through pornography. My contention is that the pornography industry and the millions of men around the world who use it, exploit and subordinate all women.

And remember — pornography is not just naughty pictures of two people having sex. It is not just so-called 'harmless' pictures of nude women. The majority of people who argue that there's nothing wrong with a bit of porn probably think of it like that. Pornography, the kind of pornography that has now become mainstream, is alarmingly violent toward women's bodies. One pornographer, quoted by Gail Dines in her book *Pornland*, says:

*Women are much more understanding and aware of their true purpose in life than ever before. That purpose, of course, is to be receptacles of love; in other words, fuck dolls.*

(Max Hardcore quoted by Dines 2010, p. 99).

As a psychotherapist, I've noticed in my work with women that they are reporting more and more often that their male partners are expecting and/or demanding anal sex from them. I have no doubt that this is a direct result of those men immersing themselves in pornography. Anal sex is growing in pornographic popularity. It's also a particularly brutal type of porn.

Referencing Gail Dines again, she explains that her research led her to visit Internet sites with names like: *Anal Suffering* and *Anally Ripped Whores*. The existence of successful sites with names like this is disturbing. It tells us something about the status of women generally, and especially about the treatment of women working in the porn industry.

So, I say that the principle of Freedom of Speech is a sham. It's a myth. It privileges the rights of an avenging pastor over the rights of millions of Muslims, the speech of violent anti-abortion activists, and it privileges the rights of pornographers and users of pornography over the rights of women and girls working in pornography. It's crucial, therefore, that feminists look more closely at this supposed principle of free speech and, in relation to pornography, demand an explanation as to why men are so much more privileged than women in terms of sexual speech.

In my book *Unspeakable: a feminist ethic of speech*, published last year, I introduce the concept of "fair speech" and insist that for speech to be truly free, and free for all, it must be *fair*. A cursory look at the way democratic societies operate reveals some interesting facts about the kind of free speech which is blind to the principle of fairness. I want to mention four of these facts here:

**1. FREE SPEECH FAVORS THE POWERFUL.** Every day when I turn on the radio or television, when I open the newspaper, it's not your opinions I hear or read about, it's not my own speech being reported in the media – it's the views of the powerful. The views of politicians are reported endlessly. Corporate bosses and industry leaders. Their opinions and business dealings are always in our face. Also, reports on the behavior, good and bad, of high profile and very well paid sportsmen. The wealthy power elite have access to all the speech they want, while the rest of us – the disempowered – are silenced. Free speech certainly favors the powerful. Following from that, my second point is:

**2. FREE SPEECH ENTRENCHES INEQUALITY.** The more access one has to speech, the more powerful one becomes. And the more one is denied speech, the more one is reminded of just how powerless one is.

But, of course, it's never clear cut. It's not as simple as – everyone who is rich and famous has automatic access to speech and the rest of us have little to none. Some groups of people are given greater social authority than others. Free speech, in favoring the more powerful over the less powerful, entrenches inequality.

**3. FREE SPEECH FOCUSES ON THE INDIVIDUAL.** In the United States, the First Amendment focuses on the individual's right to freedom of speech and freedom of religion. Today, neoliberalism and postmodernism encourage an individual perspective. Everyone has free choice – or "agency" – they tell us. And if one individual accumulates more wealth than another, it's called "healthy competition." If one individual dominates and destroys another, it's called "survival of the fittest." If one individual rapes another, he's called "one bad apple." An individual focus rules out any socio-ethical analysis.

**4. FREE SPEECH IGNORES ISSUES OF QUALITY OF LIFE.** Those who are silenced and subordinated by the inequalities inherent in the principle of Freedom of Speech have a diminished quality of life. Those who are victims of other people's free speech – hate speech, racial or religious vilification, physical, sexual and emotional violence – all victims of other

people's free speech have a diminished quality of life. Free speech which is not also fair speech is a sham. It's free speech for the few and silence for the many.

So, what would fair speech look like in relation to pornography? Here I will make three points:

- \* There would be a willingness to look at the issue of pornography from the perspective of harm, rather than user benefit;
- \* Hate speech would be disallowed under the banner of fair speech; and
- \* The definition of hate speech would be expanded to include pornography.

1. **First point** – If pornography were judged from the perspective of fair speech, we'd also have to look at it from the perspective of harm – which isn't the case at the moment. There would be a genuine questioning: Who is harmed in the making and consuming of pornography? What are those harms? Should consumer demand outweigh the rights of those who may be harmed?

2. **Second point** – Hate speech would be disallowed under the banner of fair speech. To this point, the focus of hate speech in a legal sense has almost always been, specifically, on racial hatred. In Australia, for example, the Racial Hatred Act of 1995 made racial vilification a civil offense. Further, every state in Australia except the Northern Territory have criminal and/or civil provisions against racist hate speech. These provisions were derived from the two-pronged approach of the International Convention on the Elimination of Racial Discrimination which provides for 1) the right to freedom of opinion and expression; and 2) the prohibition of 'dissemination of ideas based on racial superiority or hatred.' Accordingly, it provides for *freedom of expression* while prohibiting speech that expresses *superiority*.

Other countries have also grappled with this issue. Canada, for example, protects free speech in its Bill of Rights. In its statutes, it has enacted a criminal offense of "hate propaganda". Similarly in the UK, freedom of expression is protected in the Human Rights Act and hate speech is dealt with separately as a Statute in the Public Order Act. Interestingly enough, South Africa is the only nation thus far to incorporate a hate speech provision into the Bill of Rights itself. South Africa allows for the limiting of speech rights "where such limitation is 'reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom'..." (Gelber 2002, p. 114). So, you see, the way is opened up for the interpretation of pornography as hate speech by seeing it from the perspective of harm, human dignity, and equality.

3. **Third point** - And that brings me to my third point about how pornography would be dealt with from the perspective of fair speech. The definition of hate speech would be expanded to include it. Pornography as hate speech would be disallowed in the name of "human dignity, equality and freedom." For as long as men's right to purchase and view increasingly degrading and violent images of women is protected by law, women will continue to be subjected to indignity and humiliation. Women's speech rights will be denied in favor of powerful male interests that have much greater access to media. In other words, there will be no equality between the sexes.

We must be encouraged to open our minds to the possibility of replacing free speech with a concept of fair speech. Social issues must be analyzed in terms of harm to both individuals and groups of people. Hate speech should be made a criminal offense, and pornography

should interpreted as hate speech against women. To the end that the human dignity, equality, and freedom of both sexes should be honored and protected, our immediate task as feminists, is to expose the hypocrisy of “free speech” and encourage its replacement with a concept of fair speech.

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