

THE COLLISION BETWEEN WOMEN, PORNOGRAPHY, ETHICS, AND THE LAW

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Pornography is one of the most prevalent yet understated phenomena in today's thriving society. The lack of discussion on the topic has left the general public skeptical of what they should or should not believe about the idea of staged or unstaged online sex. To narrow the focus of this paper, I will put aside the issue of whether or not pornography as a *whole* is justifiable and focus on a controversial subtopic that stems from the topic of pornography instead. The controversial subtopic that will be addressed here is *violent* pornography and the implications it has on women. Anyone who has watched or is familiar with violent pornography would not deny that the women in these films are being degraded through the use of abusive sexual acts, and that these acts are almost exclusively performed by desensitized males with dominant personas. The content of these films are immensely disturbing and exhibit everything from staged rape to urinating, defecating and vomiting on women.

The hovering umbrella question to be asked about violent pornography, especially taking into consideration how these films portray females solely as vessels for male satisfaction, is whether it's current legality is right or wrong. In order to determine the answer, we must dive deeper into the subject matter and ask more concentrated questions, namely, why is violent pornography morally justified or not, and under what conditions can we determine this? For us to effectively answer such questions, we must separate the legal standpoint from the philosophical or ethical standpoint on this issue, as they are two separate types of law. This paper will address the question of whether

the consistent victimization of women in violent pornography generates enough probable cause to have it eradicated from society.

1 Violent Pornography

In *Obscenity as Pornography*, Joel Feinberg expresses his discontentment with the negative message pornography epitomizes, that is, insofar as it treats women violently. Feinberg encompasses the main issue by reasoning that, “If degrading pornography defames (libels or slanders) women, it must be in virtue of some beliefs about women—false beliefs—that it conveys, so that in virtue of those newly acquired or reinforced false beliefs, consumers lower their esteem for women in general.”¹ We are reminded from Feinberg’s words of the incessant second-class citizenship women have been forced to deal with, including, but not limited to, gender normative household roles, statistically lower salaries than men, and a socially constructed inferiority complex. All these circumstances aid in the desensitization of men regarding women through the use of violent pornography, and it is in these circumstances where the ethical dilemma of women being subject to derogatory treatment originates, not in violent pornography itself. It is important to recognize that there is a pre-existing moral issue concerning the severe lack of fair treatment towards women, and the issue of violent pornography is contingent on this lack of fair treatment. In other words, there would be no issue with violent pornography if there was no such thing as universal female discrimination, female stereotypes, and sexism, and such things obviously and evidently exist. Violent pornography cannot be simply reduced to the conclusion that people have varying sexual preferences, because if these preferences are violent there will always be further

¹ David M. Adams, *Philosophical Problems in the Law*. 5th ed. (Boston, MA: Wadsworth, Cengage Learning, 2013) 299.

implications of questionable behavior and moral standing as that is the world we live in. So, to deny that violent pornography promotes the mistreatment of women is to deny the issue of female oppression. Put in symbolic logic, it would look like this:

O: Women are perpetually oppressed and stereotyped in a male dominant world

P: Violent pornography degrades women and promotes their submission to male dominance

O \supset **P**

(If **O**, then **P**)

The first step in understanding the issue of violent pornography is to accept that there is an issue, and in accepting **O**, there is no way one cannot accept **P**, as **P** is dependent on **O**. Moreover, since **O** is fused into **P**, **O** is also dependent on **P**.

2 Pornography and Individual Liberty

Now that we have acknowledged violent pornography as a substantial issue, we can address how individual liberty conflicts with violent pornography. Inevitably, individual liberty comes into question on the topic of pornography because we are met with a classic dilemma between what is immoral and what is our right as independent human beings with self-activating autonomy. One could argue that women have the individual liberty to express themselves in whatever way they choose, including by playing a victimized role in pornography, or in real life, because they enjoy the arousal that comes with it or simply because it is their own choice. One could also argue, however, that women have been conditioned to believe that they enjoy violent sex, so much that they

fantasize about it. If the second argument serves to be true, the impending question is, can one *really* argue that barring violent pornography infringes one's right to individual liberty if, so long as they have lived, they were subconsciously stripped of their right of equal treatment to that of men to begin with? It seems, women cannot accept that they enjoy violent sex/pornography without first accepting that they are, first and foremost, second class citizens in society.

