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Pornography and Civil Society: The Goods of Moral Arguments in Public Deliberation¹

K. Numao

Abstract

This article tries to show how moral arguments can bear political significance in civil society through an examination of the recent debates over pornography. It reflects critically upon a particular strand in recent anti-pornography feminism represented by Catharine MacKinnon, which adopts a politics-centered approach to pornography. The article first identifies, through a consideration of Ronald Dworkin's critique, the ways in which MacKinnon's case against pornography is weak as a political argument. Following Susan Mendus's critique of MacKinnon, it then argues that as a result of her distinctive approach, MacKinnon is committed to taking an oppressive attitude towards both male and female sexuality. In turn, this article suggests how a moral argument may be able to capture the wrongness of pornography while bypassing the problems MacKinnon's critics point out. To this end, this article explores Rae Langton's argument of sexual solipsism, which claims that pornography can create a solipsistic world by objectifying people, and her remedy to this problem – friendship. Finally, it shows how deliberative democracy offers a framework in which the political relevance of this moral approach can be appreciated. Under this framework, moral arguments are not seen as second-class arguments in public deliberations, but as arguments equally important in thinking about the shape of society.

Therefore the law is slacked, and judgment doth never go forth.
(Habakkuk 1:4)

I. Introduction

This article aims to show, through a case study of the recent debates over pornography, the ways in which moral arguments can bear political significance. It thereby draws attention to a unique way in which the moral and political meet in theories of civil society and deliberative democracy. There is a certain trend within recent feminist thinking to see the debate over pornography principally as a political one. On this view, pornography undermines

women's equal status in society *qua* citizen. It is a question of power between the sexes, not a question of good or evil. Catharine MacKinnon – a lawyer, professor and campaigner against pornography – emblematically states in an essay in *Feminism Unmodified* that pornography is “not a moral issue.”² This statement serves to emphasize that feminist critiques of pornography are distinct from those of legal moralists and moral conservatives, which focus on the depraved nature of pornography (although, as we shall see, the distinction between them may not be clear-cut as it may seem at first sight). At the same time, however, the statement tends to blind us to the moral (as against the moralistic) aspects of the battle against pornography.³

In one sense, it is quite obvious why feminists like MacKinnon flag up the political, as opposed to the moral, aspect of the problem of pornography. Theirs is a campaign to ban pornography. And if we want to wield governmental power against pornography in a liberal democratic state, we would need a publicly justifiable reason to do so; and since the liberal state is not a moral guardian, this means that we would need to present a political argument, that is, one that concerns the status of political values, such as liberty, equality, and autonomy, which underwrite our civil society, rather than moral arguments, which concern the moral goodness or evilness of certain actions. Thus, in terms of succeeding in the legal or legislative campaign to ban pornography, pitching the political argument may indeed be the right approach. However, in terms of dealing with the problems caused by pornography, which I assume is the ultimate concern of the critics, then the strictly political character of the debate may not so much be ineffective as lead to intellectual myopia.

As it may already be clear from the tone of my observations so far, I want to suggest that the rigorous attention on the political aspect of the debate over pornography by feminists like MacKinnon may lead to inadequacies in addressing the various problems to which pornography gives rise, and hence, in yielding the results they want. By shedding light on the moral wrongness of pornography, I argue that we can advance a case that can bypass the problems related to the politics-centered approach. I do not pretend here to be offering a groundbreaking critique of pornography. My contribution in terms of this debate is modest not least because this is an article with a broader concern, inasmuch as it is one about the recent debates over pornography. The present debate over pornography is significant in that it serves to highlight the importance of an often underpublicized and undersold advantage of the theories of deliberative democracy and civil society, namely that it reminds us of the political relevance of “non-political expressions” in public deliberation.

In what follows, I first examine the merits and demerits of MacKinnon's critique of pornography, and ultimately reject it as it stands on account of the problems arising from its distinctive political approach. I then explore the wider moral wrongness inherent in pornography, particularly bearing in mind Rae Langton's argument about sexual solipsism. Finally, I reflect on how deliberative democracy can help us to see the ways in which a moral argument can be politically significant.

II.

In her book *Only Words*, MacKinnon contends that equality and liberty are “on a collision course” in the US, exemplified in the debate over pornography.⁴ Her argument takes a distinctively legal guise in this context: that by protecting pornography (for the sake of the argument, she grants this), the First Amendment to the US Constitution, which guarantees freedom of speech, compromises the Fourteenth Amendment, which guarantees equal protection. But MacKinnon’s general argument remains a political one and a rather familiar one too: pornography contributes to the subordination of women, and thus to the unequal opportunities of women in society.

There are two broad lines of criticisms leveled at MacKinnon that I want to take up here, both of which trigger further considerations I pursue in the later sections. The first is that the purported conflict between the First and Fourteenth Amendment does not exist. On the contrary, the former in fact contributes to promote and reinforce the latter. More positively, this critique helps us to think about *where* we can fight the battle against pornography within a broadly liberal framework. The second line of criticism is that there is a strange “marriage” between MacKinnon’s feminism and moral conservatism, rendering the feminist case oppressive. This critique, on the other hand, helps us to think about *how* we can fight the battle.

