

Radical Feminism in Political Action: The Minneapolis Pornography Ordinance

It was January 4, 1984, and Don Fraser, Mayor of Minneapolis, had an important decision to make. Time was ticking by, and he had to decide by tomorrow. A week earlier, the Minneapolis City Council had passed a controversial ordinance that would make pornographic material a violation of a woman's civil rights. The ordinance had received plenty of national attention. Two prominent feminist scholars, Catharine MacKinnon and Andrea Dworkin, who had been living in Minneapolis as visiting University of Minnesota professors, had written the ordinance. (MacKinnon, a lawyer, and Dworkin, a writer and activist, wrote pornography ordinances for several cities in the 1980s. Minneapolis was the first city for which they authored legislation.) Many members of the local community had strongly supported the ordinance, with activists holding vigils outside Mayor Fraser's home and office. Many of them had grown tired of watching as adult entertainment businesses crept into their neighborhoods. Others had personally experienced sexual violence and felt that the ordinance was an important step in protecting the rights of women. The ordinance also had opponents. Editorials in *The New York Times* and *The Washington Post* had denounced the ordinance and called upon Fraser to veto it. The head of the Minnesota chapter of the ACLU, Matthew Stark, had described the ordinance as a "constitutional mockery" (Kimball 1984, 1). Fraser, a lawyer, had served for fifteen years as a Minnesota Congressman before becoming mayor. He had a reputation as a progressive politician who also strongly supported First Amendment rights. And now he had to make his own decision about the ordinance and veto it if he felt that it was unconstitutional.

In the fall of 1983, MacKinnon was a visiting professor at the University of Minnesota Law School. Dworkin was also at the University, teaching for the Women's Studies program, and she and MacKinnon decided to co-teach a course on pornography at the Law School. The class included 55 students, both men and women, including students and faculty at the Law School as well as people from the community. During the semester, students learned about obscenity law and discussed and analyzed various types of pornography in detail. Course material included watching the films "Deep Throat" and

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“Snuff,” reading current issues of magazines such as *Playboy* and *Hustler*, and going to local live sex shows.¹ The students in the class had an intense reaction to the pornography that they were exposed to in the class, and some of these students would form the base of the support for the pornography ordinance.

At the same time that MacKinnon and Dworkin were teaching their course on pornography, many Minneapolis residents were becoming increasingly concerned about the pervasive nature of pornography in their community. The concern mostly came from residents of the Powderhorn Park area,² who felt that the rise in adult entertainment businesses was causing an unwanted decline in the value and charm of the neighborhood. Local residents voiced a particular concern about Lake Street, which was becoming the local center of prostitution. In response to what they saw as neighborhood decay, local residents formed the Neighborhood Pornography Task Force with the intention of taking action against the rise in adult entertainment businesses in their community.

The most visible target for community ire about pornography was the Rialto Theater, on the corner of Chicago and Lake Streets. Owned by Ferris and Edward Alexander, local neighborhood and feminist activists cited the Rialto Theater as the cause of increasing crime and prostitution on the east end of Lake Street. During the 1980s, the Alexander brothers acquired many other local adult bookstores and video stores. At this time in the early 1980s, despite the decision of *Miller v. California*, the Alexander Brothers were able to freely sell pornographic books and videos. *Miller v. California*, which the Supreme Court decided in 1973, attempted to define obscenity within the context of pornography, and resulted in a more moderate definition of pornography than the previous one. *Miller* established three criteria for considering pornographic material obscene and unconstitutional. The material had to wholly lack any serious artistic or social value, and it had to portray sexual conduct in a blatantly offensive way. It also had to be considered obscene using contemporary community standards.³ Although many of the materials for sale in the pornography bookstores and video stores were obscene by the standards, courts had created burdensome procedures for taking civil or criminal action against pornographers in an attempt to avoid excessive censorship. As a result, prosecuting pornographers on the basis that their material was obscene became much more difficult. Furthermore, pornographers had become talented litigants by retaining excellent lawyers and developing effective strategies for winning obscenity cases. Opponents of pornography and adult entertainment soon began looking for other ways to limit such material.