At this point, we have acknowledged that violent pornography is an issue, and that there is a conflict between those who do and do not believe that violent pornography infringes on the individual liberty of women. We have also established that if one does not believe violent pornography infringes on the individual liberty of females, there still, necessarily, must be agreement that pornography defames women because of the sexism and discrimination currently present in society. Now that the immediate and general issues that follow violent pornography have been acknowledged and evaluated, it is appropriate to address the instigators that mass-popularize violent pornography, and immediately, the male populace comes to mind.

Feinberg addresses the issue of “the cult of macho,” referring to immoderately masculine and controlling men.² He states, “The extreme character of macho values must be understood before any sense can be made of the appeal of violent pornography.”³ Feinberg is acknowledging the macho male, which, to be fair, cannot classify all men, but is crucial in the development of the male dominant attitude depicted in violent pornography and in society. It is also important to realize that pornography as a whole should not be concerning insofar as it being detrimental to female worth, because as

² David M. Adams, *Philosophical Problems in the Law*. 5th ed. (Boston, MA: Wadsworth, Cengage Learning, 2013) 299.

³ *Ibid.*, 300.

Feinberg puts it, good natured pornography is “designed entirely and effectively to induce erotic excitement in observers, without containing any of the extraneous sexist elements.”⁴ That is, so long as pornography maintains equal status among both individuals engaging in sexual acts, there is no sufficient reason to eradicate it. Violent pornography, however, is a red flashing light indicating that we must pay attention to the bigger, detrimental outcome that it so easily and subconsciously permits. This outcome, simply put, is harmful conditioning for both the male and female populace.

3 Evaluating Violent Pornography through the Lens of Mill’s Harm Principle

Men who fit the characteristics of the cult of the macho feel a sense of purpose and justification in defaming women in violent pornography. According to Feinberg, violent pornography being portrayed the way it is, that is, through mass media, aids in “lowering the esteem men have for women.”⁵ In turn, this low esteem held for women is met with a higher chance of violence towards women. One of the best ways to philosophically analyze and evaluate the harm being done through violent pornography is by examining the *harm principle*. John Stuart Mill’s harm principle, simply put, is an ethical theory enforcing the governmental authorization of all actions, so long as these actions do not physically or emotionally harm another being. An important caveat under this principle is that self-harm cannot be restricted nor made punishable, as it does not inflict injury to someone else. We must now ask ourselves several questions. Does violent pornography fall under actual harm or self-harm? If it indeed falls under actual harm, then there would be probable cause to eradicate it, but if it were to fall under self harm, it would be

⁴ David M. Adams, *Philosophical Problems in the Law*. 5th ed. (Boston, MA: Wadsworth, Cengage Learning, 2013) 298.

⁵ *Ibid.*, 299.

difficult to eradicate, at least if we were to utilize the harm principle over all other doctrines, which for the sake of this paper, we will do.

First and foremost, it is imperative to explain why violent pornography might be either considered harm towards others or harm towards oneself separately, and then evaluate its grounds. We will begin with why it might be the former. If it is not already obvious, violent pornography has the potential to influence individuals to perform violent sexual acts, and to tolerate/enjoy violent sexual acts. Violent pornography inevitably leads to the promotion of a viscous rape culture. Feinberg seems convinced that banning violent pornography itself would have little effect in reducing sexual violence in general. He states that “No one can know for sure, but if the cult of the macho is the main source of such violence, as I suspect, then repression of violent pornography, whose function is to pander to the macho values already deeply rooted in society, may have little effect.”⁶ Here, Feinberg is recognizing that violent pornography itself might not generate enough probable cause to qualify as harm towards others, simply because the source of the harm is not infested in violent pornography, but the societal “macho” based upbringing that characterizes males instead. After all, male children do not watch pornography in their earliest stages of life, so surely there cannot be so much weight attributed to it as a major influential factor in sexual violence as a whole. Although Feinberg states that banning violent pornography might have little effect in influence, if it were banned, there would be an acknowledgment that those violent sexual acts are not acceptable, whereas now, it’s legal presence in society entertains a subconscious social acceptance of violent sexual acts. Obviously, we should aim to eradicate the tolerance of

