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THE FRASER COMMITTEE ON PORNOGRAPHY:
A STUDY OF THE IDEOLOGICAL PRACTICE OF SOCIAL POLICY

by

JANE S. BEAUCHAMP, B.A.

A thesis submitted to
the Faculty of Graduate Studies and Research

in partial fulfillment of
the requirements for the degree of
Master of Social Work

School of Social Work
Carleton University
Ottawa, Ontario

August 17, 1987

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ABSTRACT

This thesis reveals the development of social policy on pornography as an ideological practice which excludes the experiences of women. Pornography as defined by the recommended Criminal Code amendments of the Special Committee on Pornography and Prostitution silences what women feel and say about it.

Feminist definitions of pornography are examined and the method of analysis, which starts from the standpoint of women, is described. The institutional location, membership and mandate of the Committee are shown to provide for the use of the legal discourse, rather than women's experiences, in the development of a course of social action on pornography. The social construction of the documents produced by and for the Committee, through the routine practice of law and social science is revealed as an ideological circle. This circle, based on androcentric knowledge, is shown to exclude both women's knowledge of pornography and of the social organization of its production.

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TABLE OF CONTENTS

	Page
Acceptance Sheet	11
Abstract	111
Acknowledgements	1v
Table of Contents	v
 Chapter 1. Introduction	 1
The Historical Context of the Fraser Committee	2
Theory and Methodology	6
The Structure of the Thesis	18
 Chapter 2. The Fraser Committee	 23
Institutional Location	24
The Members of the Committee	26
The Terms of Reference	40
Discussion	53
 Chapter 3. The Background Research	 36
Description of the Background Research	37
Discussion	66
 Chapter 4. The Issues Paper	 79
Description of the Issues Paper	81
Discussion	90
 Chapter 5. The Working Papers	 108
Introduction	109
Description of the Research	116
A Comparison of the Proposed and Published Research Programs	223
Summary	226
 Chapter 6. The Fraser Committee Report	 234
Description of the Report	235
Discussion of the Report	273
 Chapter 7. Conclusion	 298
 Bibliography	 315

CHAPTER 1
INTRODUCTION

The Historical Context of the Fraser Commission

With the most recent rise of the women's liberation movement in the late 1960s, a serious challenge to prevalent ways of knowing about the world began to emerge.¹ Feminists began to question social phenomena that had been previously characterized as natural. They demonstrated that the sexual division of labour, the nuclear family, women's secondary status in the labour force, violence against women and heterosexuality are socially constructed. Biology may provide a material base, but the social construction of gender as an ongoing practice creates this social organization. Their explanations of this social organization focused on male power and how it is organized and maintained through men's positions at the top levels of business and politics and in the ideological structures where knowledge is produced and sanctioned (academia, the media, education and government), through their use of violence against women and/or through the economic structuring of capitalism.

The emergence of these analyses provided women with a way of understanding the world based on our experiences of it. This knowledge provides women with a basis for an understanding that our experiences of oppression are not due to some individual fault or failure but are a feature of the social organization in which we live. On this understanding we can base our resistance to the way women are portrayed and treated and we can actively organize for

social change. It is in this context that pornography came to be an "issue" for the women's movement.

The roots of the feminist view that pornography is a problem go back to 1970 when Kate Millett proposed that descriptions of sexual relations between women and men in literature were not simply about sex but rather were about power.² The most "personal" relationship between women and men is a political one, she argued, wherein male power and supremacy are expressed. This analysis led women to focus on the way women are portrayed in the media and especially in advertizing.³ Male control over the mass media was identified as problematic because it excluded women's visions and experiences of ourselves and the world.⁴ Feminists argued that the portrayal of woman as sex object was a feature of men's power to control these images and that this portrait was a false image of women used to sell products as well as to reinforce male and female self-concepts and male fantasies of wielding power over women.

This critique provided for a specific focus on pornography by the women's movement and, in particular, by radical feminists in the U.S. "Pornography is the theory, and rape is the practice", the central thesis of Robin Morgan's 1974 article on pornography, became a widely accepted tenet of the movement.⁵ The increasingly violent nature of pornography and an apparent increase in violence against women led to this linkage and to her idea that this violence was a response to feminists' assertions of our own, different account of

ourselves and society. Susan Brownmiller took up this theme in Against Our Will: Men, Women and Rape⁶. She argued that pornography is anti-female propaganda. It is a male invention designed to dehumanize women, to reduce women to objects of sexual access. Susan Griffin argued that women have been forcibly silenced by male authority and so excluded from history.⁷ This silence has allowed for pornographic depictions that lie about women. This lie is one which women come to believe and mimic because the structures of power in women's lives and the voices of authority -- church, state, parents and so on -- reflect pornographic fantasy. These analyses have led feminists to distinguish between erotica -- the portrayal of a mutually pleasurable sexual relation between two equally powerful people -- and pornography -- the portrayal of a relationship whose message is power and dominance.⁸

In the 1980s, U.S. feminists began to address the role of the state in the control of pornography as depictions of violence against women in sexually explicit materials proliferated.⁹ The First Amendment to the American Constitution guaranteeing freedom of speech had proven to be a major stumbling block to law reform since censorship was (and is) perceived to be an anathema to this right. This led some feminists to focus on the violence against women in pornography and to argue that at least those depictions could be banned on the basis that freedom of speech is not unlimited.¹⁰ Helen Longino argued that

to the degree that the tolerance of material degrading to women supports and reinforces the attitude that women are not

fit to participate as equals among equals in the political life of their communities, and that the prevalence of such an attitude effectively prevents women from so participating, the absolute and fundamental right of women to liberty...is violated.¹¹

Another approach suggested that, since the male-dominated government was demonstrably unwilling to ban such material,, people should be protected from unwanted exposure to it by laws governing its display.¹² Finally, Catharine MacKinnon and Andrea Dworkin drafted legislation that would allow women to sue pornography producers for portraying "the sexually explicit subordination of women" because these are a form of discrimination on the basis of sex.¹³

Feminists in Canada began actively protesting representations of women and children in the late 1970s. Studio D of the National Film Board produced a movie, Not a Love Story (1981), which put forward feminist ideas about pornography. In 1982 and 1983, feminist protests escalated. Violent pornographic images in videos, child pornography and pornography on Pay TV were all targets of these protests. Three outlets of the Red Hot Video pornography chain in Vancouver were firebombed by the Wimmins Fire Brigade and eleven other outlets were picketed.

The protests against pornography coincided with complaints from residents in middle-class neighbourhoods in several Canadian cities about prostitutes "soliciting" in their areas. Police and municipal politicians were becoming increasingly vocal about the need for an

enforceable law to deal with this situation. It was in this historical context that the Special Committee on Pornography and Prostitution, also known as the Fraser Committee, after its Chairman, Paul Fraser, was constituted by the Canadian Government in June of 1983.

This study examines the work process and documents of that Committee in relation to the issue of pornography. While the Committee dealt with both "adult" and "child" pornography, the focus here will be on pornography that features adult, mainly women actors. The Committee's work on prostitution will be dealt with only in so far as it sheds light on the issue of pornography and the Committee's approach to it.

Theory and Methodology

I first became interested in studying the Fraser Committee as a feminist student on placement in the Office of the Coordinator of the Status of Women Canada. I was asked to write an analysis of some of the recommendations in the Fraser Committee Report. Reading the recommendations that addressed pornography, I began to see that what I felt about pornography, and what other women and women's groups had said about it, did not seem to agree with the Committee's definition as spelled out in the proposed Criminal Code amendments. I became interested in understanding how this disjunction arose between what I knew about pornography and this authoritative definition.

The presence of this disjunction pointed me toward the work of Dorothy Smith who has conceptualized this "rupture" as the starting point for a sociology that will be for women, rather than about women.¹⁴ Her approach to investigating the social world, which she calls institutional ethnography, begins from the standpoint of women. Starting from the standpoint of women, Smith argues, displays a rupture between, on the one hand, what women experience in our particular, local situation and, on the other, ideas that are developed from a position of power and privilege and come to dominate in our society. In contemporary capitalist societies, most people do not generally participate directly in the production of culture or, when we do, we participate using forms and methods we didn't design.¹⁵ The forms of thought we use do not arise directly from our everyday lived experiences but are the work of specialists occupying positions in the institutions that are implicated in the control and ruling of our society as its ideological apparatus. Identifying the social forms of consciousness (the ways people think and talk about one another) as originating outside of most people's experience and as a product of the ruling class in our society identifies such social consciousness as ideological.¹⁶ Ideology is used here to mean the practice or method "through which the class that rules, orders and sanctions the social relations which support its hegemony."¹⁷ Taking the standpoint of women, treating women as authorities on our own lives, provides a basis for uncovering this practice as well as for creating new knowledge that reflects women's reality.

The exclusion of women from the production of culture or authoritative knowledge about the world has taken several forms.¹⁸ Women have been excluded by virtue of our position in the private sphere with its attendant childcare and domestic labour. Women have been forcibly repressed; until recently we were denied access to higher education. Women have been silenced by an organized institutional process that includes socialization, education, work and communication. This study focuses on the work and documentary processes of the Fraser Committee that acted to exclude women's experiences and knowledge from determining an authoritative definition of pornography.

In contemporary capitalist societies, the documentary process that produces them are part of this ruling practice.¹⁹ Smith says that "our lives...are infused with a process of inscription, producing printed or written traces or working from them."²⁰ Sociologists have rarely paid attention to the documentary or textual process; the social construction of the message or information is taken for granted. Smith argues that it is precisely this process of social construction which we should investigate. Ethnomethodology discovered that documents are a significant constituent of social relations. (The term "social relations" is used here to indicate "the actual practices of individuals and their articulation in forming a course of social action", or as "concerted sequences or courses of social action implicating more than one individual whose participants are not necessarily known to one another".²¹) Factual accounts

inscribed in texts cannot be treated as independent of their organizational uses and the contexts of their production and interpretation. Reasoning, facticity, rationality and sense-making are not simply processes going on in people's heads but are social practices.

One such practice of producing a factual account is an "ideological circle". This circle has two distinctive characteristics. The first feature was discovered by women's experience of the rupture between our knowledge of the world as directly experienced and the social consciousness (the ways people think and talk about one another) of these events or experiences.²² In our society, this social consciousness is an objectified mode, specifically independent of particular subjectivities located in particular places at a given historical moment. The disjuncture women experience arises because women have been largely excluded from the production of the concepts and categories that are used to transform the actualities of daily life into this objectified form of knowledge.

The universe of ideas, images, and themes -- the symbolic modes which are the general currency of thought -- have been either produced by men or controlled by them. In so far as women's work has entered into it, it has been in terms decided by men and because it has been approved by men.²³

Men have attended to and treated as significant only what men say.²⁴ Women have been treated as the "objects" of male knowledge, not subjects in our own right. This is the first circular feature of this ideological practice. The production of authoritative knowledge about the world is accomplished in the institutional settings of the

ideological apparatus, eg, the media, education, etc. Until recently, men have occupied the positions of power in these institutions. The textual discourses of law, psychiatry, psychology, sociology, criminology, political science, social work and so on, that inform us about the social world have been produced by privileged white males. (Discourse is used here to identify the forms of communication and interpretation that are mediated by documents and which are themselves forms of social organization.²⁵) This partial view of the world is represented as the authoritative view. It is "treated as general, universal, unrelated to a particular position or a particular sex as its source and standpoint".²⁶ Women who have recently moved into knowledge-making positions in the ideological apparatus are trained in and often constrained to use the concepts and methods developed by men to have our work seen as legitimate knowledge. Because these methods and concepts have been developed outside our actual experience and situations, what we know is transformed in this process so that our knowledge is silenced.

Identifying this authoritative knowledge and, therefore, the social forms of consciousness that rely on it, as the practice of one small segment of society and the same segment that holds the economic power, identifies it as a ruling practice. Thus, the rupture that women experience between our experiences and the social forms of their expression is located in a relation of power between women and men. Social consciousness can now be seen not as free-floating, neutral "culture" but as ruling ideology produced by certain people

in specific locations at given historical moments.

The second feature that characterizes the practice of ideology as circular arises from and is based on textual discourse.²⁷ It is the nature of an interpretive method for assembling an "objective" account from lived experience. This interpretive method is based in male-created discourse.

Discourse develops the ideological currency of society, providing schemata and methods that transpose local actualities into standardized conceptual and categorical forms.²⁸

This practice resembles what Marx identified as a procedure used to construct an idealist account of history.²⁷ First the actual subjects of the action disappear, then the connectives and occasions of what people actually experience are discarded and, finally, the formal connectives of the textual discourse are inserted. This ideological procedure provides a method for selecting from "what actually happens" to someone, or "what is", a set of "particulars". These particulars are not neutral since they are based on a discourse or knowledge that is socially constructed by men on the silence of women. From these particulars, a factual account can be created that provides for a course of social action that is also determined by textual discourse. The process looks something like this:²⁹

The result of this practice is the transformation of local, historical events experienced by people into objectified accounts in which these events will appear to be the same for all practical purposes. These can then be entered into the bureaucratic and professional process. The co-ordination of different individuals and different courses of social action is a social relation.

This social relation can be seen as "the actual practice of individuals and their articulation in forming a course of social action".³⁰ The transformation of actual realities into an objectified account is accomplished by people who have learned to use the interpretive practices embodied in textual discourse.³¹ These practices are not private or individual but are shared. The people who use them bring the texts to life by this articulation to a course of social action sanctioned in textual discourse. It is discourse which knits together and coordinates the institutional sites of ruling as people in positions in those institutions practice the ideas in the discourse. This ensemble of institutions and discourses is identified by Smith as the "ruling apparatus".³²

Feminist critiques of health care, education, managerial practices and so on pointed to local appearances of a complex of relations including (but not limited to) the state, professions, the media and so on which organize and control contemporary capitalist societies. This ruling apparatus is not monolithic but is a loosely cohering set of functions. It is composed of hierarchical institutions interpenetrated by laterally organized textual discourses that form the organized expression of class domination. Since the class system is fundamentally gendered and racist, this ruling process ensures the continuance of both women's oppression and the oppression of people of colour, as well as that of the working class generally. Therefore, the process of transforming what actually happens to people, how they feel about it and what they know, into an objectified, seemingly apolitical discourse is crucial to the exercise of power in our society. It is the discourses, apparently founded on a neutral standpoint that accomplish the mystification of power by providing for the construction of an "objective" social consciousness. In order to uncover this exercise of power, we must investigate the social construction of the texts that inform ruling practice and the documents that are produced using the interpretive schema of textual discourse which determine a course of social action.

This study focuses on the work process and documents of the Special Committee on Pornography and Prostitution. The investigation of these using the methods of institutional ethnography takes the

"everyday world" of government practices and publications as problematic.³³ This investigation of the Committee and its work is not seen as an instance of some sociological principle. Rather, beginning from the standpoint of women, the rupture between feminist understandings of pornography and the Committee's definition serves as an entry point into larger social and economic processes and identifies the Committee's publications as an instance of current social relations.

This thesis identifies the phenomenon of pornography as defined in the Fraser Committee Report as a construct and constituent of ruling practice. The mandate of the Committee was to define pornography. Their job was to assemble "the particulars" about pornography from research reports and public submissions and to produce a "factual account" of it and its effects. On the basis of this account, the Committee was required to produce recommendations for a course of social action to deal with pornography. My research investigates the social construction of the documents produced by and for the Committee in order to uncover them as part of a ruling practice that maintains women's oppression. I will argue that the ideological circle as practice results in the status quo of women's oppression. In the work of the Fraser Committee this is accomplished by the organized exclusion of the majority of feminist knowledge or understandings of pornography from the development of a social policy to deal with it.

I have used two methods, interviewing and textual analysis,³⁴ to reveal that the work process and documents of the Fraser Committee are part of a social relation that is implicated in the reproduction of women's oppression. These methods uncover the ideological circle as the practice for producing a factual account of pornography that excludes knowledge based on women's experience or any other that is not congruent with the interpretive schema used to assemble "the particulars" for this account. Two basic questions emerged when I looked to discover the social construction of the Committee's recommendations on pornography. These were:

1. Who gets to say how pornography is defined and, specifically, who speaks for women and what is their relation to women?
2. what are the interpretive schema used to construct a factual account of pornography and the recommended course of social action and what role have women played in the production of this interpretive schema?

I used an agenda of questions to interview Daniel Sansfaçon, the Department of Justice employee who was the liaison with the Fraser Committee, administering their contract as well as commissioning and co-ordinating research produced for the Committee. This interview aimed at eliciting a description of the work process of the Committee, particularly the accumulation of research. I was especially interested in who decided what knowledge was considered authoritative and what role women had played in the production of this knowledge. I hoped that this interview would provide part of the answer to the

first of the two questions raised above. I found during the course of my research that I needed additional information. I wrote letters to both Susan Clark, a Committee member, and Jim Check, a researcher, with specific questions.

The second method I used was textual analysis as outlined by Dorothy Smith in "No One Commits Suicide: Textual Analysis of Ideological Practices".³⁵ Two factors informed my choice of this method. First, the tremendous number of documents produced by and for the Fraser Committee made this a rich ground for investigation. Secondly, textual analysis is not used to criticize the stance or findings contained in documents from a particular theoretical perspective. Instead, it pays attention to the social construction of the meaning that appears as a text, a meaning detached from the lived, momentary realities of individuals. This analysis aims to discover in the text the social relations which people create as everyday practice. In particular, it pays attention to what knowledge gets "counted in" and what gets "counted out" of the Fraser Committee's documents on pornography, how this is organized, and what effect this has on providing for a course of social action that will work towards liberating women. My textual analysis of the research on pornography commissioned by the Justice Department examines what knowledge is, or is not, considered to be authoritative; what interpretive schema were used to determine this; what discourses provided this schema; and what space this allowed for knowledge based on women's experience of pornography. The Committee's documents, the

Issues Paper and the final Report are analyzed to discover the interpretive schema used by Committee members and what consequences these had for the production of a definition of pornography and the attendant course of action recommended. I also read three hundred and fifteen public submissions (out of the total of 537). These are not analyzed because the focus of this paper is on the work of the Committee itself. However, I have used them to illustrate which feminist understandings presented to the Committee were included in the Report and which ones were not as a result of the interpretive schema used by the Committee to construct an account of "pornography".

In order to understand how the Committee chose the interpretive schema it did, I investigated the institutional location of the Committee, its terms of reference and its membership. In particular I attempted to ascertain the following:

1. what effect the institutional location of the Committee had on the construction of the documents it produced,
2. what effect the location of the Committee members in relation to the institutions and discourses of the ruling apparatus had, and
3. what scope the terms of reference allowed the Committee.

This textual analysis then aims at answering both of the questions which form the basis of this research.

The Structure of the Thesis

The findings of this research are presented in the following way.

Chapter two discusses the institutional location, mandate and membership of the Special Committee on Pornography and Prostitution and examines the effects of these.

Chapter three presents a description of the background research commissioned by the Department of Justice and designed to inform the Committee about the current situation regarding pornography in Canada. The fate of this research is discussed.

Chapter four looks at the Issues Paper released by the Fraser Committee just prior to the start of the public hearings. The framing of the issue of pornography and the schema that produced it are uncovered and the intended effects are discussed.

Chapter five includes a comprehensive look at the published research studies commissioned by the Department of Justice to inform the Committee about various aspects of pornography. A comparison is made between the proposed plan of research and the one carried out. An analysis of each study is presented that uncovers the social construction of these documents and what they provide for.

Chapter six contains a description and analysis of the Report of the Fraser Committee on pornography. The interpretive schema used and the effects of this on the Committee's definition and proposals is presented.

Chapter seven concludes this research with a discussion of the findings and the implications of these for understanding the ruling practices in this contemporary capitalist society and, hence, for the activities of the women's movement that will help in our struggle to achieve social change that will give women, and all people who are currently oppressed, true economic, political and social equality.

FOOTNOTES - Chapter 1

1. Of course women have been writing for centuries about their experiences of oppression. These writings had, however, largely been forgotten and were out of print until the women's movement sought them out. See, for example, Dale Spender, Women of Ideas (and what men have done to them) (London: Ark Paperbacks, 1982).
In addition, the entrance of large numbers of women into the universities and, in particular, the creation of women's studies programs has had a major impact on women's ability both to learn and to write about our experiences and those of other women as legitimate scholarship.
2. Kate Millett, Sexual Politics (New York: Ballantine Books, 1970).
3. See, for example, Alice Embree, "Media Images 1: Madison Avenue Brainwashing - The Facts" and Florika, "Media Images 2: Body Odor and Social Order" both in Sisterhood is Powerful, ed. Robin Morgan (New York: Vintage Books, 1970) and Lucy Kosimar, "The Image of Women in Advertising" in Women in Sexist Society: Studies in Power and Powerlessness, eds. Vivian Gornick and Barbara K. Moran (New York: Basic Books, Inc., 1971), p.304.
4. Laura Furman, "A House is Not a Home: Women in Publishing" in Morgan, Sisterhood is Powerful, p.73.
5. Robin Morgan, Going Too Far (New York: Vintage Books, 1978), p.169.
6. Susan Brownmiller, Against Our Will: Men, Women and Rape (New York: Bantam Books, 1975), pp.442-443.
7. Susan Griffin, Pornography and Silence: Culture's Revenge Against Nature (New York: Harper and Row, Publishers, 1981), pp.201-202.
8. Gloria Steinham, "Erotica and Pornography: A Clear and Present Difference" in Take Back the Night: Women on Pornography, ed. Laura Lederer (New York: William Morrow and Co. Inc., 1980), p.35. (hereafter cited as Lederer, IBTN).
9. For example, one section of Lederer IBTN, pp.239-258, deals with the topic of pornography and the First Amendment.
10. Robin Yeaman, "A Political Analysis of Pornography" in Lederer, IBTN, p.248.
11. Helen Longino, "Pornography, Oppression, and Freedom: A Closer Look" in Lederer, IBTN, p.52.

FOOTNOTES - Chapter 1 (Continued)

12. Susan Brownmiller, "Let's Put Pornography Back in the Closet" in Lederer, IBIN, p.252.
13. "An Ordinance of the City of Minneapolis" in Canada, Department of Justice, Pornography and Prostitution in the United States, by Daniel Sanéfaçon, Working Papers on Pornography and Prostitution, Report No.2 (Ottawa, 1984).
14. Dorothy E. Smith, "A Sociology for Women" in The Prism of Sex: Essays in the Sociology of Knowledge, ed. J.A. Sherman and E. Torton Beck (Madison: University of Wisconsin Press, 1979), p.135.
15. Dorothy E. Smith, "A Peculiar Eclipsing: Women's Exclusion from Man's Culture", Women's Studies International Quarterly 1(1978): 281-295.
16. The term "ruling class" is used here to encompass those who control both the means of material production and the means of mental production. Dorothy E. Smith, "An analysis of ideological structures and how women are excluded: considerations for academic women", Canadian Review of Sociology and Anthropology 12 (1975): 355.
17. Ibid., p.355.
18. Smith, Peculiar Eclipsing, pp.284-286.
19. Dorothy E. Smith, "Textually Mediated Social Organization", International Social Science Journal, XXXVI no.1 (1984): 59-75.
20. Ibid., p.59.
21. The first definition is taken from Dorothy E. Smith "No One Commits Suicide: Textual Analysis of Ideological Practices", Human Studies 6(1983): 319 and the second from Dorothy E. Smith, "Institutional Ethnography: A Feminist Method", paper presented to a Conference on the Political Economy of Gender Relations, Toronto 1981.
22. Dorothy E. Smith, "The Social Construction of Documentary Reality", Sociological Inquiry 44(1974): 136.
23. Smith, Analysis of ideological structures, p.355.
24. Smith, Peculiar Eclipsing, p.281.
25. Smith, Textually Mediated Social Organization, p.63.
26. Smith, Peculiar Eclipsing, p.283.

FOOTNOTES - Chapter 1 (Continued)

27. The following discussion is based on Smith, No One Commits Suicide.
28. Smith, Textually Mediated Social Organizations, p.65,
29. Smith, No One Commits Suicide, p.321.
30. Ibid., p.319.
31. Ibid., pp.319-321.
32. Smith, Institutional Ethnography, p.1.
33. Ibid., pp.9-10.
34. Ibid., p.16.
35. Smith, No One Commits Suicide, pp.321-333.

CHAPTER TWO
THE FRASER COMMITTEE

The appointment of the Special Committee on Pornography and Prostitution represented a shift in the struggle about pornography from the ground of the women's movement to the terrain of the state. The practice of the ideological circle began with that transfer. Three factors were especially crucial in the initial stages of that process: the institutional location of the Fraser Committee, the membership of the Committee and the terms of reference that mandated its legitimate ambit of investigation and recommendation.

Institutional Location

The institutional location of the Committee set the stage for the process of an ideological construction of "pornography" that was to be very different from the conceptualizations of pornography put forward by the women's movement. The Fraser Committee was established as a special committee of inquiry responsible to the Minister of Justice (then Liberal M.P. Mark MacGuigan). This, in turn, allowed the government to specify that the Department of Justice would, in consultation with the Committee, develop a plan for empirical research that would inform Committee members about pornography and prostitution. It also gave the Department the power to oversee the research process. Therefore, the Committee was linked in a direct way with both the Minister of Justice and the bureaucracy of Justice.

This institutional location was made possible because of the state's role in the regulation of sex, in particular, through the mechanism of the Criminal Code. The Code is federal legislation that establishes punishable offenses that come under the purview of the federal courts. "Obscene" materials and Immoral Theatrical Performance are regulated as an "Offence Tending to Corrupt Morals" (Sections 159-168) in Part IV of the Code entitled "Sexual Offenses, Public Morals and Disorderly Conduct". Nudity (Section 170) is also regulated in this part of Code. "Soliciting", "Procuring" and "Keeping a Common Bawdy House" (Sections 193-195) are regulated in Part VI of the Code dealing with "Disorderly Houses, Gaming and Betting". Both pornography and prostitution are conceptualized as being about sex. This connection between pornography and prostitution as "sexual" phenomenon to be regulated by the state and the consequent institutional location of the Fraser Committee intended that the Committee, first and foremost, would address these issues in terms of legal reform and, in particular, by proposing amendments to the Criminal Code. The legal discourse intends that these issues should be seen as legal phenomenon and that a legal course of action should be developed.

As with all committees of inquiry, this one was appointed by the Government of Canada. Its report would be published by the government and "ordained as officially recognized discourse".¹ Therefore, although the Committee's institutional location intended a legal solution, it did not strictly limit the recommendations to the area

of law reform. There was the possibility for the Committee to address other solutions but this would have been far more likely if the inquiry had been conducted by a Royal Commission reporting to Parliament. In that case, all government ministers concerned would have been obliged to respond in some way to the recommendations of the committee of inquiry that concerned their departmental responsibility. Thus, the institutional location not only intended a particular approach to pornography, it also limited the impact of any non-legal recommendations.

The Members of the Committee

The selection of committee members was another factor which intended a legal solution to pornography. When we look at who the Committee members were and where they were located institutionally, it becomes clear that an important criterion for selection was their knowledge of the law, either theoretical or practical. Six of the seven members appointed to the Committee had such knowledge.²

Chairman Paul Fraser is a partner in a Vancouver law firm practicing civil and criminal litigation. He had been President of the Canadian Bar Association, a member of the B.C. Law Reform Commission and a Vice-President of the Commonwealth Lawyers Association.

Mary Eberts is a partner in a Toronto law firm.

Jean Paul Gilbert holds an M.A. in criminology, is a member of the National Parole Board and had been Director of the Montreal Police Department.

John McLaren is a professor of Law at the University of Calgary and is a member of the Ontario Bar.

Andrée Ruffo is a barrister and solicitor in private practice in Montreal.

Joan Wallace had served on human rights tribunals for the Canadian Human Rights Commission.

Choosing members who had a working knowledge of the discourse of law, together with the institutional location of the Committee, ensured that not just any recommendations for change would arise but that the law would be addressed first and foremost. The members, because of their legal knowledge, could be counted on to understand just what sort of offenses could fit within the ambit of the Criminal Code. They also understood the role of the Justice Department, the problems of law enforcement as well as the mechanisms provided for by human rights legislation.

The government also had to be seen to be taking seriously what women were saying about pornography. So they chose women members who were known to have expertise in women's issues. Susan Clark, the

seventh Committee member, is a sociologist and Dean of Human and Professional Development and Director of the Institute for the Study of Women, Mount St. Vincent University. Mary Eberts served on the board of the Metro (Toronto) Action Committee on Public Violence Against Women and Children. Andrée Ruffo had been involved with the Fédération des femmes du Québec. Joan Wallace had served on the Canadian Advisory Committee on the Status of Women and had been a Director of the Canadian Research Institute for the Advancement of Women and Founding President of Vancouver Status of Women. These women were drawn from the most highly visible and organized sectors of the women's movement and not from its grassroots, that is, direct service and action groups. Their positions removed them from daily contact with women in poverty and distress, those who are most likely to experience the harmful effects of pornography in a direct way, for example, women who are participants in it. Rather, these women members are located at the level of the movement where the everyday experiences women have of oppression have been "worked up" into issues that can be acted upon and, especially, that can be presented to the government in lobbying campaigns for action or formal advice to improve "the status of women".³

The members of the Committee were all implicated as individuals in the practice of ruling in various ways. Most of these people were located in institutions that form part of the ruling apparatus, in universities, the criminal "justice" system, law reform commissions, quasi-governmental councils and so on. The class and racial makeup

of the committee is clear: none of the members was poor and all were white. The women members, in comparison with the majority of Canadian women, were privileged both in terms of their educational level and their employment status. This status, as well as their legal training, meant that they may have been less likely to see the law as problematic for women than the women who are most likely to have problems with the law, that is, mainly poor women who are disproportionately native.⁴ Their appointment to this Committee suggests that they may have been seen as not posing a threat to the Liberal régime that appointed them or as having objections to the process of state definition of women's issues.

However, it is not only the education and training of the women Committee members nor their political positions which primarily determined their ability to shape the definitions of pornography in a way that would reflect women's experiences in and of it. It was first and foremost the institutional location of the Fraser Committee in relation to Justice which was to limit their impact in this process. In fact, some, if not all of the women, may have become involved in the Fraser Committee because of their concern about the problematic nature for women of the law and other social policies. In order to affect the process of developing social policies on pornography and prostitution that might benefit women, they had to put themselves in the contradictory position of being, at the same time, involved in a process of ruling. This dilemma is one which is faced by any woman (or other oppressed person) who takes part in the

development of government policy. In this case, the location of the Committee in relation to Justice will be shown to have especially constrained these women in their ability to develop a definition of pornography and a course of social action on it that would be based on women's experiences and knowledge about pornography.

The Terms of Reference

The terms of reference for the Fraser Committee were as follows:

1. to consider the problems of access to pornography, its effects and what is considered to be pornographic in Canada;
2. to consider prostitution in Canada with particular reference to loitering and street soliciting for prostitution, the operation of bawdy houses, living off the avails of prostitution, the exploitation of prostitutes and the law relating to these matters;
3. to ascertain public views on ways and means to deal with these problems by inviting public submissions from concerned groups and citizens and by conducting meetings in major cities across the country;
4. to consider, without travelling outside Canada, the experience and attempts to deal with these problems in other countries, including the U.S., European Economic Community and selected Commonwealth countries such as Australia and New Zealand;
5. to consider alternatives, report findings and recommend solu-

tions to the problems associated with pornography and prostitution in Canada, as soon as possible, but no later than December 31, 1984.⁵

These terms of reference, at first reading, appear to give the Committee a wide ground for investigation and for recommending solutions. However, having located the Committee institutionally, we can see that this scope is, for practical purposes, considerably narrowed. The first two terms of reference identify what are, in essence, legal concerns about pornography and prostitution. This is clearly the case in the issues raised about prostitution. The language used in this term of reference is the language of the legal discourse and, in particular, of the Criminal Code. In the Code, "loitering", "Soliciting" and "living off the avails of prostitution" are established as legal offenses. Reference to the law is explicitly mentioned here as well. The term of reference regarding pornography does not discuss law reform per se, but it also reflects legal concerns. Lack of enforcement of the existing obscenity provisions had been justified on the basis that the definition of obscenity in the Code was too vague. Defining pornography was of particular legal concern since, whereas the Code specifies the representation of explicit sex as obscene, relevant case law at the federal level was evidencing a tolerance for such material based on the criterion of "community standards". Distributors of such materials had expressed concern that there were no firm guidelines to enable them to tell which of their materials were obscene. If the Code were to be

revised, a new enforceable definition of pornography would have to be developed. The effects of pornography were of concern since, in order to include a provision in the Criminal Code, it would be necessary to demonstrate "objectively" that it had detrimental effects. The development of new video technologies produced a legal concern with access since it was now possible that children would have uncontrolled access to pornography on home videotape recorders or on Pay TV.

These terms of reference treat pornography and prostitution as two separate "problems". This construction erases the connection made by the women's movement which had characterized them as instances or expressions of male-dominated society which provided for the sale of women's bodies or representations of them. Nowhere in these terms of reference can we find any reference to the fact that it is women's bodies that are represented in the vast bulk of pornography or that prostitutes are mainly women. In the term of reference concerning prostitution, the "exploitation of prostitutes" is substituted for the exploitation of women. Exploitation is not even a conceptual part of the term of reference concerning pornography. The Committee is not instructed to investigate how either phenomenon arises nor to explore the possible connection between them. Thus, the connection made by the women's movement, that pornography and prostitution are grounded in women's economic, social and political oppression is silenced.

The fact that the women's movement had raised the issue of pornography and defined it disappears in this mandate. The Committee is instructed to take into account the views of "the public", the research establishment, and the authorities in other countries. "Public views" are to be solicited only on ways to deal with pornography, not on "what is considered to be pornographic". In a male-dominated society, it was unlikely that a definition of pornography founded on the knowledge of women's oppression would emerge from this process.

Discussion

When the Fraser Committee was appointed to take up the issue of pornography, the process of defining pornography was taken out of the hands of the women's movement in Canada and put into the hands of the state. The Committee was to act as a "neutral arbiter" to resolve the differences in approach among public sectors, researchers and authorities in other countries. Women's attempts to put forward our own knowledge of pornography based on our experience of it and to have our solutions taken seriously were reorganized when the government took action. We were constituted as just one more "interest group" in the debate rather than the driving force for social change on pornography.

The Fraser Committee's mandate can be seen to be the development of an "authoritative" definition of pornography. The institutional

location, membership and mandate of the Committee transformed the process of definition in a way that silenced what feminists had been saying and doing about pornography. The relationship to the criminal justice system and the legal discourse, the appointment of "expert practitioners" of the law, and the legalistic terms of reference clearly intended a legal definition and solution to this "problem". In contrast, there had been no consensus within the Canadian women's movement about strategies for dealing with what we consider one manifestation of a society founded on male dominance and female subordination. There was certainly no agreement in the movement that a legal solution would adequately or effectively address this issue.

The government's strategy in locating this Committee as responsible to Justice was an effective way to silence the most threatening knowledge of feminist women. Transforming the debate from one about male power to one about legal questions enabled them to ignore the connections between pornography, prostitution and the oppression of women generally. The state, conceptualized by some parts of the women's movement as instrumental in the process of maintaining women's oppression, was instead set up as an objective and appropriate terrain for determining and dealing with the "problem" of pornography.

FOOTNOTES - Chapter 2

1. Frank Burton and Pat Carlen, Official Discourse (London: Routledge and Kegan Paul, 1979), p.2.
2. Canada, Special Committee on Pornography and Prostitution, Pornography and Prostitution in Canada, Report of the Special Committee on Pornography and Prostitution, 2 vols. (Ottawa: Minister of Supply and Services, 1985).
3. I view the term "status of women" as a translation or transformation of women's lived experiences of oppression which resulted from practices which occurred when the government began to take up "women's issues". It is a less threatening term than oppression, does not imply human agency, glosses over women's suffering and fits nicely with formal ideas of equality embodied in liberal legal discourse.
4. Nancy L. Rekollet, "Native Women and the Criminal Justice System: An Increasing Minority", Resources for Feminist Research, 13, no.4 (Dec/Jan 1985/86):16-17.
5. Canada, Special Committee on Pornography and Prostitution, Pornography and Prostitution: Issues Paper (Ottawa: Minister of Supply and Services, 1983), pp.1-2.

CHAPTER 3
THE BACKGROUND RESEARCH

The work process of the Fraser Committee began with the production of a piece of background research commissioned by the Justice Department. A multidisciplinary team of eight academics, faculty and students at the University of Ottawa, including a sociologist, a psychologist and a lawyer and headed by two sociologists, Richard Poulin and Cécile Coderre, compiled this comprehensive review of social science literature and research on pornography.¹ The research was done to inform committee members about the "state of the art" on pornography with, in part, a view to helping them produce their initial discussion paper.² The researchers also were charged with identifying areas where it was necessary to follow up on or initiate research,

de formuler une problématique de recherche sur les différents aspects de cette industrie et de ce commerce florissants ainsi que son impact sur les comportements des individus et/ou des groupes d'individus.

I will first summarize this research and literature review and then outline the proposed research directions. A discussion of the report will conclude this chapter.

Description of the Background Research

The "problem" of pornography is presented in this report in a feminist framework.⁴ The first page of the report identifies women and children as the "raw materials" of pornography. These groups are identified as the most vulnerable in our society. "Ils sont les plus touchés par les diverses formes d'abus contre les personnes, en

particulier les abus sexuels."⁵ In what appears to be an attempt to counter objections that this approach is somehow ideological, the authors identify their work as a scientific enterprise that is above all, empirical. Human relations are objective relations and thus visual representations of these can be studied in an objective fashion, they say.

The first chapter of the report then examines how representations of sexuality have been defined by feminist writers and the legal system in an attempt to come up with a more objective definition. "Les définitions courantes ainsi que les présentes définitions légales dépendent plus de valeurs morales que de facteurs objectifs décrivant une réalité telle qu'elle est."⁷ The authors review current, primarily feminist definitions of erotica and pornography to distinguish between representations of mutually pleasurable sexual relations on the one hand and the exploitation of women's bodies as a form of violence on the other. Erotica, they say, is no longer an appropriate definition for the material currently available. Obscenity as it is legally defined, is also inappropriate, since it appeals to social values, they maintain. They point out that the Criminal Code definition has actually changed over the past few years as it is interpreted on the basis of the values of individual judges.

The authors argue that the definition of pornography must take into account the characteristics of the industry: that it is a business that sells sex, that it is centered on the genitals, that it

objectifies the human person, and that it is the antithesis of "real" sexuality, ie, pleasure and sensuality. The authors draw on feminist writings, eg, from Laura Lederer's Take Back the Night, to put forward the following observations about pornography:

- Pornography always assumes inequality between partners.
- It is a relation of oppressor and oppressed.
- Women and children are represented as sexual merchandise.
- Pornography is based exclusively on male ideas about sexuality.
- It represents degrading and oppressive behaviour in such a way as to endorse it.

This discussion leads to the authors' definition:

La pornographie, représentation génitalisée de la sexualité, est une description ou représentation explicite, verbale, écrite ou imagée de comportements sexuels qui considère l'être humain, surtout les femmes et les enfants, comme des objets purement sexuels à exploiter et à manipuler sexuellement. C'est avant tout l'expression d'un rapport de force, d'un abus de pouvoir et l'exaltation de la domination d'un être humain sur l'autre, et c'est pourquoi le matériau de base de la pornographie consiste surtout à des femmes et des enfants. A ces éléments de définition de la pornographie, il faudrait ajouter: censure des effets douloureux de la violence et réduction de l'homme à un voyeur convoiteur de la femme (et l'enfant) à un objet de convoitise. (emphasis in original)

This report identifies the problematic for research on pornography as the relationship between pornography and violent behaviour. In order to show how this problematic was formulated, the authors trace the development of both morals and sexuality historically.⁸ They see both morals and sexuality as social constructions that are constantly changing rather than as natural or god-given.

The authors show through a brief history, that sexuality rather than being a force of nature is a mirror that reflects dominant culture. They concentrate on the period after World War II when the scientific method with emphasis on statistical analysis became the major mode for exploiting sexuality. Sexual pleasure was demystified in the sense that, for example, orgasm was an explainable physiological function. In this way, sexuality also became a more readily marketable product, both because it was now easy to measure for sexual therapists, and because it became integrated into a definition of virility and necessary to the harmonious functioning of a sexual relationship. With the "sexual revolution" of the 1960s replacing a prior taboo on sexual pleasure with the introduction of the birth control pill and sterilization, various commercial initiatives converged to create a new economic market that accented the legitimacy and normality of certain sexual needs and the accessibility of the means to satisfy them.

Si toutes les filles et toutes les femmes ne sont pas personnellement accessibles...on peut par contre avoir accès à leurs seins, leur fesses, leur vulve, leur anus, leur bouche, et même leur sourire par l'entremise de magazines tels Playboy et Penthouse ou d'autre matériels qu'on appelle communément pornographie.

At the same time, moral values changed profoundly due to the events of the 1960s and 70s, the authors state. The Vietnam war and the anti-imperialist demonstrations it engendered, the "rebirth" of the feminist movement, socialist ideas that circulated, the "quiet

revolution" in Québec, the lessening influence of the church in education, and many other influences were at the heart of this change. This new vision of society began to shake the old one which was based on respect for authority and the importance of the family, self sacrifice and religious belief.

Pornography, the authors argue, is at the intersection of two great currents: on the one hand, liberalization of norms that concern sexual practices, especially those regarding nudity and its portrayal and premarital sex, and, on the other hand, liberation away from old cultural norms and toward new conceptions of human sexuality congruent with political ideas of equality, liberty and respect for people. This has resulted in sexuality becoming, for men, a new universe to conquer and a fortuitous way for them to reassert their superiority when bureaucratization and automatization seemed to be reducing them to numbers. This also coincided with the time when the activities of increasing number of feminists are envisioning equality for women. The authors identify pornography as a terrain for struggle about conceptualizations of sexuality.