¹ See Appendix A for a copy of the course syllabus.

² Powderhorn Park is located in Central Minneapolis. The north/south boundaries of the neighborhood are East Lake and 42nd Streets, and the east/west boundaries are Hiawatha Avenue and Interstate 35W. In the 1980s, this area of Minneapolis contained a significant minority population, and was a popular neighborhood for political activists. The area was also recognized as being one of the city’s poorer neighborhoods.

³ Previous obscenity laws had contained a national standard for defining obscenity, which made the definition of obscenity less ambiguous.

Since *Miller v. California*, the legal tactic that cities commonly used to limit pornography sales was through zoning laws. While zoning laws proved to be an effective strategy for limiting pornography in neighborhoods, courts often struck them down as unconstitutional. This situation had been the case in early 1983, in *Alexander v. City of Minneapolis*. In this case, Ferris Alexander had challenged a zoning ordinance that Minneapolis had passed in 1977. The ordinance forbade owners of adult bookstores and theaters from operating such businesses within 500 feet of residential areas, churches, or schools. The federal district court struck down the ordinance in 1982, declaring that it was unconstitutional.

The man who usually defended the Alexander brothers in zoning issues was Randall Tigue, who also worked for the Minnesota Civil Liberties Union (MCLU). The Alexanders had a close relationship with the MCLU, and even provided the MCLU with free office space for a time in one of the buildings that they owned in Minneapolis. Tigue was a longtime lawyer to Ferris Alexander and remained in contact with him even after Alexander went to federal prison in 1990 after being convicted of racketeering, tax fraud, and obscenity charges.

During the fall of 1983, while MacKinnon and Dworkin were teaching their class, Naomi Scheman, an associate professor of philosophy and women's studies at the University of Minnesota, suggested to the Neighborhood Pornography Task Force that they contact MacKinnon and Dworkin about helping the Task Force with the pornography problem. Members of the Task Force approached MacKinnon and Dworkin, and the two eventually testified that fall before the city's Zoning and Planning Committee about the effects of pornography commerce on local communities. After MacKinnon and Dworkin testified for the committee, Charlee Hoyt, a moderate Republican member of the Minneapolis City Council, contacted them about their testimony. Hoyt had been impressed by their testimony on the effects of pornography, and she wanted them to author an anti-pornography ordinance for the city. They soon signed a contract with the city attorney's office that made them consultants. MacKinnon and Dworkin would take the present Minneapolis civil rights ordinance and draft and propose an additional section on pornography. The ordinance, the first of its kind, would take a civil rights approach to the issue of pornography. Instead of attempting to attack pornography on the basis of immorality, they would write about pornography as an oppressive form of power, both personal and political. Using a novel approach, they would formulate the ordinance to describe pornography as violating a woman's civil rights.

The way in which MacKinnon and Dworkin constructed the ordinance was indicative of their feminist theory. As radical feminists, MacKinnon and Dworkin viewed human sexuality as a social construct, and they completely rejected pornography because they saw it as a way in which men could institutionalize their power. The word "pornography" comes from the Greek word *porné*, which means "the description or purchase of whores." Many feminists believed that the very meaning of this word

indicates a power imbalance, and directly implies the sexual exploitation of women. Radical feminists often remained at odds with liberal feminists about pornography, as radical feminists believed that a woman's right to be safe from the harms of pornography should take precedence over First Amendment rights. To many feminists, a tension existed between women's rights and the rights granted by the First Amendment. Although many liberal feminists were wary of pornography, they saw any attempts at censorship as directly inconsistent with the First Amendment. Thus, they were willing to tolerate the use and sale of pornography in order to protect individual rights, and to avoid censorship.