⁶ David M. Adams, *Philosophical Problems in the Law*. 5th ed. (Boston, MA: Wadsworth, Cengage Learning, 2013) 301.

violent sexual acts whether it be staged for online arousal or not, because to say we tolerate the former and not the latter is hypocritical and confusing to society.

So, it seems violent pornography alone can generate enough probable cause to have it qualify as harm. Looking at this from the emotional harm perspective rather than the physical harm perspective, it is simple to derive a few possible conclusions. Firstly, if a woman's self-worth plummets from the common misconceptions others label her with, mainly, as a submissive sexual object, or from the negative view she develops for herself, we can take away from this that this is not self-harm, as the harm is being done to her. However, if women were to argue under their own individual liberty that violent pornography is something that they know could potentially harm them, but willingly welcome this harm with no reservations towards it, then it could qualify as self-harm, which would be permissible under Mill's principle. However, this is not so simple, because even if violent pornography were to be considered self-harm, it is not possible for it be *limited* to self-harm. In other words, just because violent pornography might be self-harm to one person does not negate the fact that it can and will simultaneously cause harm in some other way that is not towards oneself. So, it is because of this that violent pornography cannot solely fall under the category of self-harm, and therefore cannot hide behind this exception to Mill's harm principle either. Another issue worth acknowledging regarding Mill's harm principle lies in the following question: is one being harmed if they are not aware of the harm being done to them? Regarding individual liberty, we have established that one can make the argument that banning violent pornography can infringe on one's autonomy. However, we have also acknowledged that a woman's right to equality was reduced from the moment she was born, and whether the one who argues that individual liberty includes her right to

embrace violent pornography knows it or not, harm has been done to her. The question that remains, then, is can women be harmed from the subconscious discrimination they were immorally subjected to from birth? Even if they were to accept violent pornography as an individual right to participate in, would they still be wronged? The answer is, yes, they would still be wronged. If one were forcefully injected with heroin from a young age, so much that they grew to be immensely addicted to it, but are in denial that it is bad for them, the obvious right thing to do would be to admit them into a rehabilitation center. Although one could argue that violent pornography is not a threat to one's health like heroine, one could make the counterargument that violent pornography is indeed a threat to the wellbeing of an individual, and this could be backed by numerous points made previously in this paper.

4 Conclusion

It seems violent pornography emits more damage in society than is accepted, including the allowance of a rape culture to be formed and maintained. Although we have established that violent pornography is considered harm under Mill's principle, we are still presented with the issue of whether or not violent pornography qualifies as harm towards oneself or others. However, although it is necessary under Mill's harm principle that self-harm be legally permissible, no one must accept this for any reason whatsoever. Harm done to oneself and harm done to another are similar insofar as they are both harm, and they are both equally important. That being said, one cannot deny that barring violent pornography might make a great deal of difference in a woman's perception of herself, as well as the perception others have of her, even if it is agreed that violent pornography is not in and of itself the source of a violent rape culture, or the sole contributor to Feinberg's interpretation of the cult of macho. To agree that violent sexual

acts performed on another without consent is an unacceptable behavior in society, only to turn a blind eye towards the violent pornographic culture (consensual or not) taking hold of the youth, as well as the aged, is a contradiction this paper accentuates above all else. Is all that is left to be said that intentional rape is impermissible and staged online rape *is permissible*? For this is nothing less than absurd. To acknowledge this contradiction, only to act as if nothing is wrong with it, is to accept that we as a society have fallen horribly short in establishing what does and does not qualify as sexual violence.

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