

# Pornography:

**By Alison Kerr**

**"Before pornography became the pornographer's speech, it was somebody's life."**

— Catharine MacKinnon

If you raise the issue of pornography, count on attack from those who believe, or claim to believe, that censorship is worse than pornography. Dire warnings about the dangers of censorship are frequently used by those who are pro-pornography to deflect attention away from the central issue: the fact that pornography promotes and is itself a form of violence against women. To become absorbed in the politics of censorship at the expense of talking about the harms of pornography is to focus on how the law *might* silence some men instead of talking about how pornography *does* silence all women.

We cannot afford to spend all of our time tied up in fruitless debate with those who have no real interest in ending violence against women — people who defend the rights of pornographers to make money over the rights of women to live dignified and violence-free lives. Yet neither can we, knowing what we know about pornography and its harms, afford to stop talking about censorship altogether, lest the forces that promote unimpeded access to pornography, including child pornography and very violent and degrading pornography, succeed in completely flooding this country with hate literature against women and children.

People who use the freedom of speech argument to oppose any legislative solution to the problem of pornography obscure three essential facts. The first is that speech is not "free" and that most women, particularly women of colour, are too poor to buy it. The second is that pornography is a practice and a product, not really speech at all. The third is that freedom of

speech is limited even in the most democratic societies when it interferes with more fundamental human rights.

A favourite tactic of civil libertarians, most journalists, certain academics and artists, and others who are pro-pornography is to obscure the fact that censorship already exists in Canada. The right to freedom of speech is already limited in a number of ways under Canadian law. It is illegal, for instance, to advertise falsely, to make threatening phone calls or to publish a sexual assault victim's sexual history.

The Canadian law against hate literature ensures that material that celebrates the torture of members of particular racial or ethnic groups is not distributed in corner stores or anywhere else. It has been used to halt the spread of historical falsehoods which might prove harmful to the interests of particular groups of citizens in this country. Notice the use of the word "might"; hate laws are in place despite a lack of "scientific proof" that hate literature causes harm. The chance that it might cause harm is considered sufficient justification for censoring it. In this case, there is no question about speech "rights" taking precedence over human rights.

Section 163 of Canada's *Criminal Code* currently censors "obscene" materials: those items having as a dominant characteristic the undue exploitation of sex or of sex in combination with one or more of crime, cruelty, horror or violence. Owing to the imprecision of this definition, much that is *not* offensive (including the erotica which opponents of censorship claim to want to protect) is *already* vulnerable to prosecution. This law should be rewritten so that it could be used only against pornography while safeguarding genuinely educational and erotic works.

Detailed customs regulations currently prevent the most sadistic and hate-filled pornography from entering Canada, doing away with the need to prosecute later. Without such regulations, titles such as *Breast Bondage*, *Incest with Daddy*, *Sadistic Rape*, *The Jews and Their Lies*,

*Whips of Chinatown* and *Klan Songs of the Sixties* would flood into this country.

Unfortunately, depiction of anal intercourse is among the activities now prohibited by the otherwise excellent customs regulations and that is obviously unjust. Gay men are understandably upset about this prohibition and are currently challenging the regulations in court. But equally unfortunate is the fact that many of those who support this challenge to one unjust regulation, including civil libertarians, would like to see all of the customs regulations scrapped, permitting the unrestricted flow into Canada of pornographic portrayals of rape, torture, mutilation, incest, bestiality, necrophilia and hate literature. It goes without saying that it is mainly women who are the targets of abuse in these materials and mainly women who will suffer if these regulations are killed *in toto*.

But vociferous opposition to any form of regulation from a very vocal, largely male, minority has caused many feminists to give up the struggle for effective anti-pornography legislation. The matter of censorship has become so contentious that many women have abandoned the pornography issue altogether, to the delight of pornographers and pro-pornographers alike.

Others have been swayed by the rhetoric that feminist erotica will be "the first to go" if effective anti-pornography legislation is put in place. Since *anyone's* erotica is already vulnerable to prosecution under Canada's subjective and outdated obscenity legislation (section 163 of *The Criminal Code*), this is a claim made in bad faith by those who clearly know better. But even if it were true, is the protection of any representation wedged between the erotic and the pornographic really worth a woman's life? Most women would say, unequivocally, no.