The authors criticize the work of academics engaged in quantitative research, educators, therapists and some studies of "marginal" populations such as homosexuals. They identify several concerns about these enterprises: 1) statistical research with its questionnaires doesn't permit generalizations that are relevant, 2) educators are interested in sex education that transmits traditional ideas that

sex must be in the context of the procreative family, 3) therapists are similarly conservative with an emphasis on individual solutions, and 4) studies of marginal populations are usually not based on an understanding of the real experiences of the groups being studied. The authors note that feminist researchers in the area of education, therapy and studies of marginal populations are a notable exception to this tendency.

In the discourses of academics, critical analysts and pornographers, it is the commercialization of sex that occupies a central position. Pornography is now part of the public domain. Because it is so widely available, the authors argue that it now represents a monopoly in the area of sex education. Therefore, it has become necessary to find out what effect it is having on Canadians. The authors argue that pornography does not teach us about different types of interpersonal and sensual relations, but that, in common with all propaganda, it is a vehicle that insists upon a misogynist fiction for both men and women. The authors raise the following pertinent question: "on peut se demander si la guerre des sexes ne se prépare pas du côté de la commercialization de la sexualité plutôt que des féministes!".¹¹

The authors survey statistics on violence in Canada from 1960-1981. They note that there is a large difference between the number of reported rapes, the number of "founded" cases of rape and the number of rape cases that result in convictions. Citing Clark and

Lewis' work on rape, they argue that few rapes result in convictions because of problems in the structures and procedures of the legal system and social attitudes about rape that are inherent in it. The statistics show an increasing number of incidents of sexual violence against women between 1975 and 1980. In particular, the number of rapes committed between 1960 and 1981 increased by 826% and between 1977 and 1981 the rate of increase in sexual crimes was greater than that for all violent crimes.

The authors argue that the statistics indicate a pressing need to understand the causes of this violent behavior. Research that is proposed in this study will help us to understand the influence of the commercialization of sex on Canadians and whether its normative message conforms to or conflicts with stated societal values, they argue. Such research must propose solutions that are not only judicial, the authors maintain, because, as a rule, the law lags behind social values and it is therefore limited as a vehicle for social change. They suggest, alternatively, that one may identify the causes and effects of pornography and design an educational programme to inform the public.

Chapter three of the background research reviews what little information there exists regarding the availability of pornography in Canada.¹² In the area of publications, the authors identify "respectable" publications such as Vogue and Chatelaine as containing advertisements that clearly objectify women. Having refused the catego-

ries of "hard" and "soft" core, the authors note the wide distribution of Playboy and Penthouse magazines as evidence of the availability of pornography. Few sources are available on the size of the pornography industry in Canada, they note. In particular, they say, Statistics Canada does not keep records on this sector of the economy. However, 16 magazines are kept in the National Library that could be considered pornographic. The authors also cite statistics that in Quebec there are 400 legal enterprises based on the commercial exploitation of sex. The revenues of these are comparable with the total sales of sporting goods in the province. The authors also cite Maude Barlow, most notable for her work with the Canadian Coalition on Media Pornography, in noting that 6 of the 10 magazines with the largest distribution in Canada are pornographic.

The authors review what is known about the size of the pornographic industry in the area of films, videos, pay TV, sex shops, telephone sex and clubs. Most of their information is drawn from two studies done of the Québec situation. The authors make several interesting observations that are worth noting. First, although the law in Canada in effect bans the production and distribution of "hard core" material, police, despite surveillance, have no control of either importation or distribution of this material in video form. Secondly, among the shareholders of First Choice Pay TV is the notorious Red Hot Video company. Third, the "king" of sex shops in Québec is an ex-policeman of the M.U.C. force.

This research reports available information about participants in the industry, particularly those women who work in sex clubs. This information is again mainly drawn from two studies, one by a La Presse reporter and the other by a reporter for the Quebec Provincial Police magazine, Magazine de La sûreté du Québec. Some of the findings of this research are:

- 16% of dancers in sex-clubs are underage (ie, under 18 yrs).
- ads for waitresses and secretaries are used to recruit dancers.
- these women make more money being waitress-dancers than being striptease artists but do the work of two women.
- most women enter the business so they will have enough money to live better and later quit the business but many end up having to borrow money to survive.
- tax evasion by this financial sector is estimated to equal \$50 million in Quebec each year.
- most women last only a year and a half in the club circuit before they "burn out".
- a large number of the women in the business were victims of abuse as children.
- most businesses insist on dancers also engaging in prostitution on pain of losing their jobs.
- in two years, 20 "go-go girls" were found dead.
- one dancer in three is also a prostitute.
- of the 1,000 dancers in Montréal, 365 receive welfare and 17 receive unemployment insurance.

Regarding consumers, the authors cite studies done in the U.S. They note that consumers of pornographic material have been found to have more frequent sexual relations than nonconsumers, pointing to a problem with the catharsis hypothesis. A survey of San Francisco consumers found that the typical consumer is white, male, middle-aged, married, educated, well paid in white collar occupations, as the authors put it, "image parfaite du petit bourgeois".¹³ There is a market of both well-to-do and poorer men and the difference in the materials produced for these only differs in "artistic" quality. At Quebec sex clubs, the majority of patrons are male business men aged 35-40 years during the day while labourers age 25-30 make up the majority of the evening crowd. The authors cite studies showing that there are clubs in Québec established to facilitate what is known as "wife-swapping". In 80% of the cases, it is the man who instigates this activity. Québec studies quoted here also show that police are well aware that there is a large market for "under-the-counter" sales of illegal material.

Chapter four of the background research deals with an analysis of pornographic materials.¹⁴ The research they chose to review was selected, the authors state, because it met "certain academic criteria" for example "des précisions quant à la méthode utilisée, des références quant à leur exhaustivité, et aux matériel analysé".¹⁵ Two of the three content analyses of magazines discussed here appeared in Laura Lederer's Take Back the Night: Women on Pornography in the section entitled "Pornography: Who Benefits?".¹⁶ Judith

Bat-Ada's displays the philosophy of Playboy as one that conditions masochism in women, that negates all expression of affection and love and that reduces women to sex objects for male pleasure. Beverly Labelle's study demonstrates that pornography is propaganda for male-supremacist attitudes by comparing the techniques of propaganda with those of pornography.

The third piece of research cited is one done by the Conseil du Statut de la Femme du Québec, the provincial equivalent of the Canadian Advisory Council on the Status of Women. It is an analysis of photos appearing in Playboy, Penthouse, Lui, Hustler and Playgirl from 1979 to 1980. The study concluded that women were shown as pieces of body, were always associated with passivity and submission, were presented as sexual objects and were portrayed as disposable. These images were present in both "hard" and "soft" core materials. Men, on the other hand, were presented as physically whole human beings who were active.

The fourth piece of research cited is a content analysis done by Malamuth and Spinner. Cartoons appearing in Playboy and Penthouse from 1973 to 1977 were analysed. They noticed an increase in violence during this period. In 1977, 10% of the cartoons contained portrayals of sexual violence and the researchers concluded that the message of female subordination communicated and promoted a sexist ideology.

The authors also cite three other studies analysing the content of novels and films: Anne Marie Nardigna, Les Châteaux d'Éros ou les infortunes du sexe des femmes, Paris, Maapéro, 1981; Don Smith, "Sexual Aggression in American Pornography: The Stereotypes of Rape", quoted in Lederer, 1983; and Eysenck and Nias, Sex, Violence and the Media, N.Y., Harper and Row, 1978.

The authors conclude that the research shows that women are portrayed as sexual objects who desire to be sexual objects, ie, to satisfy male desire as their only reason for being. Agreeing with Bat-Ada, they say the discourse of pornography justifies sadism toward women by portraying them as masochists. Pornography, they say, glorifies male fantasy by negating the autonomous desire of women and substituting a universal female stereotype for the identity of individual women. Playboy and Penthouse are showing younger women and articles on bondage have become more frequent, they state. They also note that the Canadian Film Development Corporation funded Videodrome, a film that was controversial because of its scenes of violence against women. Also cited are studies that point to both the trend toward the eroticism of violence and to the sexual exploitation of children.

Chapter five of the background research is a review of the research on the effects of pornography.¹⁷ Two streams of research are identified. On the one hand, there are the studies that conclude that it is inoffensive and/or beneficial and, on the other hand, that

demonstrate the danger of this material or at least that it does have definite effects on people.

The first "scientific" research on pornography was done for the 1970 President's Commission on Obscenity and Pornography by "les scientifiques spécialisés dans l'étude de comportement humain".¹⁸ Their task was to determine what effects pornography had on the American public. The report of this Commission, they say, is still treated as one of the only reliable references regarding the effects of pornography. The Commission concluded that research done by psychiatrists, psychologists, sex educators, social workers, counselors and other workers of this sort revealed that the large majority of groups thought that sexual materials did not have any noticeable influence on either adults or adolescents. The report also stated that "liberated" women found sexually explicit material more agreeable and that such erotic stimulation was beneficial for couples.

The authors follow this with a review of the feminist critiques of the Commission's report and process. The primary source of this critical analysis is two articles (also published in Take Back the Night): Pauline Bart and Margart Jozsa, "Dirty Books, Dirty Films and Dirty Data" and Irene Diamond, "Pornography and Repression: A Reconsideration of Who and What?". Also cited in this critique is Edward Donnerstein, who argued that the conclusion of this Commission was diametrically opposed to that of the 1969 President's Commission on the Causes and Prevention of Violence which concluded that media

violence can induce persons to act aggressively. That is, say the authors, these reports contradicted each other even though both were large research projects set up by the government and both used scientific researchers and methods.

The critiques of the Commission on Obscenity and Violence by those opposed to pornography sparked a new round of research that looked at the possible connection between aggression and pornography.

In particular, the catharsis model that underlay the conclusions of the Commission was largely discredited within the research community and the social-learning theory underlying the research done for the Commission on the causes and prevention of violence became the prevalent research model. Despite this, the authors point out that many of the researchers who worked for the Commission on Obscenity and Pornography subsequently had their work published in a special issue of the academic journal Social Issues (1973, vol. 29, no.3). All research published here concluded that pornography had no effect on the behaviour of individuals, or if it did, that the influence was beneficial.

The authors review the experimental research that blossomed after the Commission's report and ensuing criticism. This research, they say, has provided sufficient data to solidly denounce the Commission's findings and "deboucher sur un debat de plus en plus important de nos jours: celui des consequences pour les femmes et les enfants de la pornographie".¹⁹ Experimental studies examining the

link between aggression and sexual materials began in 1971. In 1974, Jaffee, Malamuth, Feingold and Feshback found that males exposed to "erotica" gave greater shocks and shocks given to females were greater than to males. Donnerstein et al (1975) showed that male subjects exposed to "less erotic" material who were provoked had different reactions depending on when the material was presented. When the material was presented after the subject was angered, aggression was reduced. When the material was presented before, aggression was increased. "More erotic" material augmented the aggressive response regardless of when it was presented.

These early experiments were the basis of theoretical formulations of the effects of "erotic" material on behaviour. The preferred explanation of these findings was that there is a general mechanism for excitation and that, whether innate or learned, sexual and aggressive emotions are intricately related. Baron and Bill (1977) were the first to distinguish the type of content in the materials being used. They found that non-violent sexual material tended to reduce aggressiveness while roughness and impulsiveness depicted in sexual materials tended to increase it.

The authors state that after these initial experiments, research in this field of study, inspired and based on feminist hypothesis, increased. The authors present a detailed description of the experiments that were conducted to examine the relation between pornography and violence against women. These included Donnerstein and Barret

(1978), Donnerstein and Hallam (1978), Donnerstein (1981), and Donnerstein and Berkowitz (1981). The authors of these experiments conclude that pornography is dangerous for several reasons:

1. violence is increasingly present in this material,
2. portraying women enjoying rape justifies the violence used,
3. exploiting the theme of the suffering of a female victim of violence with the aim of sexual excitement may stimulate aggression in men who have weak inhibitions about aggression against women, and
4. the presence of explicit violence may augment individual violence.

Other research is surveyed that examines the link between pornographic material and violence against women, in particular the connection between pornography and the "banalization" of rape. Malamuth, Haber and Feshback (1980), attempting to verify Susan Brownmiller's hypothesis that rape is the extension of normal sexual socialization of men in our society, found some evidence for this. Male subjects who read a violent version of a description of sado-masochism from Penthouse gave more severe sentences to a rapist than those who read a non-violent version. Male subjects who read the violent version perceived the victim's suffering as less and therefore tended to be more sexually excited than the men reading the non-violent version. Women subjects seemed to identify with the victim and her suffering, and they did not underestimate the danger to the woman or the responsibility of the rapist. Fifty percent of

male and female subjects stated their belief that about 50% of men would commit rape if they could get away with it. The researchers conclude that these results show that rape is an extension of "normal" attitudes and practices of socialization. This tendency combined with other factors could provoke rape, they argued.

The background study also summarizes recent research by Malamuth and his associates that is concerned with the relation between sexual violence in the media and its effects on the adult population. This summary shows the following:

1. sexual violence in the mass media stimulates rape fantasies
2. representations of sexual violence in pornography cause an increase in shocks administered to women when compared with a neutral or aggressive stimulus.
3. sexual violence in the mass media reduces the perception of the degree of harm suffered by the victim of rape.
4. sexual excitation after viewing violent pornographic materials is connected with favourable attitudes toward rape and a tendency to say one might commit rape, while sexual excitation provoked by non-violent sexual materials is not.

The authors conclude that the accumulated research shows that when the victim in these experiments is a woman and the material is legally available pornography, it isn't necessary to provoke subjects to greater aggression, it's only necessary to put them in the presence of a woman. They state that research confirms what women

have been saying, that rape is legitimized and normalized by pornographic material for a large part of the population. However, they note that results of these laboratory experiments can't be generalized to the public at large according to the laws of science. The research only provides an indicator about rather than a mirror of society. Therefore, they state, it is necessary to find another way to collect facts that will be significant. The authors put forward their belief that "qu'une fois encore les recherches féministes peuvent nous indiquer la marche à suivre".²⁰

To that end, the authors review what a number of feminists have written about pornography. The ideas reviewed suggest a general direction for research that is based on the recognition that what women say about their experience of pornography as violent and full of hate is legitimate knowledge. Feminist writers are also cited as suggesting that if researchers want to know what men who behave violently toward women read, they should ask the battered women, men convicted of sexual offences against women, and police who intervene in cases of sexual violence against women. Quoting Anne Jones they ask, "What gives these people -- experienced police and victims -- less authority than social scientists?"²¹ They conclude that it is possible to discover the effects of pornography. "Il suffit d'aller interroger des individus qui en font partie leur vécu est la réalité, et c'est la réalité que nous voulons découvrir."²²

Chapter six of the background research deals with therapeutic uses of pornography.²³ The authors note that pornography entered the therapeutic domain under cover of its rationalization as erotica. This definition favoured its use as educational or therapeutic in the sense of unblocking sexual inhibition. The authors dispute this conceptualization on feminist grounds:

Le consequence ultime de son emploi demeure néanmoins le renforcement d'une conception sexiste de la sexualité et plus particulièrement la légitimation de la domination et de la violence dans les rapports sexuels.²⁴

The authors stress that on the level of science, catharsis theory, persistent but controversial, serves to justify the use of violent pornographic materials with certain individuals. This theory asserts that sexuality and aggression are innate tendencies and their expression must be made possible in socially acceptable ways given that these impulses are difficult to control. Pornography is used as an "outlet" for these dangerous tendencies in Canadian penitentiaries, among other places. However, the authors point out that no research has been done to support the validity of this usage.

The background research also reviews and critiques public opinion surveys regarding pornography.²⁵ Opinion polls define nudity as obscene and questions ask for respondents to make moral judgments, they say. Censorship and freedom of expression are constantly confused, the authors state; questions imply that pornography will be resolved by censorship. The authors' review of articles in the print media and broadcasts in January and February 1983 also show that a confusion exists between erotica and pornography as it is defined

here. In addition, legislation and censorship are the topics that take up the most space.

The authors also review the activities of pressure groups on the issue of pornography. Feminists who were already concerned with violence against women made a link between it and the use of pornography. The authors attribute militant actions to frustration and to being ignored. These feelings were exacerbated by the proliferation of pornographic bars, pornography on Pay TV and so on, which also contributed to the formation of new feminist groups opposed to pornography, they say. Feminists have produced a profound critique of the social, political and economic foundations of the distortion and mutilation of women's bodies. Among the feminist groups whose activities are reviewed here are the Canadian Coalition on Media Pornography, People Against Pornography and le Collectif Masculin Contre le sexisme. Pressure groups who are pro-pornography, the authors tells us, are only a pressure group when their interests are threatened. This sector consists of primarily professional associations who distribute, or use explicit material. Included in this are the Association of Periodical Distributors of Canada and the Canadian Association of University Teachers.

Chapter 8 of the background research deals with legislation and censorship.²⁶ The analysis in this section is quite different from the rest of the background research. Rather than reviewing the current legal situation in Canada, the authors try to formulate a

legal "problematic" that will serve to orient future studies. The authors note that in attempts at law reform, objectives are often presented as indisputable and reasons for reform rest on moral arguments. They claim that this is a real danger with pornography because this "social phenomenon" is perceived in different ways based on different morals, standards and ideas. They say that the problem is presented in terms of black and white while legislators will have problems enacting reform on an area that is rapidly evolving. If the law has as its goal bringing stability and security into social relations, then it is difficult to adapt it to a changing phenomenon, the authors tell us. By basing legal reform on moral or religious values, the legislator leaves himself open to being poorly understood and to having his reform lose its force and efficacy, they tell us. Thus their problematic will reflect a "certain prudence" and they will start with "objective facts" to determine "important problems" with a view to suggesting modifications to the current law.

The authors of this section of the report say that the different constructions that can be made of the "real situation" can be grouped in three categories: 1. legal phenomena, 2. economic and commercial aspects, and 3. social and political values of Canadian society. These categories correspond to three "actors" 1) parliament and governmental authorities, 2) pornography business and 3) "the public". The "objective" aspects are set out by category in this review.

Legal phenomena are identified as consisting of the internal contradictions in the Criminal Code and the involvement of several governmental levels in the regulation of "obscene" materials. In their discussion of the pornography industry the authors focus on the nature and availability of pornography. They maintain that different varieties of pornography cater to different groups in society and that each "category" - eg, depictions of nude women, women's genitals, copulation, homosexuality -- represents a closed universe with its own sexual rules. Thus, authors argue that pornography must be classified and rationalized to facilitate legal intervention. Regarding the pornography industry, the authors suggest that distribution of materials needs to be studied to see whether it restricts access to a particular clientele or whether it favours mass consumption. The third category, "Canadian social values", compares the struggle over pornography with the abortion issue. Splits in public opinion, the authors tell us, do not facilitate efforts at law reform because they are based "trop exclusivement sur des considerations sociales".²⁷ The authors suggest that rather than systematically researching public opinion, the focus should be on whether the commonly held values of Canadian society and the practices of pornography are compatible. Given that the Canadian government has many policies in place whose objective is to improve the status of women, the arguments made for these policies could be looked at to see whether they conflicted with current practices in pornography that negate or minimize their effect. In addition the authors suggest that other policies that attempt to promote individual

justice and equality could be shown to be menaced by the values that underlie the pornography industry.

In summary, the authors suggest two approaches to legislating pornography: First, they argue for a specialized intervention. Secondly, they say that the Charter of Rights and Freedoms offers a basis for legislation because its liberal and individualistic character enshrines the dignity of the human person and the inalienability of his rights. Equality between the sexes is a principle whose goal is to promote a more just situation for women, they argue.

The legal problematic posed by the authors rests on two ideas: the first is that governmental authorities must realize that their freedom to understand and act on this matter is limited by past legal and political choices, choices that reinforce a restrictive approach to pornography. Secondly, they stress that control will not be effective unless the standards adopted are precise and exhaustive enough to describe the "complex phenomenon" of pornography. The "rules of the game" must be clearly defined and the work of police and legal authorities must be facilitated.

The authors of the background paper proposed that the research to be done on pornography fulfill three criteria.²⁸ First, it should contribute to an understanding of the effect of the commercialization of sexuality on Canadians. Secondly, it should ascertain whether the message of pornography favours behaviour conforming to or conflicting

with cultural values." Finally, it should propose solutions that are not exclusively legal. The following is a summary of the research directions the background researchers proposed.

1. Research on the size of the pornography industry in Canada ²⁹

The authors propose a research plan based on asking questions of those people and organizations who have first hand knowledge of the size of the industry or who have made it their business to find out.

- Statistics Canada should do a comprehensive survey in at least 6 Canadian cities of Canadian and other distributors of periodicals and films and proprietors of sex shops, clubs and cinemas. They should also survey provincial organizations, including statistics bureaus, liquor and censor boards, and status of women councils
- a public survey should ascertain who consumes pornography in Canada
- the pornographic industry in Toronto and Montreal should be investigated
- police forces should be surveyed
- agencies handling nude dancers, actors and comedians should be surveyed

2. Research on the nature of pornography ³⁰

The authors propose that a retrospective content analysis of pornographic materials be done that focuses on the transforma-

tion in ideas of permissiveness as well as changing images of men, women and children, sexuality, family and the feminist movement. Violence should be the cornerstone for this analysis.

- magazines: four American and three Canadian magazines, including Penthouse and Playboy, should be analyzed over a 10 year period. Three key years should provide a focus: 1973 - the start of feminist anti-pornography activity, 1978 - the start of public debate about pornography, and 1983 - the current situation. Analysis should focus on women presented as parts of the body of as a consumer item. Key words used for textual analysis should include bondage, rape, discipline, etc. Arguments used to legitimate (or not) certain expressions of sexuality should be analysed and compared with results on the effects of pornography. Letters to the editors of these magazines and the responses to them should be analysed.

- films: an analysis of the content of films currently available should be done over a one-month period in major Canadian cities. The focus here should be on the roles of men and women.

3. Research on the effects of pornography³¹

In general, the authors propose research on the effects of pornography that focuses on the experiences of people who have been affected by it or who have direct knowledge of its effects because of their occupations. The authors see this research as an alternative to the experimental studies whose essential

advantage is its basis in experience of people in the Canadian context.

- observers

- police - Research should determine if pornography is found on the site of rapes, batterings, and sexual assault, what the municipal policy regarding pornography is, what the industry is like and what the sexual crime rate is in their area.
- social workers - Research should determine if pornography is found in the homes of men who batter, if it is a factor in the situation, what social workers know about the effects of pornography.
- workers in women's centres and transition houses - These are some of the women who originally raised concern about pornography. Research should document these women's concerns because they are based on their experience of working with women who are victims of violence.
- men's groups - These are made up of men who formerly used pornography. Research should document what they know about the effects of pornography on their ideas and behaviour.

- instigators

- men who batter - Research should document whether or not pornography was involved in their violent behaviour.
- rapists - Research should investigate why these men rape,

what gave them the idea and what they think will be the effect on their victims.

- sexual offenders - These should be distinguished by the type of crime they commit. Research should discover whether the portrayal of incest, pedophilia and exhibitionism as "normal" encouraged them to commit their crimes.

- the victims

- battered women and raped women - Research should document what part pornography had in the violence against these women in their experience.
- potential victims - since women are never free from violence or the threat of it, research must take seriously what women say.
- A Canada-wide survey should determine whether women are personally affected by pornography, whether their partners use it, whether this use affected his behaviour and what was the most shocking example of this. Women in the Ottawa-Hull area should be surveyed to find out whether pornography affects their self-perception and what effects it has on their behaviour and experience. For these surveys, pornography must be clearly defined.

4. Research on the therapeutic use of pornography³²

The authors propose that a questionnaire be sent to sexologists, psychotherapists, psychiatrists, criminologists and marriage

counsellors via professional journals or women's organizations to determine the extent of and the effects of the use of pornography in therapy. The research should ascertain the characteristics of the users and respondents, their view of erotica and pornography, materials used and the justification for using it.

5. Research on public opinion about pornography³³

A public opinion survey should be done that defines pornography as the objectification of men, women and children. An information session should be held before the questionnaire is administered to explain this definition. The questionnaire should focus on the effects of pornography on violence against men, women and children.

6. Research on the treatment of pornography in the media³⁴

Research should investigate how the problem of pornography is presented to Canadians, how long it has been an issue, what arguments are used, censored and developed, what forms of presentation are privileged and whether all groups and opinions are represented. Specifically, it should be determined if the media debate focuses only around legislation and whether or not the confusion between erotica and pornography is demystified. Newspapers rather than radio or TV should be the focus of the research and these should be studied for the 1982 to 1983 period.

7. Research on the pressure groups involved in the pornography debate ³⁵

A detailed analysis of all the pressure groups in the debate should be done, including those who see pornography as a danger to women and those who argue for freedom of expression. An analysis of the feminist press in Canada should be done and groups could be surveyed via questionnaires. This analysis would allow a comparison between the arguments of these groups and those in the mass print media. The arguments of groups opposing changes in the law should also be analysed.

8. Research on legal aspects of the regulation of pornography ³⁶

The authors proposed several legal research projects. First, in order to determine whether a national or regional approach to legislating pornography would be better, studies of the German, Scandinavian and American legislation should be undertaken. While regional approaches might be implemented, the authors say a national standard is still possible. Secondly, research must demonstrate that prohibition of pornographic material would produce real progress. For example, affecting distribution could affect the quality of materials produced which could, in turn, discourage buyers. A study of clandestine materials should be done to verify this. Finally, researchers should study various government reports and policies for the arguments used to improve the status of women. This will enable us to see

whether these ideas are in conflict with those of pornographic material.

Discussion

The background research report was never translated into English nor was it published by the government as was other research commissioned by the Department of Justice for the Committee. In fact, Justice did not allow the members of the Fraser Committee see it.³⁷ In addition, the Department commissioned another literature review of the "impact" of pornography, which came to very different conclusions, and published it instead.³⁸ The decision of the Justice Department officials not to publish the background research and to commission another study of the impact of pornography led to my interest in the former report. What was it about Poulin and Coderre's work that precipitated the officials' action? Clues to the reasons for the suppression of this background research can be found in the report itself.

This paper offers a fundamental challenge to traditional social science on three levels: theory, methodology and experimental findings. The paper is not simply "about" pornography, ie, what its content is like, what its effects are as documented in scientific journals, and so on. The authors make a strong case that knowledge and understandings of pornography, if they are to be meaningful, must be grounded in women's experience. "Who knows?" is the central

question of most of this document and one which the authors explicitly state. The resounding response is "women know!", women who have participated in the pornography industry, women who have been assaulted by their male partners in ways that mirror pornography, and women who, as the vast majority of front-line workers, work with women who have been sexually harassed or assaulted, battered and raped. The proposal that women's experience of the world is authoritative knowledge is in direct conflict with the "objective" theory and method of science which constructs the production of such knowledge and practice by insisting upon the separation of the knower from what he knows.

The idea that it is women who know about pornography has at its roots a feminist analysis of social organization. This can be seen in the authors' extensive use of feminist sources in the section of their study that establishes the framework of this literature review. The vulnerability of women and children allowing for their exploitation in pornography is seen as the result of the social conditions in which we live. This analysis provides for a review of definitions and the selection of one that recognizes pornography as the presentation of women as sex objects for male pleasure and the expression of a relation of power. They present a materialist analysis of the historically changeable nature of both sexuality and moral values. These phenomena are conceptualized as social constructions not biological givens.

Pornography is shown to be a terrain of struggle whereon different groups -- feminists, those concerned with maintaining the status quo and the pornography industry -- are concerned with establishing a particular conception of it and, in the case of the latter two groups, with maintaining a vested interest. The commercialization of sexuality is not portrayed as a legitimate entertainment business but is characterized as a problem. The "war between the sexes" is attributed not to feminists but to pornographers. These ideas conflict with the social consciousness that pornography is harmless sexual entertainment.

The theoretical foundations of research showing pornography as "beneficial" are undermined by this conceptualization of pornography.

The feminist critique of research based on catharsis theory is taken seriously because of the authors' perception that "sexuality" is a social construction. All experimental research studies of the effects of pornography on behaviour are considered. The evolving concern with the possible connection between pornography and violence against women is especially addressed. These latter studies are based on social learning theory which proposes that behaviour isn't the result of innate tendencies but is learned. Thus, sexual violence can be seen as a social construction, the authors argue. Seeing violence against women as socially organized allows the authors to conceptualize pornography as part of the way that organization is accomplished.

The authors explicitly acknowledge that this conceptualization of society challenges the traditional one based on respect for authority, the importance of the family, self-sacrifice and religious belief. Feminists argue that these have been and still are some of the strongest underpinnings of contemporary male-dominated society. It is male authority, the patriarchal family, women's self-sacrifice and God the Father that are practices involved in the everyday reproduction of women's oppression in this social organization. Thus, the authors present knowledge that fundamentally challenges male power and privilege.

The authors seem to have been well aware that this theoretical perspective and the research founded on it could be problematic for their readers. Throughout this paper they repeatedly justify their use of feminist inspired analysis and research on the grounds that it is science. This, in turn, demonstrates the gendered nature of scientific discourse. It cannot be taken for granted that women's experience and analyses arising from them are "real knowledge". Instead, it is feminists' use of "scientific" methods that gives the authors a way to justify this research as "objective" and therefore legitimate. The fate of this background research report shows that its authors' concern was well grounded.

The contrast between the legal section of this document and the rest of it is further evidence of the fundamental conflict between this feminist and materialist inspired sociological discourse and the

legal discourse. There is no reference in this section to feminist thought or work in legal or legislative areas although such work does exist. In fact, in the discussion of pornography as a "moral issue", the authors seem to be implicitly equating feminist analysis with a moral stance, and as such, not suitable as a basis for legislation. The women's movement's involvement in the issue disappears. It is relegated to an undifferentiated "public" which corresponds to a terrain of struggle over "values".

In the legal section of this report, pornography is completely reconceptualized as if the previous chapters dealing with definitions did not exist.³⁹ It is no longer seen as material that is conceptually whole and based on the exploitation of women and children. Instead, it is characterized as a plethora of different types of material catering to different individual tastes. Thus, the connections women have made between women's oppression and pornography and which the balance of the report reflects to some extent, vanish and new ones are inserted that reflect only legalistic concerns.

The legal discourse provides the authors of the legal section with a means to characterize pornography as a complex and evolving phenomenon completely unrelated to the terrain of struggle conceptualized in the report's initial chapters. The law is taken to be an objective standard for social organization. Previous policies (that is, case law developed by white, privileged, usually male judges) should guide future change, they argue. They are concerned with the

plight of legislators who have to wade through "moral" arguments rather than with the effect of pornography on the lives of women who are in it and who experience abuse because of it. The authors explicitly state that the law works to perpetuate social "stability", that is, the status quo. It is these very social conditions that the women's movement and the previous chapters of this report have identified as problematic for women.

The nature of the legal discourse and the relations it creates and preserves are evidenced in the authors' proposal that legal changes should only be made if the values underlying pornography are found to be contrary to the values enshrined in the Charter and other government "status of women" documents. Thus, a formal notion of equality is invoked. The "evidence" that such equality is infringed upon does not rely on what women feel and say about our experiences of the world but on government documents. Thus, a new law regarding pornography should be developed on existing statements and laws and an ideological circle is formed that keeps women's words out. "Objective" evidence, that is, knowledge about pornography developed by (mostly) men in positions of power who are constituted as having no vested interest in the issue as members of the "neutral" mechanism of the state, must be found to show that pornography is harmful. Women's emotionally informed response to pornography disqualifies what we know from this objective category. It is interesting to note here that the framework chosen by Committee members for their final report turned out to be markedly similar to this legalistic approach,

as I will demonstrate in Chapter Six.

The background research report itself (with the exception of the legal section) implicitly and explicitly critiques this legal approach. The fundamental challenge is made from feminist-inspired research results. These studies demonstrate that the state is implicated in the maintenance of women's oppression in various ways. The state, through its human agents, does not enforce existing laws on obscenity that explicitly prohibit depictions of sex and cruelty. It does not offer women protection from male violence. It is even involved in subsidizing depictions of violence against women through film development allocations. This evidence leads the authors to state that action on pornography should not be exclusively legal because they would not solve the problem of pornography.

This research report demonstrates that beginning research from the standpoint of women produces results that offer a significant challenge to the status quo of male dominance. This research shows that the very group of men from which "expert practitioners" of the state are drawn are also those who use pornography, ie, white, married, middle-class and educated. This research also uncovers the connections that exist between so-called "non-respectable pornographers" and leaders in business and the community, ie, owners of Pay TV and policemen. They are the same men. Research findings cited here demonstrate how women's economic oppression leads them into situations where being participants in the exploitation of their

bodies for profit may seem to be the only way to earn an adequate living for themselves and their children. This research shows that women are coerced into selling their bodies to keep their jobs as dancers. It demonstrates that women who have already been subjected to male sexual abuse or who are young and therefore far less powerful than adult males are the ones who are abused again by pornographers. That a significant number of these women are murdered each year demonstrates the fundamental disregard for and hatred of women that permeates this social organization.

Finally, the background research report uncovers how difficult it is to insert feminist understandings into documents that constitute authoritative understandings of the world. Despite feminists' thorough-going critiques of the research done for the 1970 President's Commission, a reputable, referenced "scientific" journal reprinted these studies without comment. Such journals and their editorial boards act as the gatekeepers of authoritative knowledge. What they choose to publish also provides rewards to the authors in terms of increased chances of academic appointments and promotions. When male-stream understandings based on so-called objective research methods are published and feminist-inspired research is not, this does not only suppress women's experience. It also provides for a social consciousness that hides the power dynamics in society and it provides for material conditions in which only those using approved concepts and methods will rise to positions of power in the ideological apparatus and elsewhere.

Of course, the processes for excluding all understandings other than the ruling viewpoint are not perfect, as the very existence of Poulin and Coderre's research demonstrates. Feminist ideas have clearly entered into academia, at least to some extent. This is particularly true in those social science disciplines which already include an analysis of power (albeit marginally) and in which qualitative research methods are considered appropriate for investigating social organization, for example in sociology. Women's studies courses provide a place in academia for feminists to do research that begins from the standpoint of women. This does not necessarily mean that the knowledge such research produces is generally accepted as "scholarly" or "authoritative" but it does mean that there is a "window of opportunity" for academics, and the students whom they supervise, to work on developing knowledge about the social world which reflects women's experiences of it.

On the other hand, the treatment this research report received at the hands of the men in positions of power in the Justice Department shows how difficult it is for women, or for researchers using feminist understandings as a starting point for their work, to insert our understandings into the bureaucratic policy development process. In this case, the Department actively suppressed this knowledge and, thus, the connections feminists made, methods for reflecting women's experience as real knowledge and the research findings that document the necessity for this in order to liberate women.

The authors recommended a plan for research that aims at doing just that. The design they proposed is based on an understanding of feminist analysis and uses methods designed to uncover women's experience. The proposed design validates women's experience as authoritative knowledge by recognizing women who participate in pornography, who deal with abused women, and all of us who are exposed to it as experts on both its nature and effects. The majority of the research projects proposed start from the standpoint of women and, thus, would have provided the women's movement with knowledge that could forward our struggle for liberation. That the Justice Department officials chose to suppress this report and to develop a very different program of research is a significant indication of the threat presented to existing power relations should such knowledge be not only available but also sanctioned as authoritative discourse by writers of government publications.

In conclusion, by adopting the framework outlined in the legal section of this report, the officials in Justice could exclude Poulin and Coderre's understanding of pornography and of the social organization that produces it which begins from and reflects women's experiences. This framework, at the same time, provided them with a way to legitimate their activities as ones which reflected a concern for women's equality. In particular, their reliance on the format notion of rights embodied in the Charter provided for the legitimization of formal legal and "democratic" processes as the means to

achieve equality for women. This allows for "justice" to be seen to be done and "equality" to be seen to be upheld while leaving unquestioned the relation of power which produces and maintains the oppression of women and manifestations of it, in this case, pornography.

FOOTNOTES - Chapter 3

1. Richard Poulin and Cécile Coderre, "La Pornographie", unpublished research commissioned by the Department of Justice, (Ottawa: Août 1983).
2. This and all subsequent information about work process was obtained in a personal interview with Daniel Sansfaçon, Research Criminologist, Department of Justice.
3. Poulin and Coderre, La Pornographie, pp.3-4.
4. Ibid., pp.1-16.
5. Ibid., p.1.
6. Ibid., p.6.
7. Ibid., p.16.
8. Ibid., pp.19-45.
9. Ibid., p.22.
10. Ibid., p.31.
11. Ibid., p.32.
12. Ibid., pp.46-74.
13. Ibid., p.69.
14. Ibid., pp.75-94.
15. Ibid., p.76.
16. Lederer, IBIN, pp.119-184.
17. Poulin and Coderre, La Pornographie, pp.95-141.
18. Ibid., p.95.
19. Ibid., p.107.
20. Ibid., p.128.
21. English quote taken from Anne Jones, "A Little Knowledge" in Lederer, IBIN, p.181.
22. Poulin and Coderre, La Pornographie, p.135.
23. Ibid., pp.142-146.

FOOTNOTES - Chapter 3 (Continued)

24. Ibid., p.143.
25. Ibid., pp.147-192.
26. Ibid., pp.193-206.
27. Ibid., p.197.
28. Ibid., pp.41-42.
29. Ibid., pp.72-74.
30. Ibid., pp.88-95.
31. Ibid., pp.134-141.
32. Ibid., pp.144-146.
33. Ibid., p.176.
34. Ibid., pp.182,186.
35. Ibid., pp.191-192.
36. Ibid., pp.203-206.
37. Personal correspondence received from Susan Clark (Feb.18, 1987). (Ms. Clark was a member of the Special Committee and she had primary responsibility for empirical research.
38. Canada, Department of Justice, The Impact of Pornography: An Analysis of Research and Summary of Findings, by H.B. McKay and D.J. Dolff, Working Papers on Pornography and Prostitution, Report No.13 (Ottawa: 1984).
39. It appears as if this section of the research report was authored by the lawyer on the multidisciplinary research team without consultation with the other team members.

CHAPTER 4
THE ISSUES PAPER

In November 1983, the Fraser Committee published an Issues Paper on pornography and prostitution that was circulated to groups and individuals who were thought to be interested in submitting a presentation to the Committee as well as to those requesting a copy.¹ The Chairman of the Committee, Paul Fraser, "had a lot to do with the Issues Paper because the other members of the Committee were not familiar with each other".² The Committee was provided with legal analyses by the Department of Justice and the Issues Paper "resulted from a process of cross-fertilization" that included meetings between Fraser and the Minister and Deputy Minister of Justice. The institutional location of the Committee thus enabled Justice and its Minister to have direct input into the formulation of this document. It also established the legal discourse as the source of an interpretive schema that the authors could use to "make sense" of pornography. These authors, who were largely appointed as members of the Fraser Committee because they were expert practitioners of the legal discourse, could be counted on to put the ideas of the legal discourse into practice as they fulfilled their mandate.

The following description of the contents of this document reveals that, although according to its authors the purpose of the Paper was "to raise as many issues and questions as possible", the Paper primarily discusses questions of a legal nature and the "problem of pornography" is constructed on the terrain of the legal discourse. A discussion of the implications of this practice for the

exclusion of knowledge based on women's experience concludes this chapter.

Description of the Issues Paper

Pornography and prostitution are linked in the Issues Paper by virtue of their being "possible areas for law reform".³ The commonalities between the two phenomena are exclusively legal according to this discussion paper. The commonalities cited are 1) the implications of the federal/provincial split in jurisdiction, 2) the implications of the rights entrenched in the Charter of Rights and Freedoms, 3) the extent to which the law should enforce morality (cited as a "particularly important concern" to the Committee), and 4) the "proper role" of the Criminal Code.⁴ "Concern for the well-being of children" is called "an important common element" for the Committee to consider and the authors ask "whether there should be special legislation to protect children from pornography and prostitution."⁵

The authors of the Issues Paper claim that they do not define pornography since "no one has yet come up with a definition that has satisfied everyone". The problem as they see it is:

that people have different conceptions of offensiveness and harm. Whether or not certain material is offensive is clearly a personal and subjective assessment. It is a reflection of individual experiences, the thinking of common interest groups, as well as moral and religious values.⁶

They do acknowledge that while "many people" take pornography to be "associated only with sex", "many other people understand the term pornography to include violence".⁷ In the section of the Paper called "The Facts" about pornography, the authors tell us that it has existed throughout civilization", that a "wider variety" is available now than ever before, that violence is becoming increasingly common, that "businesses catering to the general public" are entering the business and that general release film, magazines and books have become "increasingly candid in their treatment of sexual subjects".⁸

"Pornographic materials have become more generally available in spite of a variety of laws regulating and prohibiting the production and dissemination of these materials", the authors tell us, in the section entitled "The Law".⁹ The Criminal Code provisions refer to such material as "obscene", "indecent", "immoral", or "scurrilous", they say. "Obscene" is defined in the Code (Section 159(8)) as "any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely, crime, horror, cruelty and violence". The other terms are left for the courts to define. In determining the "dominant characteristic" or whether "exploitation" is "undue", the material is considered as a whole and a national "community standard" of tolerance, a "general average" of thinking, is applied. This section also includes a brief discussion of other legal provisions including the Customs Tariff Act which empowers the Crown to destroy goods of an "immoral or indecent character", the Broadcasting Act

which prohibits obscene broadcasts, provincial legislation providing for the classification and/or censorship of films and municipal legislation enabling the regulation of pornographic businesses. Major criticisms of these laws have been made, the authors say. These are that the laws are vague and arbitrary, that they are targeted at sexual rather than degrading representations and that, for violence to be considered obscene, it must be combined with sex.