In addition to a split amongst radical and liberal feminists, a third position on pornography was also prevalent within the local community. These feminists opposed anti-pornography legislation because they were concerned that such legal action would result in a government-enforced position of sexual repression. Such feminists were supportive of the public/private dichotomy, and feared that this distinction would be blurred if the state were allowed to make pornography illegal. Because these feminists viewed sex as private, they were extremely reluctant to support any sort of legislation that allowed the government to make a judgment via legislation about sexual behavior. Furthermore, although many of these feminists were wary about the prevalence of pornography in Minneapolis, they were reluctant to support radical feminists like Dworkin and MacKinnon because they did not share their view that heterosexuality was anti-feminist. Furthermore, some heterosexual women struggled with Dworkin's views on male/female sexual relationships, while some lesbians were also troubled by Dworkin's theories because they felt they might lead to repressing lesbian sexuality.

Although MacKinnon and Dworkin's opposition to pornography often aligned them with members of the religious right, their reasons for opposing pornography were quite different. For religious conservatives, pornography was strictly an issue of morality. They viewed pornography as a sinful expression of sexuality. For radical feminists like MacKinnon and Dworkin, pornography was both a morality issue and a women's rights issue. The conservative framework of morality opposes pornography because it is sexually explicit; radical feminists view pornography as celebrating the idea of violence against women. As MacKinnon said, "The concerns of feminism with power and powerlessness are first political, not moral. From the feminist perspective, obscenity is a moral idea; pornography is a political practice" (1989, 196).

Many outsiders who commented on the ordinance proceedings noticed the alliance between the radical right and the radical left. An editorial cartoon in the *Minneapolis Star and Tribune* showed Andrea Dworkin and Jerry Fallwell side by side, tearing up a copy of the First Amendment. In a book about the ordinance hearings by MacKinnon and Dworkin, MacKinnon downplayed the ties between radical feminists and conservative politicians during the ordinance proceedings. She explained that Republican Council member Charlee Hoyt, the ordinance's original sponsor, was actually quite moderate

in her political views, and went on to say, “And exactly what is sinister about women uniting with women across conventional political lines against a form of abuse whose politics are sexual has remained unspecified by the critics?” (MacKinnon 1997, 10). Many locals commented on the conservative/radical alliance because they thought that it seemed strange that conservatives were noticeably absent from the hearings. Although there were conservative members of the Council who supported the ordinance, the conservative community as a whole was not particularly vocal in their support for the ordinance.

Several elements of the ordinance made it different from any previous pornography ordinance.⁴ First, it created a civil right of action rather than defined pornography as a crime. The ordinance framed pornography as a violation of women’s civil rights. If a woman felt that her civil rights were being violated by pornography, she could file a complaint with the Civil Rights Commission. In order for any pornography to be subject to civil action, it had to fit three criteria. It had to be sexually explicit, subordinate women, and cause subordination via one of nine means.

In Section 3, the ordinance defined pornography as “a form of discrimination on the basis of sex.” The way that the ordinance defined pornography was important to the meaning of the ordinance. It described pornography not only in concrete terms, but also in terms of how it affected women. It went on to say that “Pornography is the sexually explicit subordination of women, graphically depicted, whether in pictures or in words, that also includes one or more of the following.” Following that sentence was a list of nine situations that satisfied the definition of pornography, including such things as “women are presented as whores by nature” and “women are presented in postures of sexual submission.” All of the nine criteria explicitly used the word “women” as those who are victimized by pornography. Men and children were included in only two sections of the ordinance. One such inclusion was in Section 4, which addressed forced pornography. This section used the phrase “any woman, man, child, or transsexual” to describe who could be forced into pornography. In the revised version of the ordinance, the wording of “women” in the nine criteria for satisfying pornography was changed to “person.”

In addition to its definition of pornography, the ordinance also contained a controversial section on trafficking. This section of the ordinance stated, “the production, sale, exhibition, or distribution of pornography is discrimination against women by means of trafficking in pornography.” Essentially, this section would permit any woman to bring a complaint against someone who sold pornography. A woman could sue a pornography business owner for monetary damages, or she could obtain an injunction to prevent the pornographer from selling any more of the material. This section of the ordinance was also controversial because it was not written in gender-neutral terms. Its use of the word “woman” instead of “person” made it very different from existing civil rights laws, implying that only women could be harmed by pornography. Furthermore, by allowing women to sue purveyors of pornography, the

⁴ See Appendix B for a copy of the ordinance.

ordinance's language considerably widened the range of material that would be potentially susceptible to complaints from women who felt that the material was offensive.