I note in advance that throughout this article I remain largely agnostic as to whether liberty and equality *qua* political values *genuinely* can or do conflict. This may seem an odd, if not untenable, position to take in our present inquiry, given that my response to this question will have significant implications on the direction my argument can take: if there is no conflict between the two values (as the first criticism suggests), then, I do have a case to move the battlefield from the political to a different level; if, however, there is a conflict (as MacKinnon suggests), then, there is a strong case to continue the fight in the same political battlefield. The point is well-noted. However, in our present case, I need only say that because (as we shall see) MacKinnon fails to offer a defensible political argument against liberty in favor of equality, there are justifiable reasons to think that *her* strategy to confine the debate to politics is also undermined. Put differently, while there indeed may be good reasons to persist in the political battle, MacKinnon’s failure gives us the space to raise doubts about her approach and initiate a consideration of an alternative line of argument against pornography.

I now proceed to the criticisms, starting with the first: the law of equality and the law of liberty are not on a collision course. The best known champion of this view is Ronald Dworkin. In his review of MacKinnon’s *Only Words*, Dworkin draws attention to the so-called “old” and “new” arguments against pornography. He begins by identifying four “old” arguments: first that pornography increases the number of rapes and other sexual crimes; second that it “silences” women; third that women who act in pornographic films suffer actual subordination; and fourth that pornography is not just speech because it causes

sexual arousal. For Dworkin, however, although these arguments are couched in political language, they are “bad” arguments triggered mainly by “repulsion.” He deals with these claims briefly and dispassionately. The first is unproven: there simply are no conclusive studies. The second relies on an unacceptable premise: the right to free speech does not guarantee a right to “circumstances that encourage one to speak” and a right that “others grasp and respect what one means to say.” The third misses the point: pornographers who harm women can be prosecuted without having to ban pornography itself. Finally, the fourth, if an argument at all, is a *non sequitur*: a work of art that happens to be sexually arousing for some people does not lose the protection of the First Amendment on freedom of speech.⁵

By contrast, MacKinnon’s “new” argument (new in the sense that it adds a constitutional spin to a familiar argument), according to Dworkin, requires more attention; namely that the pornographers’ free speech contributes to compromising women’s equal status in society, and thus, that the First and Fourteenth Amendments should be balanced, specifically by banning pornography. Yet while remarking that this argument “transcend[s] mere repulsion,” Dworkin nonetheless contends that MacKinnon’s “egalitarian” argument is “much broader and more dangerous in its scope than might first appear,” and indeed, would have “devastating consequences.” MacKinnon’s argument is based on the premise that “considerations of equality can require some people not to be free to express their tastes or convictions or preferences anywhere.”⁶ This would then allow the government to

forbid the graphic or visceral or emotionally charged expression of any opinion or conviction that might reasonably offend a disadvantaged group. It could outlaw performances of *The Merchant of Venice*, or films about professional women who neglect their children, or caricatures or parodies of homosexuals in nightclub routines.⁷

Thus, if, as MacKinnon claims, liberty and equality are in a collision course, Dworkin argues that “we should have to choose liberty because the alternative would be the despotism of thought police.”⁸

In any case, however, Dworkin believes that MacKinnon is posing a false dilemma: as a matter of fact, liberty and equality do not conflict in the way she suggests. On Dworkin’s account, the First Amendment on liberty “is not equality’s enemy, but the other side of equality’s coin.”⁹ In other words, free speech helps to promote rather than to diminish equality, particularly political equality. It does this by guaranteeing people the right to participate in public debate and the chance to influence policies, and thereby influencing the “political environment.” As citizens, we participate in politics by influencing responsible officials through (formal or informal) public debates. The important point here is that everybody should be given a chance to influence the political environment, “not that anyone’s opinion will triumph or even be represented in what government eventually does.”¹⁰

Moreover, the First Amendment’s egalitarianism extends to speech contributing to the

shape of the “moral environment.” The “social conventions, opinions, tastes, convictions, prejudices, life styles, and cultures” flourishing in a particular community, which are all part of the moral environment, play a role in determining “how others treat me,” that is, how people’s lives are affected. The question is, then, who will have the power to shape this environment? Here again, Dworkin argues that the only consistent response with political equality is that everybody be granted an equal right to participate in shaping the moral environment, although nobody has a right to succeed in influencing others. In a genuine egalitarian society, views which people find despicable cannot be locked out in advance, but “must instead be discredited by the disgust, outrage, and ridicule of other people.”^{1 1}

Dworkin seems to be intimating here that debates over pornography properly belong to the moral as opposed to the political. In so doing, he denies that pornography is a political matter, or at least, that it is one that can sanction state intervention. As Rae Langton notes, this is because by a sleight-of-hand Dworkin “assimilates the feminist argument with the old moralistic argument about offense and disgust”: “Feminists say that pornography subordinates women; that is, it damages the standing and power of women; that is, it damages the standing and sensibilities of women; that is, it disgusts and offends women.”^{1 2}

