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**FEMINISM, PHOTOGRAPHY, CENSORSHIP, AND SEXUALLY  
TRANSGRESSIVE IMAGERY: THE WORK OF ROBERT  
MAPPLETHORPE, JOEL-PETER WITKIN, JACQUELINE  
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FEMINISM, PHOTOGRAPHY, CENSORSHIP, AND SEXUALLY  
TRANSGRESSIVE IMAGERY:  
THE WORK OF ROBERT MAPPLETHORPE, JOEL-PETER  
WITKIN, JACQUELINE LIVINGSTON, SALLY MANN, AND  
CATHERINE OPIE\*

CONNIE SAMARAS\*\*

I. INTRODUCTION

Leanne Katz<sup>1</sup> wanted me to address the effects on artists of the type of anti-pornography legislation that has been proposed by feminists like Catharine MacKinnon and Andrea Dworkin,<sup>2</sup> particularly in light of the unholy alliances those two have formed with the right. This is a complicated proposition for me as an artist, writer, and teacher devoted to complex critiques (ones that embrace contradiction) inclusive of both feminist and queer concerns and the politics of race.

It is always a source of fascination to me that at conferences like this you rarely see any images, given the prevalence of photographic images in every sector of our society and the fact that the focus of many of these

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\* This article was adapted from a slide show given at The Sex Panic: A Conference on Women, Censorship, and "Pornography," May 7-8, 1993.

\*\* Los Angeles-based artist and writer, Associate Professor in the Department of Studio Art, University of California, Irvine. Whether producing artwork or essays such as this, I have found conversations with friends whose work, thinking, and lives I find politically, culturally, and creatively transformative my greatest source of inspiration. I would like to thank the following people for their comments and challenges and for our exchanges about feminism, censorship, pushing the borders of sexuality and/or the power of photography: Paula Allen, Alice Echols, Carol Jacobsen, Catherine Lord, Charlotte Nekola, Cathy Opie, Paula Rabinowitz, Joy Silverman, Ann Snitow, Lydia Szamraj, and Carole Vance. I would also like to thank Jacqueline Livingston for her generous sharing of a vast amount of information about the painful incident described here that continues to haunt her life. Although I was able to incorporate only a fraction of Jacqueline's comments here, I will be incorporating and dealing with them at greater length in articles for the forthcoming anthologies: *THE PASSIONATE CAMERA: QUEER PRACTICES IN PHOTOGRAPHY* (working title) (Deborah Bright ed.); Conference Proceedings for "Silencing Women: Feminism(s), Censorship, and Difference," University of California, Riverside, February 1995 (publication pending).

1. Executive Director of the National Coalition Against Censorship.

2. See ANDREA DWORKIN & CATHARINE A. MACKINNON, *PORNOGRAPHY AND CIVIL RIGHTS: A NEW DAY FOR WOMEN'S EQUALITY* 138-39 (1988). Dworkin and MacKinnon's Model Ordinance, recognizing pornography as sex discrimination, is reprinted in the book. For a general discussion of the genesis of the Ordinance, see Catharine A. MacKinnon, *Pornography as Defamation and Discrimination*, 71 B.U. L. REV. 793 (1991).

debates for artists is frequently sexual representations. It is ironic that Reverend Donald Wildmon's constituency,<sup>3</sup> because of the mailings they receive, is often far more visually informed than conference-goers such as yourselves who are concerned with an anti-censorship critique. So, today I'm going to discuss the work of five photographers: Robert Mapplethorpe, Joel-Peter Witkin, Jacqueline Livingston, Sally Mann, and Catherine Opie. All of these artists are known for their transgressive imagery, and all either have been accused of being child pornographers or admittedly frame lesbian, gay, sadomasochistic (SM), or other marginalized sexual practices.

Talking about the meanings of imagery, however, is a difficult proposition. On the one hand, my interest here is to dispel the idea that photographs exist as transparent objects of objective truth. All one needs to do is think about last year's Rodney King trial in Simi Valley, California, to know that photographic images do not exist as some sort of evidentiary truth outside of a given context and discourse. On the other hand, as the videotape of the King beating suggests and as many photographers and critics have pointed out, there exists in any photographic reproduction a residual tracing of life. This is certainly the information we are looking for when we scrutinize a given image. The symbolic reading of photographs, however, both depends on and ideologically shifts with context and audience. For example, in looking at one of Robert Mapplethorpe's eroticized images of black men, one person may see the objectification and racist sexualization of the African body. Others, regardless of gender or sexual orientation, may see a depiction of their own desire. Some viewers may experience both responses. Still others, such as Jesse Helms, may see only dangerous evidence of rampant homosexuality and new heights of miscegenation. As I will try to show, however, it is important to think through the ways we talk about images and the differences among us that we may be obfuscating, especially when we are doing battle with the right.

The most recent right-wing attacks on "high culture"—and by this I mean the attacks that began in the mid-eighties (compared to the National Endowment for the Arts, which was a target of censorship since its inception in the mid-sixties)—are deeply homophobic, racist, and anti-feminist. The attack on Mapplethorpe's work, for example, is not, by any means, an isolated incident of a venomous response to gay erotic imagery. However, given the post-sixties institutional (albeit still marginalized) visibility of various "minorities"—in this case, lesbian and gay

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3. Reverend Wildmon is the executive director of the right-wing American Family Association, which has a newsletter with an estimated circulation of 380,000 including 178,000 churches. See Carole S. Vance, *The War on Culture*, ART AM., Sept. 1989, at 39, 39.

organizations—it is pretty difficult, as Carole Vance points out, to employ the tired argument that homosexuality is sinful and immoral.<sup>4</sup> It is much easier for the right to assume moral authority by voicing expertise about those silenced areas on the outer reaches of the sexual margin. Gayle Rubin presciently argued more than a decade ago that feminists and progressives who shy away from undertaking a thoughtful critique of marginalized sex practices such as SM, kinky homosexuality, cross-generational sex, young people's sexuality, and prostitution rights run the risk of handing the prerogative of definition over to the right, thus eroding hard-won rights for diverse populations of women and queers.<sup>5</sup> There is little public understanding or dialogue about sexual practices such as these and comparatively few representations of them outside of that official internment camp for sexual imagery, the pornographic industry.