After MacKinnon and Dworkin had finished writing the ordinance, they started preparing for the City Council hearings, which began on December 12, 1983. The Government Operations Committee, made up of five City Council members, organized the hearings. At the public hearing, which lasted two days, MacKinnon and Dworkin had various people testify on their behalf about the effects that pornography had had on their life, and they presented several witnesses to speak about the psychological effects of pornography. During the first session of testimony, the first witness that they presented was Edward Donnerstein, a University of Wisconsin psychologist. Using the results from a study that he had conducted on male college students, Donnerstein said that males were more accepting of violent sexual behavior, such as rape, after viewing aggressive pornography. He reasoned that this was true because after exposure to pornography with violent content, men began to equate sexual violence with arousal.

After Donnerstein testified, Linda Marchiano provided testimony for the Council. Marchiano had starred in the film *Deep Throat*,⁵ and she had been the inspiration for the section of the ordinance that banned any pornographic coercion. During her emotional testimony, she said to the Council, "every time someone watches *Deep Throat*, they are watching me be raped" (Brest 1987, 623). She went on to describe how she was forced into prostitution and experienced prolonged sexual and psychological abuse.

The third speaker was Pauline Bart, a sociology professor at the University of Illinois. She described the psychology of rape, and how men who rape often do not view their actions as injurious to their victim. She went on to describe a study that made a correlation between the number of sales of pornographic magazines and the instances of reported rapes. The Director of the Hennepin County Rape and Sexual Assault Center followed Bart's testimony. In her testimony, she discussed how pornography exposure negatively affects attitudes towards rape, repeatedly discussing the association of pornography and sexual violence. Several other witnesses, including Cheryl Champion, a local social worker, discussed the connections between pornography and prostitution. One therapist depicted pornography as a "training manual" for young prostitutes (Brest 1987, 628). A former prostitute who testified explained that she used pornography as a textbook for learning tricks.

The second session of the hearing involved testimony by members of the community. Many of those who testified offered graphic, personal testimony and were introduced by MacKinnon, often using initials instead of their full names. In front of the crowded Council chamber, many women got up to speak about how pornography had affected their lives. One woman spoke about how her boyfriend would attend movies at the Rialto Theater, then return home and force her to act out scenes from the movie.

⁵ *Deep Throat*, released in 1972, is widely known as the first full-length feature film that contained hardcore pornography. The main image in the film is a woman down on her knees, performing fellatio.

Another woman, Wanda Richardson, who worked for the Harriet Tubman Woman's Shelter, described her experience with battered women, and how they often felt like they had been reduced to meaningless, physical objects. The women described horrific experiences of sexual violence that they believed had been directly or indirectly caused or encouraged by pornography.

Many people, both men and women, spoke about the devastating personal effects of pornography and gave support for the ordinance. These witnesses all spoke out against pornography on the grounds that it degraded women and encouraged sexual violence. Several conservative members of the City Council supported the pornography ordinance because they believed pornography to be immoral. None of the witnesses testifying, however, gave such a reason for supporting the ordinance.

An understanding of Minnesota politics is necessary to explain the absence of local conservatives. In 1980s Minnesota, urban Minneapolis-St. Paul had a large number of progressives, who mostly belonged to the DFL party (Democratic-Farmer-Labor). Those who were considered conservative by Minnesota standards would more likely be perceived nationally as moderate Republicans, such as City Council member Charlee Hoyt, one of the biggest supporters of the ordinance. Conservatives were also largely shut out of the process by local feminists—they received very little notice of the hearings (there were only four weeks between the drafting of the ordinance and its passage), and the behavior of the audience at the hearings were not conducive to any voices of dissent. When a few witnesses testified against the ordinance, including a bookseller and a gay activist, they were booed and hissed at by the audience.