I will not say anything about this move in this article, except that it does raise an important issue about the proximity of feminism and moral conservatism despite its *prima facie* distance (I will talk about this proximity in the second criticism). Instead, I want to shed light on the line of thought which we can pick up from Dworkin’s argument; namely that pornography is not a political matter, or at least, that it is one that cannot sanction state intervention. Given, for the sake of argument, that there is no conflict between liberty and equality *qua* political values as Dworkin suggests,^{1 3} and given also that pornography is not a political issue (or at least a weak one), one can treat the battle against pornography primarily as a battle over the shape of the moral environment, which is no less important in its influence over our lives than the political climate. Thus, the thought here is that if we lose the fight against pornography on the political front (or even if we do not lose but merely wish to strengthen our case against pornography as such) we can (also) take the battle to the moral front. Moreover, in so doing, we may be able to address problems that a political approach cannot. While a political approach involves making pornography illegal, it does not directly address the problem of desire or demand for pornography, and the existence of such a desire may potentially lend itself to creating an underground market. By contrast, putting aside the question of whether it will or will not actually produce visible results in the near future, a moral approach speaks to the moral harms of pornography, and so speaks to the problem of desire. While MacKinnon focuses rigorously on the political aspect of the debate, the first criticism reminds us that she might not be getting what she wants by closing other possible avenues of arguments as she does. More generally, the criticism suggests that citizens may be able to exert an influence on their practical life through public deliberation on different levels. I will explore this thought in the later sections.

The second form of criticism levied against MacKinnon is that her approach ap-

proaches that of the moral conservative's. This point has been brought to light most elegantly in the works of Susan Mendus. In "The Unhappy Marriage of Feminism and Conservatism," Mendus begins by noting that there have been periodic alliances between feminism and moral conservatism in the past as well as in the present; she notes further that these are "more than merely coincidental."¹⁴ This is because there were (and are) two common views shared by the two movements, which underwrote (and underwrite) the alliance. One was (and is) the view that women are "helpless, passive, and subjugated." The other was (and is) that women are "morally superior to men." Based on these assumptions, modern anti-pornography campaigners try to use the law to make men moral.¹⁵

Bernard Williams's critique of MacKinnon's *Only Words* focuses on a similar point about women's moral superiority. Williams notes "a rather alarming note of angry, moralistic, populist impatience" in MacKinnon's legal campaign.¹⁶ Indeed, the tone in her book is one "more familiar, in these subjects, from the Right." According to Williams, MacKinnon develops her case upon two "untrue" assumptions. One is that pornography is both "heterosexual and sadistic," that is, it is "solely a matter of abuse of women by men." The other is that pornography causes all sorts of sexual crimes. This last assumption is complemented by two others: that crimes are committed in the course of making pornography and that there is no distinction between doing something in a movie and actually doing it.¹⁷ A word about the first "false" assumption will suffice to make my point. The key word here is "solely." Williams observes that MacKinnon's assumption that pornography is *exclusively* about women subjugated by men rules out erotic as opposed to aggressive pornography, and gay as opposed to heterosexual pornography. The point serves to highlight that implicit in MacKinnon's argument is the moralistic assumption that pornography concerns male sexuality, and moreover, male sexual power over women. Thus, women, who are in a higher moral position, are victims of this desire, and must seek legal redress.

I return to Mendus's account. Behind the assumption that focuses on women's moral superiority, Mendus identifies a particular way of thinking – "Messianic" politics – to which feminists like MacKinnon have succumbed, which in turn can help to explain the deeper cause of the alliance between feminists and conservatives. The term, coined by Michael Walzer, is distinguished from another kind of thinking, which he calls "Exodus" politics (modeled on the Old Testament story of the Israelites' exodus from Egypt). Whereas Exodus politics emphasizes the *journey* to the Promised Land, Messianic politics emphasizes the end, that is, the Promised Land itself. Furthermore, whereas Exodus politics focuses on "the ways in which the people will change in the making of the journey," and "insists that there will be an interdependence between the Promised Land and the people who inhabit it," or in other words, that the promise is "relational," depending upon "the consciousness and moral character of the people," Messianic politics remains fixed on the destination, and thus, silent about these issues.¹⁸

On Mendus's account, "[i]n brute practical terms," the Messianic form of feminism focus on the "inadequacy of existing law" and invokes "the larger moral agenda" of wom-

en's moral superiority. However, Mendus notes that this way of thinking "simultaneously keep[s] women in a state of oppression and condone[s] the oppression of others."¹⁹ Let us see how this works. Feminism typically characterizes "the relationship between the sexes as one of inequality, subordination or oppression" and aims to "identify and remedy the sources of oppression."²⁰ Now, Messianic forms of feminism demand for non-hierarchical sexual relationships, yet doubt whether heterosexual sex is ever non-hierarchical. The origin of women's oppression lies in men's sexual power over them. Given the moral superiority of women, their demand turns into one for the suppression of male sexuality. At the same time, by appealing to women's moral superiority, this form of feminism accepts the very quality of women nurtured in a patriarchal society: passive and morally pure. In focusing on the destination (i.e. banning pornography through the change of law), Messianic forms of feminism make no reference to changes in women's own moral qualities; the Promised Land is simply a gift for them as the oppressed. Moreover, it is attained by the suppression of male sexuality. However, Mendus argues that this female "utopia" is oppressive in two senses: it is based on the suppression of male sexuality, as we have just seen, and also, on the denial of equal female sexual desire. Let me say more about this second point.