Censorship or regulation is an important part of the overall solution to the problem of pornography. Effective forms of legislation make clear statements about our cultural priorities (female quality of

# What's to be Done

life over male profits) to those who make and buy violent and degrading pornography; and such legislation, properly enforced, undoubtedly stops some violence against women.

Legislation is not an alternative but an adjunct to education. Just as we continue to convict wife batterers even while public education campaigns on the issue of wife assault are underway, so legislation against pornography is a necessary mechanism for controlling the most vicious and dehumanizing material until such time as there is no longer a demand for it in our society. Education alone, unless undertaken on a massive scale, at enormous cost and designated a social priority, cannot hope to break the multi-billion dollar pornography industry's current stranglehold on our cultural imagination.

How, then, can new and existing legislation best be designed or amended for use against pornography in Canada and what can you do to speed the process on? Below are suggestions for strengthening legal remedies on the national, provincial and local levels. Making most of these options viable will require lobbying for both improved laws and better enforcement of them.

## Nationally

1. Support, in principle, Canada customs regulations which prevent the most violent and degrading pornography from entering Canada but demand that section 4(a) (8) (sodomy) be deleted from the regulations (entitled Memorandum D9-1-1). Write to: Linda K. Murphy, Director, Prohibited Importations, Tariff Programs (Classification), Canada Customs and Excise, 4th Floor, Connaught Building, 555 MacKenzie Avenue, Ottawa, ON, K1A 0L5, (613) 954-6940.
2. Demand new anti-pornography legislation to replace the current vague and outdated obscenity section (163) of *The Criminal Code*. Suggest that such legislation be modeled on and brought into line with the clear and effective regulations

contained in Custom's Memorandum D9-1-1 (excerpting section 4(a) (8)). Ask that possession of restricted materials be made a crime in addition to production and distribution. Write to: The Honourable Kim Campbell, M.P., Minister of Justice, House of Commons, Ottawa, ON, K1A 0A6. Carbon copy your letter to the Prime Minister, the Honourable Mary Collins, Minister Responsible for the Status of Women, your member of parliament and the leader of the opposition, all at the House of Commons, no postage required.

## Provincially

1. Film review boards operate on the basis of regulations drawn up at the provincial level. Recently, the Ontario Film Review Board decided to allow, for the first time, the distribution of movies with explicit sex scenes between consenting adults. From a feminist perspective, it's not explicit sex per se that's the problem but the fact that violent or very degrading sexually explicit scenes may be more frequently approved because of this decision. The Ontario board currently has "discretionary" power to refuse to approve a film that contains sexual violence and degradation; from a feminist point of view, this is too important a matter to be left up to a board member's "discretion."

Write or call your provincial film review board and ask to receive a copy of their regulations. Ask for any lists of "outtakes" (cuts that have been made to films and reasons for them) available. Compile your suggestions for improvement and send them to the head of your provincial film review board. Suggest that your board's regulations be brought into line with the regulations contained in Custom's Memorandum D9-1-1 except for section 4 (a) (8) (sodomy), and that there be co-ordination and consistency among provincial review boards. Offer to advise them or to join the board yourself.

2. Since criminal code provisions are enforced by provincial police forces as well

as by the R.C.M.P., contact your nearest provincial police division and ask for a list of charges laid under section 163 of *The Criminal Code* (obscenity) during the past year. Be persistent; it's your right to know. Keep your eyes open in establishments that sell pornography; when you see something that depicts an "undue exploitation of sex or sex in combination with one or more of crime, cruelty, horror or violence," report it to the police and ask that charges be laid under section 163 of *The Criminal Code*. Ask for an explanation, in writing, for why a charge is or is not laid on the basis of your complaint. Police often say that they cannot lay charges unless someone complains. If we don't complain, it will be assumed that the material in question doesn't violate "community standards."