My interest here today, however, is not to bash good old boys like Jesse Helms—tempting as that might be—but rather to critique the illusory sense of liberal tolerance that is assumed to dominate the art world and, to some extent, its host solar system, American culture. Within this universe there is little analysis or discussion of issues such as SM or child pornography, and thus, the right's discourse on these topics has become naturalized. Contrary to the popular image of artists as a bunch of wild, childlike perverts ruled by their libidos is the reality of an art-industry hierarchy that privileges normative heterosexuality, whiteness, and maleness and rarely tolerates sexuality itself as a legitimate subject of artmaking, particularly if it falls outside the scope of modernist strictures.<sup>6</sup>

## II. EFFECTS ON ARTISTS

Before I discuss the artists' works in the context of the feminist debates regarding pornography, I would like to frame my remarks by responding to Leanne's question regarding the effects on artists of legislating imagery. One of the most troublesome aspects of this trend is the insidious nature of self-censorship. Artists certainly are intimidated by a fear of litigation. As is true of so many social controls in our society—a society in which the rhetoric of democracy, individualism, and freedom plays an important part of our national identity—it is much more useful to

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4. *See id.* at 43 (“[T]he savage critique of [Mapplethorpe’s] photographs permitted a temporary revival of a vocabulary—‘perverted, filth, trash’—that was customarily used against gays but has become unacceptable in mainstream political discourse . . .”).

5. *See* Gayle Rubin, *The Leather Menace: Comments on Politics and S/M*, in *COMING TO POWER: WRITINGS AND GRAPHICS ON LESBIAN S/M* 215 (1982).

6. For brevity's sake, I'm using the term modernism to mean the privileging of visual elements and form over content in order to camouflage those meanings that contaminate the self-referentialism of the art object by referring to everyday life.

encourage self-censorship with the threat of litigation than to create a federal team of culture police.

To be effective, of course, at least some of these threats must be carried into the courtroom. The trial of Dennis Barrie,<sup>7</sup> for example, was significant both because it was the first of its kind and because the defense was victorious. Barrie had an incredible amount of support and national attention, which was great and good. On the other hand, one must keep in mind the kind of isolation Carol Jacobsen was talking about last night<sup>8</sup> in her fight against the University of Michigan Law School; hers is definitely the more common experience. Like Jacobsen, most artists lack the sort of institutional affiliation that a museum director like Barrie was able to use to his advantage, and they are often (unlike Jacobsen, an activist) more easily bullied by the threat of lawsuits and trials. Even less attention is paid to those artists fighting battles in the "provinces," far from the diverse art markets of New York and Los Angeles. And in all communities, attempts at self-defense and arguments for free speech, as Jacobsen bears witness to, are often belittled and dismissed as unreasonable and/or as a means of self-promotion (familiar put-downs to anyone who has argued for the rights of women, people of color, and/or lesbians and gays). Finally, one cannot ignore the classist subtext in the refusal of elite museums and institutions such as the University of Michigan Law School to view the removal of art work from their spaces not as acts of censorship but as reasonable gestures born of a manifest destiny to "protect" the general public.

Self-silencing takes many different forms. Within the context of art discourse, one of the most common strategies employed with respect to the works of Mapplethorpe, Mann, and Witkin is to deny or downplay a given work's sexual content by emphasizing its formal aspects. This strategy is employed by those artists, critics, educators, and art historians who remain staunchly aloof from their peers' engagement with political theory and cultural studies. Another strategy is to leave unquestioned a naturalized concept of sexuality by assuming that some imagery is within "good taste" (i.e., is erotic) while other imagery retains the markings of perversion (i.e., is pornography).<sup>9</sup> Finally, on the level of good old material reality, there is the fear of financial or professional ruin. Many artists I know, of all ages and of varying status, have expressed fears of losing grants, shows, teaching jobs, or tenure—fears that are intensified by the realities of a shrinking market and diminishing public and private

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7. See *infra* notes 15-26 and accompanying text.

8. See Carol Jacobsen, *Anti-Porn Feminism v. Feminist Art: Notes on the Censorship of Porn'im'age'ry: Picturing Prostitutes*, 38 N.Y.L. SCH. L. REV. 63 (1993).

9. See Ellen Willis, *Feminism, Moralism, and Pornography*, 38 N.Y.L. SCH. L. REV. 351, 353 (1993).

funds. Add to this the federal government's employment of RICO laws<sup>10</sup> in cases such as that of San Francisco photographer Jock Sturges,<sup>11</sup> and it is a small wonder that the less-empowered or well-connected an artist is or feels, the less likely she or he will turn her or his creative energy to dealing with transgressive sexual imagery.

### III. MAPPLETHORPE, WITKIN, AND LIVINGSTON

#### A. Robert Mapplethorpe

I'll first compare the works of Robert Mapplethorpe, Joel-Peter Witkin, and Jacqueline Livingston. All three of these photographers are known for sexually transgressive imagery and first gained public attention in the late seventies, the period in which anti-pornography feminism reached its zenith. What interests me about them is that Mapplethorpe and Witkin went on to coffee-table-book fame but Livingston, during the late seventies, was essentially drummed out of the academic art photography community because of her nude images of her son, her then husband, and her then father-in-law.<sup>12</sup> Exhibition of an image of her six-year-old son masturbating caused Livingston to be threatened with charges of child pornography.<sup>13</sup> Although never formally charged, Livingston became one of the first targets of the newly created child-pornography legislation that took effect in the late seventies.<sup>14</sup>

10. Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968 (1988).