As Mendus notes, MacKinnon's account depends upon the assumption that pornography "has a social meaning and is objectionable precisely because of the social meaning it carries in societies."²¹ For MacKinnon, pornography legitimizes and erotizes the subordination of women, and crucially rests upon the false belief that "women's desire to be fucked by men is equal to men's desire to fuck women."²² But why isn't it true, as a matter of fact, that women's desire to be fucked is equal to men's desire to fuck women? Mendus points out that MacKinnon needs this assumption crucially in order to make her legal case against pornography, which is grounded on women's moral superiority. Women's moral value is defined by its "mirror image" of the "sexual appetitiveness of men."²³ In making this move, MacKinnon is committed to denying female sexuality, that is, that women can have equally strong sexual desires as men.

MacKinnon believes that she is representing women in campaigning against pornography. But for one, there are feminists like Linda Williams who take a more positive view of pornography, focusing on the ways in which it might help women to explore their sexuality.²⁴ MacKinnon's goal-based Messianic politics allows her to ally with moral conservatives to fight pornography on the legal political front, but as Bernard Williams remarks, she "will be lucky if they are the friends of women's freedom."²⁵ Moral conservatives object to pornography because it eroticizes sex, not necessarily because it eroticizes sexual abuse, as MacKinnon wants to say. In fact, as Ronald Dworkin points out, MacKinnon's and Andrea (not Ronald) Dworkin's alliance with right wing groups produced a Canadian censorship law that led to the seizure by Canadian Customs officials of "gay and lesbian literature by well-known authors, a book on racial injustice by the black feminist scholar Bell Hooks, and, for a time, Andrea Dworkin's own feminist writing as well."²⁶ This is one way in which MacKinnon's Messianic politics has led to women being oppressed rather

than protected.

I will not go into the ways in which Exodus politics may serve as a remedy to this problem, except that Mendus believes that it will be less oppressive than MacKinnon's proposal because it is more than a simple reversal of the existing hierarchy between men and women. I want instead to focus on the ways in which Mendus's critique helps us to reflect more broadly on how the battle against pornography can be fought. As Mendus notes, MacKinnon does say something important about the social meaning of pornography. On MacKinnon's account, pornography often says that women "enjoy rape, abuse, violence and forced sex."²⁷ In another article, Mendus shows that for certain feminists, as for moral conservatives, pornography is a sort of "moral pollution." It is not simply offensive (which could be resolved by averting one's gaze), but inherently wrong. In her view, this argumentation serves to capture the deep divide separating the proponents and opponents of pornography.²⁸ For Mendus, it is not the focus on the wrongness of pornography that is problematic, but rather MacKinnon's approach to "force the end" by simultaneously taking an oppressive attitude towards male and female sexuality. Is there, then, a way to stipulate the wrongness of pornography while avoiding the crude denial of human sexuality? In the next section, I will consider one possible solution which has been advanced by Rae Langton – sexual solipsism. But before I do, let me try to bring together the ideas of the two criticisms.

The two criticisms, represented respectively by Dworkin and Mendus, both help us to see the problems with MacKinnon's goal-based approach – pornography subordinates women, thus it must be banned at all costs. Although MacKinnon has identified the ways in which pornography is problematic, she has fallen into thinking that the only remedy for this is to ban pornography by legislative means. This has led her to focus on the political aspects of pornography, and moreover, to adopt an oppressive politics. The criticisms, by contrast, encourage us to consider the possibility that the battle against pornography can be fought on a different, moral level, and also when we do fight on this front, that we need to remind ourselves not to focus simply on the goal, lest we lose something by it.

III.

I now turn to show how the concept of sexual solipsism, and closely related to this, objectification, can help us to address the wrongness of pornography without having simply to take an oppressive attitude towards male or female sexuality, and how in turn we might remedy this problem. Following Langton, I argue that pornography is wrong because it objectifies women (in particular), and morally problematical because it can create a form of sexual solipsism. To be exact, pornography initiates two forms of sexual solipsism: it treats some things as people and also treats some people as things. The latter is our main concern here. As Langton notes, this argument is in fact implicit in some of MacKinnon's remarks, and thus, one may consider the following a restatement or refocus of MacKinnon's own argument. It is important to stress that it is a restatement or refocus, however, because as I have

been arguing, MacKinnon's own account focuses on the political, whereas the argument for sexual solipsism is a moral argument and does not therefore directly concern legislators.