The problem of multiple conceptualizations of pornography is dealt with by the authors by presenting a particular definition of offensiveness, "harm". The concept of harm, they say, seems to present "a more objective standard" for determining whether pornography is offensive.¹⁰ While harm may be construed as anything morally wrong, the authors introduce here the classical liberal formulation epitomized by the writings of John Stuart Mill. "This view...limits harm to those actions which are demonstrably injurious to the rights and interests of others".¹¹ This definition, the authors claim, is generally independent of the prevailing morality of society. Yet they also say that the definition of morality is a question of the extent to which the law should enforce it.¹² Advocates of morality defined as sexual purity want to use the law to impose a particular code of sexual behaviour. Morality defined as including moral values such as non-violence, truthfulness, personal dignity and equality, on the other hand, will make society a place which better serves human needs. In the latter case, the authors argue, it is appropriate for the law to enforce morality. "Even when

the law is concerned only with prohibiting behaviour which causes direct harm to others, the distinction between "direct" and "indirect" harm is always a moral determination, they state.¹³

The effects of pornography must be construed as objectively harmful in order to fit into the Criminal Code. The authors quote from the Department of Justice document which lays out the purpose of the Code.

The purpose of the criminal law is to contribute to the maintenance of a just, peaceful and safe society through the establishment of a system of prohibitions, sanctions and procedures to deal fairly and appropriately with culpable conduct that causes or threatens serious harm to individuals or society.¹⁴ (emphasis in original)

The authors categorize harm under two headings in terms of who allegedly suffers it: 1. harm to society and 2. harm to participants and consumers.¹⁵ Harm to society, they say, can arise in three ways. First, it may lead directly to an increase in sexual offenses. Secondly, it may diminish the dignity and status of women. Finally, over the long run, it may undermine values thought to be essential to society and thus lead to the disintegration of that society.

The first harmful effect on society is that pornography may lead to "criminal" or "anti-social" behaviour either by "sexual arousal through exposure to pornography which cannot be satiated by normal sexual activity" creating "an aggressive state of mind which can be translated into overt aggressive behaviour" or by "individuals who have been sexually aroused by pornography" seeking "to satisfy

themselves by emulating the sexual behaviour they have been studying".¹⁶ The authors review the types of evidence claimed to demonstrate that pornography has this effect. They conclude that "anecdotal", experimental and statistical evidence does not support a direct link between pornography and "criminal" or "anti-social" behaviour.

Regarding the second harm to society, the "dignity" and "status of women" may be undermined as pornography generally undermines "social values". The authors say the "greatest concern" here is "pornography which contains explicit scenes of sadism in which the violence is condoned or the victim is seen to enjoy his or her pain or suffering", which may create an environment where "violence is seen as a legitimate means of achieving ends or expressing feelings" or may desensitize "people" to violence and erode "our collective resolve to oppose violent behaviour".¹⁷ The authors say that another expressed concern is that pornography is openly hostile to women and that women are often portrayed as enjoying that violence. They say that an analogy is made between pornography viewed in this way and hate literature as defined in the Criminal Code Section 281.2.

The third harm to society, the long term effects on social values, is discussed in terms of its potential to create "an obsession with sexuality which may result in a decreased interest in other pursuits" or to "encourage deviant behaviour either by triggering latent predispositions or by actually creating a taste for deviant

sex".¹⁸ The authors also cite concern that "the portrayal of impersonal sexual relations...will undermine the normal development of intimate and private relationships".¹⁹

In this section of the Paper, the authors include arguments that pornography "performs a number of socially desirable functions".²⁰ It may provide an outlet for "those with potentially aggressive sexual tendencies", they say. They also say that it may "encourage healthier sexual relations" by bringing sex out into the open.

Other societal "harms" discussed in this section include the effect of pornography on neighbourhoods.²¹ The authors focus on the effect of pornography merchandizers on other businesses and on children in residential areas. In addition, concern about the way these might attract "people engaged in undesirable activities" producing an increase in crime and destroying the desirability of a neighbourhood is cited.

The second category of harm discussed is that to participants and consumers. Regarding participants, the authors say that an important question is "the extent to which the work of those involved in the production of pornography is performed under duress".²² The emphasis here is on both loss of personal freedom and dignity and on physical harm. The participation of children is a major concern. The focus here is on the child's inability to consent to such participation as well as the physical and psychological effects of

such an experience. Generally, the authors raise concerns about the possibility of increased risk of venereal disease, the possibility that participation may affect "mental health", and the possible difficulty participants may have in forming relationships "due to distorted and anti-social values" developed through this experience.

"Individual consumers" may suffer harm, state the authors. "Constant exposure to pornography, it is said, may instill a warped view of humankind". Also regarding children, they cite arguments that pornography may "stunt the growth of socially desirable attitudes and habits".²³ While it is clear that many people find pornography offensive, say the authors, it is when an individual is unwillingly exposed to such material rather than when "he" is willingly exposed to it, that is of greater concern.

The authors then focus their attention on "devising the appropriate responses to pornography".²⁴ The factors discussed by the authors concern the use of the law and, in particular, the Criminal Code to deal with pornography. These factors are delineated as follows: 1. the risk to fundamental rights and liberties, 2. the extent to which the law should enforce morality (discussed previously), 3. limitations of the criminal law as a social control mechanism, and 4. whether the control of pornography is a national or local question.

The authors identify personal liberty and freedom of thought, belief, opinion and expression as well as freedom of the press as fundamental rights established in the Charter of Rights and Freedoms, other statutes and case law. They tell us that "personal liberty exists when the State defers to the individual on matters concerning personal well-being and self-interest".²⁵ They say that "the State must demonstrate a significant need before infringing upon personal liberty characterized here as "private interests". Citing the fact that people may indulge in harmful pursuits, such as smoking, for pleasure, the authors question whether pornography doesn't have a similar character. The "harm" of pornography must therefore be weighed against the "harm" of curtailing individual freedom.

"It is often argued that pornography is not true expression because it does not convey an idea or information", the authors say.²⁶ They cite counter arguments that 1) if it did not convey an idea it would not possess the power to shock and offend, 2) if it doesn't convey a rational idea it is still a form of expression and 3) freedom of expression is also concerned with communication of emotions. They ask the reader to decide which of these arguments is best. Freedom of expression is not absolute, the authors say, but they question "whether it is appropriate to further restrict (this right) by prohibiting pornography".²⁷

Regarding limitations of the law, the authors say that legal controls may produce greater harms than pornography. "Pragmatic

considerations" include the potentially increased demand for the banned product, the fact that unless there is a strong consensus to legislate that the law will be ineffective, the social and economic cost of law enforcement, and the potential of the proposed law to interfere with the privacy, security, rights and freedoms of innocent citizens.

The options for action on pornography are posed in a legal framework.²⁸ These are criminalization, legalization, and decriminalization. Criminalization could include a ban on "sexual representations" found to be "inherently harmful in all circumstances". "If materials depicting actual physical harm or sexual behaviour with minors are found to pose a serious threat to models" these could be prohibited. "Similarly, the explicit representation of certain sexual acts may be found inherently harmful and be prohibited", they say.²⁹ Other materials found to be harmful only in particular contexts could be prohibited only in those contexts. The authors ask whether those "individuals" who are most sensitive and vulnerable who are likely to be exposed should be protected or whether a test based on the hypothetical "reasonable person" should determine offensiveness. Finally, they say, it is not clear what constitutes "public dissemination" and they give an overview of the debate on the use of prior restraint.

Legalization would involve the use of regulation of the sale and distribution of pornography through a system of zoning and licensing.

Such a scheme could prevent a concentration of pornography vendors or exclude them from residential neighbourhoods, the authors say. Decriminalization would be appropriate if it were found that some material containing sexual representations was not harmful. The authors give as an example "material produced for private consumption". This approach would allow for self-regulation, they maintain.

The Issues Paper asks that public submissions address the following general questions concerning pornography: who participates in pornography and why, who uses pornography, why they consume it and how it affects them, what the dimensions of the Canadian industry are and who is involved in it? Other questions raised in the Paper specifically address the themes and debates raised by the authors and described above. The authors conclude the Paper by noting that there are undoubtedly other questions and choices to be considered since both pornography and prostitution have "concerned and confounded thoughtful persons for centuries".³⁰

Discussion

The effects of the institutional location of the Fraser Committee are clearly evidenced in this Issues Paper. That its authors, Paul Fraser and officials in the Department of Justice are "expert practitioners" of the legal discourse can also be seen. One would not know from reading this Issues Paper that the women's movement had been involved in the struggle over pornography, much less the force

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which occasioned the social reassessment of it in the form of the Fraser Committee. The Issues Paper contains an understanding of pornography that is firmly grounded in the legal discourse and which intends a legal solution. In particular, the definition of pornography the authors choose, the criteria for determining whether or not it is a "problem", the evidence they require to support such a view and the proposed solutions are all framed within the classical liberal concept of the role of the law and the state in society. This view is epitomized by John Stuart Mill, on whose work the authors rely. This construction silences both the understandings and the actions of the women's movement.

At the outset, the connection made between prostitution and pornography by the movement, that they are both manifestations of male dominance, is replaced by the connection provided by the legal discourse. These phenomena are both targets for law reform because they are already included as offences under the Criminal Code. This permits the authors to treat these phenomena as objects of study rather than as symptoms of a far more serious and fundamental problem, women's oppression. This basic decontextualization, provided by legal discourse, attempts to pull the analytical rug out from under a large proportion of the women's movement who take the latter view and who would argue for a variety of non-legal solutions which would address the economic, social and political roots of the oppression of women that enable pornography and prostitution to exist as phenomena.

The process of erasing the connection women make between pornography and women's oppression begins with the authors' claim that it is impossible to define pornography. They do not review feminists' attempts to do so and characterize all explanations of the "offensiveness" of pornography, whether developed by individuals or "common interest groups", as "personal" and "subjective". They do say that "many people" associate pornography with sex while others include violence in a definition. This statement does not identify who these people are and it trivializes and misrepresents what women have said about our experiences of pornography. It also epitomizes the way in which the "objective" stance taken by the authors, that is, their supposed separation from what they know, completely devalues women's experience and the knowledge based on it. Anything which they can't see (and, in this case, won't consider) is not authoritative knowledge and won't be entered into the development of a definition of pornography. This practice constitutes an example of the ideological circle. The men who authored this Paper did not attend to what women had been saying or writing about pornography for the previous decade. The Justice Department tried to ensure that the Committee members wouldn't be brought up to date on this literature by withholding the background research report.

In fact, by rejecting or ignoring the feminist discourse on pornography, the authors did choose a definition of pornography. Throughout the Issues Paper they refer to it as if it were about "sex"

and as if this were a natural phenomenon unchanged through history. "The facts" the authors have chosen to represent pornography exemplify their choice. They say that pornography has existed throughout "civilization"; its nature hasn't fundamentally changed, there is simply a "wider variety" available; and film and other materials have become more open about "sexual subjects". Remaining unquestioned and unexamined is the nature of a social organization of which pornography would be a part and, in particular, which would account for the "fact" that "violence...is becoming increasingly common" in this material. Further evidence of the authors' approach to pornography exists in the discussion of the "benefits" of it. In order to consider these, the authors must accept the premises of catharsis theory and view pornography as naturalistic representations of sex. Even when they discuss the possibility that pornography and violence may be linked, it is sexual arousal that translates into aggressive behaviour, they theorize. Ignoring what women have said about pornography and the power relations that spawns it enables the authors to put forward the idea that pornography may "encourage healthier sexual relations". Clearly, material which we feel degrades us would not produce such a result for women.

In order to define pornography, then, without seeming to have a "subjective" interest in how it is defined, the authors refer to the authoritative objectified knowledge embodied in the legal discourse. This discourse, like that of traditional social science, is reliant on the notion that there can be a position in society from which an

"objective" view can be taken. The position of anyone practicing the legal discourse is constituted as "objective" and this constructs the reverse, that a person holding any other view is being "subjective", and, therefore, unreliable. The discourse allows the authors to speak as if they had no interest in the outcome of the debate on pornography, as if they were somehow outside it.

The legal discourse provides the authors with interpretive schema which remove the connections women make and that decontextualize pornography from the social relation of which it is an instance. The two interpretive schema they use to produce "the particulars" of pornography, a de facto definition, arise in legal texts and intend a legal solution. First, the authors take J.S. Mill's view that the state should only legally intervene in society when actions are demonstrably injurious to the rights and interests of people. Regarding individual "interests", in order for material to be considered pornography, it must cause harm that can be "objectively" seen by those people in positions to create a law, in this case, by the members of the Committee as well as by the Department of Justice and politicians who would be charged with drafting legislation after the Committee reported.

The relevancies of the criminal law produce the dichotomy between "direct" and "indirect" harm which further obscures women's connectives. "Direct harm" is that which can be seen objectively by an observer outside the situation. Only "direct harm", constituted

as such by the methodological rules of traditional social science, will be considered as evidence of the need for legal reform. This criterion, then, precludes the testimony of women who have been battered and sexually abused by men in ways that imitate the pornography those men consume. Such evidence would be considered "anecdotal" because it could not be verified by an "independent" observer. Similarly, it would not be sufficient for a woman or even for a women's organization to state that they experience pornography as offensive. Such experience is characterized as "subjective" or "personal" forms of harm. Rather, it must be demonstrated "objectively" that, for example, pornography causes physical harm to the women who participate in it or that there is a direct, causal link between pornography and violence against women which can be proven using "scientific" methods.

This construction of "the particulars" of what constitutes pornography intends the separation of some material, that is, the "demonstrably harmful" type, from the vast quantity of pornography available. Only that portion would be subject to criminal sanctions. This leaves the bulk of representations, identified by women as objectifying and degrading, untouched by the law and unquestioningly accepted as the legitimate production and consumption of "adult entertainment". This interpretive schema based on legal discourse, excludes as evidence of harm the reality of women's experience of pornography. It also excludes women's understanding of the part pornography plays in reproducing a social organization that oppresses us.

The second interpretive schema the authors chose to extract "the particulars" of pornography are contained in a Justice Department document concerning the purpose of the criminal law. This text provides the categories into which "harm" can be said to fall. These are "harm to society" and "harm to individuals" who the authors take to be "participants" and "consumers". This schema presents the participants in and consumers of pornography as if they were somehow separate from and not part of "society".

However, as the background research report demonstrated, men who use pornography and who see no "harm" in it are, demographically, the same ones who are to be found in the institutions where policy on these materials is developed. They are a powerful and active part of society. Similarly, the poor abused women who work in the "sex clubs" of Montreal are not aberrant social outcasts, but are simply representative of what can happen to women in a capitalist society owned and controlled primarily by white males. The use of this schema, then, splits up the social world in a particular way which hides these realities and the way they are intimately connected. Men's ability to control the media and specifically the pornography industry and women's vulnerable economic position are products of this social organization as well as factors that permit its daily reproduction.

The legal discourse provides the authors with an abstract language that removes human agency. The Paper talks about "society"

as if it were an unidentified mass of equal individuals. The phrase "harm to society", while it is to some extent defined, as a general category tends to obscure who is harmed and by whom. In particular, reference to the legal discourse allows the authors to transform depictions of cruelty and violence against women that sicken and frighten us into pornography that may "diminish the dignity and status of women". Depictions of the murder, rape and battering of women could hardly be equated with such abstract notions without reference to an objectified discourse. Similarly, the Issues Paper discusses whether pornography might cause an increase in "sexual offenses" or cause "criminal" behaviour. There is no identification that women are the usual targets of such "offenses" or that men are the perpetrators of them. This use of the legal discourse silences what women experience when faced with representations of violence against women and covers up the fact that, in this society, violence against women committed by men who are in a relation of trust with them is a reality that many women face.

The removal of human agency also occurs because the legal discourse provides the authors with a language that is gender neutral. This language completely obscures the different relation of men and women to pornography. Men identified by the background research as the primary users of pornography, become "consumers" unidentified by sex. "Participants", primarily women according to the background research, are similarly not identified. Throughout the Issues Paper, women and men are referred to consistently as "individuals" or

"people" when the discussion is clearly about one sex or the other. For example, the authors say that "people" may be desensitized to violence by pornography. This is a distortion of reality. Since most of the users are men, they would be the ones affected by it. Clearly, women seeing representations of women being abused and who are already aware that a violent attack by a man is something that may happen to any woman would hardly become inured to such material. Similarly, the "individuals" who may be stimulated to behave in an overtly aggressive manner by pornography would be the men who use it. A last example occurs in the discussion of the "sadism" in pornography that may diminish "the dignity and status of women". The authors refer to "his or her" suffering when discussing the victim. Again this obscures the fact that it is primarily women who are portrayed as the victims in pornography. This non-gendered construction allows the authors to list the latter argument as "another concern". Thus, the central analysis made by the women's movement, that pornography is all about male power, is marginalized.

The objectified language of the legal discourse also removes human agency by erasing the actions of the women's movement against pornography. It does this by failing to identify who it is who hold the opposing viewpoints discussed in this Paper. "Many people" hold the view that pornography involves violence, the authors say, instead of identifying this as one position held by women. Rather than saying feminists have argued that violent pornography is hate literature against women, the authors write that "those" who view

pornography as violent make this analogy. The concerns raised by the women's movement about the effects of pornography and especially of violence in sexually explicit materials are discussed as if they arose from nowhere in particular. In fact, nowhere in this Paper do the authors discuss feminism or feminist activities. Similarly, views that pornography is good for society, and is about sex as a "natural" phenomenon are not associated with the men who have the power to put them forward. This language allows the authors to portray themselves as neutral arbiters of ideas instead of actors involved in resisting the conceptualization of pornography and society put forward by the women's movement.

Thus, referring to the legal discourse allows the political nature of the conflict over pornography to drop out of sight. The law constitutes each member of society as an individual with equal rights and responsibilities. In reality, grave inequalities exist along gender, class and race lines. Taking the position that the law is there to maintain a safe and peaceful society for all individuals negates the reality of the poor, abused women who are exploited in pornography. It silences women's concerns that the law and the way it is enforced (or not) contributes to the insecurity and danger women face from men who harass, rape and batter. It leaves the feminist view that pornography reflects and is an instance of the objectification and exploitation of women without a ground on which to stand.

The connectives of the women's movement are replaced by the connectives provided by the legal discourse. This can be seen particularly clearly in the sections of the Issues Paper dealing with factors to consider when "devising the appropriate response" and in the "options" for responses presented. The factors considered by the authors are all based in the legal discourse. For example, one factor is the right to liberty embodied in the Charter. This right to "individual freedom" might be at risk, the authors say, if pornography were subject to criminal sanctions. The legal discourse provides this conceptualization because it constructs individuals as if rights were inherent in each one. "Personal liberty" exists when the state doesn't interfere with "personal well-being and self-interest", the authors assert, relying on the work of J.S. Mill. This view of the State and "personal liberty" only holds true if rights are conceived of as inherent in individuals and society as a collection of such equal beings.

However, in a capitalist society, rights are not inborn but are granted to people by the state.³¹ Where inequality on gender, race and class lines is the distinguishing feature of the social organization, it is only when laws and other social policies enable people to act on these rights, that is to foster equality, that these rights exist in practice. The fact that pornography is a powerful and lucrative communications industry controlled by men and catering to men means that, in this area of expression as in the media as whole, women have much less "freedom of expression" as a group and much less

"individual freedom" than men. Only policies that foster the ability of women to have more freedom of expression in practice will reduce inequality between men and women.

The legal conceptualization of rights taken up by the authors completely obscures the inequality that exists and permits them to argue that the problem is a conflict between anti-pornography legislation and "freedom of expression". The "harm" of pornography must be balanced with the "harm" of curtailing "freedom of expression", they argue, as if men's and women's interests were equally represented on either side of the scale. Thus, an abstract conflict of rights replaces the political analysis of power relations between women and men put forward by the women's movement. This demonstrates that while the rhetoric of rights and freedoms entrenched in the law may be used in some cases to benefit women, it can also be used, as in this case, as an obstacle to the goals of the women's movement by excluding our understandings from official documents that act as a basis for public debate on legislative change.

The authors not only rely on the legal discourse but choose to emphasize those "rights" that would hinder a move to use the law to support women's positions vis-à-vis pornography. The Charter right to equality and provisions for positive legal measures to achieve this for women are not a part of this discussion. Only the rights to liberty and freedom of expression, which have proven to be the biggest stumbling block to U.S. feminists attempts to legislate

against portrayals of violence against women and the sexual exploitation of women, are emphasized here. Similarly, when discussing the limitations of the law, the authors focus not on the problems of administration and enforcement which have led to the current proliferation of theoretically illegal materials but on alleged "harms" which new legislation might produce. In particular, their concern is that such laws would "interfere with the privacy, security, rights and freedoms of innocent citizens". The concern for innocence harks back to the Justice Department text on the purpose of the criminal law. Only culpable conduct should be sanctioned. If pornography is defined, as these authors have tended to view it, as "normal" sexual entertainment, then it would be impossible to construct the producer or user of such material as "guilty" under the law. Thus, the insertion of an understanding of pornography based on the legal discourse and the exclusion of a feminist definition is essential to the maintenance of men's rights to legally produce and consume pornography.

The legal "solutions" to the problem of pornography suggested by the authors provide the final connectives that replace women's analyses. Criminalization, decriminalization and legalization are all options arising in the legal discourse. Criminalization would mean that only those materials found to be "inherently harmful" using the "objective" methods of social science and the legal criteria for evidence would be banned. This replaces the analysis put forward by the women's movement that all materials from ads that depict women as

sexual objects to portrayals of violence against women are painful and damaging to women and, thus, to society as a whole. The authors' questions about the effects on "individuals" and the context in which materials are seen as well as their concern about which "individuals" should determine offensiveness are all based on the legal discourse which constructs the individual as a legal entity and which contains no group rights. This replaces the understanding of the women's movement that "individual" experience is an instance of political reality and which envisions a struggle for the liberation of women as a group.

The authors' suggestion that "material produced for private consumption" could be decriminalized again asserts a connective of the legal discourse. The "public/private" dichotomy has often been a legal concern when framing legislation and the concern for "privacy" references the principle that "the state doesn't belong in the bedrooms of the nation". The Williams Committee Report on Obscenity issued in 1979 was based on the liberal notion that the law should not interfere in issues of "private morality".³² However, this principle has been applied consistently only to male interests since women and men have not participated equally in these two areas of society. What the authors are defending is men's right to use pornography in the "privacy" of their homes. The public/private split, through laws and social policy based on this understanding of the world, has been shown to be a major contributing factor in the battering of women by their male partners. The stance taken in this

Paper, based on legal discourse, excludes women's experience and understandings of this enforced duality.

In the authors' reliance on the legal discourse and their use of interpretive schema based on it to discover "the particulars" of pornography, we can see the ideological circle as practice. Both characteristic features of this practice are evidenced here. First, the authors have attended only to what men have written about the law. All the writings referred to in this Paper were produced by privileged white men and were based on their experience of the world. Secondly, the authors use methods, based on the legal discourse, which intend the construction of pornography as a legal object. The hallmarks of an idealist construction of history are apparent. First, using the language of the discourse, women as the "material base" of pornography, as the social group most seriously affected by its representations and as the major actors in the struggle to change the social organization that spawns it, disappear. Second, the connections women make between pornography and male power are erased. Finally, the connectives of the legal discourse are inserted and these intend a legal solution that excludes women's understandings and, therefore, will perpetuate a legal approach unlikely to alter the conditions of women's oppression.

By seeing the ways in which the authors' use of legal language and interpretive practice can silence women, we can begin to understand that the "neutrality" and "objectivity" of the legal discourse

and the methods of traditional social science on which it depends actually embody a point of view. This point of view is not simply one of many possible viewpoints, but, by virtue of its use in silencing a whole group in society, women, it can be seen to be a ruling viewpoint. That the issues raised by the women's movement are now evident in at least some social science discourse, as witness the background research report, is evidence of the activity and power of the collective efforts of women. It is also evidence of the tradition in some social sciences, anthropology in particular, of counting as authentic the knowledge of people in the situation being studied. The lack of women's viewpoint in the legal discourse is evidence, on the other hand, of the lack of this tradition in the law and of the power of the legal discourse to exclude "other" points of view.

Since the Issues Paper was meant to elicit public response, couching the proposed questions about and solutions to pornography in legal terms can be seen as intending a particular response from "the public". This framework acts to discourage the presentation of the kinds of analysis the women's movement has put forward about the kind of social organization in which pornography arises. By dealing with only legal concerns, the authors have attempted to limit debate to these questions and, hence, to an understanding of the social world that excludes women's experience and understandings.

FOOTNOTES - Chapter 4

1. Canada, Special Committee on Pornography and Prostitution, Pornography and Prostitution: Issues Paper (Ottawa: 1983). (hereafter cited as Fraser Committee, Issues Paper).
2. This and all other information on the Committee's work process was obtained in an interview with Daniel Sansfaçon, Research Criminologist, Department of Justice.
3. Fraser Committee, Issues Paper.
4. Ibid., pp.6-9.
5. Ibid., p.10.
6. Ibid., p.17.
7. Ibid., p.16.
8. Ibid., p.11.
9. Ibid., p.12.
10. Ibid., p.18.
11. Ibid.
12. Ibid., p.3.
13. Ibid., p.8.
14. Ibid., p.9.
15. Ibid., pp.20-31.
16. Ibid., pp.21-22.
17. Ibid., p.24.
18. Ibid., p.25.
19. Ibid.
20. Ibid., p.26.
21. Ibid., p.27.
22. Ibid., p.28.
23. Ibid., p.31.

FOOTNOTES - Chapter 4 (Continued)

24. Ibid., pp.34-40.
25. Ibid., p.35.
26. Ibid., p.37.
27. Ibid.
28. Ibid., pp.41-46.
29. Ibid., p.42.
30. Ibid., p.77.
31. Paul Hirst, "Law Socialism and Rights" in Radical Issues in Criminology, ed. Pat Carlen and Mike Collison (Oxford: Martin Robertson & Co. Ltd., 1980), p.100.
32. United Kingdom, Report of the Committee on Obscenity and Film Censorship (London: HMSO, 1979).

CHAPTER 5
THE WORKING PAPERS

All this is fact. Fact explains nothing. On the contrary, it is fact that requires explanation.

Marilynne Robinson

Introduction

The Department of Justice commissioned a series of research projects, published as the "Working Papers on Pornography and Prostitution" to inform the Fraser Committee about these two phenomena. This research program was developed at the beginning of the Fraser Committee process along with the Issues Paper. The research was then carried out and the reports were published in the following year, 1984. There are eleven Working Papers that concern pornography. Six of these reports focus almost exclusively on the law and/or its enforcement. The others cover the following topic areas: a review of some social science literature on the impact of pornography, an analysis of coverage of the issue by Canadian newspapers, a public opinion poll on pornography, a content analysis of explicit videos in B.C., and a survey of some Canadian distributors of periodicals and videos. In addition to this research, the Committee had a Director of Legal Research, Robin Elliott of the Faculty of Law of the University of British Columbia. His job was to inform the Committee about current Canadian law in the areas of pornography and prostitution.

This program of research on pornography produced different findings from the unpublished background research and was signifi-

cantly different from the program of research recommended in that original research study. In this chapter, I describe the way this program of research was developed, that is, its social organization, and the implications of this for entering knowledge based on women's experience into the social policy development process. I will describe each Working Paper and analyze the text to discover the social relation of which each is an instance. In the concluding discussion, I compare the recommended plan of research provided by the background research report with the Working Papers to reveal the intended course of social action the latter embodies.

How the research plan was developed

All research was supervised by Daniel Sansfaçon, a research criminologist in the Department of Justice who was officially delegated to co-ordinate the social science research program for the Committee. The research plan was developed by Sansfaçon and Paul Fraser. The rest of the Committee members were not included in the development of the plan, according to Sansfaçon, because the Committee was not yet quite organized at this early stage.² This plan was approved by the Committee subsequently. The Justice Department's concerns and questions were operationalized by Sansfaçon. His practice was informed by the relevancies of both the criminology and the legal discourses. Paul Fraser, as a practicing lawyer, is an "expert practitioner" of the legal discourse. Both men understood what evidence this research would have to provide in order to support

4 legislation on pornography and the law would be their primary concern.

Women and women's knowledge were effectively excluded from the development of this program of research by the routine ways in which this was organized. The women members of the Committee had no role in developing the plan. They were simply asked to approve it after the fact. The literature review and research proposed by Poulin and Coderre which seriously considered women's concerns about pornography and proposed that women be regarded as experts on it was suppressed by Justice so that it played no role in Sansfaçon's and Fraser's decision-making. These men took it upon themselves, as a "normal" privilege attached to their positions, as representative of Justice and as Chairman of the Committee, to develop the research plan alone. Neither of these positions of power was held by a woman. These organized practices led to a program of research which had as its first and foremost concern the relevancies of the legal discourse and, hence, the maintenance of the status quo.

Suppression of the background research report permitted Sansfaçon and Fraser to develop an agenda of research questions based on what they considered to be "the issues". These questions were:

- I. What is known about pornography?
- II. What is known about the incidence and control of pornography?
- III. What is thought about pornography?
- IV. What is the state of the law on pornography?

The first question had already been answered by the background research report. Clearly, this report had not provided an answer that Justice wanted to hear. Therefore, another literature review was commissioned. The rejection of the background research and, thus, of its analysis, demonstrates that this research plan intended a different outcome. Since the findings of Poulin and Coderre's report were based to a large extent on feminist research and analysis, the new plan also intended to exclude feminist responses to this question. This uncovers the ideological nature of this plan. Only certain points of view or kinds of knowledge will be counted as "objective" or authoritative. This is intended in the question that is posed even when this is not an obvious feature of the question itself. In the same way, questions II and III about the incidence, control and public opinion of pornography do not reveal themselves as ideological. The nature of this research as an ideological practice is revealed in how the researchers were chosen, who was chosen, and how the projects were designed and carried out.

Question IV concerning the state of the law was the focus of the work that Robin Elliott as Director of Legal Research did for the Committee itself. He reviewed case and Charter law in Canada and provided detailed analyses of the law in Canada, the United States, and Great Britain. This part of the research program was the only one controlled by the Committee rather than by Justice. This reinforced the effect of the institutional location of the Fraser Committee by providing the members with direct access to the means to

answer only those questions concerning the law. The balance of the research, worth approximately \$600,000 in contracts, was under the control of the Department of Justice. This research program is the focus of the following discussion.

How Researchers were chosen and who was chosen

The researchers were chosen by the Department of Justice through "the usual process". First, three "important" lists of social science researchers were consulted. These were:

1. the Department's own list consisting of 350 names of researchers who have expressed an interest in doing research for Justice as well as those who have done research for the Department previously.
2. York University's list of social science researchers
3. the Department of Supply and Services' list which includes the names of anyone who has done research for the federal government.

As no one had ever done research for Justice on pornography, the York University list was used primarily. The second major way in which researchers were found was through personal contacts the employees at Justice had in academia. In addition, Sansfaçon himself authored two of the research reports concerning pornography. No attempt was made to find women researchers or women who had done research on pornography or had knowledge of this area. According to Sansfaçon, this was because Justice's "only concern was to find

available, competent and interested researchers".

This process of choosing acted to exclude women from the production of authoritative knowledge about pornography. The result of this "usual process" was that only one of the eleven principal researchers was a woman.³ The background research report showed clearly that there are women academics engaged in research on pornography. Half of the authors of that report were women as were many of the researchers whose studies they reviewed. It seems, therefore, that either women have not been included in academic and government lists of researchers or that they were ignored or both. The Justice Department did not consult the extensive list of women researchers compiled by and available through the Canadian Research Institute for the Advancement of Women. Male employees in the Justice Department turned to male colleagues in academia as knowledgeable practitioners in law and social science. Thus, the men who planned this research could be said to have attended only or at least largely to what other men had to say about pornography. This again reveals the ideological circle as a practice that silences women's experience in authoritative understandings.

How the research program was organized

The research program was under the complete control of the Department of Justice once the questions were established. "The most important part" of Daniel Sansfaçon's work was not only to define the

research questions but also to "carry out" this program of research. According to Sansfaçon, "there was no intervention of the Committee on the specific terms of reference of the research or on the researchers themselves". His own role was to have "daily" contact with the researchers throughout the duration of their contracts. Thus, in his position of research criminologist for Justice, he put into practice the relevancies of the criminal law in his decisions about the scope of each project, the methods to be used and the shape of the final report.

The most obvious effect of the organizational control of the research process by Justice was in the number of research projects undertaken in an attempt to answer each of the three questions Justice set out to answer. The majority of published research projects, six, were addressed to the question concerning the legal control of pornography. One study dealt with provincial censorship in Canada, another with United Nations Conventions and Agreements, and four others with the legal systems of control in the United States, Great Britain, other western countries and selected other countries. Of the other published research studies, only one dealt with the question of what was known about pornography, two dealt with the question of incidence and two with the questions about public opinion. Thus, the focus of most of the research designed to inform the Committee about pornography was the law and its enforcement. This focus is further evidence of the intended legal response to pornography. It also limits the potential for entering knowledge

based on women's experience into this policy development process in the same way that the Issues Paper did because it is based on the legal discourse developed by privileged men.

The Department of Justice, through its research criminologist, also controlled the terms of reference for each project, had a say in the methods used and had the final say in the format of the final reports. In fact, Justice could and did decide whether or not the findings of a project would be published. The power to make these decisions had a definite effect on what knowledge the research produced as well as on who had access to it. The following descriptions and discussion of the research reports will illustrate these effects. The studies are discussed under the research questions each was intended to address.

Description of the Research

I. What is known about pornography?

The Department of Justice had already commissioned the background research study to provide an answer to this question. Having rejected its findings, they commissioned another literature review. In addition, an experimental research project designed to examine the possibility of a link between non-violent pornography and male attitudes towards rape was commissioned. Only the literature review was published. The two studies are described and discussed below.

Working Paper No. 13

This research report, entitled The Impact of Pornography: An Analysis of Research and Summary of Findings, was written by H.B. McKay, Professor of Criminal Psychology at the University of Waterloo and D. J. Dolff, a Master's Student in Social Work at the same university.⁴ The stated objective of this study was:

to initiate a search and assessment of the literature published between 1975 and 1984 in sociology, criminology, psychology, social psychology or related fields regarding the impact of pornographic material. A review of this literature was undertaken in order to analyze and develop an authoritative statement on its findings.⁵ (my emphasis)

The authors used a computerized search to identify journal articles about pornography in the psychology, sociology and criminal justice disciplines. This review was augmented by a manual search in Psychological Abstracts. Only literature published in refereed journals which had an "independent review" before publication was considered.

The authors chose a framework for this review that allowed them to separate what they call "experimental/quasi-experimental" and "other" studies. "Experimental/quasi-experimental" studies consist of all the research done in laboratories that attempts to understand the connection between pornography and violent or aggressive attitudes and/or behaviour. The authors review the "other" research under the headings provided by the Issues Paper -- "society", "participants" and "consumers" -- while reserving the "experimental" research for a separate section of this report. While abstracts for all studies

appear in the appendix, only those studies that fall into the "other" category are reviewed in the text.

Under the heading "What is Pornography?", the authors tell us that the journal abstracts they reviewed did not help them to develop a definition of pornography. They say that "the degree of conceptually cloudy thinking related to every aspect of the work on pornography was...atypical". They expected to find "serious work" but instead "were often faced with blatant silliness". The problem, the authors state, was not with their efforts to make sense of this research, but with the research itself. They point out that Thelma McCormack, a sociologist, in her article "Making Sense of the Research on Pornography" had expressed similar concerns about "hidden scenarios" underlying these studies.

McKay and Dolff characterize their chosen framework as one which will help make sense of the "chaotic" state of research on pornography. They say that the issue of pornography may be of concern to the government because its visibility has surpassed the level of societal tolerance, it "has been targeted for special attention by influence groups representing a broad spectrum of political and social orientation" and it has

an apparent simplicity and emotional appeal...(which) provides fertile ground for focussing opinion by promoting associated ideologies which might otherwise be unacceptable to a person's belief system.

While acknowledging that many people may be concerned, it is only feminists who are specifically referred to and they are, by association, characterized as "authoritarian" and "persons...who wish to condemn, reject and punish others who violate ingroup values...".⁷

The authors locate the experimental research and writings on pornography in a "climate of debate". In this "climate", they say

reasoned and informed debate has for many participants become subordinate to stridency, inflexibility and an unyielding proposal and defense for a particular position. Advocates of 'unacceptable' positions are subjected to personal insult not for what they are, but rather for what they represent.

Finally, they say that "there appears to be a general phenomenon of disproportionate concern about pornography although there is an absence of any strong evidence of behavioural consequences".⁹

Anti-pornographers of all stripes, feminist and right-wing groups, are characterized as "fanatics". Although not specifically named, it is clearly the feminist position on pornography that is characterized as one which sees pornography as a deliberate construction of "powerful segments of society" and which

views man as beast, wearing a thin veneer of civilized behaviour, a misogynist despising women, while inventing, producing and distributing pornography for the purpose of exploitation, degradation and further oppression of women.¹⁰

The authors discuss the "confusion" that exists over a definition of pornography. They say that "the accepted convention in any form of legitimate inquiry is to attempt to develop and arrive at a common definition of terms". For example, they say "in science... definitions are essential in developing the hypothetical constructs

necessary for building theory". They conclude a brief review of definitions with reference to McCormack who argues that there is no consensus about what "pornography" means. Different studies use different types of materials adding to the difficulty in interpreting the results of research, they say. They advocate maintaining "a broader perspective in dealing with pornography". In sex, they tell us, "there can be elements of objectification, of dominance, submission, competition, lovelessness and pain."¹¹

Finally, the authors discuss what they call "the language problem". The language of science is characterized as rigorous and precise. Results of research which are inconclusive are taken up by the public, they say, and are "grossly misunderstood, always oversimplified and on occasion deliberately distorted". The work of social scientists is characterized as "deadly dull" due to the forms they must follow while "the ideologue" is characterized as writing material that is "deliberately shocking". However, this dichotomy is complicated by what they characterize as the "scientist-ideologue", i.e., persons trained in the discipline of social science who have at some time become "politicized" toward social issues. These people hide their political views, although "not deliberately", the authors say. They cite one study which shows that "ideologies, other than the ideology of science, are operating to bias the public debate on pornography".

Literature on pornography published after 1970 is quite differ-

ent from previous studies, the authors say. "Stylistic" differences are attributed to "the author(s) enthusiasm for and commitment to a particular position". They accuse the new research of "editorializing under the guise of objective appraisal", of dismissing "data, studies or even vast segments of a body of knowledge because it does not accord with a particular position" and of "questioning the credibility or generalizability of research based on the gender of the researcher(s)". "Even the most experienced investigators are capable of letting their enthusiasm overwhelm critical judgement", they say. But, while researchers "are usually returned to reason quickly by the process of scrutiny by their peers", this process is completely absent in the research on pornography. The authors conclude their preface to the literature review by saying that "what is considered pornographic is related to a complex set of variables, devoid at this time of an integrating framework".

The authors review, without comment or critique, research which shows that pornography either benefits society, participants and consumers, or that it does not cause harm. General assumptions they hold about society include the idea that since pornography is "silly", "adults capable of functioning normally in contemporary society" will have no problem separating this "fantasy" from reality. They quote authors who claim that information about sexual problems which are conveyed through pornography help people "establish sound attitudes toward sexuality". The results of research prepared for the 1970 President's Commission on Obscenity are presented. McCor-

mack's work is cited as evidence that the catharsis theory cannot be discounted. Several authors are cited who "have pointed out that the emphasis placed on the entire issue of pornography is entirely out of proportion to either its known or hypothesized effects".

On the other hand, research and writings showing that pornography may produce harmful effects on society are cited but are not reviewed. The authors give the following reason for their approach. "It would be redundant at this point to reiterate the specific arguments advanced by the groups which appear to be active agents for influencing changes in law and social policy". These writers have the point of view that pornography is harmful regardless of the evidence marshalled, they say. "Political and religious beliefs would appear to have high predictive power in estimating a person's attitudes towards pornography", they maintain.

The authors review research that examines the relation between pornography and "sex crimes". Here they do note that the research for the President's Commission has been extensively critiqued. However, they cite the 1979 U.K. Williams Commission on Obscenity and Film Censorship as support for the finding that there is no connection between the two. Generally, all this research is of a correlational nature only and should "be treated with extreme caution", the authors note.

The effect of pornography on participants is not known, the authors tell us. They acknowledge the existence of descriptions by adult participants of violent and coercive experiences. They describe these as "anecdotal" and as unrepresentative of the "complete process". Only "systematically collected data" are held to contain the full truth of the effects on these participants. The authors cite only one case study and say it is the only one they discovered in their review. The woman participant in this study described herself as "an erotic product manufactured by a team of specialists solely for the pleasure of male viewers", they say. "These 'realities' are not in dispute", the authors say, but "their representativeness and the variables which would aid in promoting generalizability to other situations" need to be more fully understood.

Regarding the participation of children in pornography, the authors cite a study which shows that the majority are boys. They state that "most authors agree that the single greatest obstacle to effective prevention is the public's attitude toward secrecy". They review a study which examines the connection between unemployment of adolescents and their victimization. This shows evidence that children are lured or abducted to perform in pornography by white males, 30 to 40 years old, married and with good jobs. They conclude that "without exception" there is agreement that involvement of minors in pornography is "clearly unacceptable" in our society.