11. Sturges was charged with attempting to produce photos of "minors that depict[ed] 'the lascivious exhibition of the genitals or pubic area.'" *U.S. Grand Jury Refuses to Indict Photographer*, L.A. TIMES, Sept. 17, 1991, at A3. Federal investigators confiscated thousands of negatives and equipment from Sturges' studio after a San Francisco photo-processing laboratory reported that it had received photos of nude young girls in suggestive poses from Sturges, but a federal grand jury refused to indict him for child pornography. *Id.* at A26.

12. See generally Gayle Rubin, *Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality*, in PLEASURE AND DANGER: EXPLORING FEMALE SEXUALITY 267, 272 (Carole S. Vance ed., 1984) (describing how Livingston, an assistant professor at Cornell University, was fired after exhibiting nude photographs and at one point had her film confiscated).

13. See *id.*

14. See The Protection of Children Against Sexual Exploitation Act of 1977, Pub. L. No. 95-225 § 2(a) (codified at 18 U.S.C. §§ 2251-2255 (1988)). Enacted in 1978, the Act provides for a maximum fine of \$100,000 or a 10-year prison sentence for [a]ny person who employs, uses, persuades, induces, entices, or coerces any minor to engage in . . . any sexually explicit conduct for the purpose of producing any visual depiction of such conduct . . . if such person knows or

In 1987, eight of Robert Mapplethorpe's images were "put on trial" during the criminal prosecution of the Cincinnati Museum of Art and its director, Dennis Barrie, for exhibiting "The Perfect Moment," an overview of Mapplethorpe's work. The incident represented the first obscenity trial of a museum or gallery in the history of the United States.<sup>15</sup> The exhibit included a well-known self-portrait of the photographer in leather gear with a bullwhip up his ass and an image of a black man, in a grey polyester suit, penis exposed.

The Barrie trial was a cultural landmark. Because of the visibility of lesbian and gay advocacy organizations during the past two decades, arguments that homosexuality is immoral and sinful can no longer stand by themselves without augmentation or recasting. One way to accomplish this recasting in the last decade has been for the media, and especially the right, to circulate representations that conflate the AIDS epidemic with a (resurrected) image of homosexuality as disease. Thus, the images that the Barrie prosecution selected from the exhibit as obscene were not the dazzling large-scale homoerotic portraits of black men that Mapplethorpe, a self-proclaimed fag, made in the early to mid-eighties specifically for gallery and museum audiences. Instead, the majority of the images were from the "X Portfolio," a series of mostly small, dark, black-and-white prints shot in the late seventies, in part, as documentation of and for distribution in the New York gay male leather community that Mapplethorpe was then a part of. Some of these images, although certainly not all, were shot for use in advertisements for leather clubs in the New York area. In addition to the SM imagery (which constitutes a minor fraction of Mapplethorpe's life work), the prosecution also chose two nude portraits of children (one boy, one girl) as evidence of child pornography.<sup>16</sup>

Before discussing those images, I will only note that they do not typify Mapplethorpe's work. Mapplethorpe created many images, for example, flowers integrated with abstract forms—a formal device he

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has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

*Id.* 2251(a); see also JACQUELINE LIVINGSTON, *CENSORSHIP: MY STORY* (1993) (describing her problems with both law enforcement authorities and Cornell University because of her art) (pamphlet on file with *New York Law School Law Review*).

15. See Dennis Barrie, *Pandering? That's Nonsense*, N.Y. TIMES, Apr. 18, 1990, at A25; Laura Mansnerus, *The Cincinnati Case: What Are the Issues and the Stakes?*, N.Y. TIMES, Apr. 24, 1990, at C15; Allan Parachini, *Victory, But No Relief*, L.A. TIMES, Nov. 4, 1990, Calendar, at 4.

16. See David Wells, *Mapplethorpe Show Bumps into a City's Legacy of Conformity*, L.A. TIMES, Apr. 23, 1990, at F1.

sometimes repeated when photographing nudes. He was also a well-known commercial photographer and did a wide range of work, including an image of rock star David Byrne, one of body-builder Lisa Lyons, and an amazing portrait of the closeted McCarthyite lawyer Roy Cohn. What is important to know about Mapplethorpe is that, even though one of his primary interests was framing male homoerotic imagery (with a particular emphasis on the nude bodies of black men), his overriding concern as an artist was an elegant formalism and beauty. Mapplethorpe's emphasis on the formal qualities of his work over social meanings, coupled with the fact that he was a consummate businessman,<sup>17</sup> were important variables in his catapult to museum fame.<sup>18</sup> Additionally, during the seventies, Mapplethorpe was instrumental in convincing major museum curators to include "art" photography within "high art" arenas that previously had been devoted to the beaux arts. Some people believe, incorrectly, that Mapplethorpe's visibility is solely the result of censorial attacks on his work, but that sort of limelight is only a positive asset when an artist already has at least a toehold on the blue-chip stratosphere of the art world.