The gay activist who testified at the hearings was Tim Campbell, the editor of the weekly *GLC Voice*, and one of the members of the male gay community who publicly denounced the ordinance. Campbell argued that the ordinance was a significant threat to an important expression of sexuality for gay men. Adult bookstores had become a valuable gathering place for gay men, and the ordinance, particularly its trafficking section, threatened this social activity upon which many gay men relied. Campbell said, "Gay men have had to develop signals in order to recognize each other and cultivate places where we can feel relatively safe. Adult bookstores have come to be part of that picture" (Brest 1987, 629). Although Campbell opposed the ordinance, many lesbians in Minneapolis who were radical feminists supported it. While Minneapolis/St. Paul's progressive politics allowed for a more open and active gay community than in many other cities, a strong divide existed within the community between gay men and lesbians, and they were not united within the GLBT community as they are today. Many lesbians in the community were angry that while they supported AIDS education and research, the male gay community was largely unsupportive of the anti-pornography movement.

In addition to an absence of conservatives and the gay community, there were other interested parties did not testify against the ordinance. Two groups whose absence was particularly conspicuous

were civil libertarians and representatives of the pornography industry. Both groups had publicly denounced the ordinance, but no one from either group came to testify. The Alexander brothers attended parts of the hearings but did not testify. Their lawyer, Randall Tigue, explained that the Alexanders did not believe that the ordinance was a serious threat to their Minneapolis businesses. Tigue said, "I'd get a temporary injunction against its enforcement that would ripen into a permanent injunction, the ordinance would be declared unconstitutional, the city would give me a bundle of money, and it would be over with" (Brest 1987, 632). Thus, the local pornography sellers never became involved in the ordinance hearings because they felt that they could easily defend themselves through litigation.

While adult entertainment business owners were not taking the ordinance seriously, the civil libertarians were. The MCLU opposed the ordinance and its director, Matthew Stark, publicly spoke out against it. He boycotted the hearings because he thought that the whole process was flawed. He believed that what appeared to be a massive local outcry against pornography was simply a small group of organized feminists rallying for a cause. He described the hearings as biased, and said, "MacKinnon and Dworkin stacked the audience day after day, not to listen, but to engage in guerilla theatre" (Downs 1989, 83). The hearings were open to the public, and the audience consisted largely of supporters of the ordinance. Many local officials shared criticism about the content and process of the hearings. Many complained that the hearings were rushed, and that opponents of the ordinance did not receive adequate time to prepare thorough critiques of the ordinance.

The hearings on the ordinance came to a close on the evening of December 13, 1983. The Government Operations Committee, which had presided over the hearings, then approved the ordinance so that it could be sent before the full City Council for a vote. The Civil Rights Commission, which would be in charge of hearing any women's complaints about pornography if the ordinance passed, did not feel that they had had enough time to research the ordinance. They asked for a three to six month delay so that they could study the ordinance in more detail. But proponents of the ordinance resisted because they wanted the City Council to be able to vote during the term. Newly elected members of the Council would be taking their seats in January, and proponents of the ordinance worried that they had not had the experience of watching the hearings, and did not know what their views might be.

Some members of the Council were also worried about voting so quickly because the hearings had not addressed the constitutionality of the ordinance. Several of the Council members had met with staff from the City Attorney Robert Alfton's office to discuss the ordinance, but the hearings had not included any legal testimony. Supporters of the ordinance, particularly MacKinnon and Dworkin, did not want to diminish the impact of some of the testimony from the women about pornography by beginning legal testimony that could result in lengthy debate about the ordinance's constitutionality. In the end, the

supporters of the ordinance got their way, and the City Council voted on the ordinance on December 30, 1983.