Regarding consumers, the authors say that "consumer" has never been defined. They wish to determine whether a consumer is someone who only buys pornography occasionally or who is a heavy user. They conclude that, without data about consumer patterns, "students, particularly in pornography experiments, seem to comprise the largest single group clearly exposed to pornography". However, all studies exposing these young people are not discussed here. Instead, the authors say they have adopted a "compromise solution".

While we will refer to some of this work as it pertains to general information about the impact of pornography, we will at the same time reserve a portion of it to be dealt with in a subsequent section. The rationale for this is that because of the limitations of experimental studies, a constructive critique must include a discussion of the main difficulties associated with this approach.¹²

All studies cited by the authors found consumers of pornography to be predominantly male, middle income, married and educated. However, they conclude that "there appears to be more people protesting against pornography than watching it" since "numbers which can be tabulated (eg, protesters, researchers, experimental subjects) constitute the only table data base which we now have on the consuming part of the population".

The authors consider laboratory studies pertaining to the effect of pornography in adult consumers with the exception of those dealing with the pornography-aggression connection. These studies mainly deal with the "arousing" effects on males although some studies of females are included. Many of the studies included here deal with

the effects of male homosexual depictions on heterosexual male subjects. Neither the assumptions underlying these laboratory studies, nor their methodological limitations are discussed. On the basis of this review, the authors state that

exposure to pornography, whether considered disgusting or titillating at the time, tends to produce only transient sexual arousal with very little evidence that it carries over into established sexual patterns.

They cite McCormack as agreeing with this viewpoint. They also say that these studies show that male and female subjects tend to respond in the same way to "sexually explicit material". Regarding the impact of pornography of "children consumers", the authors cite studies showing that peers and pornography are the primary sources of information adolescents have about sexuality. They conclude that "the maximum amount of relevant information must be available to the adolescent (since) wisdom does not easily result from ignorance."

In the summary of this section of the review, the authors say that these studies do not provide an answer to the question of whether or not pornography is harmful. "The knowledge base is simply inadequate" and "should be treated with a high degree of caution", they conclude.

The third section of the report deals with laboratory studies that explore the possible connection between pornography and violence against women. This research, the authors claim, was presented in this review. They cite McCormack's article and one review article by

Malamuth and Donnerstein as evidence that they did this. In fact, they did not present this research. They justify this in the following way:

Since we are not engaged in building argument, but rather conducting an independent review and objective appraisal of the work, selecting to present it on a study-by-study basis while citing the litany of cautions noted by the author(s) in each piece of work and adding our own criticisms, ¹⁴ would have been of interest only to a narrow group of readers.

The authors also put forward as a reason for avoiding this method the problem of the extent to which the findings can be generalized beyond the laboratory.

Finally, the body of research dealing with pornography and male violence is categorized as an instance of "fads and fashions in research". Again, these studies are contrasted with authoritative scientific knowledge.

This, in contrast to the seemingly more mundane activity of systematically building a knowledge base respecting human behaviour as it applies across a broader range of situations. (sic) Although numerous reasons have been advanced to explain this foible, one of the most interesting in looking at the current, almost frenetic production of studies in the arena, is, that the paucity of theory which would serve to integrate complex findings or enable the generation of testable hypotheses leads researchers to rely on empirical questions.

These empirical questions centre around the connection between pornography and rape (defined as aggression) and are based on a "hidden agenda" that "researchers are deliberately refraining from stating", maintain the authors. This "agenda" seems to consist of the theory that if it can be shown that pornography produces in-

creases in aggression toward women then it can be said that pornography is harmful, they say. They call this "a curious form of logic" that "is never articulated or stated a priori in any of the research reports".

The authors claim that sex and aggression are linked by a "magic hyphen" that implies a causal linkage where none has been proven. As evidence, they cite the contradictory findings of the Presidential Commissions on violence in the media and on pornography and obscenity. They refer to Thelma McCormack's critical review throughout these sections to support their argument.

The authors then briefly summarize the themes of the studies under three headings as follows:

1. Exposure to intense sexually explicit stimuli (often portraying harm-doing) generally lead to increases in experimental measures in "aggression", "retaliation" and "annoyance", etc., in people provoked during the course of experiments. (15 studies cited)
2. Exposure to "mild" explicit stimuli (often portraying mutually pleasurable sex) produce a decrease in some experimental measures even if the person is provoked.
3. Increases in arousal per se, due to an array of proposed etiological factors have resulted in a close linkage of the concepts

of sex and aggression so that either the stimulation of one type of arousal can influence both or that the aroused person can't distinguish one from the other.

The authors note that the researchers involved have discussed the limitations of their work and yet these studies are cited as if they were clear proof of a connection between pornography and aggressive behaviour or attitudes. They conclude that the

level of complexity of this research, the use of deception as to method and/or purpose, the problem of reliability of measures, and the translation of operational definitions into measurement methodology render this entire area highly problematic in both interpretation and generalizability.¹⁶

The final sections of this Working Paper consist of an attack on the research on pornography and aggression.¹⁷ In the first of these sections, entitled "Where's the Harm?", the authors make the case that the real harm is not the potential for pornography to contribute to violence against women but the treatment of the "somewhat anxious and uncertain young undergraduate student volunteer" used in the experiments. Authority figures "attach some weird device to their body" and "insult, demean and derogate this young person". In addition, these studies are not necessarily generalizable outside the laboratory. Finally, attitudes and behaviour are often confused in these studies. Attitudes do not necessarily translate into behaviour, they state.

In the second section called "Pornography and Research in the Laboratory", the issue of harm to the subjects of these studies is brought up again. Research subjects, they say were "threatened, chastised, shocked, or buzzed", "almost every part of their bodies have been attached to bizarre devices", "they have been asked to masturbate", "they have been required to fill in forms revealing the most intimate details of their lives" and "they have been forced...to make choices between greater and lesser harm to others". The authors talk about the "nonsense going on" in this research and cite McCormack as saying that this research is "mindless". A more fruitful line of research, they suggest, may be to investigate the experimenters who mistreat their subjects in the ways described above.

In the final chapter of this report, the authors advise the government to change social policy on pornography if they wish but not to base such changes on current research. Anyone involved in the debate on pornography should develop a healthy skepticism toward arguments, they say, since

the models of humanity which seem to be underpinning some of the more extreme positions are oversimplified and reflect a rather sad and cynical view of the human condition,¹⁸ views which we seriously doubt are shared by most Canadians.

Those people seeking information about pornography should be cautioned that much of this research is "proselytizing", "a search for a final and irrefutable demonstration that our absolute truth is the one and only truth". The "proselytizing fanatic" develops this impulse because his creed is one "whose legitimacy is most easily challenged", they conclude.

Discussion of Working Paper No. 13

This literature review demonstrates and is an instance of the way in which the scientific discourse can be put into practice to exclude knowledge based on women's experiences of the world. Basing their work in this discourse, the authors practice the ideological circle, just as the authors of the Issues Paper did in their use of the legal discourse. These discourses, indeed, are remarkably similar. In order to create authoritative knowledge, the evidence of the "harm" of pornography must be demonstrated "objectively". That is, the knower/researcher must be separate from what he knows. He must have no "emotional" interest in the subject of his research. To demonstrate this, he must ground his work in scientific discourse, or as the authors of the review call it, "the ideology of science". Practicing the theories and methods provided by that tradition of knowledge creates the researcher as "objective" observer and the work he does as "objective" research. This stance is taken by the authors of this review. It is a stance which excludes both feminist research on pornography and research that starts with a feminist conceptualization of it. An analysis of the social organization of this review reveals the authors' practice as an ideological circle.

First, the authors of this review have attended only to what men have written or to knowledge that has been produced using the concepts and methods of a discourse from which women's knowledge has

been traditionally excluded. The authors explicitly state that a review of the discourses of psychology, sociology and criminology, as they appear in journal articles, will allow them to develop an "authoritative statement" about the impact of pornography. Research in these fields, developed on the basis of women's experience of the world and appearing in women's studies journals are excluded from this review. Even though many of these journals are both academic and refereed, they are not considered to be part of the scientific discourse because the research they contain does not address questions that arise from the tradition of knowledge represented by the social science discourses of psychology, sociology and criminology. They are not "independently" reviewed by academics trained to the methods of those discourses. Therefore, the authors exclude them from the formulation of authoritative knowledge about pornography.

The provision that research must appear in refereed journals of traditional disciplines to be reviewed, excludes most of the research based on women's experiences because it is not published in these journals. Such research has its analytical underpinnings in the feminist discourse and, thus, according to the rules of science, is not "objective" or is not "sociology", and so on. Thus, women's research must be published primarily outside the traditional social science discourses. Therefore, the knowledge it produces is not included in this "authoritative" understanding of pornography and its effects.

The only articles by women who are concerned about pornography that are referred to in this review as authoritative are two literature reviews by Thelma McCormack and S.H. Gray, both sociologists. Although a few quotes from these reviews represent some of the concerns of the women's movement about pornography, it is these women's conclusion that there is no "hard" scientific evidence for a causal link between pornography and violence against women that the authors emphasize. Gray and McCormack both arrive at this conclusion by using the rules for critique provided by the sociology discourse. These rules leave unquestioned the social organization of this knowledge.

It is interesting to note that McKay and Dolff do not hesitate to quote from McCormack's review even though it has never been published in a refereed journal. Also, they fail to acknowledge that McCormack's article is not an all-inclusive review and doesn't purport to be one. They do not criticize her review for its failure to distinguish between studies using "sexually explicit" material and those using "sexually violent" material although this was a major concern they expressed about the research itself. Finally, the authors have excluded from their review McCormack's conclusion about the effect of pornography on society. She writes that "it is possible to say that a cultural milieu in which women are always perceived as sex objects contributes to the devaluation of women".¹⁹ Thus, the authors' practice of attending only to what men have written or to what has been discovered through research based on the

concepts, methods and rules provided for in androcentric scientific discourses is an ideological circle which excludes knowledge produced by research based on women's experience.

Secondly, the authors practice of traditional scientific discourse allows them to discount research based on theories or concepts that are not part of a particular scientific discourse even when the approved methods provided by the discourse are utilized and when the studies are published in refereed journals. For example, although social learning theory is an accepted part of the discourse of psychology, the idea that pornography may be a factor in men learning about themselves and the world and that this learning may influence male attitudes and behaviour toward women is an analysis grounded in the women's movement. Therefore, it is not authoritative knowledge because of its location outside the discourse. It is not "objective" knowledge because of its location. Thus, the "objectivity" of research based on such understandings can be questioned because it does not begin within and remain in the scientific discourse.

This interpretive schema is the basis for the authors' division of the research they reviewed into "experimental/quasi-experimental" and "other" categories. In fact, many of the "other" studies reviewed here utilized the experimental method, for example, studies measuring physiological "arousal" as a response to "sexually explicit materials". So it wasn't the methodology used which provided for the

separation of research concerning pornography and aggression but the association of the hypothesis that such a connection might exist with an "influence group" outside of scientific discourse.

The findings of research which starts from a definition of pornography based on women's experiences are dismissed as "political" writings. Only a definition developed within a scientific discourse and agreed upon by those working within it will provide a basis for developing hypothetical constructs which then can be a basis for "legitimate inquiry" which will in turn produce "theory", the authors tell us. The understandings that underlie the definition of pornography used in "experimental/quasi-experimental" research are not considered to be legitimate like scientific theories are. This is because theory, to be legitimate, must be developed by systematically building a "knowledge base" through formal research procedures within approved academic disciplines. This process begins and builds on understandings entrenched in discourse, understandings which women have generally played no role in developing. The authors reliance on this procedure, provided for in the discourse, excludes knowledge based on women's experiences of the social world. It allows them to dismiss definitions of pornography based on these experiences as "not logical" and to discount research beginning with such definitions as "political", a research "fad" and "blatant silliness".

Thirdly, the authors' stance allows them to dismiss anyone not basing their understanding of pornography on this discourse as

"ideologues". Locating their work in the scientific discourse allows McKay and Dolff to characterize their position as "objective"; that is, they can claim to have no personal interest in the outcome of their research. Researchers starting with definitions of pornography having their roots in feminist discourse, but who are located in academic institutions and who use the research methods provided for by scientific discourse, cannot simply be dismissed as "ideologues". However, their reliance on a definition of pornography that originates outside of the discourse permits the authors to categorize them as "scientist-ideologues". These researchers have become "politicized", the authors say. These researchers' "interest" in the issue of pornography allows the authors of this review to dismiss the whole body of research on pornography and aggression as "proselytizing" and its authors are "proselytizing fanatics". It is not scientific knowledge they produce because the rules of science specify that the knower must be separate from what he knows. The only way to establish this is to begin work in and remain within the discourse.

The "politicization" of researchers who investigate the possibility of a link between pornography and aggression causes them to question authoritative knowledge about pornography. However, such knowledge can only be criticized on grounds provided by the scientific discourse itself. Questions must concern "objectivity", "reliability", etc. and not the social organization that produces the knowledge that the scientific discourse embodies. "Questioning the credibility or generalizability of research based on the gender of the

researcher" is one reason the authors give for dismissing the experimental research on pornography and aggression. Since gender has been identified by the women's movement as a problematic social construction for both women and men and pornography has been conceptualized as part of that social construction process, this reliance on the laws of the scientific discourse once again excludes women's understandings of the world from the making of authoritative knowledge about pornography. Excluding this analysis allows the authors to tell social policy makers that pornography depicts sex which normally includes "dominance", "lovelessness" and "pain" and that "what is considered pornographic is related to a complex set of variables, devoid at this time of an integrating framework". Women are once again silenced.

The scientific discourse as it is practiced here provides a hierarchy of methods. The use of "hard" scientific methods, especially quantitative ones are held to produce knowledge that is more reliable than "soft" or qualitative ones. This hierarchy works against the inclusion of women's knowledge. For example, there is documented evidence of the effect of pornography on participants in the form of first hand accounts of the women who appear in it. The authors, relying on the hierarchy of acceptable scientific methods tell us that while they don't doubt the "realities"(sic) of these methods, that only "systematically collected data" would "contain the full truth of the effects on participants". The experiences of women, in this case the only ones who have direct knowledge of what

participation means to them and how it affects their lives, are held to be less reliable sources of knowledge than scientists who collect and organize data that will answer questions generated in the discourse according to its rules. The knowledge these women have is not good enough evidence of harm, according to the scientific hierarchy of methods, to be included in the authors' review of or conclusions about the effects of pornography and so to contribute to the development of law and social policy.

Finally, the authors tell us that coercion is the "usual method" of preventing "scientist-ideologues" from straying outside the bounds of the scientific discourse. "Peer pressure", usually effective in returning researchers to "reason", has not worked, however, in the case of the researchers who deal with pornography and aggression they say. It is clear that people working in academic research who use concepts, definitions, methods or critiques arising outside the scientific discourse and who attempt to validate other viewpoints and enter them into the discourse, are "pressured" to give up this perspective. Thus, research based on women's experiences which could produce knowledge that, as it became part of social consciousness, would challenge the status quo of male dominance is suppressed not only by the daily practice of the ideological circle which relies on scientific discourse but also by overt pressure on researchers not to step outside its bounds.

Research on the effects of pornography, whether it concerns women who are in it, women who see it or women who are abused by men in ways that imitate it, was the most crucial part of the research program from the point of view of the women's movement. The background research report lent support to women's perspectives on the definitions and effects of pornography as well as to the idea that it is women who know about pornography. If the Justice Department had set out to find people to produce a research review that would silence women's knowledge, they could not have found anyone better than McKay and Dolff. Their concern with the "poor", "abused" male subjects in research experiments (when it was women who were most often in the position of "shock victims"), their characterization of women opposing pornography as "fanatics" and "authoritarian" persons whose positions are "strident" and "inflexible", and their statements that the emphasis on pornography was "out of proportion to its effects" are an insult to the women in Canada who know how pornography affects us and other women and who have struggled to change the social consciousness about it.

Reliance on the discourses of social science and the law coordinate the work of these researchers and the Justice Department. Using the existing body of knowledge, methods and interpretive schema of the scientific discourse allows the authors to characterize their position as "objective" and "authoritative". This position is perfectly congruent with that of the Department of Justice. The suppression of the background research report and the publishing of

this review is an accepted and "usual" practice of Justice which relies on the legal and traditional social science discourses. This "authoritative" and "objective" stance routinely discounts what women say as "emotional" and sets up the practices of ruling as "reason". Thus, it routinely excludes what women know and experience from contributing to the development of authoritative knowledge and, therefore, to the development of law and social policy.

Unpublished research on the effects of pornography

As part of the research program for the Committee, Justice commissioned Jim Check of the psychology faculty at York University to look at the connection between non-violent pornography and male attitudes toward rape.²⁰ The study involved 400 Ontario men from different occupations and income groups. The men were assigned to one of four groups. Three groups each watched a different type of sexually explicit film -- violent pornography, dehumanizing pornography (verbally but not physically abusive toward women) or "erotica" for 90 minutes over a two week period. The fourth group did not view any material. In response to a questionnaire about the influence of this experience, 20% of the men who watched violent and non-violent material said they would probably rape a woman if they could get away with it as opposed to only 10% of the men who were not exposed to any films. In addition, the men who viewed violent and non-violent pornography reported that they found both forms of pornography equally entertaining, Check said.

Discussion of Jim Check's research

The Department of Justice refused to publish this research. They returned it to the author and all publication rights reverted to him. Daniel Sansfaçon told me that the research was not to be considered as part of the program commissioned by Justice. He cited as reasons for this action "serious concerns with, in particular, methodology and interpretation". When questioned further, he did not elaborate on this response.

Clearly, however, this decision could be justified in the same way as the practices of suppressing the background research, publishing the "impact" research and framing the Issues Paper. Professor Check began with a premise about pornography, an "empirical question", that does not accord with the ruling male viewpoint that pornography is harmless entertainment about sex as it is entrenched in both the legal and scientific discourses. He has used an accepted social science method but this is not enough to redeem his work in the eyes of Justice from their ruling viewpoint, his interpretation is not "objective" because it does not arise within accepted discourse. Therefore, they have no problem refusing to accept this work as authoritative knowledge. Once again, knowledge generated by research that would support women's struggle to change prevalent ideas about pornography is silenced by the routine practices of Justice employees that rely on traditional social science discourses.

II. What is known about the incidence and control of pornography?

There was no comprehensive program of research designed to answer the question about the incidence and control of pornography in Canada. Daniel Sansfaçon explained that the Justice Department had expected the Committee on Sexual Offences Against Children and Youths (commonly called the Badgley Committee) to provide them with this information.²¹ At the time that Justice was planning the research program for the Fraser Committee, Badgley had yet to report and Justice did not have access to its findings, he said. As a result, three small scale studies dealing with the issue of incidence were commissioned. Only two of these were published. One study of Canadian controls was commissioned.

There were four studies commissioned that addressed the control of pornography in other countries. A fifth study reviewed the United Nations Conventions and Agreements that might be relevant to formulating law on pornography. Of the four international studies, only one does not focus primarily on the current state of the law. It develops an historical perspective on both the law and public debate in Britain. The remaining three each contain brief discussions of public debates about pornography.

1. The Incidence of Pornography in Canada

Working Paper No. 15

The first study on the incidence of pornography in Canada, Working Paper No. 15, is entitled A Content Analysis of Sexually Explicit Videos in British Columbia.²² This study was conducted by I.S. Palys of the Criminology Department at U.B.C. While this report would seem to address both the incidence and control of pornography, it is included here because of the definition of pornography it employed. While recognizing that pornography could be defined in several ways, the researcher chose a "pragmatic" definition -- "what do you get when you go out and look for some?"²³

The researcher chose to review both "adult" and "triple-X" rated videos available at 43 "sex specialist" and "general purpose" outlets in the Vancouver area. 150 videos were coded, 53 were adult rated and 92 were triple-X. The former were legally imported to Canada, mainly from the U.S., while the latter were illegal imports copied in Canada. The videos were divided into basic units of analysis, "scenes". "The scene" was defined as "an uninterrupted sequence of activity in a given physical context". Each scene was rated according to a code developed by the author. Three women and two men, all with at least one university degree in social science, coded the scenes according to the author's coding manual.

Three main coding categories were used: "sex", "aggression", and "sexual aggression". Each category was further divided into four aspects. First, "sexual activity" was rated in terms of explicitness and "aggressive activity" was rated in terms of severity on seven-point scales. In the latter case, the coding manual tells coders that a rating of 7 would be considered appropriate only "very rarely", "if the violence were so severe and the depictions so graphic that you were truly amazed and felt ill due to the violence involved."²⁴ Second, "interaction" between participants was coded in two phases, "initiation" or "in progress", these were further broken down and coded as "unidirectional", "mutual", "solo", or "unclear". If the scene was coded "unidirectional" or "imbalanced" then the characteristics of persons in dominant and submissive roles was noted. Thirdly, the "emotional tone" of the scene was coded as 1) erotic, mutually enjoyable, egalitarian; 2) positive, between consenting adults; 3) neutral, mechanical; 4) negative, one or more participants uncomfortable; and 5) very negative, all participants uncomfortable. Finally, the "content" of the scene was coded. Fifteen "sexual content codes" were provided including nudity, masturbation, bought sex, hardware, deviant and incest. The question concerning "initiation" produced such disagreement among the coders that no data were reported and the author dropped this category from his analysis as "substandard".

An overall review sheet provided the coders with a place to respond "yes" or "no" to selected themes. Only one question, "if

there is a message to this film, what is it?" asked for a twenty-five word or less response. The author says that he "fully anticipated that these thematic judgements would likely be less reliable than other elements of the coding scheme".²⁵

The author reports that 50% of the scenes in these videos contained sex, aggression or sexual aggression. 77.4% of these were "sex" scenes, 18.7% were "aggression" scenes and 12.7% were sexual aggression.

"Sex" was defined as participants wearing less clothing than could be expected at a public beach or involved in any "lascivious action, even if fully clothed, that would be deemed inappropriate in a dimly lit bar". Also the coding manual specified that "as long as all participants are apparently entering the scene willingly, then the scene will be coded purely sexual even though some element of dominance/submission is involved."²⁶ In this category, the author reports that:

- triple-X videos had a significantly greater proportion of sex scenes than adult videos and the scenes were significantly more explicit
- more than half the scenes in both video types were coded "positive"
- more than one-third of the scenes were rated "neutral/mechanical"
- 2.6% of adult and 3.2% of triple-X scenes were coded "erotic"
- depiction of sex in triple-X videos was significantly more

positive

- 8.8% of adult and 5.3% of triple-X scenes were very negative
- 1.4% of adult and 4.1% of triple-X scenes were very negative
- 48.5% of adult and 72% of triple-X scenes were rated as "mutual"
- 13-15% of "sex" scenes in both video types showed participants in dominant/submissive roles
- the most frequent scenes were "fondling of breasts/genitals", "intercourse" and oral/genital contact
- triple-X videos depicted masturbation, fondling of breasts/genitals, oral/genital contact, bought sex, genital and anal intercourse, use of hardware and incest more frequently than adult videos
- 4% of adult and 6% of triple-X scenes involved "apparent adolescent females"
- 1% of adult and 2% of triple-X scenes involved "apparent adolescent males"
- male adults were present in 47% of adult and 66% of triple-X scenes
- female adults were present in 91% of adult and 76% of triple-X scenes
- 34.5% of adult and 12.9% of triple-X scenes were "solo" depictions, the former were primarily strip-tease scenes while the latter were masturbation
- in adult videos, the "subjects" of solo scenes were: 94% women, 47% adolescent men and 1.3% adolescent women
- in triple-X videos, the "subjects" of solo scenes were: 77.1%

- women, 7.3% adolescent women and 15.6% adolescent men
- in "mutual" depictions, the heterosexual couple was most frequently depicted and in triple-X the single man with multiple women was the next most frequent depiction
- 90 "imbalanced" scenes in adult and 138 "imbalanced" scenes in triple-X videos were coded as sexual activity
- in adult and triple-X videos, women were typically depicted in the submissive role.

"Aggression" was defined as intentionally imposed hurt, abuse or force not "intricately tied to sexual activity". The author reports that:

- 264 scenes in adult and 129 scenes in triple-X videos depicted aggression
- aggressive depictions were significantly more severe in adult videos
- both video types tended to show clear victim and perpetrator roles
- both video types were "fairly equal" in depictions of verbal abuse, pushing or shoving, confinement, use of weapons for threat and brawls
- 24.6% of adult and 15.5% of triple-X scenes portrayed "attempted/actual murder"
- modal interaction was male vs male in "imbalanced" depictions but male vs female in "mutual" aggression (25% of adult and 26.4% of triple-X aggression scenes)

- single adult males were the most frequent perpetrators of aggression in both types of video.

"Sexual Aggression" was defined as sexual arousal achieved in part through coercive means or aggressive activity tied to sexual content. The author reports that:

- 155 scenes in adult and 111 scenes in triple-X videos were sexual aggression
- sexual aggression in triple-X but not adult videos had diminished over time
- most frequently depicted was use of verbal abuse, humiliation and/or threat followed by "being rough in otherwise normal sexual activity", spanking, slapping and pulling hair; and rape
- 21% of these scenes in adult and 30.6% of scenes in triple-X were rape scenes
- in triple-X videos other scenes were 60.4% humiliation, 37% bondage, 33% being rough, 33.3% slap/hit/spank/pull hair, 17.1% sexual harassment, 10.8% coercion with weapons, 15.5% sado-masochism and 2.7% sexual mutilation.
- "unidirectional" scenes portrayed men as perpetrators and women as victims
- in 8 scenes in adult and 5 scenes in triple-X female adolescents were portrayed as victims.

"General Themes" The author reports that:

- negative consequences of "sexual activity" were portrayed in 31%

of the videos and triple-X videos were significantly less likely to do so

- 62 out of 103 videos portrayed "aggressive perpetrators" in a positive fashion
- 73 out of 100 times "aggressive perpetrators" did not receive negative consequences for their actions
- 28% of adult and 22% of triple-X videos reaffirmed or encouraged rape myths

The author does not report responses to the question of whether or not the video has a message and, if so, what it is.

The author concludes that it is adult and not triple-X videos that include violence and sexual violence most frequently and with greater severity. He discusses his informal surveys of the video business. One of the two major distributors who run "sex specialty" outlets keeps most "general purpose" stores supplied with "sexually explicit" material, the author says. One distributor who doesn't carry triple-X videos had videos

which we know contained depictions of persons, usually females, being raped, tortured, and mutilated. You don't see the breast being kissed or fondled as part of more graphic sexual activity, you just get a quick glimpse of it when the woman is in the shower, and then another while she is being butchered. It is a curious statement of how "acceptable" depictions of violence are in our culture. ²⁷

The author acknowledges that his focus on "sex" videos has led him to overlook "horror" and "martial arts" films that may have "blatant sex and gore butchery". Also, while the coding scheme addressed "crucial aspects of preliminary importance", many elements

were not addressed including objectification and degradation, he says. The fact that aggression and sexual aggression were "relatively infrequent...should not be interpreted as suggesting that no future attention is warranted".

Finally, the author discusses the change that feminist input has made to the definition of "pornography". This definition directs public attention to violent and coercive depictions, differentiates between erotica and pornography; and is pejorative, he maintains. This change in meaning has the "advantage" of focusing attention on the important issues of violence and sexual violence and the "disadvantages" of producing "societal conflict in which ostensibly competing camps of opinion have argued about two incredibly different types of material" and of the term pornography still retaining its original meaning. The author admits that his search for pornography in the realm of sexually explicit materials may have resulted in looking in the wrong place.

When we focus on "sex specialist" video outlets and on sexually explicit material, what we find is largely sexually explicit material -- incredibly graphic, often somewhat tasteless, a celebration of "sex is fun" mentality, but little else.²⁶

Triple-X videos are becoming more like films because, according to distributors, they are being aimed not at single men but at yuppie couples, the author reports. At the same time, proprietors acknowledged that single women were infrequent customers. Legislation has not produced a significant change in materials carried in video outlets because owners are not particularly familiar with the law, he

says. He concludes that

proprietors did not acquire certain kinds of materials because they did not wish to incur the wrath of some very vocal and effective protestors. These individuals have been very effective in sensitizing proprietors and their clients to issues involving violence and sexual violence within the context of sexually explicit materials, and have demonstrated the power that censure can have, even in the absence of restrictive censorship.²⁸

Discussion of Working Paper No. 15

The methodology used in this research, provided for by the scientific discourse as an "objective" means to discover the "reality" of the social world, erases the connections women make between our reality and pornography. Thus, it minimizes the evidence that would support the concerns of the women's movement about pornography. According to this discourse, "objectivity" depends on the separation of the knower from what he knows. The hierarchy of methods arising from this rule is explicitly discussed in this paper. The quantitative, statistical method employed in this content analysis is "more reliable" than the judgements made by the coders about each video as a whole, the author tells us. This sets up a hierarchy of knowledge with "objective" knowledge produced by the quantitative method considered to be authoritative while the "subjective" impressions of the coders produces questionable knowledge.

Setting up this hierarchy allows the author to base his conclusions and recommendations on the quantitative results rather than on the coders' judgements, when these are in conflict. While his

concluding discussion focuses on the prevalence of violence in adult as opposed to triple-X videos based on the quantitative findings, the coders report that the message of 24% or 36 out of 150 videos reinforced or encouraged rape myths and that 62 of 103 videos portrayed "aggressive perpetrators" (typically male) in a positive fashion is not considered significant enough to be mentioned. Thus, this reliance on the "objective" methods of social science to produce knowledge that will inform social policy acts to defuse women's arguments and concerns that pornography is the theory of rape.

Inherent in the quantitative method are procedures that produce results that can be used to minimize women's concerns about pornography. First, the quantitative method necessitates breaking down a phenomenon being studied into quantifiable parts. In this case, the basic unit of analysis is "the scene". These "scenes" are all compared as if they were equivalent. However, they are assuredly of different lengths and comprise different proportions of each video in which they occur. Thus, this method may obscure the fact that a video which contains "only" one scene of "sexual aggression" might have a great deal of its length devoted to this one scene. There is no way for us to know how much of the content of a video is devoted to "sex", "aggression" or "sexual aggression" even if we knew how many such scenes were in it. Thus, this method obscures the nature of the videos reviewed.

3
Secondly, this methodology decontextualizes the "scenes" from the context of the video as a whole. This enables the author, for example, to describe 129 scenes occurring in the context of sexually explicit triple-X videos as "aggression" rather than "sexual aggression" because in each particular scene, the violence was not "intricately tied" to "sex". Since the findings show that women were typically portrayed as the victims in "imbalanced" aggression scenes and since they were present in 76% of the "sex" scenes in triple-X videos, it may be argued that, in the context of a sexually explicit video, such "aggression" was "sexual aggression". The decontextualization of these "scenes" acts to obscure the nature of these videos and their messages about women and men. Thus, the author's use of this "scientific" methodology acts to erase women's concerns about the connection made in pornography between male pleasure and violence against women.

While the quantitative method is touted in scientific discourse because it separates the knower from what he knows, this is clearly a myth. As practiced by the researcher, this "objective" method can be seen to be the site of many decisions that can not be justified as "objective" on the basis of criteria established in the discourse. Instead, these choices are "personal" and, hence, political. First, despite his assertion to the contrary, the author has chosen a definition of pornography in order to be able to have criteria by which to analyze the content of videos. This definition is embedded in his choice of categories--"sex", "aggression" and "sexual aggres-

sion"--into which each scene is sorted. This definition excludes women's concerns about the portrayal of women as sex objects with no other characteristics as well as about degrading portrayals of women that are not necessarily violent, as the author himself admits. This is a political decision because it ignores the fact that feminist concerns about the portrayal of violence against women arises within a larger critique of the power relation between women and men that exists in contemporary capitalist societies. It is political because it is a choice not to attempt to uncover evidence that could support this analysis but instead to be silent about this relation.

This decontextualization permits the author to define what "sex", "aggression", and "sexual aggression" are in a way that silences what women know about pornography. "Sex" includes, among other items, nudity, bought sex, use of hardware and incest. The types of encounters which the author chose, further specify that "sexual activity" can be "imbalanced" with participants in dominant or submissive roles. Similarly, the "emotional tone" of a "sex" scene can be "mechanical", "negative" or "very negative". Further, if only one participant is uncomfortable in a "sexual" situation, this is a "negative" interaction, while to be "very negative" all participants must be so. The connections women have made not only disappear but begin to be replaced by others that have their roots in the traditional psychological, criminological and legal discourses on pornography that we have seen evidenced in the texts already reviewed. According to this construction, pornography is about sex not

about power.

The definition of "sex" adopted here erases and replaces what the women's movement has said about the way in which power differences between women and men are manifested in a relation of male dominance and female submission and the portrayal of this relation as the sine qua non of pornography. For many feminists, the fact that women are the "raw material" for pornography demonstrates that power is not only evidenced in overt acts of aggression. It is the power difference between women and men, created in a capitalist society where women's labour is systematically unpaid and undervalued, that results in women's bodies being "on sale" for male pleasure. Similarly, power differences based not only on sex but on age make incest, 95% of which involves male adults and female children, not a question of "sex" but a violent act since these young girls (and boys) have little choice about participating. The majority of "hardware" that is sold in reality is designed to silence, restrain and damage women.²⁹ The majority of feminists would have a problem categorizing scenes portraying bought sex, hardware and incest as "sex". Thus, the author's concept of "sex" based on androcentric knowledge is inserted in the space left when the connections women make are erased. The extent to which violence against women constitutes available materials is hidden by the author's practice of this quantitative "scientific" method. Women's knowledge of the power relation which results in women's disadvantaged economic, social and political position upon which the production of pornography depends

is silenced.

The gender neutral language of the scientific discourse practiced by the author hides the extent to which the videos portray women and how women are portrayed. For example, the "content" category "full frontal nudity", the most frequent scene in adult videos, does not tell us whether women or men were depicted. Some categories group together two kinds of activities, for example, "fondling of breasts/genitals". If separated, one of these categories would identify scenes in which only women were depicted. Similarly, "oral/genital contact", the most frequent scene in triple-X videos does not distinguish between cunnilingus and fellatio. The extent to which it is women portrayed in these scenes as well as the extent to which they are depicted as sexually servicing men, is systematically erased by these gender neutral terms and categories. This minimizes the evidence that could support women's arguments that women are the ones who are exploited in pornography and that this material portrays women as subordinate to men.

The practice of the ideological circle provided for by the scientific discourse is once again evidenced in this research. Using the "scientific" method for producing "authoritative" knowledge, the author obscures the fact that it is the exploitation of women that defines pornography. Women disappear in the coding categories and the conclusions. The connections the women's movement make between violence against women and pornography are broken and erased by the

decontextualization that is inherent in this quantitative methodology. Finally, the connectives of the scientific discourse on pornography are inserted. These allow the author to focus our attention on the problem of "aggression" (not necessarily against women and with its agent removed) found in adult videos. With one statement he dismisses women's struggles against pornography. "Sexually explicit" material shouldn't concern us, it's "somewhat tasteless...but little else", he says. His own quantitative evidence that in these videos it is women who are portrayed as "submissive", that women are portrayed as the targets of "sexual aggression", that teen girls are portrayed as sexual objects and that incest is portrayed to titillate men, are not discussed. In addition, the author's failure to discuss the problems which caused him to drop the "initiation" codings leaves us wondering why the coders could not agree. A discussion of this disagreement might have shed some light on whether, for example, female and male coders perceived this "initiation" process differently. If such a difference did occur, then this omission provides an example of how the positivist approach can be manipulated to exclude data that do not support the researcher's original hypotheses.

Finally, the author clearly identifies the social conflict about the definition of pornography as a "disadvantage". However, it is only through such struggle that social consciousness about pornography and about the social organization that spawns it will change. The struggle over pornography is and has been a productive one from the point of view of the women's movement as more and more women have

come to realize that this is how we are viewed by men and have questioned whether we wish to be seen in this way. As the author himself points out, it is women's protests, not legislation that have raised public awareness about the violent content of pornography. Conflict over pornography is only a "disadvantage" from a male viewpoint.

Working Paper No.17

This Working Paper, entitled A Survey of Canadian Distributors of Pornographic Material, was authored by Berkeley Kaite, a Ph.D. student in Sociology and Anthropology at Carleton University.³⁰ The research investigates distributors views, under the categories "magazines" and "videos", of what is available, what images sell, and who is the "typical" consumer. The distributors' opinions about the effect of current laws and law enforcement on their businesses and the changes that should be made in obscenity laws are also reported.

This research was originally intended to deal with producers of pornographic material as well as distributors. The researcher could not locate any Canadian producers, however. She concluded that there is "very limited production of 'legitimate' adult material in Canada" and that any production must be "underground". Therefore, she assumed that decisions about what is available in Canada are made by distributors. Her research focused on Ontario and Québec: 1 magazine and 7 video distributors in Québec and 3 magazine and 7 video

distributors in Ontario were interviewed.

Respondents were located by word of mouth. Finding video distributors was relatively easy while finding magazine distributors was difficult, the author reports. She speculates that this was due to the predominant focus of police attention on the latter. Magazine distributors, she says, "claimed no knowledge of the origin (in Canada) of sexually explicit magazines..." Like other researchers, the author prefaces her report with a discussion of the problems involved in defining the term "pornography". Unlike most of the other authors, she explicitly elaborates the different political philosophies that underlie the definitions.³¹ Conservatives, she says, are concerned with declining morality and the disintegration of the nuclear family. For them,

the decline in social values is seen in light of representations of "unhealthy" sexuality: sexual activity which takes place outside of a traditional relationship and which is non-functional (ie, non-reproductive).³²

All such representations are seen as pornographic to conservatives. Liberals, the author says, see society as containing many points of view and believe that freedom of expression should supercede the enforcement of any one morality. Thus, sexual representations should be available unless their presence offends innocent individuals or unless it can be shown that they cause anti-social behaviour. Feminists, the author states, identify the primary "social antagonism" as that between men and women. They argue for a redefinition of what an offensive representation is. The author sheds some light on a current feminist approach to pornography.

Recently, feminists have been anxious to nullify claims of prudery by isolating what they consider to be the most nefarious of genres: representations which combine sexuality with some forms of violence or with children.

The author makes it clear that not all feminists have the same approach to pornography. She identifies those who are anti-censorship; those who are concerned about the relationship between cultural production and basic social and economic conditions; and those who are concerned with the development of a women's erotica.

Although the definition of pornography is elusive, the author claims that it has several identifiable features. It deals with "sexual taboos and dominant images" and it portrays characters as having only a sexual/genital dimension. She identifies pornography as a social "institution" that depends on underlying political concepts of different groups for its definition.

Findings

1. The Product

Videos: The distributors' moral concerns may clash with the "necessity" to make a profit. They strive to legitimize their business although it is in part its "illegitimate" nature that boosts sales. They justify their product on the basis that it is made by and for "responsible adults". They distinguish between "pornography" and "adult entertainment" on the basis of content. None of the distributors considered his stock "pornographic". They used the term explicitly to refer to "a variety

of things, usually undesirable and deemed offensive". Ontario dealers define pornography as it is defined by the more restrictive practices of the Ontario Censor Board; pornography is explicit sexual representations. One Ontario distributor defined it as bestiality, "kiddie-porn", and mutilation. In Québec, where explicitness is the norm, pornography was defined variously as the "undue debasement of women", violence towards women, bestiality and "kiddie-porn".

Magazines: The distributors of magazines classified their products as pornography, noting that violence and "kiddie-porn" are just two types. Generally, they prefer the label "adult magazines" and refer to representations they don't distribute as "pornography".

2. The Business

Videos: The video business is a recent one in Canada and most materials come from the U.S., the author found. The distributors were reluctant to reveal the sources of these materials. "Adult" video outlets reported that they gross about \$180,000 per month. Outlets carrying only some "adult" videos ranged from \$1,000 - \$70,000 per month from these materials. Some distributors reported that they were forced to carry "adult" videos because they were "tied" to other videos. Distributors distinguished between "soft" (available in Ontario) and "hard"

(available in Québec) core pornography. The author's only exposure to violent pornography was through confiscated films shown to her by police. Distributors claimed theoretical knowledge of such films but denied carrying it.

Distributors indicated that "anything with sex sells" and also that violence is popular (citing Friday the 13th and Hallowe'en as examples). One Québec distributor is quoted as saying that:

• they want the girl next door to be bad; they must be searching for some truth -- why would they keep going back?³⁴

The distributors reported that what determines the popularity of a video is its cover (especially "sexual" imagery), a "triple-X" rating, and publicity generated through protest and obscenity charges.

Magazines: Only one distributor would estimate his monthly sales, which he reported as \$15,000. In Ontario, the norm of what is available was found, as in the case of videos, to contain no penetration, no ejaculation, and no highlighted female genitalia. However, such representations were common in Québec magazines, the author found. There was also violence in Québec magazines but, the author says, it was "dressed up", for example, women were portrayed in leather and carrying whips. The distributors speculated that there is an underground market in child pornography.

Magazine covers determine what sells; distributors reported that magazines with large-breasted women on the covers are big sellers. Plastic covers over magazines with the "raciest" content, anti-pornography protests and by-laws regarding display help stimulate sales. The dealers assumed that these magazines "serve a useful and vital social function". The author quotes them as follows:

"They portray the expression of bottled up fantasies."

"Everybody likes sex."

"We're used to looking at women's bodies."³⁵

3. The Consumer

Videos: Most distributors "don't have direct access to the consumer but assume that the typical one is male, between the ages of 18-45", the author reports.

The reasons for the demand are seen in ahistorical and naturalistic terms, ie, it is agreed that sex and sexual enjoyment is natural and naturally important to everyone; that videos embody a desire for sex; that sex is a tabooed area in our society and thus one lusts after the forbidden fruit.³⁶

Distributors consider their product to cater to fantasy and escapism, the author reports.