Although Dennis Barrie's acquittal was definitely a significant victory, the verdict, as Barrie himself was quick to remark, did not necessarily mean the end of this type of harassment for cultural producers.<sup>19</sup> Two issues about the trial continue do concern me. The first is that the defense relied heavily on the argument that a masterful command of formalism and aesthetics precluded Mapplethorpe's images from being obscene.<sup>20</sup> This tactic is understandable given that one of the three prongs of the governing *Miller*<sup>21</sup> test for obscenity is whether or not the material in question has

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17. Like Ansel Adams, another excellent businessman who built a pantheon in Arizona to himself and a few other geniuses, Mapplethorpe, before he died, established a foundation in his name. See Glenn Collins, *Ill Artists' Effort to Insure that Art Survives AIDS*, N.Y. TIMES, Dec. 27, 1992, at 1, 38.

18. See STEVEN C. DUBIN, *ARRESTING IMAGES 171-72* (1992) (tracing Mapplethorpe's career and describing how his association with art collectors Sam Wagstaff and John McKendy of the Metropolitan Museum helped his career).

19. After Barrie and the museum were found not guilty of obscenity charges, Barrie stated he was "glad the struggle is over here in Cincinnati, but it's not over in the rest of the country." Jonathan Yardley, *In Cincinnati, Experts as Witnesses*, WASH. POST, Oct. 15, 1990, at B2.

20. See Kim Masters, *Obscenity Trial Asks: 'Is It Art?'*, WASH. POST, Oct. 2, 1990, at E1, E3 (explaining the defense's contention that Mapplethorpe's use of formalism gave his work artistic value).

21. *Miller v. California*, 413 U.S. 15 (1973).



literary, artistic, political, or scientific merit.<sup>22</sup> It is also understandable given that only one of the jurors had ever stepped into a museum and that Mapplethorpe himself conceived his work in those terms.<sup>23</sup> However, for many photographers and artists working to frame social issues like sexuality, aesthetics are a part, but not the sum, of their work. Arguments that emphasize formal issues to the exclusion of others relegate art primarily to the role of timeless visual entertainment, and preclude it from being a form of cultural elucidation.

Supposedly, the desire to situate art solely within the realm of formalism elevates it above the quotidian. One cannot escape thinking, however, about the movements and cultures an imagemaker inhabits especially when looking, for example, at photographic depictions of "watersports" or anal penetration. It was therefore predictable that, in addition to the introduction to art given by experts, the Barrie defense also had to take on the issues of child pornography and gay male leather culture. This brings me to my second concern.

The defense dispelled the charges of child pornography in part by having the mothers of the children who appeared in Mapplethorpe's photographs testify that they had been present during the shoots. One wonders what the outcome of this would have been if only the fathers had been present, or if either parent had been lesbian or gay. More disturbing, however, was the way defense lawyer H. Lewis Sirkin addressed the issue of gay male sadomasochism. After suggesting that artists in some ways are chroniclers of our times, he stated that the SM community is "a world that existed in a period of American history that we may never, never have again and perhaps *should* never have again."<sup>24</sup> Contrary to Sirkin's remarks, there are still very active gay male as well as lesbian leather communities both in New York and on the West Coast, not to mention many heterosexual and bisexual SM communities. To state that this

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22. *See id.* at 24. According to the Supreme Court:

The basic guidelines for the trier must be: (a) whether "the average person, applying contemporary community standards" would find that the work, taken as a whole, appeals to the 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.

*Id.* (citations omitted).

23. Suzanne Muchnic, *A New View Finder*, L.A. TIMES, Dec. 16, 1990, Calendar, at 6. Only one member of the jury had ever entered a museum, and that person had gone on a field trip in high school. *Id.* *See also* Michael Brenson, *Is 'Quality' an Idea Whose Time Has Gone?*, N.Y. TIMES, July 22, 1990, § 2, at 1, 27 (stating that Mapplethorpe "obsessively . . . sought a formal perfection" that could externalize images).

24. Eric Harrison, *Banish Pornography, Mapplethorpe Jury Told*, L.A. TIMES, Sept. 29, 1990, at A2 (quoting Sirkin) (emphasis added).

“lifestyle” no longer exists and should never exist is a clear example of abdicating moral authority on sexuality to conservative interests. Sirkin’s comments erase the possibility of viewing the gay leather scene as anything other than an asocial pathology, thus legitimating mainstream silence and closure of discussion on marginalized sex practices.<sup>25</sup> In the age of AIDS (which Mapplethorpe died of), the subtext of Sirkin’s remark can only have been to suggest that these men killed themselves with decadent sex. This suggestion plays up to every stereotype of the criminal gay as the deserving “victim” of AIDS that groups such as ACT UP have fought so hard to counteract.<sup>26</sup>

### B. Joel-Peter Witkin

I first saw Witkin’s images, along with Mapplethorpe’s and Livingston’s, in the late seventies. During this period, feminist anti-pornography campaigns were gaining momentum, right-wing attacks on newly won abortion rights were escalating, the growing visibility of lesbians and gays had given rise to the increasing recognition of differences among us, and the growing social space of lesbians and gays was being challenged on the right both by Jesse Helms’ Family Protection Act<sup>27</sup> and by Anita Bryant’s Save Our Children campaign.<sup>28</sup> At that time, I was part of a lively political community of lesbians and feminists in Ann Arbor, Michigan, engaged in developing feminist critiques that embrace anti-censorship positions on pornography, prostitution rights, and, among other things, the idea that kinky female and lesbian desires are

25. Talk shows do not count—it seems that we have knowledge of every sexual perversion in the late twentieth century, but the reality is that media representations often posit the guest (i.e., pervert) as a curiosity and the audience as the normalized symbol of common sense.

26. See Russell Chandler, *God’s Wrath? AIDS: Rigid Church View is Fading*, L.A. TIMES, June 12, 1986, at 1, 38 (reporting the results of a 1985 L.A. Times poll indicating that 28% of Americans believe that AIDS is God’s punishment for homosexuals, and 23% say that AIDS victims are “getting what they deserved”). As critic Douglas Crimp notes, the true criminality here is the ongoing negligence of the United States government in effectively ignoring the AIDS epidemic. See DOUGLAS CRIMP & ADAM ROLSTON, AIDS DEMO GRAPHICS 15, 42-47, 53 (1990). For an account of ACT UP’s activities, see id. at 134-38.