People can be said to live in a solipsistic world if they treat some things as people and/or treat people as some things. The former is the "solipsism of animating things," or "personification."^{2 9} In a sexual context, someone may treat a thing as a human being, directing a range of reactive attitudes towards it, and has "sex" with it. Here, pornography is treated as a "sexual partner." The idea is implicit in MacKinnon when she describes the relationship between the consumers of pornography and pornography as "[s]ex between people and things, human beings and pieces of paper, real men and unreal women."^{3 0}

However, the feminist criticism of pornography I discuss here is not necessarily that pornography animates things. Rather, it concerns the latter kind of solipsism, treating people as things, or "objectification" (of women in particular).^{3 1} In pornography, women are treated as objects, and for this reason it is wrong. The argument stems from Kant's categorical imperative, "So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means," and connectedly, the Kantian thought that "autonomy" is "the ground of the dignity of human nature and of every rational nature."^{3 2} In the context of pornography, a Kantian-inspired argument would be that pornography is morally wrong because it treats women as means of sexual gratification, as a masturbatory tool, and thereby denying their autonomy. While feminists may disagree with the precise content of autonomy, they tend to agree that it matters.^{3 3}

Of course, one may argue that pornography does not deny women's autonomy, or at least, that not all pornography does this. That is, rather than denying women's autonomy (by depicting women as objects, things or commodities), there may be pornography that affirm women's autonomy by "representing women as not in the least object-like or subordinate, but as active sexual agents." Here, women are seen to be liberated through pornography. Thus, for the proponents of this view, the solution to the problem of objectifying women would be "more pornography created by women, for women."^{3 4}

As Langton remarks, however, anti-pornography feminists have saved a place for such pornography, distinguishing this as "erotica."^{3 5} I will broadly accept this distinction within pornography, but will not say that it is problem-free. For example, while accepting the distinction between pornography and erotica, Langton points out that one should not be drawn into simply thinking that the question over pornography is a matter of distinguishing between autonomy-denying and autonomy-affirming pornography. This is because she suggests that there may be a "plurality of ways in which someone can be treated as object," indeed, one of which may be through affirming their autonomy (e.g. a sadist may "seek a willing self-subjugation of an autonomy that abjures itself").^{3 6} I will not enter into an extended debate over this problem. Rather, I want to pick up the general point here: I want to focus less on what objectification is (autonomy-denying or -affirming) than what it does, and how, in turn, we can overcome it. In other words, I want to deemphasize the talk about

autonomy, and emphasize instead the talk about objectification, thereby addressing the unique moral problem, that of sexual solipsism, pornography can create.

How can pornography create a solipsistic world? First, pornography objectifies women. Women are reduced to their bodies, “to items to be possessed, as items whose value is merely instrumental.”³⁷ Pornography is then consumed. Viewers concur to the message pornography sends out by virtue of responding to it. Women are used as objects for sexual gratification. This is sexual solipsism in its immediate context of use.³⁸ Through the heavy consumption of pornography, consumers may come to see women only as instruments for sexual gratification. Once consumers enter this stage, objectification on the screen or the page becomes objectification in the consumers’ mindset. This is sexual solipsism beyond its immediate context of use. Once consumers reach this stage, there is no genuine communication between the consumer and women, since the latter are objects.

Although such an argument may, as Langton admits, “fall far short of the sexual violence that has been the focus of political debate,” there are advantages to this way of argumentation. Sexual solipsism, particularly the objectification aspect, explains the wrongness of pornography. Sexual solipsism, particularly the solipsistic aspect, however, poses a further moral question: it raises a question about how we ought to live. In her “last aspiration” in the Introduction of *Sexual Solipsism*, Langton writes that this is a question that “includes us all.”³⁹ Thus, for Langton, the problem of pornography is one that concerns humanity. It is, however, a question that is of particular concern for the solipsist.

Let us pause here for a moment. Hitherto, I have been talking about the sexual solipsist as if he were a man isolating himself from women. Inasmuch as I agree with feminists like MacKinnon that the major problem of pornography concerns the objectification of women by men, I do not think that this is the whole story. The main point I want to note here is that objectification is not limited to men objectifying women. As there is gay, lesbian, and male-subordinating pornography (though perhaps limited in number compared to mainstream heterosexual pornography), *ipso facto*, there will be objectification between men and other men, women and other women, and women objectifying men. The point is not novel but important in the present context. It serves to remind us that sexual solipsism is indeed a problem that concerns everyone, not simply men.

Bearing this in mind, we may return to the advantages of using the concept of sexual solipsism. I have noted how this concept captures the wrongness of pornography. But how does it avoid a crude denial of male or female sexual desires? What sexual solipsism problematizes is treating people as objects; so the solution need not rest upon an argument anathematizing male sexuality or denying equal female sexual desires. Here, Langton draws attention to Kant once again, especially his concept of friendship. For Langton, friendship, “the union of two persons through equal and mutual love and respect,” helps us to see an escape from solipsism.⁴⁰ Next, by showing that Kant’s concept of sexual love can be described in terms of friendship, Langton suggests an escape route from sexual solipsism.

Friendship, for Kant, is a duty, a duty to oneself and others. This duty stems from one’s

duty of self-love, which to be fulfilled, implies a duty to love and respect others. Friendship is an “intimate union of love and respect” and has “an emotional and practical concern” for others’ welfare.^{4 1} Moreover, friendship has a willingness to communicate with another. Friendship involves knowing another, allowing the other to know about oneself through one’s confiding in him or her. Humans, being meant for society, have a natural urge to be known by others in the course of social intercourse. A friend is understanding, one with whom one can reveal oneself, and through friendship, one is not alone with his or her thoughts, “as in prison.”^{4 2} Langton draws attention to this reciprocal respecting and communicative aspect of friendship as an effective escape from solipsism.