Magazines: The distributors assumed consumers are male. The author speculates that magazines with "less sullied" reputations (eg, Penthouse and Playboy) cater to mid- to upper-income men

while magazines like Hustler seem to function as a "carrier of working class consciousness". She argues that protests against the latter type of material reveal a class bias on the part of protestors.

4. The Law

Videos: Most distributors had been raided at least once but still had little familiarity with obscenity laws, the author reports. In Ontario, explicit scenes are cut from U.S. or Québec videos by distributors. In both Ontario and Québec, the distributors reported that some videos are reviewed by provincial censors, while they themselves edit others to delete unacceptable scenes. They reported almost unanimously that "kiddie-porn", violence and bestiality were unacceptable. However, distributors reported concerns that they would lose business to others willing to carry such material. Québec distributors reported that child pornography is sold from trunks of cars.

Many tapes are not reviewed by Customs, the author reports. Customs may also rubber stamp videos without viewing them because they lack facilities and personnel, she was told. Currently, there are no provincial legal restrictions for the control of video home-viewing. In the 60 days allowed in Québec before imported 35mm films must be sent to the classification

board, these can be copied and distributed uncut as videos.

Magazines: Magazine distributors understand the law in terms of the way it affects their work. In Toronto, distributors reported that a working relationship used to exist with police who advised dealers to remove questionable material from their shelves. Now raids are conducted without warning, they said. In Québec, distributors thought that the interpretation of "obscenity" depended on the judgement of individual Customs officers. All distributors expressed frustration with the enforcement of obscenity laws. One dealer sent his magazines to the Ontario Advisory Committee. The OAC consists of a psychologist, a law professor and an editor who are approved by the Attorney General and retained by magazine wholesalers to inform them on contemporary community standards.

Distributors reported that all their materials were cleared by Customs, although some of these were subsequently seized by police. Customs makes editorial suggestions to the publishers who may delete offensive scenes and issue "toned down" magazines for the Canadian market, the author reports.

5. Desired changes in the law

Videos: The majority of distributors did not favour the inclusion of "community standards" in a legal definition of

obscenity. All distributors advocated acceptance of a "hard core" standard for tolerance. They also all subscribed to the notion that videos designed for home viewing are a private matter -- in the words of one: "a man's home is his castle". Most distributors wanted the law changed to define obscenity as violence, bestiality and child pornography, the author reports. They argued that what is available now is innocuous and that anyone influenced by it must already be "depraved". Business concerns played an important role. The distributor is quoted as saying:

It's not humane ~~to~~ enjoy being seen raped, tied, beaten or to see pictures of these. But horror films are beautiful (ie, they are popular and bring in a lot of money)

The majority of distributors favoured a classification system. The rest felt that since home viewing is private, what is acceptable should be left up to the viewer.

Magazines: Distributors defined obscenity as depictions of bestiality, "kiddie-porn" and violence. They argued that it is impossible to define a community standard. While they knew what was offensive, the author reports that, given a market for such material, "most want to tap it regardless of their moral concerns or the moral concerns of others". All respondents wanted a clear standard for obscenity and desired an end to the police practice of seizing materials after they had cleared Customs.

Analysis

The author points out in her conclusion ~~that~~ the focus on visual material indicates that it is assumed to be more subversive than narrative. She identifies this as problematic since narrative may teach women passivity. She also discussed the controversy concerning the causal connection between depictions of violence against women and real violence. Other models exist for such behaviour, she states. "Clearly the problem is not one of genre but sexual politics", she says. "Adult entertainment" materials are clearly for the pleasurable viewing by men, she maintains, leaving the question of women's desire out of the picture. This raises "questions concerning the conditions which give rise to the dominant sexual representations which exist and the purposes they serve". She concludes that this material is

shaped by ideological values which are continuous with other discourses on sex. The pornographic discourse, or monopoly of knowledge, naturalizes sex and sexualizes nature but does so within the context of knowledge that is already accessible to its consumers. The problem might be that power and the phallus are aligned, not that this is depicted in pictures.³⁸

Discussion of Working Paper No. 17

That this research was even commissioned by the Justice Department demonstrates the ideological circle as a practice which is characterized by men, paying attention to and treating as valid only what other men say. Whereas the knowledge women have of their experiences as participants in pornography was characterized as

"anecdotal" and "unreliable" in the McKay and Dolff study and the background research calling for studies to discover and document women's experiences concerning pornography was suppressed by Justice, here we have precisely the same kind of "anecdotal" evidence being sought out and accepted as "authoritative" knowledge not only about the nature of the business, which these men do indeed know about, but also about the nature of pornography, consumers and legal approaches.

Given the Department of Justice's obvious concern with "objectivity" as established by using methods and concepts provided by scientific and legal discourse, surely a content analysis of magazines would have been a more appropriate tool, by their own standards, for determining what material was available. Instead, the Department depends on distributors, who have a vested interest in presenting their product as inoffensive, to discover the nature of available materials. Their denials that this material is offensive are clearly disputed by the fact that many of them had been raided by police and had experienced community protests. These distributors were not treated in the same way as the hundreds of women and women's groups across the country who had to present their views about pornography and propose their solutions as some among many at the public hearings. Instead, despite their overwhelming concern with making a profit to the point where they would be willing to sell depictions of violence against women and child pornography if they could get away with it, they are treated as a knowledgeable source. Their blatantly sexist remarks and ideas are taken seriously and

documented in this research. These points indicate that it is not personal experience per se that is considered to be problematic as "fact" or "authoritative" knowledge, but the source of such accounts. Men are treated as sources of authoritative knowledge, women are not. Clearly, the ideological circle as practiced by men in positions of power in the Justice Department count women's knowledge "out" and count men's knowledge "in".

While this research provides very little concrete evidence about the incidence and control of pornography, Kaite does provide insight into the definitional debate. Pornography is a social institution depending for its definition on underlying political philosophies of different social groups. Her elucidation of the conservative, liberal and feminist positions helps to clarify understandings about pornography that have been implicit in the other published research. She also makes it clear that there are several feminist approaches to the problem. However, her contention that the attempt by women to get only depictions of violence against women and child pornography censored is a result of women's desire not to be considered prudes illustrates the problem of trying to separate out these positions as discrete categories with no overlap. It seems more likely that it is a concern of liberal feminism in general that censorship be limited since it is this strand of feminism which values individual freedom and which sees legal reform as, at least in part, a solution to the problem of pornography. Kaite's own view on the social organization which gives rise to pornography does insert a feminist perspective

into this official discourse on pornography. However, the insights she is able to bring to the debate on pornography are defused since it is the opinions of male distributors which are what "count" as knowledge here.

The researcher also provides some insight into the progress that the women's movement has made in our struggles to change the shared cultural definition of pornography as well as prevalent ideas about what behaviour constitutes "sex". Whereas all "sexually explicit" materials may have been regarded previously as acceptable entertainment, the distributors' definitions of pornography indicate that they are now identifying depictions of physical violence against women (as well as child pornography) as offensive. Thus, the women's movement has had some impact on public perceptions of both what constitutes "sexual" materials and what constitutes "sex". Violence against women is no longer seen to be a legitimate part of the "sexual" activity which pornography portrays.

At the same time, this research demonstrates that what is considered to be "sex" has not been radically affected by the protests of the women's movement. The distributors' opinions about what pornography depicts and why it appeals to men are evidence of this. Their comments that men "are used to looking at women's bodies" and that pornography depicts "bottled up fantasies" as well as their perception of "hard core" materials as "innocuous" demonstrate that male power and sexuality are entwined. Thus, despite

feminist protests and arguments, sex is still a problem for women because prevalent ideas about it remain unchanged.

Whatever the questioning which is going on, and whatever the tolerance for "deviance", sexuality is still seen in terms of its reproductive functioning, symbolized by a genital heterosexuality which men initiate and control.³⁹

Finally, Kaite enters into this process of knowledge -- making an analysis which has become an important addition to the feminist discourse on sexuality. This historical and social analysis distinguishes between the "institutions" of sexuality, such as pornography, and the actual experiences of women (and men) of sexual interactions. In recognizing that, because men have defined sexual pleasure, the institutions of sexuality are oppressive to women, "we can see ourselves as the more or less willing objects of historical and social construction of sexuality."⁴⁰ This discourse opposes prevalent ideas, i.e., social consciousness, about sexuality, expressed here by the distributors, which sees pornography as the depiction of a natural sexuality and women's sexual nature. Instead it conceptualizes sexuality as a contested terrain "in which the powers of the state, of the scientific and moral establishments, and of the sexist ideology of male-defined pleasure are constantly meeting resistance from individuals and groups".⁴¹

Unpublished research on the incidence of pornography in Canada

Professor James Check was commissioned to do a content analysis of films reviewed by the Ontario Censor Board. Daniel Sansfaçon told

me that this research, like the experimental study the Department commissioned from Professor Check, was not published because of concerns about "methodology" and "interpretation". Unfortunately, I was not able to obtain a copy of this research.

2. The Control of Pornography in Canada

Working Paper No. 16

This study entitled Sexuality and Violence, Imagery and Reality: Censorship and the Criminal Code was authored by Neil Boyd, LL.M., an associate professor in Criminology at Simon Fraser University.⁴² The stated purpose of this research was "to review the legal status and decision-making processes of four provincial censorship boards" in Ontario, Québec, British Columbia and Nova Scotia. The author also examined the relationship between provincial control and federal control of the Criminal Code obscenity provision as well as the historical development of control in Canada.

The history of federal and provincial constructions of the definition of "obscenity" reveal fundamental changes in public concern, the author says. Until 1959, Canadian courts relied on the Hickless test, based on an 1868 British decision, which defined obscenity as "the tendency...to deprave and corrupt". Applications of the test were concerned with immorality that might result from sexual arousal. In 1959, new federal legislation (Bill C-58) was

introduced that set up the current tests for obscenity. This occurred during a period when sexuality had become more prominent, the author says, with the result that "images of film, stage and print photography were reflections of a changing social order and were in turn serving to structure thought." While the argument that pornography undermines the family unit is still prevalent, the author says, this unit has changed in the last 30 years. What remains unclear are the complementary roles pornography plays, both reflecting and impacting on the social order, he argues.

While it is difficult to assert that much of today's pornography attempts "seriously and intensely, to say something significant", it is fair to note that in both 1959 and 1984 we can see reflections of social order; the reality of sexual relations in 1984 is that we have both "painful and repulsive pictures of human beings in action"; pornography remains a very real reflection and commentary upon the times in which we live.

The change from a test of obscenity based on the tendency of material "to deprave and corrupt" to a community standard of tolerance demonstrates that the definition of pornography depends more on changing social structure than on legislative enactments, the author argues. Case law has been an important medium through which social changes affect the definition of obscenity, he says. The Criminal Code defines obscenity on the basis of offensiveness; as sadomasochism, for example, is more frequently portrayed, it would be said that community standards tolerate it. The author contrasts this position with that of the National Association of Women and the Law (NAWAL) who argue against the use of these standards and for a criterion of "social harm".

The provinces have been involved in censorship since the early 1900s. Their boards have historically targeted diverse phenomena for censorship including venereal diseases and trade unionism. Patterns of censorship have not been consistent over time; different censors "have set out distinctive and often discontinuous models of censorship and classification" within provinces; and, while the legislative framework for censorship is quite similar in all four provinces, each one has constructed a distinctive approach to prior restraint, the author reports.

Thus, the federal government and the provinces share responsibility for structuring the meaning of obscenity, the author says. Moreover, it isn't only the provincial jurisdiction but the apparently arbitrary nature of censor-board decision-making that affect the definition. For example, representations of explicit sexuality are prohibited in Ontario but not in Québec. All provinces are concerned about sexual violence but there is no uniform standard of tolerance, the author points out. In Ontario, the only province to carry out a public opinion poll to determine community standards, the majority of people surveyed did not include representations of explicit sexuality in the tolerable category.

Members of all censor/classification boards are appointed by provincial governments, the author reports. In Québec, the key members of the review board are three men who have been in power for

more than twenty years. In Ontario and British Columbia, the public has access to board decision-making while, in Québec and Nova Scotia, public accessibility isn't mandated. However, the latter boards do respond to public concerns, the author argues. The public judges censor boards by the individual decisions each one makes, he says. For example, the decision by the Ontario Censor Board to limit the release of Not a Love Story, a documentary on the exploitive character of pornography was one of the "most controversial" decisions recently made.

This research reviews the patterns of provincial censorship over an eight year period. The author concludes that "censor boards have significant roles both in structuring provincial patterns of enforcement and in providing a definitional context for S.159(8) of the Code". Overall, however, he says, "the criminal enforcement of obscenity does not appear to be a particularly large enterprise of control". Less than three hundred people are charged each year and, of these, the less than thirty who are convicted receive fines.

The author reports that both federal and provincial powers of censorship have been challenged in the courts. In Ontario, the Court upheld the contention of the Ontario Film and Video Appreciation Society that sections of Ontario's Theatres Act were too general and, thus, contravened the Charter of Rights and Freedoms. While a recent Supreme Court decision upheld the provincial right to censor films, he says, the decision was won by a narrow margin (5-4) with the

minority contending that the right to define obscenity rests exclusively with the federal government. At the federal level, County Court Judge Stephen Borins turned down Act III Video's challenge to the government's power to censor which cited the Charter's freedom of expression provisions. In his judgement, Borins wrote that while explicit sexuality including homosexuality are tolerable, violence or cruelty in conjunction with sex "particularly where the performance of indignities degrade or dehumanize the people upon whom they are performed, exceed the level of "community tolerance".

Over the past decade, the issue of "social harm" has been displacing the issue of morality and sexual violence is the primary focus of attention, the author says. Citing some studies by Donnerstein, Malamuth and Check, he argues that experimental research has attempted to provide evidence of this harm and, it so doing, has shown male sexuality in "an unflattering light". He quotes Thelma McCormack's argument that pornography should be conceptualized as an extreme form of sexual inequality in which women serve as sex objects for men and nothing more. He argues that

debate concerning a causal link between the consumption of pornography and actual violence is not particularly crucial here. While it is certainly difficult to establish such a causal connection, the criminal sanction is adequately premised on indications of social harm. Insofar as a medium of communication condones or promotes sexual violence, or cruelty, it may be fairly said to be obscene.... The images of film and those of other media have the power to impact upon male attitudes towards aggression against women and to positively reinforce coercive sexuality. 44

The problem remains that the promotion of sexual violence is a "subjective" test, says the author. However, it is an appropriate focus of concern, he argues. The criminal process allows for a debate about what is or isn't "hate literature". He concludes that, ultimately, public education and discussion are the best ways to deal with the issue of sexuality and violence since controversial images "are very real reflections of social life".

Discussion of Working Paper No. 16

The practice of the ideological circle is once again evidenced in this research. Men of the ruling class with access to law-making through their positions in the legislatures, on censor boards and in the courts have been able to define and control obscenity to serve their interests. There has never been scientific evidence that representations of explicit sexuality "deprave" or "corrupt" people; this was a political definition.

First, men have been the primary law makers in their positions in the vast majority of seats in the federal legislature. The so-called "morality" that the criminal law purported to defend prior to 1959 can be seen as another way of saying "social harm" (or vice versa). In this case, explicit sexual representations that were held to "deprave" or "corrupt" people were thought to do this by encouraging extra-marital sexuality. Since women's positions as wives and child reargers in men's homes have been identified as major factors in

perpetuating women's oppression by enabling men to control female sexuality, it can be seen that threats to monogamy could seriously undermine male power. Thus, this definition of obscenity is designed to prevent "social harm" from a male viewpoint. Once this definition is entrenched in the Criminal Code it becomes "objective" because the legal discourse is held to be so. Women's view, that pornography promotes violence or abuse of women is, by contrast, "subjective".

Next, provincial governments, also consisting almost entirely of men, appoint their friends or political allies to censor boards where, within the context of the Criminal Code guidelines, the appointees continue the process of defining obscenity as they practice the law. The broad definition supplied by the Code allows boards to define obscenity as they see fit, as the author demonstrates with his elaboration of the different patterns of censorship and classification across provinces. He also demonstrates clearly the ruling class nature of these boards. Their active censorship of films depicting union activities as well as films designed to inform the public about sexuality and V.D. plays a role in maintaining the oppression of both the working class and women. When women are on these censorship boards (for example, Mary Brown in Ontario), their practice must be based on the legal discourse and, however broadly the obscenity provisions may be interpreted, the basic definition that it is "sex" which is obscene is the one which they must put into practice.

Finally, male judges have been the final link in this chain of definition. Judges such as Stephen Borins have the power through the creation of case law to put into practice "community standards" based on their own view of the world. While the majority of Ontario residents oppose representations of explicit sexuality, Borins can authoritatively state that such representations do not offend. His written decision becomes part of the legal discourse on which subsequent cases may be based. Similarly, if sex were made grounds for legal action under the "Hate Propaganda" section of the Code, women's "subjective" view that pornography promotes violence or abuse of women would be subject to debate in a criminal court. Generally, women still do not hold positions of power in this decision-making process and, even if they do, they are trained to think of and treat the legal discourse as an "objective" viewpoint and to see other views as "subjective" and, therefore, problematic.

Thus, we see that women have largely been excluded from the process of forming a legal definition of obscenity because, until recently, women have not been in legislatures, on censor boards or in the courts. Even now, women are a tiny minority in both federal and provincial legislatures, generally do not head appointed boards, and are the minority of judges in all sections of the court system. When women do hold positions of power, the definitions of pornography laid out in the legal discourse including the Criminal Code and case law have largely been developed by ruling men and exclude women's view. Thus, women's struggle to change the Code definition of pornography

and to include "sex" as a grounds for action under the "Hate Propaganda" section can be seen as an important piece in undermining the current basis for legal action. However, changing this part of the legal discourse will not solve the problem since both censor board decisions and case law define pornography in practice.

This research does show, however, that, to some extent, feminist ideas have entered both the discourse of criminology and legal decision-making in Canada. The author relies on the feminist discourse of both academics and the women's movement to bring women's perspective into this study. For example, he emphasizes women's knowledge that pornography represents women as sex objects. He combines this with an historical and materialist perspective. "Obscenity" is not an "objective" reality, he demonstrates, but one which has changed historically to serve ruling class and male interests. His conceptualization of pornography as both a reflection of and a factor in structuring a social organization which endangers and oppresses women demonstrates his incorporation of the ideas of both socialism and feminism. This position enables him to argue that a causal link need not be demonstrated between pornography and violence for pornography to be dealt with in the Criminal Code. This interpretation of the purpose of the criminal law, based on feminist discourse, contradicts the one put forward by the Justice Department and, thus, acts to insert an understanding into the policy development process that could act to challenge the status quo of male power as it is maintained in part through legal discourse and official

actions based on that discourse.

Similarly, Justice Stephen Borins' definition of obscenity demonstrates that at least some of the arguments of the women's movement are taken up seriously by women and men working in the legal system. These ideas then become part of the legal discourse on which future decisions can be based. However, it can also be seen that Borins has distinguished sharply between "sex" and "violence" in a way that speaks to the concern of the legal discourse that harm be "objectively" demonstrated. Thus, the subjective/objective split entrenched in and created by practices based on the legal discourse can be seen to be a major stumbling block for feminist ideas based on the experience of women to pornography.

Once again, the inclusion of feminist ideas in the discourse of criminology and in legal decision-making illustrates that the ideological circle as practice is not always completely successful in excluding oppositional ideas. In particular, the practitioners of the legal and liberal discourses are constrained to act in ways which ensure that "justice" is seen to be done. This means that women's vocal protests about the ways we are portrayed in pornography have to be accounted for, at least to some extent, in both academia and the legal system. This need for legitimation accounts for the entrance of some of women's knowledge into these documents.

In conclusion, women's struggles to have our knowledge about pornography taken seriously and entered into authoritative discourses has been partially successful. It does seem, though, that we will still need to continue our public education and consciousness-raising efforts if the "harm" of pornography, in terms of its impact on our views of our nature and sexuality as well as the emotional distress it causes us to see how this male-dominated society perceives us, is to enter social consciousness as authoritative knowledge and, thus, to effect lasting change through the development of law and social policy that takes women's perspectives fully into account.

3. The Control of Pornography Internationally

Two of the five studies reviewed here were authored by Daniel Sansfaçon, who was the research coordinator and Justice Department contact for the Fraser Committee. One study deals with relevant United Nation Conventions while the other deals with the law in the United States. These reports are interesting as much for their exposition of the author's conceptualization of women's current struggle over the definition of pornography as they are for the material they cover. Of the remaining three working papers, two are survey-type reports that focus primarily on the law and law enforcement in selected foreign countries and the third is an historical study of the development of the law and public debate on pornography in Great Britain.

Working Paper No. 3

The first of the two pieces of research authored by Daniel Sansfaçon, Agreements and Conventions of the United Nations with Respect to Pornography and Prostitution reviews international conventions that affect Canadian law development.⁴⁵ These agreements "represent common policy goals for signing parties". Canada was a signatory to all early agreements and conventions on prostitution. However, in 1949, prostitution began to be seen not as a problem of international "white slave traffic" as previously, but "a concern for the equality of women, respect for their human rights and those of children, and for an end to the exploitation of the prostitution of others".⁴⁶ Repressive legal measures were to be restricted to those who exploit the prostitution of others and measures for preventing prostitution, for example, health, education, social and economic programs for prostitutes, were to be implemented. A follow-up resolution (Resolution 1983/30) encouraged member states to ratify this Convention and to curb the pornography industry and the trade in pornography and to penalize them severely when minors were involved.

Canada did not sign these agreements, according to Sansfaçon, because the federal/provincial division of powers made it too complex and because of "its prudence with respect to a sometimes vague and overreaching terminology". However, he devotes one full section of this report to changes that would have to be made to both federal and provincial laws in order to comply with the 1949 convention. The

fact that Canada is a signatory to the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, a much "broader" convention, Sansfaçon says, "indicates that Canada is concerned with the situation of women and strives to reach a just and equitable policy".

There are two major UN conventions that deal with the suppression of "obscene materials" to which Canada is a signatory. These bind member countries to suppress publication, trade and advertisement of such materials. The definition of obscenity is left up to each country. In addition, Resolution 1983/30, discussed above, deals with pornography, again undefined. In his assessment of the Resolution, Sansfaçon asks whether pornography should be defined as "stereotypes that debase women and present them as being destined for the physical pleasure of men", a definition recommended to the UN by Special Rapporteur Jean Feraud-Laurent in the 1983 Resolution.⁴⁷ This report also recommended distinguishing between erotica and pornography, describing the latter as that material which separates affective from sexual relations. Sansfaçon's response to this suggestion is clear. "As is well known, in practice, this distinction is very difficult to draw", he says. Canada then is party to all agreements on obscenity except Resolution 1983/30.

Sansfaçon concludes that Canada will not sign the 1949 Convention until its internal laws and policies are congruent with it. "But that Canada has not signed this convention may also reveal how

difficult it is to strike a balance between competing interests in this area", he adds. He also notes that

one of the fundamental problems is and will remain that of the incongruence between international policies and long-term goals and national policies facing day-to-day realities, the political ones not being the least of them.⁴⁸

Discussion of Working Paper No.3

The legal discourse not only provides interpretive schema which erases women's knowledge from the policy development process, but also provides the federal government with a rationale for refusing to sign international conventions and agreements which could change both our understanding of the nature of pornography and the socio-economic oppression of women on which it rests. Canada will not sign the 1949 Convention until its laws and social policies are congruent with it, Sansfaçon tells us. This convention conceptualizes prostitution not as an inevitable or natural feature of human nature but as a preventable phenomenon arising from and resting on women's disadvantaged social and economic position. It also calls for specific changes to laws and social policies that would ensure that the position of women was improved. Similarly, Canada did not sign the 1983 Resolution on prostitution and pornography which defines pornography as the portrayal of stereotypes that debase women and present us as sex objects. The understandings contained in these documents are similar to those put forward by the women's movement and the proposed solutions echo some put forward by women as well.

Endorsing these documents would mean that the government recognized women's perspective as authoritative knowledge. It would mean acknowledging that individuals and groups in Canada are not fundamentally equal and, in particular, that this inequality enables the sexual exploitation of women. It would also mean acknowledging that pornography isn't pictures of "sex" but depicts male power to exploit women sexually. Instead, Canada is party to only those conventions and agreements which endorse women's equality in the abstract and which do not define pornography and prostitution as features of sexist society. The federal government has only signed documents which do not threaten authoritative understandings of these phenomena entrenched in legal discourse. Thus, using current legal discourse as a rationale, the government has signed only international agreements which do not entail changing federal or provincial laws and, thus, do not endanger the status quo of male power which these laws help to maintain as discourse in practice.

This research also clearly reveals the active part that the daily and routine work of men in positions of power in the Department of Justice plays in the maintenance of women's oppression. Daniel Sansfaçon, not through malevolence, but in the routine of "doing his job" takes part in bringing the ideological circle into being and in maintaining it. His academic training causes him to value only what men have said, represented by the scientific and legal discourses, as authoritative and "objective" knowledge. Women's concerns, arising outside of these discourses, are dismissed. For example, he ques-

tions whether a distinction could be made between erotica and pornography. He questions whether pornography should be defined, as the UN has suggested, as material which portrays women as sex objects for male pleasure, a definition based on the idea that in this society women are exploited. Instead, he rests his view of the role of the law, as a mechanism to balance "competing interests". This is clearly the classical liberal view embedded in legal discourse of the state as a neutral arbiter of the interests of a society of equal individuals. In this view, there is no room for a conceptualization of power differences among social groups or, hence, of oppression or exploitation. Thus, in his role as gatekeeper of official knowledge about pornography for the Fraser Committee, Sansfaçon puts into practice these ruling ideas. His daily decisions about what knowledge counts as "objective", how such knowledge must be produced and what research will or will not be published are all based on the discourses of science and the law which routinely exclude the perspective of women and this practice works to maintain this exclusion.

Working Paper No. 2

This Working Paper, entitled Pornography and Prostitution in the United States and authored by Daniel Sansfaçon, reviews legislation, enforcement practices and public debates.⁴⁹ Information was obtained from the U.S. Department of Justice, the Federal Bureau of Investigation, U.S. Post Office, and U.S. Customs. "Pressure groups of a

national scope such as Morality in the Media were also contacted."

As in Canada, the Hicklin test was used to define obscenity until it gave way to the Miller test in 1973. This test has three guidelines:

- a) whether "the average person, applying community standards" would find that the work taken as a whole, appeals to prurient interest,...
- b) whether the work depicts or describes in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
- c) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Although the terms "average person", "community standard" and "value of the work" are variable, the author reports that the U.S. Justice Department and "representatives of pressure groups" indicated that this definition will "permit the enforcement of the pornography business, provided that State (sic) laws are drafted accordingly".

The eight federal statutes dealing with obscenity define obscene material as that dealing with sex, including child pornography, the author reports. According to the Miller test, States are required to specify "the types of sexual conduct that are not to be depicted". State statutes vary widely especially "with respect to the specifications of sexual conducts whose representation is forbidden". Finally, the author says, it is not clear whether some states' definition of obscenity, which includes depictions of violence, fall within the Supreme Court definition which is limited to "sexual conduct".

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Regarding law enforcement practices and problems, the author states that it

is significant to know...that although the definition of pornography is relative, and although little is known about the characteristics of the business, pornography is much talked about, to the point of becoming a social issue.⁵¹

Federal and State law enforcement agencies, he says, "appear, overall, to keep low profile policies with respect to adult pornography, but to be more active on the child pornography side". There were twenty-four federal convictions on obscenity charges (13 of which were child pornography) in 1978-79. F.B.I. priorities, based on U.S. Justice concerns, are organized crime involvement, large scale distributors and child pornography. State law enforcement varies widely, the author reports.

Sansfaçon writes that although the extent and nature of the industry aren't known and enforcement of obscenity laws do not seem to be a priority, "pressure groups seem to have mounted a relatively large public outcry movement which may surpass the extent of the problem itself". The debate has two main components, he says. First, women's groups started to "make an issue" of pornography in the mid-1970s. These groups are not a monolithic bloc but their most prevalent critiques are that pornography is a form of "hate literature against women that breaches their rights as equal human beings" and that it "objectifies womens' (sic) bodies and thereby creates an environment where they are looked on as men's toys". The Minneapolis Ordinance would have provided a course of action for women on the basis of discrimination, he says, and its authors, Catharine MacKin-

non and Andrea Devorkin argue that pornography is real exploitation of women. Sansfaçon speculates that this could create a movement of women's groups demanding similar action in other cities and eventually resulting in a federal redefinition of pornography.

The second party in the debate is concerned "to restore the stability of the family based on mutual respect, affection, and obedience to legal and moral principles", the author says. This group includes Morality in the Media and Citizens for Decency Through Law, both of which have strong legal capabilities, submit briefs to courts and provide counsel and assistance to police forces and district attorneys throughout the U.S.

The author also mentions the National Coalition on Television Violence which is concerned primarily with the effects of such depictions on children and which is endorsed by some women's organizations. The author concludes that "(i)t is not clear whether pornography is an issue of concern to the average American" but that the activity of pressure groups may foster such concern.

In the conclusion to this reports, Sansfaçon speculates about the recent cause for concern about pornography.

some claim that these changes and new orientations have, at least in part, been spurred by changes in the pornography depictions themselves, which over the past few years, would have become more gross and violent. Apart from the famous snuff movies, and some very limited content analyses done by a few social psychologists, there is little evidence so far to support these contentions.

Discussion of Working Paper No.2

This research demonstrates the similarity of U.S. and Canadian legislation and patterns of law enforcement. Obscenity is defined in law by both federal governments as, first and foremost, material of a "sexual" nature. Community standards are used to determine whether material is or is not obscene. The states participate in defining obscenity as do the provinces. The law regarding "adult" pornography is generally not enforced. In addition, as other research has demonstrated, the material is the same in both countries since the U.S. is the major supplier of Canadian pornography. Therefore, the analysis which Sansfaçon provides here could and would apply equally in this country. It is important to understand what he is saying both about pornography and about women's struggles to change the shared cultural definition of it. His ideas not only inform his practice in acting as the co-ordinator of research for the Fraser Committee but also are put into practice here as official discourse of the Department of Justice designed to affect the development of a course of social action.

This official view of the women's movement against pornography is that women protestors are more of a problem than pornography. The "public outcry... may surpass the extent of the problem", Sansfaçon says. Practicing the relevancies of traditional social science discourse, he has not taken seriously what women have said about pornography. The criminology discourse in which he is trained

usually accepts as unproblematic a "common sense" conception of criminal politics wherein punishment of the guilty leads to a good society. In this ideological conception, there is no theory of power and the law is successfully presented as the guarantor of "human" values.⁵³ Thus, if there are few prosecutions under a law, it is assumed that "human" values have changed and that the law is no longer relevant. Given the few prosecutions under federal obscenity legislation, Sansfaçon can question the validity of women's concerns which arise outside of the traditional legal and criminology discourses.

The routine practice of criminological and legal relevancies allows Sansfaçon to pay little attention to what women say about pornography and to question the reliability of women's knowledge. Although he quotes from some feminist writings, he apparently did not seek out or interview women actively involved in the anti-pornography movement as he did those in the "moral majority" groups and law enforcement officials. Only a narrow range of women's analysis of pornography is presented. Women (and in fact all protestors) are contrasted with the "average American" who, Sansfaçon tells us, may not be concerned. This "average American" must be the "average person" whose view the law relies on for a "community standard" of tolerance since so few convictions are obtained under federal U.S. obscenity law. This "average person" of legal discourse, as put into practice by judges who are predominantly privileged, white males, is an "objective" observer whose opinion is, therefore, reliable. Since

women are actively concerned about pornography, they are not "average persons". Thus, Sansfaçon constructs women's view of pornography as "subjective" and, therefore, unreliable.

In addition, what women know about the nature and effects of pornography is not authoritative knowledge because it does not arise from research produced by the approved methods of the "scientific" discourse. There is "little evidence" to support women's "contentions" that pornography has become more "gross and violent" because only a few studies have been done by "social psychologists", Sansfaçon tells us. According to legal discourse, harm must be "objectively" demonstrated using these methods. The profound emotional effect that pornography has on women and the way that it structures social consciousness about how women should be treated does not "count" as knowledge according to the rules of evidence which run through both discourses. In this way, Sansfaçon's ideological practice based on legal discourse excludes women's experience and knowledge from the circle of authoritative knowledge about pornography and the reader is left with the impression that the women's movement is making "much ado about nothing".

Working Papers No. 1 and No. 4

Both of these Papers deal with legal provisions and law enforcement regarding pornography in foreign countries. Working Paper No.1, entitled Pornography and Prostitution in Denmark, France, West

Germany, the Netherlands and Sweden, was authored by a Ph.D. student in Sociology at Carleton University and by the Director of Research for the Netherlands Justice Department.⁵⁴ This research was designed on the basis of the issues Paper and "in consultation with individuals from the Department of Justice", the authors state. These countries were chosen because of their experience in legal and social policy development in the issue areas, they say.

The research methodology consisted of questionnaires sent to "individuals known to be knowledgeable in the subject area". One individual was consulted in each country, either in academia or in the Ministry of Justice. The Danish informant was Professor B. Kutchinsky, whose research in Denmark purported to show a reduced rate of "sex crimes" when pornography was legalized in that country.⁵⁵ Questions concerned legislation, law enforcement, social policies and public opinions. Instructions provided to the respondents specified that questions were to be answered by reference to government documents, crime statistics and research reports. Pornography was defined as "materials... and, or performances of a sexual nature considered to be obscene or indecent".

The report describes the "experiences" of the five countries with pornography. Attitudes of the "public at large" were ascertained by informants through public opinion polls. The attitudes of the women's movement were discovered through status of women mechanisms or there is no source given for this information. The authors

found that in all these countries, there was a sharp increase in the sale of pornography in the 1960s; obscenity law was heavily debated in public, among the scientific community and in established government committees; and it was unanimously concluded by these government committees that the state should not censor "explicit sexual materials" and that individuals should be protected from unwanted exposure to such material.

The authors also report that in the late 1970s, debate on pornography was reopened. Groups demanded more stringent prohibitions. Two social factors propelled this "backlash", they say. First, pornography was condemned by many feminists as sexist and discriminatory against women. Secondly, feminists criticized the distribution of depictions of "sex with young girls and sadistic acts". In response, Denmark and Sweden enacted laws prohibiting child pornography. West German laws already prohibit this as well as depictions of extreme acts of violence. A new bill is pending in the Netherlands.

The authors conclude that there is no evidence that legislative changes made in the 1960s legalizing explicit materials will be reversed.

The newly proposed and enacted prohibitions are no longer targeted against explicit sexual materials per se but mainly at materials depicting deviant sexual activities like pedophilia and sadism or other acts of extreme violence.⁵⁶

Working Paper No. 4, entitled Prostitution and Pornography in Selected Countries, is authored by three criminology professors of the University of Ottawa who are also part of a private consulting firm, Criminal Care.⁵⁷ The research examined law, law enforcement, the extent of the problem, public opinion and movements to change the law concerning pornography in Poland, Yugoslavia, Hungary, Venezuela, Panama, Chile, Argentina, Sri Lanka, Japan, Singapore and selected Arab countries. The rationale for this study was that the experience of these countries might be useful in the formation of Canadian public policy "although the culture of these countries is so vastly different", the authors say.

The methodology used reflected that of the previous Working Paper. Male criminologists in each country were asked to respond to a questionnaire. The authors state that

most of the questions could be answered by consulting books, documents and research reports. Sometimes, it might be necessary and even easier to consult a specialist, especially a police officer dealing with the subject.⁵⁸

The authors did not provide informants with a definition of pornography.

Despite their diverse political systems, there were commonalities found among these countries, the authors report. Most pornography is imported to these countries. Most respondents reported that pornography was not perceived to be a problem by police. Despite the fact that no public opinion polls had been carried out, the respondents reported that pornography was of little or no inter-

est to the public (although in both Panama and Venezuela protests by women's groups were reported to have provoked legislative changes). All countries had laws designed to prohibit production, public exhibition, distribution and sale of pornographic material. The number of cases prosecuted under these laws was few, if any. In several countries, pornography laws were used to censor anti-government materials.

The authors conclude that attempts to control pornography "appear to create more problems than they solve". In their opinion,

most people would perhaps agree that there is a need to ban what is reprehensible from public circulation. But they would also agree at the same time that there is a need to ensure that the greater harm of interference with human freedom must be prevented... the basic question appears to be the harm that (pornography) does to the development of youth. Consequently, before any decision is made, the actual effect that pornography has on the young must be ascertained.

Discussion of Working Papers No. 1 and 4

These research studies are both examples of the ideological circle as practice. First, the "expert" informants, those who "know" about pornography, were all trained in the legal, criminological and/or bureaucratic discourses and were, in any case, overwhelmingly men. For example, Professor Kutchinsky, whose research has been subject to a thorough-going feminist critique for its methods and conclusions is consulted as an "expert".⁶⁰ Academic criminologists and police officers counted as experts in such countries as Chile and Poland. These are men in positions of power in repressive police

states. Men in similar positions in Arab countries, known for their blatant oppression of women through seclusion and purdah, were relied on as experts. It was their training in the criminology and legal discourses that, despite their obvious interest in maintaining the status quo, constituted them as such. This knowledge provides for the separation of the knower from what he knows and, thus, allows the authors to designate these oppressors as "objective" observers. On the other hand, women and women's groups actively involved in the "debate" were not asked to provide their views of pornography available or of the current laws in their countries. Thus, men, or women trained in discourses representing male understandings of the world, were attended to as "expert" informants and women, who experience pornography as oppressive, were excluded from the process of knowledge making by the research design.

The second source of information was the discourses themselves. The research design specified that information needed to answer the questionnaires should be drawn from government documents, crime statistics and research reports, that is, the legal, criminological and bureaucratic discourses. Even information about the activities of the women's movement was drawn from "status of women" mechanisms of various governments. However, these documents are not a source which reflects women's realities because "the terms of bureaucratic discourse mystify politics by shrouding conflict in the pseudo-neutral language of administration".⁶¹ In the same way, the legal and criminological discourses usually contain no concept of power

relations because they have been developed in ruling institutions by men in positions of power and privilege. These discourses routinely exclude knowledge based on women's experiences and, thus, this research design, in its reliance on these discourses for authoritative knowledge, provides the researchers with a blueprint for practicing the ideological circle.

The European research demonstrates to some extent the effect of women's struggle concerning pornography. The academic respondents, at least in some countries, are aware of the arguments women are making and have reported them, demonstrating that women have affected the social consciousness about pornography, at least to some extent. Legal reform has also occurred although it has taken up only the issues of child pornography and "extreme violence" and not the concern that pornography is sexist and discriminatory against women. Once again it is only when harm is "objective" that representations of it are censored. Clearly, the respondents and authors as well as lawmakers in these countries, are not concerned that pornography causes women emotional pain or that it is part of creating and maintaining societies all around the world where women are viewed as sexual objects and are daily subjected to sexual harassment and assault. From the point of view of men in positions to make knowledge, pornography is about "sex", such material should be of concern only if it causes harm to "youth" and it is more harmful to curtail men's freedom to produce and read pornography than to work toward a social organization in which women can feel and be safe.

Working Paper No. 14

This Paper, entitled The Development of Law and Public Debate in the United Kingdom in Respect to Pornography and Obscenity, was authored by Carleton University Professor Ian Taylor.⁶² His analysis is based on a review of the law and interviews with British bureaucrats and academics, including academic feminists. Initially, he addresses the controversy over the definition of pornography. Conservatives base their definition on a "common sense" evaluation of its subject matter. "Libertarians" may define "the nuclear bomb, racism, imperialism, etc." as pornographic. Feminists are divided on both the definition and legal solutions. He cites those feminists who argue that a common sense definition would provide the state with grounds to have powers of censorship that would impinge on individual and group rights. He concludes that

we can only proceed by recognizing that the definition of our subject matter is continually subject to contest. We are discussing an area in₆₃ which there is no absolute moral, legal or social consensus.

In a comprehensive review of legal changes to the obscenity provisions and the reasons for these, Taylor argues that what seemed to be a permissive phase in Britain (1964-70), when there was much law reform in the area of sexuality, in fact increased the state's power to regulate sexuality in a particular way. Underlying law reform was the assumption of the Wolfenden Committee that the state should have increased power to regulate sexual material in the

"public sphere" while "private" activities were deregulated, ie, to distinguish between "public crime" and "private sin".⁶⁴ Taylor maintains that the grounds for such a distinction were "unambiguously sexist". For example, the Wolfenden Committee's rationale for prosecuting female prostitutes and not their clients was that prostitutes are more offensive "to the decency of the ordinary citizen" than their male customers because they are more visible. This "ordinary citizen" is taken to be "the right-thinking man on the Clapham omnibus" and "the source of sentiment the law ought coercively to protect", Taylor says. He concludes that the "respectability of the public domain requires that individual involvement in sexuality should always be private". These assumptions selectively privatized certain aspects of sexual behaviour and also provided for an extension and intensification of the state's powers in defense of the "public sphere".

Public debate about pornography has taken two different turns since Wolfenden, the author says. Conservative, moralistic pressure groups have argued that sexually explicit materials undermine the family while feminists have argued that pornography contributes to violence against women and have held many public protests. There have been calls for restrictions from both these viewpoints although, at least to some extent, the material they targeted was different. The Labour government responded by appointing the Williams Committee. This Committee distinguished, as Wolfenden had, between private use and public display of sexually explicit material. Display should be

restricted while adults' rights to buy such material should be protected. The Conservative government who received the Williams Report ignored its recommendations and moved to regulate private film screenings and home videos as well as instituting legislation which defines materials to be controlled as including any portrayal of sexual activity, the author reports.