27. The Act, which was ultimately defeated, contained 31 provisions, including one forbidding the use of federal funds to promote homosexual rights. See S. 1378, 97th Cong., 1st Sess. (1981).

28. See Richard Steele & Holly Camp, *A ‘No’ to the Gays*, NEWSWEEK, June 20, 1977, at 27 (reporting the successful campaign of Anita Bryant and the Save Our Children organization to defeat a proposed Dade County, Florida, ordinance banning discrimination against homosexuals in housing and employment).

perhaps something more than a matter of false consciousness or male coercion.

My initial reaction to Witkin's work was that here was someone who was challenging the vocabulary of "high art" to include forbidden representations of masturbation, transsexualism, and sadomasochism. Although some viewers were shocked to encounter these representations at all, I was surprised to see such images in a context other than the gay community or the pornography industry. I felt that some of Witkin's images were challenging, but my feelings about them remained mixed. It was not until a few years later when I began teaching photography that I realized how immensely popular his work is among white, male, middle-class students, particularly those with a determinedly apolitical stance on issues of gender and sexuality. I realized that Witkin's images function more as moralistic testimonies to an essentialist notion of sexuality than as chronicles of the variable nature of sexual identity. Rather than viewing sexuality as something that is affected by, to borrow from Gayle Rubin, settlement patterns, migration, urban conflict, epidemiology, and police technology,<sup>29</sup> Witkin is much more comfortable representing it as a timeless, fixed opposition between light and dark.

Witkin's photograph "Portrait of Nan" typifies much of his work. A nude woman, large and full-breasted, sits cradling fruit in one silver-gloved hand, an animal fetus in the other. Her upper torso is painted with abstract shapes, her long, light-colored hair is pinned to the wall behind her in eight braids, and a small skeleton hangs to her side. The print has been toned and the negative scratched and marked, giving the photograph a nineteenth-century look. Running from her eyes to her navel is a T-shaped mask that replicates the face and torso of Grant Wood's 1933 painting of the same title.

Similarly, Witkin's "Helena Fourment" (1984) is patterned after Peter Paul Rubens' painting "The Little Fur" (1638), in which a young white woman shyly cradles her breasts with one arm while clasping a fur to her lower body with her other in order to hide her genitalia. In Witkin's image, a masked male-to-female transsexual strikes a similar pose except, in this case, the fur does not cover the lower half of the body. This is a portrait of a transgendered person who, having taken female hormones, has developed breasts but, as the pulled-back fur reveals, has retained her/his male genitalia. In "Choice of Outfits for the Agonies of Mary" (1984), Witkin shows a woman in black high heels, face obscured by her black hair and a mask, standing seemingly pinned against a wall along with various SM toys.

In a catalogue essay, photography curator Van Deren Coke writes that Witkin makes "death and sexual deviations from accepted mores"

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29. Rubin, *supra* note 12, at 277.

plausible rather than “monstrous aberrations,” thus stirring up “residual puritanism in the middle class makeup.”<sup>30</sup> It is true that Witkin’s imagery challenges this unspoken hierarchy of proper imagery for “high-art” spaces, as evidenced by the most recent right-wing attacks on his work.<sup>31</sup> So, however, do the images of Jacqueline Livingston, who was, unlike Witkin, expelled from, rather than rewarded by, the art-photography/academic community. My interest here is to examine why, within seemingly liberal communities such as the art establishment, some sexual imagery, like Witkin’s, remains tolerated while other imagery, like Livingston’s, is excommunicated, sometimes by simply going unnoted. What is revealed by comparing these two artists, especially the fact that one rose to fame in the early eighties while the other disappeared, is that Livingston’s work for its time was in some ways far more destabilizing of categories of gender and sexuality than Witkin’s.

Both artist and historian downplay the sexual content of Witkin’s work by framing those images as religious markings and not social documents. Van Deren Coke, for example, states that “once we rub our eyes, the ominous implications of the underground world [Witkin] pictures become more religious than threatening, more surreal than abnormal.”<sup>32</sup> Witkin himself sees his imagemaking as a priestly activity. He describes his darkroom as a “holy house” where everyday photographic tricks like scratching negatives are elevated to the status of shamanistic markings.<sup>33</sup> His major criterion for models is “anyone bearing the wounds of Christ.”<sup>34</sup> Ultimately, this monastic communion with chemicals, darkness, and wounds culminates, to quote Witkin, in “a toned and archivally treated image . . . in which the form of the subject and the subject’s context are transcended into an idealized formality.”<sup>35</sup>

Thus, we have returned to formalism as the legitimating construct for sexually transgressive imagery. Moreover, given Coke’s liberal references to “abnormality” and “deviance,” coupled with Witkin’s religiosity and nineteenth-century framing, one wonders how transgressive these images are really meant to be. For example, Coke goes to great lengths to

30. Van Deren Coke, *Introduction to SAN FRANCISCO MUSEUM OF MODERN ART, JOEL-PETER WITKIN: FORTY PHOTOGRAPHS 1*, 17 (1985).

31. See Patti Hartigan, *At NEA, Jane Alexander Faces Her Most Demanding Role Yet*, *BOSTON GLOBE*, Sept. 21, 1993, at 53, 57 (reporting on challenges facing the new head of the National Endowment for the Arts; including attacks by the Christian Action Network and others because of the NEA’s support of Witkin and other artists).