By contrast, Kant is usually seen as a pessimist concerning sexual love. Indeed he writes: “Sexual love makes of the loved person an object of appetite; as soon as that appetite has been stilled, the person is cast aside as one casts away a lemon that has been sucked dry.”^{4 3} But as Langton points out, in a letter to Maria von Herbert, Kant writes, “whether it is for a spouse [which implies sexual love], or for a friend, love presupposes the same mutual esteem for the other’s character.” Love “wants to communicate itself completely, and expects of its respondent a similar sharing of heart.” Therefore, Langton notes, sexual love and friendship share “the same moral core of communication and respect.”^{4 4} Given this relationship between sexual love and friendship, Langton believes that on Kant’s account, it is possible to see a lover as a friend who can also release one from solipsism.

This solution of escaping sexual solipsism through friendship suggests that certain forms of interaction will be morally wrong, namely those which treat people as objects. But the solution is compatible with human sexuality and need not take an oppressive attitude towards male or female sexuality.^{4 5} It simply depends upon our treating others with respect.^{4 6} The solution has a further merit. It addresses the larger, indeed the root, problem of pornography, that is, the very way we treat others. There are some who argue that focusing on pornography blinds us to the graver forms of inequalities and harassments of women that pervade society. This may be true, but they still share the fundamental problem that there is something problematical about the way people treat each other, and thus, need to be equally addressed. A call for genuine friendship between men and women, men and men, and women and women, and an escape from the sexually solipsistic world, is, as such, one which perhaps least concerns legislators, but one which concerns humanity the most.

IV.

I want finally to reflect on the implications of the debate over pornography for deliberative democracy and civil society. The above discussion on pornography shows the ways in which a simplistic political campaign to ban pornography may be weak as a political argument within a liberal framework, oppressive, and may be ineffective to yield its desired end, that is, the eradication of unequal treatment of women. As an alternative, I suggested how a moral argument may be able to speak to the wrongness of pornography while avoiding these

problems. I now want to argue that this moral argument is consistent with the practice of deliberative democracy, and moreover, serves to bring out its undersold advantage.

Broadly defined, deliberative democracy is “an association whose affairs are governed by the public deliberation of its members.”⁴⁷ It is a form of democratic system legitimized in terms of citizens’ “ability and opportunity to participate in effective deliberation” concerning collective decisions. Deliberation involves citizens providing publicly justifiable reasons, upon reflection, concerning public policy. The communication involved here induces the deliberators to reflect upon their preferences “in a non-coercive fashion,” that is, through “persuasion, rather than coercion, manipulation, or deception.”⁴⁸

Now, the advantage to which I want to draw attention is that despite its ultimate focus on public policy,⁴⁹ deliberative democracy does not draw a strict line between political and non-political deliberation. It does not, in other words, treat “non-political expressions,” which do not bear directly on policy, as “second-class.” Joshua Cohen, for example, suggests that the “deliberative conception construes politics as aiming in part at the formation of preferences and convictions, not just at their articulation and aggregation.” Indeed, “[f]orms of expression that do not address issues of policy may well bear on the formation of the interest, aims, and ideals that citizens bring to public deliberation.”⁵⁰ Cohen’s argument here, in a way reminiscent of Dworkin’s argument about the moral environment, encourages us to see how there might be different ways in which we can contribute to a public debate. It thus encourages citizens to bring a wide range of input into public deliberation, moral or political.

The implication of this advantage on the present debate over pornography would be that moral arguments against pornography would be considered in debates over the formation of interests, aims, and ideals of the deliberators, and thereby helping indirectly to reshape the debates over pornography at the level of policy. However, for some, this may smack of hypocrisy, that is, whether this is not simply a polite way of denying moral considerations to have any real impact on politics. That is to say, that there is perhaps an unbridgeable gap between interests, aims, and ideals on the one hand and policy on the other, or put differently, that there is a great difficulty (or impossibility) in converting some forms of moral arguments to political ones. This may be the frustration felt by anti-pornography feminists who despair of whether their voice will ever flourish as policy in a liberal state. But if we are to hope for any lasting reduction of subordinating pornography, the root moral problem needs to be addressed. To opt for an attempt at an immediate and visible elimination of pornography through the banning of such material may in fact contribute less to rooting out its underlying cause.

While the argument of sexual solipsism and friendship may not necessarily influence legislators directly, under a deliberative democratic framework I believe that it can be politically significant in at least two further ways. The first is perhaps more of a positive side effect than a direct merit for anti-pornography campaigners. Through its emphasis on the wrongs of objectification and solipsism and its call for friendship and respect for others, a

moral argument against pornography based on the wrongs of objectification and solipsism may help to strengthen arguments to foster the qualities of citizenship, which sustain the ideal of deliberative democracy. The deliberative model of democracy is *inter alia* built upon mutual respect and civic friendship.⁵¹ It presupposes authentic communication and deliberation between citizens. So by appealing to these qualities of citizenship, a moral argument for friendship opens up the possibility to be politically relevant.