Taylor also reports on the "video nasties panic" of the early 1980s. More British people own video cassette recorders than those of any other nation and concern was raised about children viewing sadistic horror films on home machines. The author argues that there is good reason to be seriously concerned about horror films. Research done in Britain showed that such films are rented most frequently by 15-19 year old males and that about 30% of all videos were of the horror genre. The author concludes that these materials

have real significance in the reproduction of male bravado or insensibility vis-à-vis human suffering... video nasties do seem to have the exclusive intention of constructing, exploring and sometimes even celebrating the erotic character of violence as such, and especially against women.⁶⁵

These videos are similar to such films as Friday the 13th and Hallowe'en released in the late 1970s, the author says. These have been subjects of feminist protests

on the entirely plausible interpretation that the films represented a direct ideological backlash against feminism in general or strong-minded or independent women in particular.⁶⁶

The films in question depict not only violence against women but a generalized preoccupation with human pain and suffering, Taylor reports. He suggests that the demand for these materials is based in

the audience's desire to metaphorically explore the possibility of real annihilation since Britain is a primary target for limited nuclear war in Europe.

In conclusion, Taylor says that although attempts to legislate on pornography may be limited by "the existing unequal relations of the sexes" and by the facts of militarism and nuclear build-up, these should not be used as arguments not to act on pornography or sexual inequality. "The hypocrisy is to act as if the larger contexts and their immediate expressions are not connected", he maintains.

Discussion of Working Paper No. 14

This study enters into the policy development process a competing theoretical framework to that which underlies traditional approaches and rationales for law reform. Unlike the other two studies dealing with obscenity legislation, Taylor introduces here an historical and materialist analysis which is part of "radical sociology" and, thus, competes with the traditional discourse. Like Kaite, he sees sexuality as a terrain of struggle and the debate over pornography as part of it. He outlines the various political philosophies underlying the competing definitions and does not portray the state as the neutral arbiter of this conflict but as serving to "coercively" enforce a particular view. Thus, he emphasizes the role of the state in the construction of sexuality. For example, law and social policy in Britain have produced a split in

sexuality with some aspects of it only acceptable if they are reserved for the "private sphere".

The sociological framework Taylor uses also takes into account, at least to some extent, feminist discourse on pornography and sexuality as well as on the role of the state in the maintenance of women's oppression. He acknowledges that the rationale for the construction of the "public/private" split by the state is "unambiguously sexist". He treats feminism as one of several possible political philosophies underlying the pornography debate and supports the contention of some feminists that pornography has an effect on male attitudes toward violence against women. He also implicitly connects this male insensitivity with militarism, i.e., worldwide violence, generally. He puts forward the idea that portrayals of violence against women are a response to women's activities to change the balance of power between the sexes. Finally, he argues that the relation pornography portrays is the "immediate expression" of the larger social context.

However, this study also demonstrates that a feminist analysis is not central in this sociological approach. First, Taylor does not make it explicit that the "social context" pornography reflects is the power relation between women and men which enables the state to regulate sex in a way that maintains the subordinate position of women. For example, the division of portrayals of sex into "public" and "private" categories is not simply a "sexist" decision but

actively reinforces the power of the men who make it. Feminists have identified "women's place" in a private sphere as variously, the source of our economic inequality, the source of our social inequality, the enforcement of our caretaking and caregiving roles and the site of the most prevalent and devastating forms of violence against us. The division of the world into public and private spheres has meant that, amongst other things, the state, through its law enforcement procedures, has in the past and still continues to let men get away with incest, rape and battering in the privacy of their homes. Pornography unsuitable for public viewing by "the ordinary citizen" may be taken home by men, be available to the women and children there as legitimate "adult entertainment", and the relations portrayed in it can be practiced by men on the women and children who depend on them.

Secondly, Taylor places the effect of pornography on men as the central issue of this paper and points our attention to "a generalized preoccupation with pain and suffering". While feminists have put forward the idea that pornography affects male attitudes and behaviour toward women, it is the effect of pornography on women that has been of central concern to the women's movement. Taylor's research took into account what academic feminists had to say about pornography but he did not investigate the women's movement in Britain at its grassroots to uncover the "public debate" at that level. Thus, investigating the effects of pornography at a level where women's experiences had already been "worked up" to accommodate the rules of

academic knowledge-making, the emotional impact of pornography on women and, in particular, the ways in which its portrayal of women as sex objects and victims is part of socializing women to be more vulnerable to male violence and to focus on male pleasure rather than our own desires and needs is not brought to light. Thus, while this research does enter some feminist knowledge into the process of policy development on pornography, the centrality of the power relation between women and men to this social organization and the devastating effect of this on women is still mystified.

Although the focus of this thesis is not implementation, it is interesting to note that the fate of the Williams Committee Report was similar to that of the Fraser Committee. The latter Committee, appointed by a Liberal government, also reported to a Conservative government with "pro-family" views. This government has ignored the Committee's recommendations on pornography in the legislation it has put forward as the British one ignored Williams'. This demonstrates the importance of political ideology in determining the direction of law reform. It also points to another limitation of a law reform strategy in feminist attempts to empower women.

III What is thought about pornography?

In order to determine public opinion about pornography, the Justice Department commissioned two research projects. The first was a national survey conducted by a private consulting firm and the

second was a review of the coverage given to pornography in selected Canadian newspapers.

Working Paper No.6

The public opinion survey was conducted by Peat Marwick and Partners. The stated purposes of the study, entitled Canadians' Attitudes Toward and Perception of Pornography and Prostitution, were to determine 1) "public concepts" or what "the public" considered to be offensive about the two phenomena including "perceptions about the harms (or benefits)... to themselves, their children and society, in general"; 2) a profile of public usage of pornography and prostitution; 3) the public awareness of these in their communities; 4) the extent of public knowledge about the law; 5) the extent of public satisfaction with existing controls; and 6) the socio-economic or other factors influencing public concepts, usage, degree of exposure, legal knowledge and policy option preferences.⁶⁷ The report is structured so that it begins with an "executive summary" of findings which is followed by a more detailed report of findings organized according to the six categories outlined above.

The methodology used was an in-house interview combined with a supplementary questionnaire booklet that was to be filled out and picked up after one week. 2,018 men (49%) and women (51%) were interviewed and 81% completed the booklet. The sample reflected the 1981 Canada Census in terms of sex, age, religion, community size,

and marital status. The sample differed significantly from the population in income level: 29% of the sample vs. 21% of the population had annual incomes over \$35,000 while 23% of the sample vs. 34% of the population had annual incomes of less than \$15,000. The analytic methods used were descriptive statistics and linear regression modelling.

Pornography was not defined in this study "because it was felt that the standard of acceptability and offensiveness toward pornography are very much related to what one defines as pornography", the authors say. However, throughout the questionnaires and in their report, the authors have used the terms "sex", "sexually explicit" and "adult entertainment" to describe what is being investigated. For example, of the two aspects of the questionnaire that dealt with "public concepts", the authors state that one "dealt with levels of acceptability/offensiveness toward sexually explicit material" and the other "probed respondents' perceptions and beliefs about sexually explicit material". Similarly, questions about the general level of acceptability were all related to "sexually explicit" materials.

The research investigated whether the medium used, the audience for the material or the type of scene affected levels of acceptability. The media were TV, magazines and film. The audience were "myself", "others" or "children". The scenes were 1) one or more nude women, 2) two adults of the same sex engaged in intercourse, 3) sex combined with violence, 4) a man and a woman involved in sexual

intercourse and 5) one or more nude men. The authors found little difference in acceptability by audience except when the audience was children. In the latter case, the scenes were far less acceptable. There were no differences in acceptability based on the type of medium used. The authors report that the "sex with violence" scene was the least acceptable followed by the scene of homosexual intercourse. The scene depicting "one or more nude women" was the most acceptable. Generally, the researchers found that "the same number (approximately) of respondents feel that pornography is acceptable as unacceptable". This finding was based on the level of acceptability of "sexually explicit" material and depending on the question asked, response rates varied widely. For example, 66% of respondents agreed that adults have a right to view such material "in private", 50% disagreed that everyone has a right to produce it and 45% agreed that "sex" magazines were unacceptable in our society. In the detailed report of their findings, the authors show that "older people" and women find the scenes less acceptable while "higher income individuals" find them more acceptable.

The researchers probed the "social sexual attitudes" of respondents using the following statements:

1. A homosexual would be as acceptable a school teacher as anyone else.
2. A woman must have higher sexual morals than a man.
3. The law should enforce sexual morals which agree with my own.
4. Men are better executives than women.
5. A person should be able to do anything as long as it doesn't harm others.
6. A person who runs nude across a public place (a "streaker") is simply amusing.⁶⁸

Only the third statement was used in their analysis. The authors report that 59% of those who agreed with it felt that "sex" magazines weren't acceptable compared to 36% who did not have this attitude. They do not comment on the fact that 43.2% of those who neither agreed nor disagreed with this statement also found "sex" magazines unacceptable.

The "perceptions" and "beliefs" respondents had about pornography are presented in the "executive summary" as follows: there is a strong belief that pornography is a problem in Canada (59% of respondents) although not a "major social problem"; "prevalent thinking" is that pornography has harmful effects particularly on children; and "some support is given to the beneficial or desirable effects of pornography". In the more detailed account of their findings, the authors report that 69% of respondents believed that violent sexual material leads the user to commit acts of violence, 48% believed that violent pornographic scenes are imitated in real life, 67% believed that "sex" magazines are degrading to women, 66% believed that women are portrayed in a more degrading fashion than men and 76% believed that exposure to pornography harms children's sexual attitudes. In addition, the highest level of disagreement (30%) occurs in response to the statement that "sexually explicit" material contributes to pleasurable sexual behaviour. When the sex of respondents was considered, the authors report that 76% of women vs. 57% of men agreed that pornography degrades women.

The authors report in their summary of the use of pornography that 89% of respondents said they had not purchased "adult entertainment" magazines in the last twelve months, 88% had not rented or bought "adult-only" video cassettes in the same period and 57% had seen "nude adults" in "adult entertainment" on TV. In the detailed findings, they report that "more men than women" bought adult entertainment magazines and that 67% of respondents reported having read or "leafed through" such magazines and more men than women had done so.

The authors' summary of findings regarding exposure to pornography states that there was a widespread awareness of availability of "adult entertainment" materials near their homes (73%), "much less" knowledge of such material showing scenes with violence (43%) and "even less" knowledge of such material showing scenes with children (15%). Also in the summary they report that

respondents are being exposed to some form of materials showing nudity and to actual nudity at a fairly young age (by the time they are 15 years old). As well, respondents are being exposed to pictorial nudity at an earlier age than to actual nudity.⁶⁹

Regarding legal knowledge, the authors' summary states that 32% of respondents knew that sexually explicit material which offends local community standards is legal while 62% knew that material showing scenes of violence, horror and cruelty is illegal.

Regarding policy options, the authors report that 59% of respondents favoured a government role in the control of "sexually,

explicit" materials, 16% did not, 67% felt police should have more power to control such material, and 66% felt that censor boards should similarly have more power. They also report that banning material was "mainly felt to be required" for sexually violent and homosexual material, that forbidding display and sales to children was most favoured for "sex" magazines or TV programs with nude adults, while banning such material is also strongly favoured, and that fines or jail terms for producers was the least favoured measure. In the detailed findings, the authors show that women more than men favoured both greater police and censor board control. Included here is a chart which shows that 40.4% of respondents who felt that sex education should begin at the primary school level believed that "personal", "family" or "other groups" should take a leading role in the control of "sexually explicit" material. The questionnaire item on control allowed the interviewer to record only one response to the question of who should control pornography and only police and censor mechanisms were addressed in the two follow-up questions.

The authors, as part of the research investigating factors which might influence respondents' attitudes toward pornography, asked whether respondents had ever been a victim of a "sexual offense" and the age at which this offense occurred. They do not discuss their findings in this report or use this variable to analyze attitudes. However, in Appendix F of the report ("Survey Results not Incorporated into the Main Report"), they show that 10% of respondents

reported being sexually abused and that of these, 30% were abused between the ages of 4 and 10 years, 38% were abused between the ages of 11 and 15 and 19% were abused between the ages of 16 and 20. There is no breakdown of this information by sex of the informant. Other results not incorporated into the report include the finding that 70% of respondents agreed that "violent sexual material shown in magazines or movies leads to increased violence against women". Also, 40% of respondents did not agree that a homosexual would be as acceptable a teacher as anyone else, 50% agreed that women should have higher sexual morals than a man and 59% said that men make better executives than women.

Discussion of Working Paper No.6

The quantitative method used here to find out what people think about pornography is provided by the social science discourse as the most "objective", and therefore the most likely, means to produce authoritative knowledge. However, just as the content analysis of B.C. videos involved, in practice, many decisions which were clearly not "objective", but were based on the priorities of the researchers and officials of the Justice Department, so this study can also be seen to embody the view of these men based on their experience of the world and reflected as practice in this and other official discourse.

First, the development of the questionnaire used in this research involved many political decisions. Whereas the background

research report explicitly recommended that, for the purpose of a national survey, pornography be defined as "the objectification of men, women and children", the authors put into practice a definition that represents the "common sense" view of pornography, ie, that it is about "sex". This definition is the one which men have had the power to put forward and, which through their control of research practices such as this survey, they have had the power to maintain. Denying that they have defined pornography further obscures this practice and the power relation that enables it. By neglecting the most crucial aspect of the "debate" about pornography, that its very definition is the terrain for struggle and hence for change, the authors have acted to reinforce rather than to change social consciousness about pornography.

They have continued this practice in their formulation of the questions they ask, that is, in their decisions about what to investigate. For example, the scenes that are presented for evaluation do not include many of the most common ones in pornography to which women have objected, for example, explicit genital depictions of women masturbating, women represented as young girls, women shown as enjoying male abuse, female bodies being displayed "incidentally" in violent or horror films, and so on. Also, by only considering "sexual" material when probing for "general levels of acceptability", the authors have chosen to ignore feminists' central concerns about the objectification and degradation of women. There are no questions which probe the connection between pornography and other media

depictions of women. Also, while they have asked respondents to indicate whether they have experienced a "sexual offense", they have not asked whether the abuser was male or female or, particularly relevant to this issue, whether the abuser was known to use pornography. Thus, the women (and men) who were surveyed who may have objected to depictions of the exercise of male power over women or who may have had direct experience of behaviour inspired by pornography would be unable to register this knowledge. Thus, the design of this research silences this knowledge.

The authors' choice of variables with which to analyze their data speaks to male privilege as it is entrenched in the legal discourse. This concern, that pornography be legislated against only when "objective" harm is demonstrated, not when "moral values" are offended, is embodied in the Charter as "freedom of expression". While their choice of analytic variables to ascertain "social sexual attitudes" focused on important facets of social consciousness, for example, ideas about morality, homosexuals and the nature of women and men, the authors chose to use only attitudes about whether or not the law should enforce morality to analyze their findings. There are, of course, provisions in the Charter that guarantee equality for women. The authors could have chosen then to refer to this part of the discourse and to use agreement with sexist statements such as "men make better executives than women" to discover whether these correlated with ideas that pornography is harmless fun or that it benefits society. By not using this analytic variable or the state-

ment designed to ascertain attitudes toward homosexuality, the authors made a choice which silences evidence that sexism and homophobia may be related to particular responses to pornography.

Next, the authors have chosen not to discuss findings that could support the feminist case against pornography and the social organization that produces it. For example, they do not discuss the findings that many people have sexist and homophobic "social sexual attitudes". Their findings that the scene depicting homosexuality (presumably male, since two women could not be said to be engaged in "intercourse") was not acceptable while the one depicting two or more nude women was the most acceptable, also indications of homophobia and sexism, similarly were presented without comment. They do not discuss the finding that "more men than women" use pornography and, in fact, never disclose exactly how many men and women they found to do so. While they asked respondents to suggest policy options "other" than the limited range they offered which dealt solely with family or state control, they do not report the responses they may have received. Finally, the authors fail to discuss the fact that a significant number of their respondents had been victims of "sexual offenses", many at a young age. Thus, findings that could be used to argue that male power and attitudes are the problem are left buried in the charts and graphs of this study and are not brought to the policy makers' attention.

Finally, the way the authors have chosen to present their

findings, the structure of their report, is designed to emphasize the findings which they have chosen as the most important for policy-makers to know. In the discussion and presentation of findings which forms the major part of the report, the authors have already selected which findings to discuss and which to ignore. This process of selection proceeds as the authors further extract selected findings discussed in this section for inclusion in the "executive summary". This "executive summary", as its name and its position at the beginning of the report intend, is designed to draw decision makers' attention to information which the authors, guided by Justice Department officials, have decided is most relevant. This "summary" leaves out most of the findings generated by the few feminist inspired questions in the survey. For example, the summary of respondents perceptions of pornography omitted to note that 69% believed that violent sexual material would lead to acts of violence and that 67% said that pornography was degrading to women, while it includes the statement that "some support" (in fact, 32-44%) was given to that statement that pornography had beneficial or desirable effects. Similarly, the summary tells us that 89% of respondents hadn't bought pornography in the past year while the detailed findings show that the overwhelming majority had actually used it anyway.

The quantitative method used in this study can be seen to be one which is especially suited to the practice of ruling. Touted as the most "objective" method, it is in fact open to many manipulations and

political decisions that largely exclude questions based on women's experiences and concerns and which minimize the impact of findings that would support feminist ideas about pornography and, thus, produce knowledge for women. The researchers have divided up the social world into categories of their own choosing and have put it back together again in a way that suits their own and the Justice Department's purposes. In doing this, they have attended almost exclusively to what men and the traditional discourses based on male knowledge of the social world have said about pornography. Thus, in carrying out this research, the authors have practised the ideological circle which acts to silence women's knowledge and which attempts to exclude it from this policy-making process.

Working Paper No.5

This research, entitled Canadian Newspaper Coverage of Pornography and Prostitution 1978-1983, authored by a Ph.D. student in Communications at McGill University, examined how eight major Canadian daily newspapers covered these issues.⁷⁰ The study looks at events leading up to coverage, regional distribution of coverage, particular topics representing the issues as well as what opinions and arguments appeared and who expressed them. A week-by-week search for intensities in coverage was done by topic groups and these were sampled for opinion. The frequency of each position was recorded as well as the source of comment. A chronological review appended to the research documents legal and social action on pornography and

prostitution over the eight year period.

Regarding prostitution, the author found that 1983 was the highest year for coverage with 1982 and 1981 close behind. The predominant topics were legislative and legal control of prostitution. The most predominant opinions were expressed by the most dominant sources of comment: police, municipal councillors, lawyers, jurists, judges and federal regulators, he reports. Those opinions quoted most frequently were the need for federal government action, for a stricter definition of soliciting to enforce the law and for city bylaws to control prostitution. Thus, the control of prostitution and not prostitution itself was the issue, the author says.

The author found that 1982 and 1983 saw dramatic increases in the coverage of pornography. During this period, two Vancouver Red Hot Video outlets were bombed by the Wimmin's Fire Brigade and there were intensive protests by women's groups about the presentation of Playboy videos on Pay TV. The most frequent topics were the activity of pressure groups, the problem of defining obscenity, the debate about whether federal legislation was required, the issue of censorship and the claims of pressure groups, especially women, that pornography had negative psychological effects. Unlike prostitution coverage, the author found that legal questions shared a high frequency with social and political issues and with pornography itself and its effects. Whereas prostitution was presented as a nuisance in newspaper coverage, pornography was conceptualized as a

social ill, he says. He states that the "activity of pressure groups, notably women,... gains in later years although it is significantly present in the earlier ones as well".

The most frequent sources of comment on pornography were journalists (editorial writers primarily) followed by pornography distributors and women's groups. The author says that, in part, this is due "to the increase in women's groups' activity against pornography... and the defense by distributors of their business activities". The number of articles in the highest year of coverage (1983) was about 100 more than the number for prostitution in the same year. He concludes that "the issue of pornography... has been made acute primarily by the initiative of citizen pressure, rather than by legislators, law enforcers and legal professionals".

Women's groups figured prominently as a source of opinion and in terms of their share of its expression. Associated with them was the most frequently expressed opinion that

there is a good deal of male-centred stereotyping in pornographic material. Images of women as masochistic, where violence is used, and "wanting it", are false and degrading. They propagate such false ideas and very probably bear a relationship to violence and rape.

Distributors were a predominant source of opinion and were associated with both the second most frequently expressed opinion, that there is a need for a redefinition of obscenity, and the fifth most frequently expressed opinion, that a tight definition of obscenity would threaten freedom of expression. Provincial legislators most frequently

expressed the need for a redefinition of pornography. Federal legislators, however, were associated with the third ranked opinion, that child pornography must be stamped out as well as with the fourth ranked opinion that:

degradation should be seen as negative not only because of reinforcing stereotypes of women, but also, and perhaps more importantly, because it runs counter to and offend social values that are fundamental to a pluralist, democratic and egalitarian society. The concept of obscenity must therefore be freed from its sexual association and linked to a wider perspective of human degradation and human rights.⁷² (my emphasis)

The author comments on the use of language in newspaper coverage. The term "hooker" he says is used by journalists, police, mayors and legislators and not used by feminist women's groups or prostitutes. He argues that the term is a trivialization at the expense of the persons to whom it refers. He also says that the term implies that it is the prostitute who goes for the customer rather than the other way around. He also objects to the extensive use of the term "kiddie porn" by both distributors and journalists. The frequent use of this term, he says, contributes to the trivialization of this serious issue.

Discussion of Working Paper No.6

This study sheds some light on why the government acted on pornography and prostitution when it did. Pressure peaked on each issue at the same time. In the case of prostitution, pressure came from those people charged with law enforcement who were being

pressured by middle class communities where prostitution was endangering property values. Pornography, on the other hand, arose as an issue due to vocal protests from many sectors of the women's movement. This protest had been going on for several years but it was when protests caused damage to pornography businesses that the government acted. Thus, one could argue that it was only when vested male property interests were threatened by women's activities that the federal government was prompted to act.

This content analysis also shows that the press has its own process for constructing an "objective" account. The requirements of journalistic "objectivity" meant that when "pressure" groups were covered, journalists sought out opposing viewpoints to "balance" women's opinions on pornography, leading to extensive coverage of the opinions of both distributors and legislators. Because of their location in the ideologically pluralist terrain of the state, legislators, judges, and police are seen to be neutral arbiters with no personal interest in pornography and prostitution and, thus, objective sources of comment. Also, in general, men are turned to by the press and other media as authoritative sources of comment while women are not. This is why, in the case of prostitution, journalists did not feel obliged to seek out prostitutes or their advocacy organizations for opinions to "balance" against those of the legal establishment. In this way, prostitution came to be accounted for as a "nuisance" rather than, as the women's movement sees it, one result of women's relative powerlessness. This practice also resulted in

the views of participants in the sex industry, that is, women, being absent from media coverage. Thus, this practice is an ideological circle which silences both women's understandings and experiences.

Women's activities do of course appear in the newspapers as this content analysis shows. This attests to the power of women's collective activities on pornography. Women were so active and so visible that the press had to consider them as objects of reportage. However, it is only "events" which are covered and the opinions expressed in the course of those events. The research and writings of the women's movement generally are not. Thus, as this content analysis demonstrates, nowhere in this press coverage is there any discussion of how pornography and prostitution arise or the relationship between them as these are conceptualized by the women's movement.

This content analysis also demonstrates that the ideological circle which silences women's knowledge of pornography and the power relations between women and men that engenders it is the routine practice of federal legislators and not specific to the Fraser Committee process. Whereas women's groups clearly focused on the way pornography portrays women, how this makes women feel and the male attitudes it reflects and promotes, federal legislators replaced the connection between pornography and the degradation of women with connectives provided by the legal discourse. Women disappear in their analysis; women are replaced by "humans". Women's connectives

disappear; it isn't women who are degraded or endangered, it is "human rights".

Taking up pornography as an offense to human rights allows federal legislators to insert it into the ideological processes of the "neutral" pluralistic state which will ensure an "egalitarian" society. Thus, delinking pornography and women's oppression and associating it with "human rights" obscures the power relation that exists between women and men. The focus of federal legislators on pornography as an offense to "social values" denies that in this social organization women can be and are viewed as sex objects because we are relatively less powerful than men and that pornography reflects this reality. It is part of a broader practice that obscures the reality that this social organization is made up of unequal groups constructed on gender, class and race lines and where conflict arises as less powerful groups challenge white male privilege. This practice ideologically constructs society as one in which the state, through the law, can ensure equality through individual human rights. This transformation begins the process of shifting the struggle over pornography from the terrain of the women's movement to the terrain of the state.

A Comparison of the Proposed and Published Research Programs

The ideological circle as practice is evident in the differences between the plan of research proposed by Poulin and Coderre and the

one designed by Paul Fraser and officials in the Department of Justice. The two characteristic features of this practice appear when these plans are compared. First, Poulin and Coderre proposed a research program that, above all, considered women to be the authoritative source of knowledge about the nature and effects of pornography. They recommended investigation of the daily experiences of women who have been battered and the women who work with them as well as the first-hand experiences of a group of women who would tell how pornography affects our self-images and behaviour. They recommended a survey of both women's groups and the feminist press as authoritative sources of knowledge about pornography because this feminist discourse is based on women's experiences. The Justice Department, on the other hand, relied on academic researchers, who were almost exclusively men, to produce a "factual account" of pornography. These researchers sought out other men as experts on the nature and effects as well as the incidence and control of pornography. These men were consulted as experts on their direct experience of pornography, for example the distributors, or as "expert practitioners" of the legal, social science and bureaucratic discourses. Their research surveyed literature produced in the social science and legal discourses as well as the mainstream press. These texts, which largely exclude women's experience as an authoritative source of knowledge, are treated here as the "objective" account of the world. Thus, the men who designed and implemented the research program carried out for the Fraser Committee attended almost exclusively to what men said and wrote about pornography.

Secondly, the concepts and methods of the Justice research program differed significantly from those proposed by Poulin and Coderre. Both the concepts and methods of the Justice program were provided by the traditional social science and legal discourses. The program recommended by Pouline and Coderre, on the other hand, relied on feminist discourse for its concepts and attended to feminist critiques of social science methodology in its proposed methods. The most blatant conceptual difference occurs in the definitions of pornography practiced in the two plans. The officials in Justice, through their control of the research process, put into practice a definition that represents the social consciousness, ie, men's experience, of pornography that it is a harmless adult entertainment concerned with "natural" sexual relations. Poulin and Coderre relied on the feminist discourse, embodying women's experiences of pornography in defining it as the sexual objectification of women and a reflection of a power relation between women and men wherein men dominate.

With regard to methodology, Justice-commissioned research relied heavily on quantitative methods to provide information about the nature of pornography and "what was thought" about it. As the investigation of individual Working Papers has revealed, this method is problematic because it is touted as the most "objective" way to produce knowledge about the world while it is open to political manipulations that can produce a picture of reality that does not

reflect women's experiences and which, by generalizing abstracted findings, completely obscures pornography and the personal sexual relation it represents as a terrain of political struggle. Poulin and Coderre, while suggesting that some quantitative research be done, especially regarding the size of the pornography industry, have largely recommended the use of qualitative methods, such as interviews which would uncover the reality that the perceptions of women and men differ in this social organization and that these differences are based on and give rise to a struggle to change the power relation between women and men which pornography so vividly portrays. Thus, the research commissioned by the Justice Department, relying on the interpretive schema provided by official and authoritative discourse, erases the understandings and connections women and the women's movement have made and replaces them with those arising in textual accounts of men's experiences. This is the second characteristic feature of the ideological circle as a practice which silences and, thus, acts to disempower women.

Summary

The ideological circle as practice works to perpetuate the status quo of male dominance by continuing to validate and reproduce the ruling perceptions and understandings as the correct way to know about the social world. This review of the research conducted for Justice, both published and unpublished, presents a clear picture of the way that the routine practices of officials in the Justice

Department exclude women's experience as a source of authoritative knowledge about the world. The ideological circle as practice is evidenced in the attention paid by men in positions of power to male experts and in the reliance on the traditional discourses based on male experience to provide the concepts and methods which transform the experience of women in a way that silences that experience. The suppression of research which validates women's understandings (for example, Poulin and Coderre) or which further investigates these ideas (for example, Jim Check's research) is simply part of this practice which constructs all knowledge arising outside the ruling discourses as "subjective" and, thus, "unreliable".

However, this review also points out where and in what ways women have succeeded in the struggle to include women's knowledge in the social consciousness about pornography. First, some knowledge is produced using the traditional concepts and "objective" methods provided for in social science discourse. For example, researchers working within the discourse of psychology have taken up the question of pornography in terms of social learning theory and have used traditional experimental methodology to investigate whether or not an "objective" link can be demonstrated between pornography and violent attitudes or behaviour toward women. Secondly, in social science disciplines which incorporate an analysis of power, researchers have expanded this analysis to include gender relations. Sociologists, most notably those who have a radical materialist or socialist view of social organization (for example, Poulin and Coderre, Kaite and

Taylor), one which is still marginal in the discourse, have attended to what women have said and written about pornography and include this perspective in their analyses. At least one researcher in the criminology discipline (Boyd) also discusses seriously women's concern that pornography both reflects and is a factor in reproducing a sexuality based on male needs and desires. Finally, the media's concern to report "events" provides for the inclusion of women's protests about pornography. The content analysis of the mainstream press in Canada shows that, whether or not women's ideas are taken seriously, they are reported in the media to some extent and become available to people who are interested in and open to them. Thus, women's experience is reflected, at least to some extent, in this research. This demonstrates that the ideological circle as practiced by people in the institutions of ruling is not impervious and that the active struggles of women for social change are making themselves felt in many areas of the knowledge-making process and in this one designed to inform the Fraser Committee.

FOOTNOTES - Chapter 5

1. Canada, Department of Justice, Working Papers on Pornography and Prostitution, vols 1-18 (Ottawa: 1984).
2. All information about the process of developing and carrying out this research program and about the researchers was obtained in an interview with Daniel Sansfaçon, Research Criminologist, Department of Justice.
3. Berkeley, Kaite, Working Papers on Pornography and Prostitution, Report No. 17, (Ottawa: 1984).
4. Canada, Department of Justice, The Impact of Pornography: An Analysis of Research and Summary of Findings, by H.B. McKay and D.J. Dolff, Working Papers on Pornography and Prostitution, Report No.13 (Ottawa: 1984). (hereafter cited as Justice, Working Paper No.13).
5. Ibid., p.1.
6. Ibid., pp.9-10.
7. Ibid., p.10.
8. Ibid., p.12.
9. Ibid., p.13.
10. Ibid., p.15.
11. Ibid., p.22 quoting S.H. Gray, "Exposure to pornography and aggression toward women: The case of the angry male", Social Problems, 29 (1982): 387-398.
12. Ibid., p.59.
13. Ibid., p.66.
14. Ibid., p.77.
15. Ibid., p.78.
16. Ibid., p.85.
17. Ibid., pp.86-92.
18. Ibid., p.92.

FOOTNOTES - Chapter 5 (Continued)

19. Thelma McCormack, "Making Sense of Research on Pornography" in Women Against Pornography, ed. Varda Burstyn (Vancouver: Douglas & McIntyre Ltd., 1985), p.199.
20. "Study relates non-violent porn to rape", The Globe and Mail 17 July 1985. I received no response from Professor Check when I wrote requesting a copy of this research. I relied on a report of his work which appeared in the Globe.
21. This Committee was jointly responsible to the Department of Justice, the Attorney General and the Department of Health and Welfare. The Badgley Committee designed and implemented its own research program.
22. Canada, Department of Justice, A Content Analysis of Sexually Explicit Videos in British Columbia, by T.S. Ballys, Working Papers on Pornography and Prostitution, Report No.15 (Ottawa: 1984). (hereafter cited as Justice, Working Paper No.15)
23. Ibid., p.3.
24. Ibid., p.85.
25. Ibid., pp.18-19.
26. Ibid., p.90.
27. Ibid., p.56.
28. Ibid., p.66.
29. Typical items, modelled by women, in catalogues of "hardware" presented to the Fraser Committee as part of public submissions included a wide, leather gag with a large penis-shaped projection that was inserted in the woman's mouth and a set of metal cuffs and chains which restrained a woman so that her head and feet met behind her back.
30. Canada, Department of Justice, A Survey of Canadian Distributors of Pornographic Material, by Berkeley Kaite, Working Papers on Pornography and Prostitution, Report No.17 (Ottawa, 1984). (hereafter cited as Justice, Working Paper No.17)
31. Note that this discussion will be reiterated in the Report of the Special Committee.
32. Justice, Working Paper No.17, p.7.
33. Ibid., p.8.

FOOTNOTES - Chapter 5 (Continued)

34. Ibid., p.15.
35. Ibid., p.33.
36. Ibid., p.17.
37. Ibid., p.27.
38. Ibid., pp.44-45.
39. Lynne Segal, "Sensual Uncertainty, or Why the Clitoris is Not Enough" In Sex and Love: New Thoughts on Old Contradictions, ed. Sue Chartledge and Joanna Ryan (London: The Women's Press Ltd., 1983), p.30.
40. Mariana Valverde, Sex, Power and Pleasure (Toronto: The Women's Press, 1985), p.18. This approach to pornography is also fundamental to the analysis in another recent Canadian book about pornography, Burstyn, Women Against Censorship.
41. Ibid., p.19.
42. Canada, Department of Justice, Sexuality and Violence, Imagery and Reality: Censorship and the Criminal Code, by Neil Boyd, LLM, Working Papers on Pornography and Prostitution, Report No.16 (Ottawa: 1984). (hereafter cited as Justice, Working Paper No.16)
43. Ibid., p.22.
44. Ibid., p.87.
45. Canada, Department of Justice, Agreements and Conventions of the United Nations with Respect to Pornography and Prostitution, by Daniel Sansfaçon, Working Papers on Pornography and Prostitution, Report No.3 (Ottawa: 1984) (hereafter cited as Justice, Working Paper No.3).
46. Ibid., p.9, referring to the 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others.
47. Ibid., p.14, quoting the UN Economic and Social Council, Activities for the Advancement of Women: Equality, Development and Peace, Report No. E/1983/7.
48. Ibid., p.16.

FOOTNOTES - Chapter 5 (Continued)

49. Canada, Department of Justice, Pornography and Prostitution in the United States, by Daniel Sansfaçon, Working Papers on Pornography and Prostitution, Report No.2 (Ottawa: 1984). (hereafter cited as Justice, Working Paper No.2.)
50. Ibid., p.5.
51. Ibid., p.23.
52. Ibid., p.43.
53. Pat Carlen, "Radical Criminology, Penal Politics and the Rule of Law" in Carlen and Collison, Radical Issues in Criminology.
54. Canada, Department of Justice, Pornography and Prostitution in Denmark, France, West Germany, the Netherlands and Sweden, by J. Kiederowski and J.M. van Dijk, Working Papers on Pornography and Prostitution, Report No.1 (Ottawa: 1984). (hereafter cited as Justice, Working Paper No.1)
55. Berl Kutchinsky, "The Effects of the Easy Availability of Pornography and the Incidence of Sex Crimes: The Danish Experience", The Journal of Social Issues, XXIX no.3 (1973):163-181.
56. Justice, Working Paper No.1, p.124.
57. Canada, Department of Justice, Prostitution and Pornography in Selected Countries, by C.H.S. Jayewardene, T.J. Juliani and C.K. Talbot, Working Papers on Pornography and Prostitution, Report No.4 (Ottawa: 1984). (hereafter cited as Justice, Working Paper No.4)
58. Ibid., p.3.
59. Ibid., p.215.
60. See, for example, Pauline B. Bart and Margaret Jozsa, "Dirty Books, Dirty Films, and Dirty Data" and Irene Diamond, "Pornography and Repression: A Reconsideration of 'Who' and 'What'" both in Lederer, IBTN. In fact, Kutchinsky's research showed no decline in the incidence of rape.
61. Kathy E. Ferguson, The Feminist Case Against the Bureaucracy (Philadelphia: Temple University Press, 1984), p.208.
62. Canada, Department of Justice, The Development of Law and Public Debate in the United Kingdom in Respect to Pornography and Obscenity, by Ian Taylor, Working Papers on Pornography and Prostitution, Report No.14 (Ottawa: 1984). (hereafter cited as Justice, Working Paper No. 14)

FOOTNOTES - Chapter 5 (Continued)

63. Ibid., p.2.
64. United Kingdom, Report on the Committee on Homosexual Offences and Prostitution (London: HMSO, 1957).
65. Justice, Working Paper No.14, p.43.
66. Ibid., p.43.
67. Canada, Department of Justice, Canadians' Attitudes Toward and Perception of Pornography and Prostitution, by Peat Marwick and Partners, Working Papers on Pornography and Prostitution, Report No.6 (Ottawa: 1984), p.1. (hereafter cited as Justice, Working Paper No.6)
68. Ibid., Appendix A.
69. Ibid., p.14.
70. Canada, Department of Justice, Canadian Newspaper Coverage of Pornography and Prostitution, by Maged El Komos, Working Papers on Pornography and Prostitution, Report No.5 (Ottawa: 1984). (hereafter cited as Justice, Working Paper No.5)
71. Ibid., p.68.
72. Ibid.

CHAPTER 6
THE FRASER COMMITTEE REPORT

8

Description of the Report

The Fraser Committee Report begins with a preface by Paul Fraser the first line of which reads:

In a free society, basic questions about how people are required to behave and how they are entitled to express themselves, rank among the most important to be asked.

The answers to these questions "have ultimately defined our freedom and responsibilities", he says. The concerns about pornography and prostitution are "serious ones involving the dignity and equality of people and an appreciation of the depth and variety of human affection". Pornography is a clear manifestation of our society and the answer to this problem is to be found "in the social order of things and in the way in which Canadians practice the equality, dignity and respect that our Constitution enshrines". The Report is "a product of compromise forged by seven people with differing backgrounds and experience", Fraser says. In it, the Committee members "attempt to fairly record all sides of the debate and, at the same time, to reflect the intensity of feeling that we encountered". Fraser says that Susan Clark, Mary Eberts, John McLaren, Joan Wallace and he wrote the Report while Jean Paul Gilbert and Andrée Ruffo oversaw the translation and production of the French language version.

Part I of the Report consists of a "General Introduction" and "Philosophical and Constitutional Considerations".² In the general introduction, the work of the Committee is described.³ The authors

state that, over the past decade, "increasing public debate" in Canada regarding the "contemporary realities" of pornography and prostitution had produced "conflicting descriptions of the problems" and "equally conflicting views of the social and legal solutions". However, they state, "there seems at least to be agreement that it should be done quickly and clearly". They review the terms of reference of the Committee and present a short biography of each member.

"The Committee's Approach" is described in this section. Each member while having formed some views about the issues "were determined to rethink our individual biases on both subjects", the authors say. They considered it important to treat impartially the views of individuals and groups who made submissions to them. They acknowledge that the establishment of the Committee was seen by some to be the government's "excuse to avoid needed legislative action". However, their view, shared with others, is to consider it "an indication of the government's determination to legislate in an informed way". The Committee needed "to acquire a more abstract understanding of how the law appeared to be working or not working" as well as "to appreciate that changing the law was an exercise in dealing with effect and not cause". Finally, the authors say, the Committee "considered that the most important aspect of its work was to ascertain the views of the public" in order to "really understand the range of available solutions".

To do this, the committee decided to hold public hearings across Canada. Prior to these, the Committee "had early contact from existing groups who had forceful ideas about both subjects" but they felt the need to hear "some general public reaction from individuals, groups and institutions who had not previously expressed themselves on these issues". The Committee, therefore, published and distributed 16,200 copies of the Issues Paper beginning in December 1983. As well as holding public hearings, the Committee reports that it met privately with some people. These included "prostitutes, former prostitutes, performers, parents of young prostitutes, social workers, community workers and many others...". While the public hearings were the most important aspect of their work, the Committee reports that their mandate was not "to conduct a referendum across the country".

In addition to hearing from the public, the Committee consulted other groups and individuals.

The next phases of our work involved superimposing on the views that we had received from the public, those of the administrators, bureaucrats, researchers and others involved day-to-day with the effects and regulation of pornography and prostitution.

These included the Department of Communications, the Law Reform Commission of Canada, the Canadian Human Rights Commission, Canada Customs, Canada Post Corp., the R.C.M.P., The Canadian Radio and Telecommunications Commission, provincial film classification boards and Project "P" of the Metro Toronto Police. Individuals consulted included Dr. Edward Donnerstein, Dr. Neil Malamuth and Professor

Bernard Williams. The members also viewed material "said to be pornographic" and "observed the practice of viewing the material in full and not out of context". The Committee prepared draft legislation wherever they recommend legislative change. This was a "risk" and "less than perfect", they say, but would "form at least the basis for further discussion and ultimately, for an overdue reform of the law".

Under the heading "Philosophical and Constitutional Considerations", the authors say that any attempt by a society to deal with pornography and prostitution must take account of its own philosophical and ethical traditions.⁵ They present "a review of three different philosophical traditions, the liberal, the conservative and the feminist".

The liberal view is described as a "deeply ingrained...belief that the fundamental value is the freedom of individuals to develop their own view of life, without direction from the state or the majority". This view is best represented by John Stuart Mill's writings, the authors say. "The necessary corollary of this view of society is that the state is justified in intervening only to punish or control human conduct when it does harm to other people", they continue.

Mainstream liberal thought seems to be agreed that harm does embrace both physical harm to others, and the sort of psychic harm involved in people being involuntarily subjected to offensive or objectionable conduct or representations of it.⁶

This concept of harm "does not extend to mere feelings of moral

distaste" and, the authors emphasize, "it is the immediate cause of it that is culpable, not the more remote causes".