32. Coke, *supra* note 30, at 17.

33. JOEL-PETER WITKIN, *JOEL-PETER WITKIN* (1985).

34. *Id.*

35. *Id.*

distinguish Witkin's work from pornography by characterizing the seriousness of his intent as something that goes beyond the narrowness of "the sexual urge." This is demonstrated by his allusions to art history as well as the work's "esthetic as well as emotional power," thus falsely implying that depictions of sexuality are normally devoid of these attributes. Additionally, for Coke, what makes Witkin's work possible is not the recent history of lesbian and gay liberation, the risks people at the sexual margins have taken to make themselves visible, the pro-sex and anti-censorship feminist arguments of the early eighties, or even the imagemaking and business moves of Robert Mapplethorpe. Instead, he attributes the expansion of the social climate to the availability of VCRs and the appearance of films such as *Rosemary's Baby*,<sup>36</sup> which Coke describes as the story of a "young mother psychotically bent on killing her child whose father is the Devil."<sup>37</sup>

Despite proclamations that his work is about spiritual transcendence and is not social commentary, Witkin makes some very clear statements about the nature of sex. Just as one can view *Rosemary's Baby* as a story of rape, forced pregnancy, xenophobia, and xenogenesis, one can also read Witkin's imagery as clichéd interpretations of "perversity"—as biological aberrations or spiritual malfunctions. Models are aesthetically arranged as unseeing, passive subjects seemingly pinned to the page as though they were specimens, recalling nineteenth-century studies in physiognomy. Male-to-female preoperative transsexuals are labeled as hermaphrodites, thus completely undermining the gender-bending potential of even contemplating the fact that we now have the technological ability to alter our sex. And sex toys, available in any major United States city, are arranged like anthropological artifacts pilfered from a far away, "pre-civilized" society. The message thus becomes that kink, sexual exploration, and gender destabilization are the dark pole of an intractable sexual nature. Framing these sorts of explorations as a journey into our "dark" side effectively distances us from the question of what interests are served by preventing the corridors of this travel from being illuminated.

### C. Jacqueline Livingston

In the mid-seventies, by contrast, Jackie Livingston began dealing with male sexuality in her work as a way to overcome the distance she felt

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36. ROSEMARY'S BABY (Paramount 1968).

37. Coke, *supra* note 30, at 6.

from the male body.<sup>38</sup> To this end, she began taking photographs of her son, her then husband, and her then father-in-law. She chose them as subjects because it was only among the male members of her immediate family that she did not experience the discomfort she normally felt when viewing nude men.<sup>39</sup> She came to see her approach to photographing her subjects not only as rectifying the lack of male nudes in the photography and art canons, but also as therapeutic empowerment by creating images which turned her on and/or allowed her to examine the buried "female" side of her male models. Creating sexy images of men for her own sexual pleasure and that of an assumed female heterosexual audience allowed her to experience the "man within her." Because Livingston saw her task to identify and "balance" what she perceived to be the male and female in each of us rather than to critique politically what it means to name a given characteristic male or female, she, too, shares Witkin's problem of speaking in essences. But unlike Witkin's aesthetic fixing of good and evil, Livingston viewed her work as a means to change prescriptive notions about women's sexuality and women's artistic production, not as a vehicle for transcending an immutable material world.

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38. See Howard Smith, *Ruckus Aroused: The Male Nude Taboo*, VILLAGE VOICE, Oct. 8, 1979, at 21 (explaining how Livingston found it difficult to be comfortable with the male body because she had been programmed to respond positively to images of naked women, but not to images of naked men).

Subsequent to writing this essay, Livingston discussed with me that her interest in photographing the male nude body did not emanate from the desire to overcome a distance from the male body (as stated in Smith, *supra*), as much as from a desire to rectify the imbalance of the images of female nude bodies against the paucity of male nudes. Livingston stated that she became angry at the lack of representations of men and noted that we are "trained to turn on to women's bodies but not men's." Additionally she commented that, when looking through photo books of nudes, she was struck by her young son's comment: "but where am I?" At that time she was also very interested in documenting the changes in family structures and interactions inevitable during that time period given the preceding social-change movements; like many photographers, she considers her work a "psychic diary." Her photos during her son's early years reflect her struggle with the difficulties and "hard work" of motherhood. Eventually she lost interest in negatively focusing on the conflicts between juggling the roles of artist and mother and decided, instead, that focusing on the "positive and joyful" aspects of representing her son's and husband's nude bodies allowed her the best sense of herself as an artist. Telephone Interview with Jacqueline Livingston (Feb. 14, 1994) [hereinafter *Livingston Interview*].

39. Livingston has stated that the greater impetus for photographing the males in her family came from their availability as models: "When you have young children, you use what's at hand; my family was there." Moreover, Livingston was influenced to turn her camera to her family by her experience in grass-roots politics: "In grass-roots politics you don't start from the top down." *Livingston Interview, supra* note 38.