The second and more central point is that the present moral argument against pornography tries to initiate, in the first instance, a shift in the moral values – friendship and mutual respect based on the assumption that people should not be treated as objects – we affirm as a society. If we do, in fact, come to embrace these values as a society, there will be space for more perfectionist legislation, which would sanction the regulation of certain forms of pornography.

Given for the moment that we do proceed in a more perfectionist direction, one may still raise a number of concerns with the possible political consequences. Let me consider one major problem, that of the slippery slope. Here, one might argue that a law to regulate pornography based on the wrongs of objectification may apply to less sexually explicit forms of representation such as erotica and high street magazines. While some may welcome this application as one that addresses the wider forms of objectification of women that pervades society, others would want to resist the slippery slope, which taken to extremes, may censor any sexual content that may be construed as having an objectifying effect where it clearly has a different, legitimate purpose (consider, for example, a graphic rape scene in a movie, which, as a whole, is an attempt to illustrate the dangers of street life in Brazil, and not to provoke a sexual response). In response to this problem, we may first say that not all material that as a matter of fact elicits a sexual response can be said to be objectifying. There should be a distinction between objectifying material, which would be the subject of a perfectionist law, and material that happens to be objectified by a consumer (consider a man who gets sexual pleasure out of a dull passport photo-like image of his favorite actress posted in a magazine). Then, there is the complicated question of intention: what is this film or magazine trying to do? One possible approach might be to argue that it is relatively clearer as to what pornography is doing and what kind of responses it provokes than erotica and high street magazines. While pornographic films may have a (cheap) plot, we might argue that this is a mere cover-up for what is really going on, namely objectification of women. We might then go on to say that things are not so clear-cut with the latter forms of representation containing less sexually explicit and (physically) violent content. With these forms, they may indeed be objectifying women to provoke a certain sexual response (and in this sense, we might say it is as violent as pornography), or they may simply be provoking erotic desires through the act of sex itself (women are not reduced to their sexual attributes and treated as a decent sexual partner), or they may be making an artistic or philosophical point. It is certainly no easy task to draw a clear line between objectifying and non-objectifying material here, and hence, what might or might not be the subject of regula-

tion, but it is a problem we need to address if we opt to take the perfectionist path.

I do not intend to say that introducing moral arguments in public debates will be problem-free. The main point I have been trying to impress here is simply that deliberative democracy can provide a framework to accommodate moral arguments in public debates and so creates the possibility of their bearing political significance. And in creating this possibility, it offers another way to fight the battle against pornography which may help to address the fundamental moral problem of desire at the same time.

V. Conclusion

Where one believes the law is slacked, one may be tempted to rectify the problem through law itself, which in turn requires a political argument. Indeed, in debates over pornography, feminists such as Catharine MacKinnon have adopted this position and have focused on legislative strategies for banning pornography. However, in this article, I showed how this approach could have a negative impact on a feminist anti-pornography campaign. In turn, I suggest that by taking a moral approach, one may be able to address the wrongness inherent in pornography while circumventing the problems arising from MacKinnon's politics-centered approach. Most importantly, I showed how deliberative democracy provides a framework that allows us to see the political relevance of this approach. Moral arguments are not second-class expressions in public deliberation. They are equally important in thinking about the shape of society.

Notes

¹ This article puts together some thoughts on pornography and censorship I pursued during my MA degree and my recent interest in deliberative democracy. I am grateful to Chikako Endo, my colleague, for her invaluable comments on an earlier draft of this article. I would also like to thank the anonymous reviewer for his/her insightful comments, which helped to put various areas of the article in focus.

² See eponymous essay in Catharine MacKinnon, *Feminism Unmodified* (Cambridge, MA: Harvard University Press, 1987).

³ The claim here is not necessarily that the moral drops out of feminist arguments, but rather that it is often outweighed by political considerations or camouflaged and presented as a political argument. Moreover, the dichotomy I present here between the moral and political is not intended to suggest that these are the only possible approaches. There are social dimensions (the impact of pornography on society) to the debate over pornography of which I do not discuss in this article.

⁴ Catharine MacKinnon, *Only Words* (Cambridge, MA: Harvard University Press, 1993) p. 71.

⁵ Ronald Dworkin, "Women and Pornography," *New York Review of Books*, 21 (October 1993) pp. 36-40.

⁶ *Ibid.*, p. 40.

⁷ *Ibid.*

⁸ Ibid., pp. 40-1. One may argue that this is meaningful if and only if everyone indeed has an equal chance to speak freely, which is not the case between men and women. That is, what is important for political equality is giving voice to oppressed people. Indeed, MacKinnon captures this when she says: “who listens to a women with a penis in her mouth?” Despite Dworkin’s critique, there is a fair amount of literature on pornography ‘silencing’ women that deserves closer attention. See, especially Rae Langton, “Speech Acts and Unspeakable Acts,” *Philosophy and Public Affairs*, 22 (1993); Daniel Jacobson, “Freedom of Speech Acts?: A Response to Langton,” *Philosophy and Public Affairs*, 22 (1995); and Rae Langton’s response to Dworkin and Jacobson in *Sexual Solipsism* (Oxford: Oxford University Press, 2009).