## Locally

1. Municipal by-laws which can be used to restrict how or where pornography may be sold, rented or lent may exist in your community. Check your municipal by-laws and/or contact a local politician who is anti-pornography for information about zoning by-laws (restricting the sale of pornography to specialty stores in a limited area of town, which at least removes the material from neighbourhood variety stores) or display by-laws (which determine the height above the floor at which magazines and video covers may be displayed and the extent to which explicit ones must be concealed). Check to see whether or not your local by-laws are being enforced. If not, contact your local police to demand enforcement. If no usable by-laws exist, ask local politicians to propose and back some.

These are the most useful legal options in Canada at the present time. It has been suggested that the section of *The Criminal Code* dealing with hate literature be amended to add "gender" as a basis of discrimination. While it would do no harm to amend the law in this way, feminists believe that what constitutes hate-mon-

gering against women is just as liable to subjective interpretation as the term "undue exploitation" in the current obscenity section, hence, convictions are likely to be few. Our efforts would be better spent on replacing the obscenity section with precisely worded and narrowly defined anti-pornography legislation.

In addition, a civil rights approach, in which a victim of pornography could sue a pornographer for harm, has been proposed. This solution would give each victim a chance, at least in principle, to receive compensation for injuries suffered and its very existence as an option in law would have great symbolic value as a social acknowledgement that pornography is not a victimless activity. The social significance of this option is underscored by the vehemence of the opposition that greeted similar proposals in several U.S. cities.

But even if such a civil rights ordinance were in place, the emotional and financial costs of launching a civil suit against a pornographer would be prohibitive for many — if not most — women. Then there are the difficulties associated with proving harm and determining the amount of compensation a victim should receive for a particular harm. Furthermore, a successful prosecution using a civil by-law of this type would *not* necessarily remove the offending material from stores; retailers would be under no obligation to stop selling it. By contrast, material intercepted at customs never reaches the Canadian marketplace at all whereas successful prosecution using *The Criminal Code* (undertaken at no cost to the individual complainant) results in the removal of all *unsold* copies of the convicted material from the marketplace.

And despite the fact that it is certainly an after-the-fact means of suing for damages, pro-pornography forces will continue to oppose the civil rights approach on the grounds that it is censorship.

Apart from legal action, there are many things that both individuals and groups can do to help uproot pornography from our culture. Individuals should educate themselves about what's available locally and how it's affecting their community and the world. Have a look at some of the materials you normally avoid (porn magazines/videos, rock videos, sexually violent R-rated films); read articles and books on the subject; ask friends, neighbours and family how the material affects them.

Help to educate others by telling them how you feel and what you think about pornography; refuse to have pornography in your home. Write letters and articles to local, regional and national publications describing what you've seen and why you object to it. Tell those who sell pornography that you object; boycott if necessary. Phone or write TV stations and advertisers to complain, or to commend them when an image is positive. Offer to speak to teachers' groups, politicians, service clubs and other local organizations about the issue; go on open-line radio or television shows to discuss it.

Fighting pornography alone can be heartbreaking and lonely work. Start a group of others who share your concerns by advertising in a local paper or on a neighbourhood billboard. Pickets, boycotts, marches, public forums, lobbying for legislative campaigns are much more easily undertaken by a group than by an individual.

For detailed lists of individual and/or group action ideas, a copy of "How to Write a Letter to Protest an Abusive Image," a RAP (Resources Against Pornography) publications list, or information about RAP workshops on pornography, individual action and forming an anti-pornography group, send a large, self-addressed, double-stamped envelope with a note listing the articles or information you need to:

Resources Against Pornography  
Box 695, Station "C"  
Toronto, Ontario  
M6J 3S1  
or call (416) 588-5286.

RAP is a non-profit, no-longer-funded, feminist educational organization.

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## **BLOODLINES: WRITINGS BY LESBIAN SISTERS**

**We are now accepting submissions for this anthology to be published by gynergy books, a lesbian-owned feminist press in Charlottetown, PEI.**

**Send us prose, photos, letters and journal entries written either individually or collectively with your lesbian sister(s).**

**We are interested in submissions which focus on the relationships between lesbian sisters, family of origin stories, coming out stories and place in the wider lesbian community.**

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**Submissions will be considered from all interested sisters, preference will be given to Canadian work. Payment upon publication.**

**Deadline for submissions is 31 January 1992.**

**For queries, submissions, and to receive copies of the questionnaire, please write to:**

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