In 1976, at Cornell University, Livingston exhibited six separate images on a theme that included images of her six-year-old son masturbating.<sup>40</sup> At the time, she was an assistant professor on a renewable contract. Despite the fact that she was an extremely popular teacher and a nationally exhibiting artist, the overwhelmingly negative response to these photographs, particularly her male colleagues' phobia of viewing erect penises (which was not unlike that of men who write complaints to *Hustler* whenever an erect penis is pictured within a male heterosexual fantasy), led to an illegal revoking of her contract. In a recent telephone interview, Livingston stated that university administrators were "arrogant" and dismissive when she asked them for a reason for her dismissal.<sup>41</sup> She was never given one and, in attempts to get at the truth through her colleagues, she stated that one finally responded to her: "You can't be a feminist and expect to be on this campus—furthermore, you can't photograph male genitalia."<sup>42</sup>

Livingston's images were quite transgressive at the time, for a number of reasons. The images of her husband, where he is shown nude, vulnerable, and erect, violate the idea that women can only function as objects or critics of the male gaze, not as producers of images for their own, in this case, heterosexual pleasure. Additionally, unlike Witkin's work, her photographs are not "high art" but have the look of photographs intended for mass consumption. The images of her husband, for example, have the look of corporate reports and mass-produced gay male porn. The images of her son and of her ex-husband and ex-father-in-law are not dissimilar from snapshot photography, thus placing the viewer in the vantage point of producer and undermining her or his positioning as worshipper at the altar of genius. Livingston also attempted to challenge the art-photography dictates of archival preciousness by disseminating her work as offset posters that prospective viewers could order inexpensively

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40. See Rubin, *supra* note 12, at 272.

41. Livingston Interview, *supra* note 38.

42. *Id.* In addition to Livingston, 42 other female faculty members were told by Cornell that they could not remain. As was common in the seventies among women who were in the front lines of integrating predominantly male faculties, they filed a class action suit against Cornell. Citing her experience in Students for a Democratic Society as having taught her how to fight, Livingston became one of 11 cases central to the lawsuit. After five years of a tedious, expensive, and grueling court case in which, to quote Livingston, "[f]rom the beginning, I was treated as the criminal and Cornell was seen as the victim," Cornell settled out of court. JACQUELINE LIVINGSTON, SUMMING UP, CORNELL ELEVEN (1986) (pamphlet on file with *New York Law School Law Review*); see also Edward Gunts, *Professor Accuses Cornell of Sexual Discrimination*, CORNELL DAILY SUN, Feb. 20, 1978, at 1, 7. Livingston later stated that the members of the class action suit were embarrassed to have her as one of the litigants and told her to "stop photographing nudes." Livingston Interview, *supra* note 38.

and directly from her. To this end, she attempted to take out ads in various art, feminist, and photography journals. Journals such as *Art In America* turned her down without much explanation. Livingston hypothesizes that the objection had to do with the fact that they were photographic rather than painterly representations of frontal male nudity, inasmuch as the magazine did accept gallery ads for Judith Bernstein's drawings of large and lengthy penises.<sup>43</sup>

Feminist magazines such as *Ms.* and *Chrysalis* also rejected Livingston's ads to her surprise. In fact, it is not surprising at all, given the visibility of the anti-pornography feminists in the mainstream media during the late seventies and the editorial sympathy for this strand of feminism these magazines exhibited. The lack of support Livingston received from these publications is testimony to the problem of the invisibility, at the time, of a feminist anti-censorship critique in the mainstream. This media erasure of a feminist anti-censorship counterpoint to the feminist anti-pornography campaign continues to be a problem for those of us feminists and sex radicals who are trying to address female desire in a way that is both explorational and inclusive of a multiplicity of vantage points. This is also not to the exclusion, as Carole Vance so eloquently addressed in her talk, of acknowledging the problem of violence in women's lives. The effects of this sort of silencing are evident not only in the censorship of the show curated by Carol Jacobsen dealing with the rights of prostitutes and sex workers,<sup>44</sup> but also, ironically, in Canadian customs officials' confiscation of books by Andrea Dworkin as obscene under the recent MacKinnon/Dworkin-inspired *Butler* decision of the Canadian Supreme Court.<sup>45</sup>

Although psychoanalytic critiques of representation by feminist film critics had begun to appear in the mid-seventies, Livingston was not working from this theory. Rather, she was, in part, working out of the critical space opened up in the early seventies by feminist artists such as Judy Chicago and Miriam Shapiro. But, although Livingston expressed a utopian belief similar to Chicago's in stressing the need for positive images for a female audience (a problematic idea, as many have critiqued), they differed sharply. Livingston, rather than privileging social constructions of femininity (the hallmark of the feminist anti-pornography campaigns), was out to claim those attributes that are deemed male—specifically, lust and desire.

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43. See Smith, *supra* note 38, at 22.

44. See Carol Jacobsen, *supra* note 8; see also Marjorie Heins, *A Public University's Response to Students' Removal of an Art Exhibit*, 38 N.Y. L. SCH. L. REV. 201 (1993); Tamar Lewin, *Furor on Exhibit at Law School Splits Feminists*, N.Y. TIMES, Nov. 13, 1992, at B16.

45. R. v. Butler, [1992] 1 S.C.R. 452 (Can.).



Of all her images, the series of her six-year-old son masturbating caused Livingston the most trouble. Like many photographers, Livingston had been in the habit of photographing her child since birth. Thus, by the time he reached six, her boy was completely comfortable in front of the camera. Moreover, Livingston and the boy's father tried to provide a climate for their son in which nudity was nothing to be ashamed of.<sup>46</sup> The series is a grid of nine photographs of her young son sitting cross-legged. His head has been cropped and the focal point is his torso. As Livingston was taking the photos, her son began to masturbate spontaneously—a sight, I am sure, not unfamiliar to any parent. Rather than shaming her son into stopping or shaming herself into not taking the pictures, Livingston continued to photograph.

The social construction of motherhood and its shifting definitions, not unlike the construction of photography itself, has historically been a tool of social control. The images of her son masturbating not only violate the traditional psychoanalytic prescriptions of the “all-nurturing, self-denying, and self-abasing” mother, but also reject the prescribed role of mother as moral guardian or silent and invisible spectator. Because she is not simply a passive observer, Livingston becomes the “bad mother.” The act of photographing itself, as Susan Sontag has pointed out, can sometimes speak to the photographer's sanction of the event she or he is depicting.<sup>47</sup> By not putting down her camera once her son began to masturbate, Livingston spoke against the societal notion that masturbation, as well as sex, is shameful behavior that should be hidden, and that children should not be allowed to experience themselves as sexual beings. It also forces adults to deal with the reality of children's sexuality and the complicated issues of power that are involved in raising a child.