⁹ Dworkin, “Women and Pornography,” p. 42.

¹⁰ Ibid., p. 41.

¹¹ Ibid.

¹² Langton, *Sexual Solipsism*, pp. 170-1.

¹³ In this article, I focus on Dworkin’s claim that one’s right to free speech and equality do not conflict. This is only one instance of a purported conflict between liberty and equality, but Dworkin intimates elsewhere that as rights, liberty and equality should not be in conflict. See “What is Equality? Part 3: The Place of Liberty,” *Iowa Law Review*, 73 (1987).

¹⁴ Susan Mendus, *Feminism and Emotion* (London: Palgrave Macmillan, 2000) p. 146.

¹⁵ Ibid., pp. 146-7.

¹⁶ Bernard Williams, “Drawing Lines,” *London Review of Books*, 16 (12 May 1994) p. 10.

¹⁷ Ibid.

¹⁸ Mendus, *Feminism and Emotion*, pp. 147-9.

¹⁹ Ibid., p. 150.

²⁰ Ibid.

²¹ Ibid., p. 156.

²² MacKinnon, *Feminism Unmodified*, pp. 171-2.

²³ Mendus, *Feminism and Emotion*, pp. 152-3.

²⁴ Linda Williams, *Hard Core* (Berkeley: University of California Press, 1989).

²⁵ Williams, “Drawing Lines,” p. 10.

²⁶ Catharine MacKinnon and Ronald Dworkin, “Pornography: An Exchange,” *New York Review of Books*, 41 (March 1994) p. 49.

²⁷ Mendus, *Feminism and Emotion*, p. 157.

²⁸ Susan Mendus, “Harm, Offence and Censorship,” in eds. John Horton and Susan Mendus, *Aspects of Toleration* (London: Methuen, 1985).

²⁹ Langton, *Sexual Solipsism*, p. 314.

³⁰ MacKinnon, *Only Words*, pp. 109-10.

³¹ I put aside the question whether there is a casual connection between the two forms of solipsism.

³² Immanuel Kant, *The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy*, trans. and ed. Mary J. Gregor (Cambridge: Cambridge University Press, 1996) pp. 80, 85.

³³ Langton, *Sexual Solipsism*, p. 242.

³⁴ Ibid., pp. 224-5.

³⁵ Ibid., p. 225. For a discussion of the definition of pornography, see for example, Susan M. Easton, *The Problem of Pornography* (London and New York: Routledge) pp. xi-xvi. See also Joel Feinberg, *Offense to Others* (Oxford: Oxford University Press, 1985) esp. ch. 11.

³⁶ Langton, *Sexual Solipsism*, p. 225. The example appears on p. 238.

³⁷ Ibid., p. 316.

³⁸ Ibid., p. 23.

³⁹ Ibid., p. 24.

⁴⁰ Immanuel Kant, *The Doctrine of Virtue*, trans. Mary J. Gregor (Philadelphia: University of Pennsylvania Press, 1964) p. 140.

⁴¹ Ibid.

⁴² Ibid., p. 144.

⁴³ Immanuel Kant, *Lectures on Ethics*, trans. Louis Infield (London: Methuen, 1979) p. 163.

⁴⁴ Langton, *Sexual Solipsism*, p. 320.

⁴⁵ The present argument may be taken to suggest that sex without friendship is necessarily devoid of mutuality. Against this, one may say that sexual self-surrender by a man and a woman in an equal context may be said to entail a form of mutuality. This suggests the possibility that not all forms of objectification may not consist of wrong-doing. I will remain at noting this problem in this article. But my primary concern in this article is to show how a moral argument of the nature described so far might be included in a political debate, which, I believe, can still be achieved while adopting the Kantian-inspired position on friendship.

⁴⁶ One might say the pornographers and consumers of pornography “glorify” or indeed “deify” women as a sexual object. But what they do is objectification nonetheless.

⁴⁷ Joshua Cohen, ‘Deliberation and Democratic Legitimacy’, in ed. David Estlund, *Democracy* (Oxford: Blackwell, 2002) p. 87.

⁴⁸ John Dryzek, *Deliberative Democracy and Beyond* (Oxford: Oxford University Press, 2000) pp. 1-2.

⁴⁹ Joshua Cohen distinguishes between a defining feature of deliberative democracy, which involves people reflecting on their preferences, and its point, which is “to decide, in the light of reasons, what to do.” See Joshua Cohen, *Philosophy, Politics, Democracy* (Cambridge, MA: Harvard University Press, 2009) pp. 333-4.

⁵⁰ Cohen, “Deliberation and Democratic Legitimacy,” pp. 100-101.

⁵¹ Will Kymlicka, *Contemporary Political Philosophy*, 2nd ed. (Oxford: Oxford University Press, 2002) p. 291. See also, Dryzek, *Deliberative Democracy*; and Charles Blattberg, *From Pluralist to Patriotic Politics* (Oxford: Oxford University Press, 2000).