This framework would mean that the law would have no acceptable role in preventing production, distribution, sale or possession of pornography unless some recognized harm could be attributed to it, the authors say. Thus, the law would have no role in curbing alleged "harms to society" unless it could be proved that there is a causal relationship, empirically or correlationally demonstrated, between the use of pornography and physical harm or threat to individuals. The law could, however, be used to ensure that such materials were marketed so that they would not cause "involuntary offense" to the public.

The conservative view is characterized as the "position that there is a necessary coincidence between the law and moral views of a community". The authors present two variations of this view. The first takes the view that society is an organic whole with shared moral values rooted in the culture based on the wisdom of the majority and embodied in the law. The second version, associated with Lord Devlin, is that unless the law embodies and enforces traditional moral values, society will disintegrate. These approaches both "posit that the state has a right to step in and prevent personal immorality where it clearly offends the sense of propriety and decency of the majority of the community" and the criminal law has an important symbolic role in defining this "common morality", the

authors say. Conservatives are "concerned to preserve the sanctity of the family" and believe that "sexual relations should take place only within the context of marriage". The law can thus be used to suppress pornography because it undermines these values.

Feminism, the authors state, is not a "discrete philosophy" but "rather, a broad coalition of interests dedicated to the common purpose of improving the status of women in society".

In the view of feminist thinkers, our society is built around a sexual class system, which frustrates the legitimate aspirations of half the population for economic, social and sexual freedom. Pornography...reinforces that system by instilling and perpetuating notions about women's inferiority and limited role within society. It sets women apart as different and characterizes them as the legitimate objects of not only male sexual pleasure, but male frustration and violence.

Thus, feminists characterize both pornography and prostitution as "predicated on the assumption of men's power over women", they say.

Feminists disagree on the strategies to deal with this problem, the authors report. Marxist feminists "incline to the view that the answer to sexism lies in the removal of the capitalist values and structures which make it possible" while a "second and larger group sees women's problems as those of gender discrimination rather than classical economic exploitation". The latter group assumes "the continuation of liberal democracy" and argues that education and other socialization processes will be more effective than legal remedies. "The majority, however, favour the vigorous use of legal, as well as political and social strategies", the authors maintain.

Regarding pornography, they say, "what is required is a new emphasis on proscribing the violence and degradation of women and children that it contains". Steps must be taken to enable women to use the law to protect themselves and their children, they say. These feminists argue that if the rights issue is to be taken seriously, "their rights to equality, freedom from personal abuse or threat, and to dignity are entitled to consideration and protection".

The feminist position on the rights question "provides a significant challenge to orthodox liberal theorists", the authors say. Rather than seeing the rights issue in terms of the infringement of the state on the rights of the individual, this view centres on the conflict which may arise in the exercise of rights by two individuals. The legal system may be called upon to determine which right is entitled to greater protection, they say. This is not a problem when the exercise of a right by one has caused harm to another.

Much less clear is the liberal reaction when the opposing right has not, in fact, been abridged in the concrete sense but only in the abstract, for example, when a woman claims a pornographic publication infringes her right to equality in that it treats women as degraded or subhuman.

In this case, the authors say, the feminist stance is that this shows the "bankruptcy of the narrow characterization of the harm principle" and the need to redefine the notion of rights in liberal theory. Thus, "for women, the fact that on the formal level they enjoy the liberty to do certain things is of little consequence if the social environment prevents the exercise of those rights", the authors say.

This extended notion of rights would mean that for women to enjoy greater freedom and equality, men would lose some liberty and status. This is not a revolutionary view, the authors say, but the sort of "social engineering" which has been the way that "disadvantaged groups" in society have typically been empowered. Feminists reject the notion that harm must be measurable and statistically verifiable and argue that harm includes the notion of social harm, the Report says. Only such a notion can eradicate the "sexism" that is "endemic" these feminists argue. However, they also say that even if a narrower interpretation is used, "there is enough data to demonstrate that women are victimized by the sexism inherent in pornography". Not only the research of social psychologists but also reports of battered women support their view that pornography is linked with violence against women and children and with "an adverse and brutalizing effect on male perceptions of women as well as male sexuality", feminists argue.

Feminists reject the conservative view as oppressive, the authors say, "because its fundamental assumption is that the ideal society is one in which women have a subordinate and submissive role" and because sexuality outside of marriage is frowned upon. Feminists are also concerned that conservatives do not distinguish between pornography and erotica, the authors report.

The authors conclude that this discussion of "philosophical

considerations" is only "a broad overview of what are, in fact, very complex debates". They have not included many versions of each view nor have they "made specific reference to what could be termed a socialist viewpoint", they say. The three approaches were discussed because

these philosophical traditions are at the root of the principles which we believe must inform any attempt to reform our legal and social responses to pornography and prostitution.

These approaches are reflected in attitudes about the role of the criminal law. They were all heard during the public hearings, from the "conservative extreme" -- that the law should be "moral law" -- to the "libertarian extreme" that the law should intrude only when one person physically harms another. The Committee members report that their own view lies between the two extremes. The Criminal Code should not be confined to tangible harm but should have a wider legitimate ambit that reflects "the values of society", they say. The criminal law has an impact on influencing peoples' behaviour even when it is not enforced, they maintain. They note that the Law Reform Commission supports this view and, as they did in the Issues Paper, quote from the Department of Justice publication The Criminal Law in Canadian Society as follows:

The purpose of the criminal law is to contribute to the maintenance of a just, peaceful and safe society through the establishment of a system of prohibitions, sanctions and procedures to deal fairly and appropriately with culpable conduct that causes or threatens serious harm to individuals or society.

The question then is to determine just what social values the law should enforce, the authors say.

To resolve this question, the Committee members report, they did not "adopt in its entirety any one perspective or theory of society or of pornography and prostitution". However, certain "basic principles" did influence their recommendations, how they "synthesized" public views and how they found or interpreted areas of consensus. These principles were "equality", "responsibility", "individual liberty", "human dignity" and "appreciation of sexuality".

The report says that "any legal regime of dealing with pornography and prostitution must be founded on the rights of women and men to legal, social and economic equality". In the Committee's view, these phenomena

are at least reflections (if not causes) of perceptions that women are inferior, and that men can expect women to be available to service their sexual needs... It is clear that the maintenance of these attitudes towards women over the centuries has played a significant role in the historical allocation of women to subordinate roles in the social, political and economic order.

With regard to child pornography, the authors say, "social policy should proceed on the basis of a firm recognition of the child's right to equality". While children should not be treated as full legal adults, "liberal thought" has long recognized that children are particularly vulnerable and that society must be correspondingly more responsible for their welfare.

On the other hand, any adult must accept responsibility for his or her actions, they say. Despite arguments put forward during the

public hearings that adult women involved in pornography and prostitution should be viewed as victims, of the economy, patriarchy or sexual abuse during childhood, the Committee rejects this as a principle on which to structure the criminal law. In contrast, children are seen as victims or potential victims and "the exploiter should be made to accept responsibility for his or her actions".

The corollary of personal responsibility is individual liberty, the authors say. An important aspect of this liberty is freedom of expression. However, when an adult behaves in such a way that it impinges on the lives and conduct of others, the state is entitled to intervene, they argue. Regarding pornography, they say, "the right of some to equality will sometimes run directly counter to the right of others to create and to enjoy the creation of others" and these two values must be balanced.

Human dignity and voluntary sexual expression are values that may also conflict with freedom of expression, the Committee reports. At the public hearings, they heard many calls for a "regime of regulation" that would foster human dignity and particularly "physical integrity". They state that

it is essential to accept as a point of departure for policy-making, the idea that human beings enjoy and benefit from open and caring sexual relationships, characterized by mutuality and respect.

They report that there "was little support in the public hearings for repression of sexuality as a means of, eliminating what people found oppressive about pornography and prostitution". However, the

concerns raised that children turn to pornography because of lack of good sex education, that pornography insults the joy of non-exploitive sexual relationships and that a repressive regime would hamper the "human need for sexual expression" have real merit, they say.

The authors conclude this section by saying that the emphasis on equality will be a shift away from the traditional focus on sexual immorality as a basis for criminal prohibitions and toward one which views pornography as an assault on human rights. Their recommendations include a complete reworking of the Criminal Code based on offenses to equality, dignity and physical integrity, they say, and they have "striven for specificity and clarity" in the proposed laws and have been "reasonably sparing" in their use of criminal sanctions. This strategy stemmed from their "desire to leave responsible adults as much freedom of choice and as much capacity to govern their own conduct as is consistent with protection of basic values" and from their "hope that the criminal law will.. interfere with freedom of expression only to the degree necessary to safeguard other basic values". They say that the fulfillment of these basic principles will require "considerable social adjustment".

In particular, the equality principle, even if accepted at the theoretical level, will still need for its full implementation, substantial reallocation of economic and social resources. There remains, too, a formidable task in re-education and reshaping of attitudes in certain sectors of society.

While these "long range tasks" will not be achieved by legislation, law reform must not be delayed until such a process is completed, the authors conclude.

The authors discuss the impact of the Charter of Rights and Freedoms and of the federal-provincial division of power established by the Constitution Act on the development of criminal sanctions. The Charter provides that each person has the right to "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communications" (S.2(b)) and that "every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination ...based on race, national or ethnic origin, colour, religion, sex, age or mental or physical ability (S.15(f)). The Charter allows for legislation that will forward equality (S.15(2)) and for "reasonable limits" to fundamental freedoms that "can be demonstrably justified in a free and democratic society" (S.1). The Charter "embodies the notion that rights are not absolute, but need to be balanced in some contexts against the greater claims of the community".

The constitutional division of powers leaves the criminal law in the federal jurisdiction while provinces have jurisdiction over property and civil rights. Thus, while it is legitimate for the provinces to regulate business in each province, in part for moral reasons, they cannot legislate the proscription of immoral conduct which falls within the mandate of the criminal law.

Part II of the Report deals with pornography. Section I, entitled "Pornography as a Social Issue" includes a discussion of the

definition of pornography, selected views from the public hearings and a review of the research commissioned by the Department of Justice.¹¹

The terms of reference of the Committee did not include a definition of pornography, the authors say, and they refrained from defining it in the Issues Paper because they "believed that an essential part of our work was to hear what Canadians thought was encompassed in the term". They review the current Criminal Code definition of "obscene" material and the key test of "community standards" used to determine what is obscene. They note that the term "obscene" in the present criminal law emphasizes sexual morality in Canada and the U.S. That there are many popular applications for the term "pornography" is problematic. The use of community standards "to account for the role of taste and sensibility in determining what should be prohibited, while trying to limit that subjective component" is not a suitable approach for the criminal law to take, they say. Their approach is different.

We are not concerned here with refining the popular use and extension of the term pornography. We are, however, concerned about finding a definition which will assist in determining what might properly be the subject of legislative control.¹⁵

In order to do this, the Committee members distinguish between two types of pornography. One type would be "merely sexually explicit". The other would be material that is sexually exploitive and degrading to its participants, portraying men as aggressors and

women as subordinate. However, they acknowledge that, practically speaking, there can be no real dividing line between the two, noting that "some feminist observers say that all pornography, even that which is "merely" sexually explicit, conveys these messages of sexual exploitation and degradation".

The authors say that the scheme of criminal law they have developed does not depend on a prior definition of pornography but concentrates instead "on identifying the kinds and types of representations which we believe merit a criminal sanction". The terms of pornography, obscenity and erotica have been avoided, they say. They cite feminists' definitions of pornography which they say incorporate a concept of "new pornography", ie, that which combines sex and violence. They quote Helen Longino and Jillian Ridington's definitions which say that not only degrading representations but also the endorsement of such behaviour is problematic. They also cite the definitions put forward in the City of Indianapolis and City of Minneapolis Ordinances drafted by Andrea Dworkin and Catharine MacKinnon. Of the latter they say that the crucial component is the connection made between pornography and misogyny. They also note that both approaches "see pornography as part of a political problem, relating to power imbalances in society". This is a "moral" problem, then, they say, because it is wider than the mere issue of sexual morality.

While such views are "a valuable contribution to the debate",

the Committee says that "we have some difficulties in completely absorbing into the Criminal Code the definitions proposed". The "broad terms" of these definitions would mean that "criminalization of images that present women as commodities, for example, would catch much of contemporary advertising". Under the Charter, they say, this would not be a "reasonable limit" to freedom of expression. Similarly, a prohibition on presenting women as "whores by nature", also included in the Minneapolis Ordinance, might also "offend the freedom of expression guarantee".

There is agreement on the part of those who object to the present law that a distinction should be made between pornography and erotica, the authors say. Margaret Laurence and Gloria Steinham are cited as distinguishing erotica by its mutually pleasurable nature and its exercise between two people of equal power. The Committee agrees that this distinction should be made.

The authors conclude this discussion by saying that, generally, they did not use "pornography" for legislative purposes because of the diversity of meanings attached to it. The one exception is their use of it in the titles of the sections of draft legislation where it is "very carefully defined by specifying what sort of acts are at issue".

Regarding the public submissions, the Committee members say that their analysis of these revealed "a wide range of opinions among

Canadians about what is offensive and what should be considered pornographic". The definitions of pornography put forward for legal purposes ranged from the conservative to libertarian "extremes", previously delineated, they say. Between these "extremes" was the position of "most feminists groups" and some church organizations who held that erotica was acceptable but that pornography was not. The authors say that

there was consensus in this area: the question of what should be done about violent pornography. A large majority of presenters expressed strong concerns about the prevalence of violent pornography and urged that government controls be strengthened...¹⁶

Support for this also came from some community organizations, teachers' federations, some men's groups, a small number of elected representatives and some representatives of police forces and unions, they report. Opposing censorship were 1) civil liberties groups, some professional associations and film and video associations; 2) the Periodical Distributors Association, the Video Retailers Association and some retailers; and 3) gay rights organizations.

The report categorizes the content of submissions as follows: the prevalence of pornography, its effects, definitions, the link between pornography and violence, recommendations for change and organizations opposed to controls.

The Prevalence of Pornography: Local surveys done by status of women committees in Winnipeg and London revealed that the vast majority of variety stores there sold pornography. An anti-pornography group in

St. John's reported that government funds were used by male service clubs to show pornographic films at club functions. Many groups expressed concern about increasing violence in pornography. The Anglican Diocese of Toronto defined pornography as victimizing and debasing women by portraying them as "mere objects", as degrading men "by portraying a stereotype of aggression", as using children and as increasingly depicting violent behaviour. The United Church of Canada defined it as promoting racism and perpetuating "the terrible myth that sexual violence is deserved and needed by the normal female". The Canadian Conference of Catholic Bishops identified pornography as "anti-life, harmful to the dignity of people and to the development of sane and lasting personal relationships as the basis of a healthy family life" and as "anti-sex" because it fails to accept sexuality as a unique gift ... for creating new life in the image of another person". The police forces of Ottawa, Toronto and Vancouver reported that the Criminal Code obscenity provisions do not provide an adequate basis for enforcement.

A range of estimates of the size of the industry in Canada were presented including one of \$500 million per year. In each city, the Committee was presented with samples of pornography. A Montréal woman presented materials available there which "featured incest of all kinds, explicit sexual representations of pregnant women, bondage, racial pornography and child pornography. Other groups identified pornography as: depictions of women as "exclusively vulnerable and available" (B.C. Teachers Federation); "sexually

stimulating the consumer by the portrayal of a power relationship" (Toronto Area Caucus of Women and the Law); and "another way to silence women" because it is "marketed by men for men" and is "not about sex or love, but about power of men over women" (YWCA, Winnipeg).

The effect of pornography: Most public submissions dealt with three concerns, the authors say. These were that

pornography degrades women, robs them of their dignity as individual human beings and equal partners within a relationship and treats them as objects or possessions to be used by men; that male violence against women is treated as socially acceptable and viewers are desensitized to the suffering of others; and thirdly that these two influences will have a strong negative influence on children and the family.

Whereas advisory councils on the status of women focused on the dangerous effects of pornography for women, both through its degrading portrayal of them and the incitement to believe that violence against women is socially acceptable, the churches focused on pornography's role in downgrading "the dignity of people" by negating "sexuality as an expression of love" and in "distorting wholesome and God-given sexual relationships" and exploiting them for profit. Le groupe d'hommes contre la pornographie et l'exploitation sexuelle (Québec) made the case that adolescent males learn about sexuality, their own and women's, through reading pornography. The authors also quote Carl Beigie, a Toronto economist, who focused on the economic impact of pornography on women.

only an intrinsically sexist society could so wholeheartedly support (financially and legally) the sheer volume of pornographic materials available ... it is pornography, the most visible and virulent symptom/form of sexism that may continue

to segregate women's abilities from the economic mainstream....¹⁸

Definitions of Pornography: The Committee reports that this discussion

raised two important questions: first the difference between pornography and erotica and secondly, the question of where, in the continuum of sexist portrayals of women... the portrayal of women becomes actually pornographic.

The definitions most frequently quoted by the public were those of Helen Longino, Jillian Ridington, Andrea Dworkin and Catharine MacKinnon, the authors say. The distinction between erotica and pornography was supported by "groups with a feminist perspective" while "those on the conservative end of the spectrum" (for example, the Roman Catholic Archdiocese of Toronto and R.F.A.L. Women of Canada) argued that erotica should be included in a definition of pornography and be prohibited or controlled. Many of the submissions supported the view that pornography is the extreme end of a continuum of sexist portrayals of women that reflect and reinforce "power relationships of males and females, as well as those in adult-child relationships and inter-racial relationships", they say. Groups supporting this view included Media Watch and the United Church of Canada (Toronto). The latter's submission also stated that

it cannot be a coincidence that pornography exists in a society where women are raped, beaten by husbands, pushed into low income work and generally not taken seriously. It is a painful act of self-recognition of Christians, especially male Christians, that the Church has transmitted and shaped male domination in western culture.²⁰

Link between pornography and violence: The Report tells us that those groups "advocating the strengthening of government controls

over pornography were convinced that psychological and sociological research had definitely established that such a link existed". Groups opposed to controls were not so convinced. The Metro Toronto Task Force on Public Violence Against Women and Children were in favour of controls and argued that

while social science shows unequivocally that exposure to violent pornography is a contributor to sexual aggression and violence, the rules of scientific evidence make it difficult, if not impossible, to prove that it is the direct cause of such behaviour.

The authors say that many groups presented "anecdotal evidence" of the link in their communities. These included Le Regroupment Féministe Contre la Pornographie (Montréal) who said that in their work with battered women, "they are increasingly encountering women who have been forced to re-enact scenes from pornography consumed by their partners". The Canadian Federation of University Women (Toronto) "cited several Canadian murder cases in which there was said to be a connection between the murderer's action and his use of pornography". Marion Dewar, then mayor of Ottawa, argued that just as racist literature doesn't cause racism so pornography doesn't cause misogyny but the harm in pornography lies in its confirmation of those values and the legitimization of behaviour based on them.

Recommendations for change: Of the groups recommending legal control of pornography, the authors report that

- "most groups" wanted the display and sale of "sexually explicit materials" restricted to adults
- "most groups" favoured continued provincial classification or

censorship of all movies shown in public and there was strong support for censorship of videotapes for home viewing

- . "many briefs" "strongly criticized" Canada Customs for allowing the importation of a great deal of violent pornography into Canada and "most groups" focused on the need to strengthen and standardize Customs procedures
- . "many witnesses" emphasized that not only the laws should be changed but also the administration of them. "Many believed that the proliferation of pornography is not unrelated to the fact that our society, including its entire justice system, is controlled by men". Also, daily coverage of the obscenity issue is controlled by men, a Montréal submission is quoted as saying.

Recommendations for change "made by the majority of women's groups are similar in intent to those proposed by the National Action Committee on the Status of Women" (NAC), the authors say. NAC proposed that 1) the current obscenity provision in the Criminal Code be repealed; 2) a new Criminal Code offense be incorporated to define pornography as any material or presentation "which seeks to sexually stimulate the viewer or consumer by the depiction of violence, including but not limited to the depiction of submission, coercion, lack of consent, or debasement of any human being" as well as the depiction of any person under the age of 16 or depicted as such; and 3) the "Hate Propaganda" section of the Criminal Code be amended to include sex as an "identifiable group" and that the consent of the Attorney General no longer be required to proceed.

Other recommendations included keeping a central record of the use of pornography in sex-related crimes, giving individual women the right to sue producers of pornography for damages and adopting the role stereotyping guidelines prepared for the CRIC as regulations on which the licensing of broadcasters would depend.

Organizations opposed to controls: The authors divide these organizations into three groups because "their reasons for opposing controls were so different". The first group favoured the repeal of current obscenity provisions and no further criminal sanctions based on the right to freedom of expression included in the Charter. One of the two organizations included here was the Canadian Civil Liberties Association (CCLA). They stated that "evidence fails to demonstrate a direct causal link between exposure to pornography and the serious abuse of women and children", and that it is not known how many "violence-prone people" there are "whose aggressive impulses may have been moderated by sublimation through pornography". While simulated sexual abuse should not be censored, the CCLA agreed that pornography involving the actual abuse of people should be and that regulations regarding display were not incompatible with general freedoms.

The second organization included in this group is the Ontario Film and Video Appreciation Society (OFVAS) a group of filmmakers, writers, and performers who argued that censorship would mean the curtailment of expression of the complex range of human experience.

Regarding the Ontario Board of Censors, they argued that it is "untenable that a government-appointed board is permitted to interpret the meaning of images and ideas on behalf of everyone else in society". They stated their support of feminist goals and the necessity for social change to improve women's lives but argued that censorship is an ineffective solution. The OFVAS "goes on to explain why it disagrees with the feminist view regarding pornography" the Committee reports. The OFVAS sees

censorship as a placebo measure that does nothing about the real problems that discrimination causes, and which, in fact, distracts from giving those problems the attention they deserve and require. Furthermore, the very real danger exists that censorship... will serve to silence the²² very voices that could raise awareness toward social change.

"It is sex discrimination and hatred in the real world that hurts people and that must be stopped", the OFVAS stated. They recommended classification and display restrictions be used and urged the Committee

to recommend and support all affirmative action programs with respect to the training and hiring of women in both the broadcast and film industries. We recommend that the Committee stress to these industries the basic inequalities present in a system of production which is dominated by a single gender of our population. We support the recommendations of the Report of the Task Force on Sex-Role Stereotyping in the Broadcast Media ("Images of Women"; CRTC, 1982), which calls for specific programming and media created and administered by women.²³

The second group opposing controls included both the Periodical and Video Distributors Associations who "denied any involvement in distributing such material", the authors report. The Periodical Distributors of Canada, representing 37 companies whose sales total

approximately \$200,000,000 annually, stated that "'violent pornography' is extremely rare in Canadian newstands, and that what may exist, is not there as a result of having been distributed by PDC members". The Video Retailers Association of Canada Inc., said that they represent "business people anxious to maintain their reputation within the community". "They agreed that the undue exploitation of violence, cruelty and sex should not be acceptable, but their problem is in trying to define what is 'undue'", the authors say. The distributors "urged that standards should be established that would be tolerable to the public; be clear and helpful to business and to law enforcement; be acceptable to private consumers and be constitutionally workable", the Report says.

The third group opposing controls were gay rights organizations who argued that while heterosexual pornography might "victimize women as a gender"; homosexual male pornography does not; it is a victimless cultural phenomenon. Heterosexual pornography constrains heterosexual men to see women as "other" - but gay pornography does not, they argued. The Gay Cultural Workers argued that "state suppression cannot erase a culture, only change its form, drive it underground or distort its language".

All gay culture... is stigmatized by the heterosexist mainstream as pornography and obscenity. Obscenity statutes have traditionally been an important means by which the state, the Church, and the police attempt to destroy our culture....²⁴

Chapter 6 of the Report "Pornography in Canada Today", is based on some of the research commissioned by Justice (Working Papers 5, 6,

13, 15, 16 and 17), the information gathered by the Committee's own meetings with government departments and agencies as well as relevant information gathered at public hearings, the authors say. The information is presented under the following headings: "availability", "use", "content", "harms", and "views".

Availability of pornographic materials: The Committee reports that most pornography is imported from the U.S., with the exception of live performances. "Most people at the public hearings felt there to be an overwhelming pervasiveness of pornography in our society", the authors say, although "this conclusion depends not on concise or comprehensive statistics". They also say that "anecdotal accounts are ... an important source of information" and "are, by no means to be dismissed because they do not meet current canons of scientific research". "Frequently, however, more information is required in order to be sure that one is not dealing with a highly aberrant situation", they say. They quote the National Population Study (Working Paper No.6); which showed that 75% of respondents were aware of materials in their communities. The Badgley Committee research showed that circulation figures for 17 pornographic magazines was 3.5 times higher per capita in 1981 than in 1965 and, in the 1980s, 540 titles were available in Canada. The Committee concludes that "pornography is far more available today than it was 10 or 15 years ago".

Use of pornography: The Committee reports that it did not discover

whether more people are using pornography or whether the same number of people are consuming more of it. While the National Population Survey showed that most users are men, they say that this data should be interpreted with caution since "adult entertainment is probably a broader term than pornography" and this terminology means they could not conclude "anything about the use of the sort of pornography featuring images of perversion or degradation". They conclude that, despite receiving complaints about the content of Penthouse and Playboy during the public hearings, "we cannot answer whether the viewing of such material has reached a level which could be considered detrimental to either the general population or specific groups of individuals".

Content of pornography: The Committee reports that, despite the lack of comprehensive research on the content of pornography in Canada, "the research which has been conducted on magazines and videos does not confirm the overwhelmingly awful picture presented by some groups and individuals in their briefs to the Committee". They cite Badgley Committee research which showed that in 11 "popular adult magazines" published in June 1983, "most of the depictions are of totally or partially unclothed women in positions which expose their genitals" and that "violent pornography and child pornography is present but not an overwhelming theme". Of Malamuth and Spinner's (1980) content analysis of pictorials and cartoons in Penthouse and Playboy, the authors say that the "change in content... is both minimal and marginal and could be accounted for by many other variables than

simply an escalation in the violent content of magazines". Regarding the content analysis of B.C. videos commissioned by Justice, the authors cite the findings that adult videos contained more scenes of aggression than triple-X videos, that violence and domination were not predominant themes and that mechanical sex was the most common portrayal.

Harms of pornography: The debate about whether pornography is harmful or harmless and/or beneficial "in many ways typifies fundamental disagreements and disputes over sexual behaviours and values", the Committee reports. For some, pornography is a passing phenomenon associated with our formerly repressed sexuality and will disappear as we come to fully understand our sexuality, the authors say. For others, "pornography is so abhorrent and harmful that immediate action is needed", they say. Two schools of thought emerged at the public hearings about what research must show to justify legislative action. Research done to date does not meet the criteria of the liberal philosophical view, that it must demonstrate that concrete harm is caused by pornography in order to curtail freedom of speech, they report. The second view, that pornography may undermine equality guaranteed by the Charter, means that research must demonstrate that the message of pornography harms the equality principle. However, research demonstrating that pornography does not impede women's equality is nonexistent. They conclude that

although the Committee was frequently told that research studies clearly demonstrate that harms to society and to individuals were associated with the availability and use of pornography, we have had to conclude, very reluctantly, that

the available research is of very limited use in addressing these questions the Committee is not prepared to state, solely on the basis of the evidence and research it has seen, that pornography is a significant causal factor in the commission of some forms of violent crime, in the sexual abuse of children, or the disintegration of communities and society.²⁵

Research was "so unhelpful", the authors say because of the various definitions used; because experimental methodology cannot assure that the change in the person is caused by the stimulus or that results obtained using, typically, male university students can be generalized; because research has not generated consistent results; because experimental research can only address certain issues, for example, short term but not long term effects; because experimental research cannot be carried out on some members of society for ethical reasons; because research has never investigated whether pornography was a precipitating factor in "illegal" or "anti-social" behaviour such as child sexual abuse or woman battering; and because correlational evidence linking pornography and sex crimes is inconclusive because of problems documenting the availability of pornography, definitions of sex crimes change over time and sex crimes are underreported.

The "most central issue of all which requires our attention is that of defining what it is that makes material pornographic", the Committee reports. Although the issue of values is hard to address in empirical research, the authors state their belief that the philosophical principles elaborated earlier in the Report have the

strong support of Canadians. The question of support should be empirically researched but such support is "demonstrated through official statements and action over the years and inferred from what people told us at the public hearings", they maintain. The question of "whether pornography undermines or inhibits the achievement of these values is the crux of the matter" and to answer it one must resolve the conflict between the fundamental values of freedom of speech and equality, they say.

Views of pornography: The Committee cites the National Population Survey as showing that "Canadians have widely differing views of what they would term acceptable or unacceptable material" and that they are "evenly divided in their opinions". They note which scenes were most and least acceptable and that there was strong opposition to children viewing this material. They also quote this research as showing that Canadians think pornography is a problem, that they believe violent sexual material leads to violence, and that the majority feel that the government should take a lead role in control. They conclude that the diversity of opinion makes it "apparent that any recommendations on control and accessibility of pornography will be controversial".

Section II of the Report on pornography, entitled "Pornography and the Law", reviews the obscenity provisions regarding both materials and performances in the Criminal Code, their development from English Common Law to the present Canadian case law, proposals

for reform of those laws, discussion of the Charter of Rights and Freedoms, provisions regarding obscenity in other pertinent legislation as well as human rights legislation, film classification and censorship and relevant municipal law.²⁶ This review describes, rather than analyzes current legal provisions and, thus, will not be included in this description of the Report since the sections of the Code of primary interest have already been discussed in an earlier section of the Report.

Section III of the Report on pornography deals with "Legal and Social Reactions to Pornography in Other Countries" and includes evidence from research commissioned by Justice as well as some done by the Committee itself. Included in this section are reviews of the U.S. experience; the situations in England and Wales, Australia and New Zealand; and the experience of five continental European countries. While this review is "not exhaustive" it is sufficiently detailed to provide useful information about the range of options Canada has for dealing with pornography, the authors say. The discussion of the international agreements regarding obscenity is reserved for Part IV of the Report which deals with children. The authors include in this review current obscenity laws in each country and the activities of pressure groups, where these were discussed in the Justice research. They conclude that there has been a move lately towards a less restrictive approach to "sexually explicit" material and towards legislating against child pornography and that which is "violent, abusive and degrading".

Section IV of the Report puts forward specific recommendations about legal reforms.²⁷ Only the proposed changes to the Criminal Code will be discussed here as the recommended changes to other federal legislation, for example the Customs Act and the Broadcasting Act, flow from this central proposal.

The Committee's recommendations are based on the philosophical considerations, the current situation regarding availability and use of pornography, the harms that are associated with it and the proper role of the criminal law as the authors have already described these. They summarize the liberal, conservative and "mainline feminist" positions regarding the role of the state. "Mainline feminist opinion" is a middle ground, they reiterate, and "feminists see the equality of the sexes in political, economic and social matters as so fundamental to the life and fabric of this country that action by the state both to promote and protect it are entirely warranted".

The Committee adopts a definition of "harm" which "embraces not only direct, demonstrable harm to an individual, but also an element of "social harm" for the purpose of legal reform. "Social harm" involves not only the offence which is caused to members of the public who are involuntarily subjected to it but also "the broader social harm which it causes by undermining the right to equality... of the Charter of Rights and Freedoms". The first case should be addressed by Criminal Code provisions to penalize the failure to

protect the public from involuntary exposure while the second should be dealt with by proscription of certain representations, the authors say. Because of the concern that arises "when the law moves beyond the prohibition of conduct which causes direct, demonstrable harm", that is, the "danger of excessive intrusion of the state into the lives of individuals", the Committee focussed on "the most extreme forms of pornography". Given "the complexities of this area" and "the conflict of philosophies to which it gives rise", they conclude that

our approach represents a rational, fair and realistic balancing of the interests involved, and a significant advance over the present state of the law.³²

Under the heading "Terminology" the authors argue that the term "obscenity" no longer describes the essence of the offence in pornographic material now available. Moreover, the placement of the obscenity offence in the section of the Criminal Code dealing with "Offenses Tending to Corrupt Morals", they say, "reflects an outdated concern, one which deflects attention from the real nature of the problem which the criminal law should be addressing, the denial of human dignity". Therefore, they recommend that the term obscenity and the heading "Offenses Tending to Corrupt Morals" be removed from the Code. While the term "pornography" should not be central to the definition used in amendments to the Code, they recommend that "new criminal offenses relating to 'pornography' should be created, with care being exercised to ensure that the definition of the prohibited conduct, material or thing is very precise".

Although the Committee's mandate was to study the effect and make representations with respect to material that had a sexual content, the authors recommend that the federal government consider the introduction of criminal sanctions against the production, sale or distribution of material containing representations of violence. Such scenes are presently not covered in the Code and the Committee reports that "virtually everyone who raised the issue thought that violence on its own can indeed be obscene". They also recommended removing the existing provision prohibiting the display of "disgusting" objects if their provisions for pornography are adopted.

Regarding what material should be controlled, the authors say that, at the public hearings, "many people thought that the portrayals of women and children in the media generally were distorted and false depictions". Since, in this view, pornography is "one variant of a pervasive and dominant theme that runs through all media", the Committee says that

to seek to control what is probably a small percentage of false depictions and leave out of the picture the vast majority of them is inconsistent and most certainly not going to achieve the result which we are ultimately seeking, that is, a reduction or elimination of such depictions.

They say that while the Committee "has every sympathy with this view, we do not believe that the elimination of false depictions of women can be achieved through Criminal Code provisions". Because of the sheer volume of material that would be involved, "criminal sanctions would not be effective and more likely to bring the law into dis-

repute than to solve the problem". They also say that arguments put forward by women's groups, that the content of the media is in need of reorientation, lacks broadbased support. What is needed are extensive educational and informational programs to address this problem, they say.

The question of what to control thus becomes one of "whether or not there is any material which is so extreme or harmful in its depictions that it is qualitatively different from the general context and for that reason deserves to be treated differently". The Committee report that they are convinced that some material of a sexual nature is so damaging to individuals and society that it must be sanctioned while the balance of material could be subject to restraints regarding display.

They recommend, therefore, that a three-tier system of controls for pornography be incorporated into the Criminal Code.³⁰ The most serious criminal sanctions would apply to material in the first tier, "Pornography Causing Physical Harm". This would include visual representation of a person under 18 years of age participating in sexual conduct (defined as vaginal, anal, or oral intercourse, masturbation, sexually violent behaviour, bestiality, incest, necrophilia, lewd touching of the breasts or genitals, or lewd exhibition of the genitals), material which advocates, encourages, condones, or presents as normal the sexual abuse of children, and material which shows that actual physical harm was caused to the

person or persons depicted. The latter material is included to protect "those" who participate in the production of pornography and because the message of such material undermines human dignity and the equality of women, the authors say. Anyone producing or possessing such material for purposes of publication or distribution would be liable to prosecution.

The second tier proposed by the Committee, "Sexually Violent and Degrading Pornography", would merit less onerous sanctions and the defenses of artistic merit or educational or scientific purpose would be available. The material in this tier would consist of any matter or thing which depicts or describes sexually violent behaviour, bestiality, incest or necrophilia. The authors recommend that "sexually violent behaviour" be defined as

- i) sexual assault,
- ii) physical harm, including murder, assault, or bondage of another person or persons, or self-infliction of physical harm, depicted for the apparent purpose of causing sexual gratification or stimulation of the viewer.

Materials falling in the third tier, "Display of Visual Pornographic Material", "would attract criminal sanctions only when displayed before the public without a warning as to their nature or when made accessible to people under 18". These materials would include depictions of "vaginal, oral or anal intercourse, masturbation, lewd touching of the breasts or the genitals or the lewd exhibition of the genitals" but no portrayal of a person under 18 or of sexually violent behaviour.

The Committee also recommends that a Criminal Code section be instituted to deal with live performances. The same three tier approach should be adopted here as in the case of pornographic material, the authors say. Shows encouraging or presenting as normal sexual abuse of children would fall in the first tier, physical harm or sexually violent behaviour, bestiality, incest and necrophilia would fall in the second tier and any other explicitly sexual shows that do not have adequate display warnings would fall in the third tier. This proposal would produce a significant change in the law, they say, as it would decriminalize "live sex" shows. The Committee reports that "a criminal prohibition against such shows could not be justified under any of the rationales that we have given for the other Criminal Code prohibitions we recommended".

The authors also recommend that changes be made to Section 281 of the Code which deals with "Hate Propaganda".³² "Inherent in the idea of pornography as a human rights issue is the idea that pornography causes, or at least reflects a social tendency to hate women", they say. The Criminal Code should be amended to include groups characterized by sex, age or mental or physical disability, they recommend. The word "willfully" should also be removed so that intent to commit an offense need no longer be proved, they say. In addition, they propose that the current requirement that the Attorney General consent to a prosecution should be repealed and that not only statements but also graphic depictions should be covered by this

provision.

The Committee also makes recommendations concerning prostitution which they feel would be applicable to pornography. These were that the federal government in conjunction with the provinces and territories should

- . strengthen both their moral and financial commitment to removing the economic and social inequalities between men and women and discrimination on the basis of sexual preference.
- . ensure that there are adequate social programs to assist women and young people in need
- . provide financial support for both research into and the implementation of sensitive and relevant educational programs on human sexuality for use in the country's schools; in particular the government should jointly fund a National Centre and Program in Sexuality and Life Education to bring together scholars and clinicians in the field to conduct research and formulate program and pedagogical models.

They also recommend the institution of public education programs. The federal, provincial and territorial governments should initiate and support such programs to

- a) increase the general understanding of human sexual relations;
- b) promote a fuller appreciation of the impact of the mass media in creating or maintaining beliefs and attitudes about human behaviour

In implementing such programs, the governments should fund and assist the work already being carried out by numerous voluntary, community and religious organizations.

The federal government should also ensure that all its departments and agencies that have responsibility for research, culture and communications develop guidelines to reduce or eliminate sex-role stereotyping in programming, they recommend.

Federal efforts to deal with pornography and prostitution should be coordinated by a Secretariat under the aegis of Justice, the Solicitor General and Health and Welfare, the Committee recommends.³⁵ This Secretariat would "stimulate discussions and cooperation with the governments of the provinces and the territories and with social, education and charitable organizations in the private sector" on methods for dealing with "these two problems" and would "monitor and inform public opinion and seek input on these two problems". The Secretariat's priorities would be to ascertain what social and educational programs relating to "the problems surrounding pornography and prostitution" exist in Canada and to establish federal-provincial task forces on various elements of these "social problems" and develop working papers on them and approaches to them.

Discussion of the Report

The Fraser Committee Report on pornography contains many of the ideas that women have put forward about pornography and the power relation between women and men that it reflects and reinforces. This can be seen as a victory for the women's movement since this knowledge is now entrenched in this document as official discourse. However, only some of the ideas included in the public hearings and research appear in the Report and, of these, only a select few informed the Committee's recommendations for social action on

pornography. What knowledge got "counted in" and what got "counted out" in the process of constructing these recommendations can be seen as a product of the Committee's practice of the ideological circle. This practice transformed the many and varied analyses and proposals for action put forward into Criminal Code amendments which, if implemented, would leave the hugely lucrative pornography industry intact and the portrayal of women in the material it produces largely unquestioned.

First, the Committee in drafting its recommendations generally attended to men as the "experts" on pornography. While maintaining that public opinion on pornography was their central concern, the authors also say that "superimposed" on these views were those of administrators, bureaucrats and researchers. At the upper levels of government, men predominate.³⁶ Also, both the researchers whose studies for Justice were published and the researchers whose work and opinions they reported were predominantly men. In addition, the three experts on pornography with whom the Committee conferred were all men. While it is not certain that all Committee members shared this approach, the writings of John McLaren, one Committee member, subsequent to the Report, illustrate this practice.³⁷ He writes:

The Fraser Committee benefited from a series of group and individual consultations with persons having professional knowledge and experience of these phenomena. These sessions ... helped us greatly in developing a focus and in some instances an intellectual framework for organizing our thoughts prior to writing the report. Of particular value, to my mind, was a day long session with Bernard Williams who chaired the United Kingdom Report of the Committee on Obscenity in the late 1970s. Our exposure to the lucid and confident philosophical position which Dr. Williams espouses was

crucial in sharpening our perceptions on difficulties to be faced in recommending a legal mechanism for controlling pornography.³⁸

This can be contrasted with his characterization of feminist protests about pornography which led to the appointment of the Fraser Committee as a "babble of voices" and of the feminist submissions as

a bandwagon phenomenon, in which the more articulate briefs were utilized by other speakers as a basis for their presentations, sometimes with insufficient thought about the rhetoric contained therein and a failure to check the validity of information extracted. Finally, at some points in the hearings, a sort of collective mawkishness took over...³⁹

This "crusading rhetoric" could have meant that members would be "too readily affected by some of the overzealous presentations at the hearings and the decidedly emotional and sometimes depressing impact they had", McLaren says. Instead, the Committee fulfilled "the honorable objective of undertaking a careful and deliberate study... with a view to developing more rational and less emotional responses than had been vaunted up to that point in time". Rather than benefiting from women's experiences and understandings, McLaren says that

there was value for those advocating a tougher stance by the law in relation to pornography to realize the intensity and sincerity of those who support freedom of the individual from state intervention in matters of private morality. It was important for them to realize the significance of such a philosophical position in our society for counteracting impulses to repression and inhibiting the free flow of ideas.⁴⁰

In McLaren's view then, men are rational and sincere while women are babbling, emotional zealots. Women's knowledge does not count as authoritative because it arises from our "emotional" responses to

pornography. Only knowledge produced by male experts in academia and government using "objective" methods counts as rational and, therefore, reliable. Thus, McLaren does not see that the similarity of presentations women made was based on the similarity of our experiences to pornography and that these constitute valid knowledge about the world. Instead, he says, women should learn from men how we should view our social world, the important social values and the authoritative political philosophy from which they arise. McLaren's practice epitomizes the ideological circle in his attention only to what men say as authoritative knowledge and the "counting out" of women's experiences and knowledge as a basis for forming the fundamental guidelines for human behaviour which the law establishes. Given McLaren's stance and Paul Fraser's lack of attention to what women say, which is apparent in the Issues Paper, the inclusion of women's ideas in the body of the Report must be attributed to the three women members of the Committee who were involved in its writing.