By this time, at the Council's last meeting of the year, the ordinance had attracted lots of attention both locally and nationally. Many editorials on the subject of the ordinance had appeared in various newspapers, most of them against. Reflecting on the ordinance, Don Fraser says that three things contributed to the national media attention. The prominence of the ordinance's authors, the novel approach that the ordinance took towards controlling pornography, and the fact that the ordinance involved First Amendment rights. Says Fraser, "Anything that has to do with First Amendment rights attracts attention from the media" (Personal communication). While members of the media clearly had strong feelings about the ordinance, so did people in the community. Several City Council members commented to the local press on how hard they were lobbied hard by their constituents to vote one way or another on the ordinance.

When it came time to vote, members of the Council were allowed to comment, before the voting took place. Charlee Hoyt, the ordinance's sponsor, voted for the ordinance, as did Sally Howard and Walter Rockenstein, two conservative members of the Council. Barbara Carlson, a Republican⁶ Council Member whose ward was populated by many gay men, voted against the ordinance. She noted that she disagreed with the ordinance supporter's tactics, particularly their intolerance of any dissent that had been expressed during the hearings. Other Council members voted against the ordinance despite their feminist beliefs because they did not feel that limiting pornography would ultimately be helpful for women. Kathy O'Brien was one of the feminists on the Council who voted against the ordinance. "People talked about the ordinance and voted their conscience on it," she says. "There hadn't been very many women on the Council before 1975. We really felt that it was important for what we did to advance the opportunities for women in society" (Personal communication). Some Council members like O'Brien believed that although pornography was a problem in the city, the ordinance would not be helpful for extending women's rights. But despite such objections, a slim majority of Council members supported it, and the ordinance passed 7-6.⁷

When the Council announced the vote, women in the audience stood up and cheered, and Catharine MacKinnon burst into tears. It was an emotional scene. Many women left the courtroom and immediately went to Mayor Don Fraser's office, to encourage him to sign the ordinance into law. If he did, the ordinance would take effect in six months. Fraser had until January 5, 1984 to veto the ordinance. After the vote, Council member Walter Dziedzic told the *Minneapolis Star and Tribune*, "This is the city of Hubert Humphrey, the champion of civil rights. Let's light a candle for Hubert Humphrey

⁶ Until 1996, the Republican Party in Minnesota was known as the Independent Republican (IR) Party.

⁷ See Appendix C for a list of City Council members and how they voted.

and pass this. We'll send a message to the purveyors of pornography that an era has ended when women can be denied their rights.”

Appendix A

Minneapolis City Council Member Voting
Original Ordinance Vote
December 30, 1983

NAME	PARTY AFFILIATION	WARD	VOTE
Barbara Carlson	IR	7 th	No
Patrick Daugherty	IR	3 rd	No
Walter Dziejczak	DFL	1 st	Yes
Sally Howard	IR	10 th	Yes
Charlee Hoyt	IR	13 th	Yes
Mark Kaplan	DFL	8 th	No
Kathy O'Brien	DFL	2 nd	No
Alice Rainville	DFL	4 th	No
Walter Rockenstein	IR	11 th	Yes
Tony Scallon	DFL	9 th	Yes
Dennis Schulstad	Independent	12 th	No
Jackie Slater	DFL	6 th	Yes
Van White	DFL	5 th	Yes

Minneapolis City Council Member Voting
Revised Ordinance Vote
July 13, 1984

NAME	PARTY AFFILIATION	WARD	VOTE
Barbara Carlson	IR	7 th	No
Brian Coyle	DFL	6 th	Yes
Steve Cramer	DFL	11 th	No
Walter Dziejczak	DFL	1 st	Yes
Sandra Hilary	DFL	3 rd	Yes
Charlee Hoyt	IR	13 th	Yes
Joan Niemiec	DFL	10 th	No
Kathy O'Brien	DFL	2 nd	No
Alice Rainville	DFL	4 th	No
Sharon Sayles Belton	DFL	8 th	Yes
Tony Scallon	DFL	9 th	Yes
Dennis Schulstad	Independent	12 th	No
Van White	DFL	5 th	Yes