Secondly, in order to be able to make recommendations to the government for a course of social action on pornography, the Committee adopted an interpretive schema which provided "the particulars" and, hence, a "factual account" of pornography from all the conflicting views about it. Given the Committee's institutional location and mandate and its members' legal training and political activities, it can be seen as a routine practice that this account was produced by reference to the legal discourse and, in particular, by liberal political theory embodied in it.

The authors begin the process of elaborating this schema by outlining three "philosophical" traditions, "the conservative", "the liberal", and "the feminist", which must inform legal reform. This focus on the law necessarily excludes a socialist perspective since this political theory presents a challenge to the legitimacy of the role of the state in capitalist society. Although socialism embodies many differing analyses, in general this political philosophy conceptualizes society as divided on the basis of class between those who own the means of production and those who sell their labour to this capitalist class. The state, through the practice of law and other social policy, is conceptualized as both a site for class struggle and as working in the interests of capital in the long term.⁴¹ In the marxist tradition, "the law is by definition part of an infrastructure of productive forces and relations" and is, therefore, an instrument of the ruling class.⁴² This directly confronts the liberal view of the state as the neutral arbiter of conflicting individual interests. The omission of this political theory as well as the emphasis put on the public, expert and advisory nature of the Committee allows the members to present themselves as impartial arbiters in a legitimate process of decision making.

The process of elaboration of their interpretive schema continues in the authors' construction of "the feminist" position which also largely excludes a socialist feminist analysis of society and of the role of the state in the maintenance of women's oppression.

Whereas feminism is not a "discrete philosophy" the authors say, they go on to present a particular version of feminist theory. Feminists disagree only on the strategies they propose to obtain equality for women, they say. Marxist feminists, for example, would remove "capitalist values and structures". This simplification neglects socialist feminist analyses of the ways in which the capitalist economic system and the practice of capitalist values in the private sector and the state work not only in the interests of capital but also primarily in the interests of men as a group.⁴³

The "second and larger group", presumably radical feminists, are portrayed as wanting to maintain liberal democracy. While it may be true that democracy as an abstract ideal has not been rejected, it is also true that this stream of feminism has been the most skeptical of the value of using the state, as it currently exists as a means to social change that will benefit women. These critiques are epitomized by Catharine MacKinnon's work. In her conception,

the state is male in the feminist sense. The law sees and treats women the way men see and treat women. The liberal state coercively and authoritatively constitutes the social order in the interests of men as a gender, through its legitimizing norms, relation to society, and substantive policies.⁴⁴

The "majority of feminists", the authors tell us, favour the "vigorous use" of legal methods. This group, whose position they say typifies "the feminist" philosophical tradition, clearly represents liberal feminism. Characteristic of liberalism in general and liberal feminism in particular is the separation of "supposedly

normative political philosophy from supposedly empirical economic theory".⁴⁵ Liberal feminists thus do not view women's oppression as a structural feature of the capitalist economic system. Also, like traditional liberals, they view the state as an association of individuals, founded on the consent of all its members and therefore "the only legitimate authority for enforcing justice in general and women's rights in particular".⁴⁶ In complete agreement with John Stuart Mill, they believe that the law must embody equal rights for women.

However, the authors argue that "the feminist" position they outline is a significant challenge to the traditional liberal one. Traditional liberalism assumes that "essential human characteristics are properties of individuals and are given independently of any particular social context", a position known as "abstract individualism".⁴⁷ Thus, rights and freedoms exist when the state does not interfere, this position maintains. "The feminist" position presented in the Report argues, on the other hand, that the state has a legitimate role in arbitrating conflicts which arise in the exercise of these rights by individuals. It also questions the value of formal rights for women if we are not able to exercise them because of the "social environment". This idea, that women's lack of equality is due not only to legal inequality but also to our different socialization or to biological factors such as pregnancy and childbirth, begins to recognize the importance of social organization for equality and led Canadian liberal feminists to successfully fight

not only for women's right to equality under the law but also for the right to affirmative action programs that would help to ensure that the formal ideal would become a practical reality. This position undermines, at least to some extent, both the libertarian conceptualization of freedom and equality in liberalism and the justification of the state which presupposes abstract individualism. However, this political theory still does not allow for a notion of power imbalances between groups as a consequence of economic structure nor does it examine the role of the state in this socio-economic organization in maintaining inequality on sex, race and class lines.

Without offering any evidence that this is the way the women's movement is structured in Canada, the authors establish liberal feminism as the one which is most representative of it and as a position which is a middle ground between "libertarianism" and conservatism. This enables them to rely on the liberal legal discourse for an interpretive schema which not only legitimates state action on pornography but which also intends a particular course of legal and government directed social action. This practice of the ideological circle excluded all women's accounts of pornography which were not congruent with the interpretive schema provided by liberal legal discourse from this process of social policy development.

First, adopting the view of the role of the state embodied in this discourse allowed the Committee to exclude from the Report the many critiques put forward at the public hearings of the state-

controlled process of defining and acting on pornography. Women's groups did not only see this process as a delaying tactic as the Report states, they angrily criticized the fundamental nature of this process. For example, the Concordia Women's Collective told the Committee that

in essence, we are questioning the whole arrangement whereby a male-dominated government appoints a commission, chaired by a man and secretaried by a woman, to study the results of prostitution and pornography -- areas overwhelmingly concerning women -- in effect to study the results man has had on woman...

Both this group and Susan DeRosa of Montréal discussed the benefits to government of maintaining the pornography industry. DeRosa said that the

governments of Canada, Québec and Montréal...have consistently and manifestly encouraged the expansion of the pornography industry... (and) have a financial stake in the promotion of the pornography industry through taxation.

Constance Wooley of Toronto told the Committee that the state, through the law, controls only the worst excesses of pornography and, in so doing, protects the interests of men. The Vancouver Working Group on Sexual Violence told the Committee that women's groups despair of the legal system taking note of women's concerns. It was only when pornography received a "new degree of attention" following the Red Hot Video bombings that women received a clear message and "that message is that the state will respond when property is damaged but that it will not necessarily respond when women claim our right to protection from harm". Le regroupement des femmes de la région de Québec contre la pornographie extensively critiqued the presentation of pornography in the Issues Paper. They questioned whether the

Committee was serious or neutral and said that the objective stance they had taken was "au service du libéralisme réactionnaire". Finally, the Action Learning Group on Pornography of Toronto questioned the appropriateness of the hearing process in producing recommendations to encourage societal change. "Dialogue, mutual exchange, growth of mutual awareness, active and collective searching among all actors are necessary conditions for generating knowledge" and the public hearings do not provide these conditions, they argued. Censorship is a top-down elitist response which takes ownership of the process away from the public and which only considers legal solutions, they said. These views were silenced by the schema adopted by the Committee.

Secondly, this schema provided for the transformation of the issue of pornography from one which harms women to an "assault on human rights". Both women's experience of pornography as they expressed it and women's knowledge that the rhetoric of democracy and rights obscures women's inequality is erased in this construction and replaced by the abstract notions of "equality" and "dignity" provided by the Charter. In particular, women's emotional realities were silenced by this approach. Whereas Paul Fraser claimed in the preface that the Report would reflect the "intensity" of feeling the Committee encountered, this document is silent about the emotional impacts of pornography on women. Yet many briefs specifically discussed these. For example, the B.C. Public Interest Research Group said that pornography causes an increase in women's fear of

attack. Vancouver Status of Women said "these images cause us such pain". They also expressed concern that women's emotional reality is of little concern to the government. They used, as an example, the laughter with which members of Parliament greeted the announcement that one out of ten Canadian women are battered. They said that

women's pain is not funny to women who feel it. It is not funny to women who take care of it. It is not funny to women who fight against a system that allows it to be somebody's joke, somebody's turn on, and somebody's profit.

In addition, some groups explicitly addressed the issue of rights. "Liberty and equality under the Charter have little meaning", Women Against Pornography in Victoria told the Committee, but are "privileges which remain men's". Victoria Status of Women Action Group said that money and power determine free speech and access to decision making. Women have neither and, therefore, can't protect rights that are denied to women, they said. Media Watch of Vancouver told the Committee that "equality doesn't exist in Canada today" and that "democracy" is evidenced in such "democratic procedures" as those of the Liberal Party which require that an individual who wishes to run for party leader pay a \$25,000 fee. Beth Percival of P.E.I. criticized the legal notion of rights embodied in the Charter because it provides only for individual and not collective ones. The Committee emphasized freedom of speech, she said, but it should have emphasized women's right to freedom from fear. Thus, by constructing pornography as an assault on human rights, the Committee silenced what women feel about pornography and their critiques of the formal

liberal rights entrenched in the legal discourse. Moreover, in this abstraction, women as the ones who are exploited in pornography and harmed by its depictions vanish altogether.

Thirdly, the Committee relied on the legal discourse to provide an interpretive schema which, through its criteria for what material would be subject to criminal sanction, redefined pornography in a way that largely erased women's definitions. This schema provides that only when "harm" is concrete and "immediate", that is, when real violence is portrayed in the context of "sexual" material, can it be the legitimate object of criminal sanction. Material which "simulates" sexual violence can, on the other hand, be subject to criminal sanction on the basis of women's right to equality enshrined in the Charter, they said. However, as they also acknowledge, even the narrow traditional definition of "harm" could be used to encompass this material since evidence provided by research in social psychology and reports of battered women, while not establishing "demonstrably" a causal link between pornography and violence against women, show that such material brutalizes men and, thus, "harms" them. In other words, the authors rely on the legal discourse as it pertains to the role of the criminal law to define the "harm" of pornography "objectively", that is, by the separation of the knower from what he knows. All other materials of a "merely sexually explicit" nature, where this standard could not be applied, are still defined as "pornography" for purposes of regulating their display.

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Thus, in the proposed Criminal Code amendments, the definitions of pornography put forward by the women's movement, with the exception of explicit representations of sexual violence (and child pornography), are erased. The Committee, using the legal discourse to determine "the particulars" of pornography, gives an account of it which divides pornography into that which is offensive, sexual violence, and that which is not, everything else. Moreover, all representations of explicit sexuality are "pornography" in their definition. This is not, of course, how women defined pornography, as the body of the Report attests. Not only did women say that all portrayals of women as sexual objects are degrading but they also made a clear distinction between depictions of mutual sexual relations and those embodying a relation of dominance and submission. These definitions are not recoverable from the Committee's proposed amendments.

In claiming that their definition rests on women's right to equality, the Committee obscures the fact that it was the more traditional notion of harm embodied in the discourse of the criminal law which actually informed their practice. They could have, but did not, argue that the portrayal of women as sexual objects "offended women's equality rights". As they themselves point out, their narrow focus on the "most extreme forms of pornography" was based on "the danger of the excessive intrusion of the state into the lives of individuals". This is liberalism in its classic form rather than expanded liberal feminist stance and contradicts the authors'

previously stated concern with the "social harm" of pornography. They characterize their definition of pornography as "rational" and indeed it is. It reflects the premises of an androcentric way of knowing about the world, embodied in both the social science and legal discourses, that "objective" evidence rather than emotional experience constitutes authoritative knowledge and, thus, the basis for laws which "have ultimately defined our freedom and responsibilities".

Finally, the Committee's reliance on the legal discourse to provide "the particulars" for an account of pornography intended a criminal law solution. This silenced much of what women said about both the causes of pornography and what should be done about it. The Report claims that the submission of the National Action Committee on the Status of Women (NAC) typified the recommendations women put forward and used this to support their approach. In fact, while NAC did say that the Criminal Code was not the place to deal with sexist portrayals, these recommendations were taken out of the context of NAC's submission which identified pornography as a reflection of the culture that produces it and thus on a continuum with sexist portrayals of women in advertising and which called for a clear distinction between pornography and erotica for legislative purposes.

Moreover, other women and women's groups provided socialist feminist analyses of how pornography arises and of its relation to pornography and suggested various, not always legal, responses to it.

These briefs attributed women's vulnerability to sexual exploitation to the gendered nature of the capitalist system. "Pornography is a product of capitalism", Media Watch argued. Judith Dobie of Montréal told the Committee that the "existence of both pornography and prostitution depend on the availability of a population of disadvantaged women". Women Against Pornography maintained that pornography is a "manifestation of the economic exploitation of women". The actual experiences of Montréal women members of the Association of Canadian Television and Radio Artists (ACTRA) vividly supported these views. One actress said that if she refused "skin flick work", producers asked "what's wrong with you?". Because of her refusal to do such work, she said "I haven't worked in two years". Another woman said "I refused the pornography audition and was never called for the straight one. You don't strip, you don't audition, you don't work." Such productions have become much more common with the advent of Pay TV, another actor said. Since 66% of the films made in the last year were pornographic and since the height of ACTRA women's earnings power averages \$4,811.28 when they are twenty to thirty years old, the "ultimatum is clear: either our members work in pornography, or don't work at all", ACTRA reported. The overwhelming majority of women's organizations identified pornography as "big business".

Similarly, the many and varied recommendations for action put forward by the women's movement were omitted from the Report in favour of legal controls and government-sponsored programs "to remove

economic inequality" and to help women in need". Groups with a feminist philosophy who opposed censorship, like OFVAS, are characterized as not in agreement with "the feminist" position, thus legitimizing the Committee's legal approach. While the Committee did recognize that the law would not solve the problem of pornography, it is still the state which should provide appropriate solutions and which should oversee the work of groups in the "private sector", they recommend. However, the nature of such programs is not specified and the ones recommended most by women, affirmative action and the equal representation of women on the boards of government cultural and communication councils and commissions, do not appear. Also, the Committee's claims that such government sponsored programs have "empowered" "disadvantaged groups" in the past is belied by the fact that racial minorities, disabled people, women and children still constitute the majority of the poor in Canada.

The emphasis on government responses silenced women's recommendation that it is women who should control the process of acting on pornography through consciousness-raising and local political action.⁵¹ To this end, women's groups advocated that the government increase, rather than cut back, funding to women's organizations providing assistance to victims of male violence and doing public education on sexuality. The Committee did recommend that community organizations should be funded but did not specify this feminist focus. Other groups were concerned about state intervention on racial grounds. For example, the Native Women's Association of the

N.W.T. was concerned that native communities be left to define and act on pornography since criminal legislation currently results in six times more natives than whites in prison. Where groups recommended state action, it was often with the intention of undermining male privilege. For example, cultural organizations recommended that groups working critically with sexual themes be given more funds and that media produced and administered by women be established.⁵² Many of the groups set up to care for battered women urged the government to strengthen the law and law enforcement to deal with and to help prevent wife assault and sexual abuse of women and children.⁵³ In order for Canada to be a safe place for women, male violence should be the target of legal action, they said. Finally, some women, such as the Victoria Status of Women Action Group, urged the government to reduce the profitability of the pornography industry.

The Committee's approach to research, like their approach to pornography in general, was firmly based on "objectivity" constituted as the separation of the knower from what he knows, but in this case provided by the social science rather than the legal discourse. The Committee heard evidence, in private sessions of the public hearings, from women who had been abused by their men in ways that imitated the pornography these men read.⁵⁴ However, they do not mention this in the summary of who presented evidence at these special hearings nor do they discuss this evidence in the research section. They also say that while "anecdotal" evidence about the prevalence of pornography given at public hearings is acceptable, "more research" is needed to

be sure that this pervasiveness was not "a highly aberrant situation". However, it seems as if it is not more evidence that they want, but rather more "objectively" produced evidence, since women's groups not only presented their views but also systematically researched what was available in their communities (evidence which the authors included in the "Public Hearings" section of the Report). They also gave the Committee samples of what they had found, violent portrayals which contradicted distributors and researchers claims that such material is not readily available.

The authors fail to consider the public submissions as data about pornography and as evidence which supports women's views about why uses pornography and why. For example, there were a number of public submissions from men across the country which expressed the woman-hating which is evident in some pornography and which demonstrated the fear of feminism which has been implicated in the increasingly violent nature of it. For example, Dave Billington of The Edmonton Sun described feminists as "man-hating" and said "thank heaven we've got two (men) on the Committee". J. Lewis of Edmonton told the Committee that the increase in violent pornography was associated with the increase in the number of women in "typically male roles". "Men fear women who are no longer passive", he said, "and this produces fantasies of aggression against women". Eric Johnson of Montréal told the Committee that men use pornography because of the differences between pornography actors or prostitutes and "average women". He said that the former "are found in maga-

zines, films or bordellos which cost a reasonably low price and we can look at them as often as we want" and that "they are only a passing fancy for a few hours". "Average women", on the other hand,

are expensive, independent, selfish, dumb and use men. They demand equal wages and yet they expect to be wined and dined.... They demand a commitment from men. They act possessive, jealous, demanding. They^{pag}, talk back, argue, are bitchy and always have a headache.

Gary Duffy of Calgary said he reads Penthouse and Playboy and that "somebody out there is spending \$6 million on this stuff and it's not all rapists". Jean-François Larose of Montréal said that it is ridiculous to see in pornography a degradation of life. Rather, he told the Committee, it is "un révélation de ce que nous sommes".

The Committee states that the research on pornography commissioned by the Justice Department is "unhelpful". They base this assessment on methodological critiques that are part of the traditional social science discourse such as the question of how to know whether the stimulus used causes the response observed, whether experimental effects are long term, and so on. This critique does not include questions about the social construction of this knowledge. This silences not only the work of feminists in academia who recognize knowledge making as a political project but also the public submissions from women's organizations which took this approach. Media Watch of Yellowknife, for example, told the Committee that "science is not fact, it's culture". "There is no such thing as objective, value-free science", they said. The Ecumenical Women's Group of Edmonton told the Committee that the question they should be

researching is "who profits?" from pornography. In addition, the methodological questions the authors raise minimize the importance of what evidence the research did produce which support women's understandings of pornography. For example, while the National Population Survey showed that "most users of pornography are men", this finding is questioned because of the way the researchers defined the material in their study. Similarly, where research showed an increase in the violent content of mainstream men's magazines, the authors say that the change is "minimal" and could be explained by "other variables" which, however, they do not identify.

Finally, both the legal discourse and the traditional social science discourse, embodying the political theory of abstract individualism, conceptualize sexuality, like all human characteristics, as a given, unchanging property of the individual. The Committee's use of an interpretive schema based on these discourses silenced the conflicting conceptualization of sexuality, arising in the socialist political tradition, as a social construction dependent on material conditions and social organization and, thus, as a terrain of struggle which changes historically. Both the research commissioned by Justice and the public submissions which argued for this view were silenced in the Report. For example, the authors use only selected parts of Ian Taylor's research (Working Paper No.14) which deal with legal "fact" and do not mention his historical materialist analysis. In the same way, the authors do not include in the Report the public submission made by the editor of Body Politic

whose analysis of pornography focussed on the way power and sexuality are linked together in this social organization and which concluded with the assertion that "sex is inherently about nothing at all, it's entirely what society has made it".

This analysis can empower women because if sexuality is what people make it through our daily practices, then we can work to change it. By silencing this view, the Committee's political position obscures the importance of individual and, especially, collective actions by women to change the shared cultural definition of pornography and what is or is not acceptable. This position also helps to obscure the fact that women's view that pornography tells lies about our sexuality arises because it has, by and large, been men who have been in positions to identify and define sexuality and to decide which portrayals of it are acceptable.

In summary, the Committee, through its attention to male experts and its reliance on androcentric discourse, constructed an account of pornography which erases women's knowledge about it, which silences knowledge that would be most effective in empowering women to act on our own behalf and which, therefore, most threatens the Committee's and the state's authority to act instead of women in the way they did. What is silenced in this Report is women's knowledge that men have been in the position to define our reality because of the fundamentally gendered nature of this capitalist system and that the state, through the daily practices of women and men trained to put

discourse developed by privileged, white men into practice, plays a crucial role in maintaining this system. Although the authors claim to balance the rights to freedom of expression and to equality, in basing their account of pornography on legal discourse about the appropriate role of the criminal law, they have "tipped the scale" in favour of the former. In the proposed amendments to the Criminal Code, women as the objects of pornography disappear, our analyses of how this phenomenon arises and is perpetuated are silenced, and an "objective" account replaces them which, on the whole, maintains men's power to define our sexuality and to continue to profit from doing so. The proposed amendments would not only leave the immensely profitable pornography industry, owned and controlled by men, largely intact, but would also, through the legalization of "live sex" shows provide it with a lucrative new venue. Whereas the Committee could have argued that sexist portrayals of women offend ~~our~~ Charter right to equality, they relied instead on the qualification provided in that text, that this would constitute an "unreasonable limit" to freedom of expression, to protect the pervasive and profitable male-owned advertising business. Also, in the final analysis, it was the discourse of the criminal law which provided the interpretive schema for an account of pornography. Thus, the Committee's reliance on the legal discourse to produce an account of pornography that intended a course of social action in the form of criminal sanctions constitutes the ideological circle as a practice which largely excluded women's understandings from the formation of social policy on pornography and which, therefore, maintains the status quo of male dominance and female oppression.

FOOTNOTES - Chapter 6

1. Canada, Special Committee on Pornography and Prostitution, Pornography and Prostitution in Canada, Report of the Special Committee on Pornography and Prostitution (Ottawa: Minister of Supply and Services, 1985), I:v. (hereafter cited as Fraser Committee, Report).
2. Ibid., pp.3-40.
3. Ibid., pp.5-12.
4. Ibid., p.11.
5. Ibid., pp.15-39.
6. Ibid., p.6.
7. Ibid., p.19.
8. Ibid., p.20.
9. Ibid., p.22.
10. Ibid., p.23.
11. Ibid., p.25.
12. Ibid., p.26.
13. Ibid., p.28.
14. Ibid., pp.45-108.
15. Ibid., p.50.
16. Ibid., p.63.
17. Ibid., p.67.
18. Ibid., p.69.
19. Ibid.
20. Ibid., p.71.
21. Ibid., p.72.
22. Ibid., p.79.
23. Ibid., p.81.

FOOTNOTES - Chapter 6 (Continued)

24. Ibid.
25. Ibid., p.99.
26. Ibid., pp.109-222.
27. Ibid., pp.257-339.
28. Ibid., p.260.
29. Ibid., p.263.
30. Ibid., pp.276-279.
31. Ibid., p.279.
32. Ibid., pp.317-324.
33. Fraser Committee, Report, II:699.
34. Ibid., P.703.
35. Ibid., p.705.
36. Canada, Report of the Commission on Equality in Employment, by Judge Rosalie Silberman Abella (Ottawa: Minister of Supply and Services, 1984).
37. John McLaren, "The Fraser Committee: The Politics and Process of a Special Committee" in Regulating Sex: An Anthology of Commentaries on the Findings and Recommendations of the Fraser and Badgley Reports, ed. J. Lowman, M.A. Jackson, T.S. Palys and S. Gavigan (Burnaby, B.C.: School of Criminology, Simon Fraser University, 1986), p.39.
38. Ibid., p.45.
39. Ibid., p.43.
40. Ibid., p.42.
41. Bob Jessop, The Capitalist State (Oxford: Martin Robertson and Co. Ltd., 1982).
42. E.P. Thompson, Whigs and Hunters (London: Allen Lane, 1975).
43. Elizabeth Wilson, Women and the Welfare State (London: Tavistock Publications Ltd., 1977).
Michelle Barrett, Women's Oppression Today: Problems in Marxist Feminist Analysis (London: Verso Editions, 1980).

FOOTNOTES - Chapter 6 (Continued)

44. Catharine MacKinnon, "Feminism, Marxism, Method and the State: Toward Feminist Jurisprudence", Signs, 8, no.4 (1983):644.
45. Alison Jagger, Feminist Politics and Human Nature (Totowa, New Jersey: Rowman and Allanheld, 1983), p.199.
46. Ibid., p.200.
47. Ibid., p.50.
48. Concordia (University) Women's Collective, submission to the Fraser Committee, Montreal, February 27, 1984, p.1.
49. Susan DeRosa, submission to the Fraser Committee, Montreal, February 27, 1984.
50. Vancouver Status of Women, submission to the Fraser Committee, Vancouver, January 13, 1984, p.11.
51. For example, submission to the Fraser Committee from Le Comité Action-Intervention du Comté Estrie (Montreal, February 29, 1984); Helen Porter (Toronto, February 7, 1984); Campaign "P" (Toronto, written submission); University Women's Club of Vancouver (Vancouver, April 3, 1984) and Education Wife Assault (Toronto, written submission).
52. For example, submissions to the Fraser Committee from OFVAS (Toronto, written submission); ACTRA (Toronto, February 8, 1984); and Alliance Against Sexual Harassment (Edmonton, January 9, 1984).
53. For example, submissions to the Fraser Committee from Vancouver Status of Women (Vancouver, January 13, 1984) and the Alberta Association of Registered Nurses (Edmonton, written submission).
54. Information obtained in an interview with Daniel Sansfaçon, Research Criminologist, Department of Justice.
55. Eric Johnson, submission to the Fraser Committee (Montreal, February 28, 1984), pp.7,13.

CHAPTER 7
CONCLUSION

This research demonstrates that the practice of the ideological circle in the process of social policy development on pornography, from the establishment of the Special Committee to its final Report, essentially results in the preservation of the status quo of women's oppression. This is accomplished by the organized exclusion of knowledge, based on women's experiences of pornography and of the social organization that produces it, from the proposed course of social action the Committee elaborated to deal with it. The institutional location, membership and mandate of the Committee, the organization of the research constituting "authoritative" knowledge about pornography and the interpretive schema employed by the Committee to "make sense" of opposing views about it all contributed to this outcome.

The institutional location of the Committee in relation to the Department of Justice, its mandate to propose legal reforms and its membership of "expert practitioners" of the legal discourse, ensured that the law would be the foremost concern in this policy development process. The state's role in the regulation of sex, especially through the Criminal Code, rather than women's knowledge about pornography, provided for this focus. This not only limited the Committee's scope of investigation and recommendation, but it also precluded the development of an understanding of pornography that would connect it extra-legally with prostitution and, in turn link both with the oppression of women in capitalism. These features of

the Fraser Committee provided the organizational context for the ensuing process which largely silenced the concerns of the women's movement in the recommended course of social action.

The organization of the production of "authoritative" knowledge was also an important contributing factor in the exclusion of women's understandings. Especially crucial was the government's decision to give control over the research program to Justice instead of to the Committee. It is clear from this investigation that the people who are identified as the consumers of pornography, that is, middle-class, educated, white men, and who are the beneficiaries of it from a feminist perspective, are from the same demographic group as those who occupy positions of power in the Department of Justice and the social science research establishment. These men determined what would be "counted in" as "authoritative" knowledge and what would be "counted out" as unreliable anecdote.

The officials in Justice attended to other men in academia as the "experts" on pornography and put into practice an interpretive schema provided by traditional social science discourse to produce a "factual account" of the nature of pornography and its effects. Their practice of the ideological circle allowed them to suppress research that supported women's accounts of pornography and to publish other research which minimized the importance of such findings. Both the methods provided by the discourse for producing an "objective" account and the insistence that knowledge produced in

this manner is superior to subjective accounts based on peoples' lived experiences enabled Justice to routinely exclude knowledge based on women's experience of pornography. The requirements of traditional social science discourse which constitute the knower as separate from what he knows also meant that research must begin with concepts entrenched in the discourse. Thus, researchers beginning with conceptualizations of pornography as violence against women or as provoking such violence, arising in feminist discourse, rather than as harmless depictions of "sexuality", the view entrenched in traditional social science discourse, were seen to be "politicized" whether or not they used approved "objective" methods. In this way, James Check's work, for example, could be and was excluded on the basis of his "interpretation".

The practice of the Committee members themselves, relying on male experts and on an interpretive schema provided by both the social science and legal discourses to provide a "factual account" of pornography and a course of social action based on that account, was an instance of and completed the ideological circle that largely excluded women's knowledge. The women members who gained official entry into this once exclusively male preserve of policy making did attend to what women said about pornography and thus enabled at least some of women's knowledge to appear in the text of the Report as official discourse. However, although they brought to this process a feminist perspective, their training in the social science and legal discourses constrained them to work within the boundaries these

provided.

In particular, the requirement that research be premised on the traditional concept of pornography embodied in social science discourse and the approved method for producing "objective" accounts or evidence, which theoretically construct the knower as separate from what he knows, limited the extent to which they could use the law to deal with materials that exploit and offend women. Putting this "objective" standard into practice, the Committee concluded that research in the social sciences could not be said to demonstrate a causal link between pornography and violence against women. When the Committee then turned to the legal discourse, this had a particularly chilling effect on the ability of women to legitimate our knowledge as a basis for a course of social action on pornography since that discourse requires just such "objective" evidence of harm in order to legitimize criminal sanctions.

The Committee, in an attempt to deal with women's concerns about materials portraying women as sexual objects relied on the legal discourse, in the form of the Charter of Rights and Freedoms to provide an account of pornography as an "assault on human rights". This construction obscured the social and economic realities of women who are exploited by pornography. It also provided for the competing right to freedom of speech, and that such a right must not be "unreasonably" limited. This concern, in the Committee's practice, took precedence over women's right to equality. This erased women's

knowledge that our freedom of speech is limited by our economic and social status. Finally, the Committee, while questioning the narrow liberal definition of harm embedded in the discourse of the criminal law, essentially put this definition into practice in their specification of what materials would be subject to criminal sanction. This silenced women's knowledge that portrayals of women as sexual objects are part of the systematic organization as well as a reflection of our subordinate status. Thus, the Committee's account of pornography relied on the Charter but the course of social action they recommended relied on the discourse of the criminal law. In general, their account of pornography was provided for by forms of thought originating in the legal discourse and not by an explanation of actual social relations, that is, women's oppression and how we experience it.

Once the process of transformation accomplished by the Committee's practice of the ideological circle was complete, the ideological form of knowledge, in this case, the proposed amendments to the Criminal Code, superseded the "primary narrative", that is, women's knowledge of pornography. What women experience, feel and say about pornography is not recoverable from the recommendations made by the Committee. The transformative process excluded both the subjects of it, that is, women as the primary actors in the struggle against pornography and as its exploited materials base, and the circumstances of our lives, that is, our economic, social and political oppression which gives rise to the phenomenon as well as to our

feelings and our struggle.

The Committee's practice of the ideological circle was essential in the process of transforming women's actual, local experiences in and of pornography into the generalized form of knowledge, represented by the Code amendments, which could then become known, knowable and, most importantly, actionable. This generalized form of knowledge is now potentially part of the criminal law discourse and, if implemented, could be put into practice and applied to each individual as if there were no differences amongst us in terms of status or power. The Criminal Code is part of the ruling apparatus, as one of the texts which provides for and legitimates the actions of the "justice" system, and its most coercive legal instrument. Since women's knowledge about pornography was excluded from the development of the Code amendments, the implementation of these would do little to change the practices of pornographers, distributors and users and thus would perpetuate both the current exploitation of women and the prevailing social consciousness about pornography and the nature of sexuality.

The Committee's proposed amendments to the Criminal Code provide for a course of social action that would serve the interests of men by leaving the vast majority of pornography untouched and by legalizing the exploitation of women in "live sex" shows. Women would continue to be portrayed as sexual objects and men would continue to profit emotionally, socially and financially from these portrayals.

In addition, the designation of all "sexually explicit" material as pornography gives de facto legitimacy to pornographic depictions as the expression of human sexuality and, therefore, preserves the culturally-shared social consciousness that this genre is about "sex". It also perpetuates the mystification of sexuality by failing to distinguish between pornography and erotica. In addition, the removal of pornography from view of the general public would further act to silence feminist protests about it and would reinforce the idea that it is acceptable to view the sexual exploitation of women as long as it is done in "private".

The exploration of the social construction of the documents of the Fraser Committee provides a concrete example of the way in which such texts organize and coordinate ruling in this social organization. The practices of the Committee members and Department of Justice officials can be seen to be part of the organization of social consciousness and as an instance of the social relation which coordinated various social groups, including the women's movement, to produce a recommended course of social action on pornography which, if implemented, would not challenge the status quo. In this process, a formal notion of equality was preserved; the role of the state, as the neutral arbiter of individual and group conflict, and the economic system it supports remained unquestioned; and the organized and systemic oppression of women in that system and in and by pornography were legitimized. The discourses of social science and the law, based on male experience, provided for Criminal Code

amendments predicated on the silence of women. If implemented, this course of social action would continue to maintain male power by reinforcing current social consciousness about sexuality and by maintaining lucrative male-owned economic enterprises based on the exploitation of women's bodies. In this way, the ideological knowledge in documentary form which constitutes the discourses, when put into practice by the Committee, served to coordinate the activities of people in the institutional sites of power, that is, in academia, the legal system and the pornography industry, to act primarily in the interests of men. Thus, the practices of the people involved in this Committee process acted to both accomplish and maintain the ruling apparatus.

• This thesis produced some information which I find both personally and politically meaningful. Most important, it uncovered the knowledge-making process which produced the disjunction between what I experience and know as pornography and the Fraser Committee's definition of it in their proposed Criminal Code amendments. Of particular interest to me was the discovery that it is the practices of people based on the relevancies of ruling discourses that transform the lived, local and concrete experiences of women such as myself who see pornography and those of women who participate in it into social policy that does not reflect our needs, desires or knowledge. This discovery helps to demystify the process of ruling in a way that simply identifying the "structures" or "institutions" of patriarchy and/or capitalism does not. A major problem with the

latter approach is that structures or institutions come to be seen as causing women's oppression and this leaves unexamined the activities of people as agents of our own lives.¹ This makes it difficult to see how we are both implicated in the process of ruling and how we can, as individuals or in groups, work toward social change. The method of analysis used in this research, on the other hand, demonstrates the active involvement of people, including feminists, in producing social structure through this policy development process and it identifies androcentric discourse as a major factor limiting women's ability to bring about fundamental change through this process.

My research then helps to explain the difficulties which women face when we try to get the state to deal with issues of concern to us, even when feminists are officially part of the social policy development process. Once the struggle for women's liberation shifts to the terrain of the state, the well organized and legitimated processes for making authoritative knowledge are put into practice and act to exclude vital and varied aspects of women's experience. Women trained in the theories and methods of ruling discourse who seek to produce change using state mechanisms are, at the same time, limited by their use of them and by their location within the ruling apparatus.

My research uncovers the reality that some of the women actively involved in this process of social policy development achieved what they set out to do. For example, the women who made up the Porno-

graphy Committee of NAC, whose public submission requested that the Criminal Code provisions focus on violence rather than on sex or sexism, were pleased with the Fraser Committee's recommendations.² These women deliberately chose a strategy, based on their understanding of both the significance of the Committee's institutional location and the legal discourse, that would maximize the possibility that any new criminal law would work in the direction of positive change for women or, at least, would not act to further disempower us. In their view, the recommendations were a victory because of the shift of criminal sanctions away from sexually explicit material and towards sexual violence which, even with the proposed display restrictions, would leave an opening for women's alternative portrayals of sexuality (which are presently a target for censorship) while providing for the removal of the most dangerous materials including endorsements of violence against women and the sexual exploitation of children.

At the same time, my research shows that using the language of official discourse can allow the state to use the women's movement in ways that are problematic for women's struggles. NAC's submission, because it was based on a knowledge of legal discourse and was couched in this professional language, enabled the Fraser Committee to use the submission to legitimize a course of social action which did not reflect the desires of the women's movement in general and many of NAC's members in particular.³ This acted to provoke both more debate and division within the women's movement along pro-

versus anti-censorship lines. This, at least to some extent, obscured the reality that all women in the movement would like to live in and are working toward an egalitarian society in which pornography could not exist. In this way, the Fraser Committee recommendations can be seen as both a response to women's actions on pornography and as a factor in organizing the activities of the women's movement in relation to the process of ruling.

This thesis also shows the importance of women's consciousness-raising activities and the new knowledge these produce as well as the extent to which women have already succeeded in entering this knowledge into the discourse on which people's practices, including those of developing social policy, are based. It was by sharing our experiences of pornography that women created pornography as a social problem that transcended the issue of obscenity. The protests and demonstrations of the women's movement, not just violent ones, which disrupted both distributors' business and male customers' easy access to pornography led to both media coverage which made women's experiences and ideas available to the public and government action. The government was forced to recognize women as a major force in the debate and did so in the appointment to the Fraser Committee of four women known for their pro-women activities. This provided for the entrance of at least some of women's knowledge into the body of the Fraser Committee's Report where it is now available to anyone who reads it.

In addition, women's community research and education programs,

our local actions and our writings on pornography and on the social organization that produces it have changed some people's ideas and have prompted them to act on this knowledge. Examples of this can be seen in the submissions made by the United Church which explicitly recognize the part patriarchal religion has played in the oppression of women, in the background research produced by social scientists who recognize the centrality of women's experience in the development of knowledge about pornography, in the research in social psychology which begins with questions of concern to women and in the sheer numbers of women who realized the significance of the issue and who cared enough to make submissions to the Fraser Committee. Thus, women's actions have begun to change social consciousness about pornography and to enter into the discourse which represent authoritative knowledge about the world. Since it is these discourses which are so crucial in the organization of the practices of people involved in the development of social policy, this is encouraging and also points to the necessity of continuing such action at both the grassroots level and within the institutions of the ruling apparatus.

Of course, as this and other research beginning from the standpoint of women demonstrates, when we attempt to make women's experiences central in the creation of knowledge within academia, we are faced with and caught up in the same ideological practices that women working for social change through participation in government mechanisms experience.⁴ The theories and methods that inform our practice are provided by discourses which women have, until recently,

played no part in developing. Also, in these institutions men still hold the majority of upper-level positions and attend only to what other men say as authoritative knowledge. However, knowledge based on women's different experiences of the world has begun to appear in the journals which are the official textual discourses of the social sciences. My research, for example, is based on the work of Dorothy Smith who places women at the centre of her analysis. Her work, published in recognized sociological journals, provides the analytical base for mine. This shows how women's knowledge can provide for research which challenges the legitimacy of traditional discourse which either does not take women into account or which does not account for the different lived experiences among women.

The entrance of women's knowledge into the discourses of social science also provides for different methods of working which can be used to create knowledge which more fully reflects the diversity of women's experiences. As we become more aware of the practices by which women are excluded, we can begin to insist upon the validity and necessity of methods for producing knowledge which recognize that knowledge making is always a political project; which take sex (as well as race and class) into account; and which do not produce abstract, "objective" facts and theories but instead start from the real experiences of women as they describe them, attempt to see how these are socially organized and, therefore, more fully reflect the variety and complexity of the social world. This project is of crucial importance to women working for women in social work because

the more completely that the knowledge we hold in common about the world incorporates the lived experiences of women and, in particular, those of women who have the least accessibility to positions of power and official decision-making processes, the more likely it is that social policy based on it will act to meet the needs of women and, therefore, empower us to act for change on our own behalf.

Finally this investigation of the political process of defining pornography reveals a moment in the social construction of sexuality. The development of social policy on pornography is part of this project because, as the women's movement has discovered, pornography is itself an ideological practice in documentary form. It is androcentric discourse on sexuality which both reflects and creates the "nature" and "naturalness" of sexuality. The pornographic discourse plays a particularly important part in the social construction of sexuality because open and honest discussion about our lived experiences of sexuality are not a feature of this society. As Lynne Segal points out,

what we call sexual behaviour is still concealed from children, confined to a very special area of life, cut off from other activities and acceptable only in certain types of relationships.

If pornography, the "sex" it creates and the gender relations it endorses are to be challenged, we must all (women and men) do a lot more sharing of our lived experiences of sexuality. In this way, we may begin to understand why sex is still so secret and the reality of the complex "nature" of sexuality can emerge to compete with the

ruling discourse on sexuality which pornography constitutes. As women, we need to examine and discuss the complex reactions we have to pornography. In doing so we may come to see that we find it so appalling "because it both titillates and degrades us".⁶ We need to develop an understanding not only that sexuality is a social construction but also that each of us develops our sexuality within a male-dominated, capitalist system which constructs female sexuality as passive and as the source of power we have over men. What we do and say about pornography then, through our attempts to change social policy or otherwise, have an effect on social consciousness about sexuality and, hence, on the "nature" of sexuality itself. For, as Mariana Valverde points out,

by simultaneously emphasizing the variety of our own sexual experiences, we can try to highlight the way in which we resist these social forces, counteract them, and sometimes even manage to change them.

FOOTNOTES - Chapter 7

1. Liz Stanley and Sue Wise, Breaking Out: Feminist consciousness and feminist research (London: Routledge and Kegan Paul, 1983), pp.71-72.
2. I attended the pornography workshop of the Annual General Meeting of NAC in May 1985, just after the Fraser Committee Report was released. At that meeting the Pornography Committee of NAC put forward a resolution endorsing Fraser's recommendations and urging the government to implement them quickly.
3. Members in attendance at the 1985 NAC AGM pornography workshop refused to adopt the Pornography Committee's resolution. Among the issues raised by member groups were 1. that women do not agree about what constitutes pornography or what should be done about it and 2. that the Fraser Committee Report was not feminist.
4. Smith, Peculiar Eclipsing
Smith, Analysis of ideological structures.
5. Segal, Sensual Uncertainty, p.40.
6. Ibid., p.44.
7. Valverde, Sex, Power and Pleasure, p.18.

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