At the time Livingston took the photos, she was threatened with prosecution under child-pornography laws. In an interview with her, Howard Smith expressed disbelief at the reactionary response to Livingston's work—after all, he said, it was the 1970s, not the 1950s.<sup>48</sup> Today, in 1993, it is almost impossible not to imagine this sort of response.<sup>49</sup> Clearly, we are not on a linear path toward a more sexually

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46. Livingston had been reading Wilhelm Reich's *The Mass Psychology of Fascism*, and became inspired to allow her son “to have his own body.” *Livingston Interview*, *supra* note 38.

47. See SUSAN SONTAG, ON PHOTOGRAPHY 28 (1977) (commenting that to photograph is to confer importance and that there is no way to suppress the tendency inherent in all photographs to accord value to their subjects).

48. See Smith, *supra* note 38, at 21.

49. For an excellent overview of recent child-pornography legislation and the numerous charges brought against artists in the past years, see Laura U. Marks, *Minor Infractions: Child Pornography and the Legislation of Morality*, AFTERIMAGE, Nov.

open society. In 1988, for example, District of Columbia-based artist Alice Sims took nude snapshots of her children as a source for a series of drawings.<sup>50</sup> The drawings were celebratory images of children of the sort one can imagine in children's books. Sims took the roll of film for the source photographs to a drugstore in Virginia to be processed. The film, in turn, was sent to a Maryland photo lab, where one of the workers notified a United States postal inspector that sexually explicit photos of children had crossed state lines.<sup>51</sup> As a result, the state took Sims' children into custody, and she and her husband were threatened with prosecution under child-pornography laws.<sup>52</sup>

#### IV. MANN AND OPIE

Virginia-based photographer Sally Mann has been subjected to the same sort of controversy for photographs of her children, whom she often photographs in the nude. In 1992, Mann published *Immediate Family*,<sup>53</sup> which included a photograph entitled "The Last Time Emmett Modeled Nude" (1987). In the picture, her seven-year-old son stares evenly at the camera with wet hair slicked back from swimming in the bucolic Southern rural landscape that frames his body. In another photograph, "Virginia at Four" (1989), Mann's daughter stands naked with her hands on her waist against a darkened background. Like her brother, she stares boldly into the camera while in the background, a blurry figure of a girl the same age wearing a sun dress poses more stereotypically, a lock of hair covering one eye and with one hand shyly at her mouth.

Although Mann has not been prosecuted, she has been the subject of many complaints. A few years ago in the *Wall Street Journal*, for example, journalist Raymond Sokolov reprinted an image of Virginia, isolating her figure and placing black bars over her eyes, nipples, and pubic area. The point of the article was to defend the media blackout of the Gulf War while arguing that images such as Mann's, funded by taxpayer dollars, should be considered a coequal national threat and therefore censored.<sup>54</sup> But what Sokolov's gesture did was to "obscenify"

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1990, at 12.

50. See Kent Jenkins Jr., *Artist Won't Be Charged in Child Photo Case*, WASH. POST, Aug. 4, 1988, at D1.

51. See Kent Jenkins Jr., *Virginia Photos Put Focus on Fiery Issues*, WASH. POST, Aug. 8, 1988, at D1, D5.

52. See *id.* at D1.

53. SALLY MANN, *IMMEDIATE FAMILY* (1992).

54. Raymond Sokolov, *Critique: Censoring Virginia*, WALL ST. J., Feb. 6, 1991, at A10.

nudity. His singular emphasis on "lewd and lascivious" display of genitalia precludes, as Laura U. Marks comments, the ability to "assert that nakedness, even if it suggests lewdness to perverts and legislators, has central meaning to many people's lives for a wide variety of legitimate reasons."<sup>55</sup> Moreover, as many have argued, a direct causal relationship between images and behavior, such as the one anti-pornography feminists posit in their claim that pornography causes men to rape,<sup>56</sup> has never been proven. Advocating censorship is a simplistic and emotionally appealing solution that denies the complexity of the material, institutional, and psychological conditions that are at the root of the horrific acts of violence against women and the abuse of children. If anything, fantasy plays a crucial role in exploring, imagining, and unraveling all sorts of behavior within the safety of not having to act anything out. The problem with mainstream pornography does not lie in its existence but in its relentlessly singular, tyrannical, cartoon view of sexuality (misogynist, homophobic, racist), which, in turn, potentially fuels shame and alienation—which, in its turn, is good for profits.

Finally, I will discuss the images of Los Angeles-based Catherine Opie, an important emerging photographer. Opie has benefited from the risks taken by the foregoing photographers as well as the social space provided by gay liberationists, sex radicals, and feminists who are engaged in anti-censorship critiques of pleasure and danger. She considers herself primarily a social documentary photographer and has done work ranging from studies of master-plan communities in Southern California to SM erotica for lesbian-owned sex magazines geared to diverse representations of lesbian sexuality.

Opie's most recent work is a series of portraits that document both the California gay leather scenes and the lesbian communities that she is a part of. Four photographs are from a series of tight head shots against yellow backgrounds of lesbians wearing moustaches. The images are not about the *trompe l'oeil* illusion; rather, they playfully destabilize gender boundaries, allowing for the kind of fluidity at work in lesbian gender sex play. Her image "Mike and Sky" is a transgendered portrait of two biological females on male hormones. Contrary to the stereotypical image of transsexuals as crossing over the gender border never to look back, Mike and Sky refer to themselves both as lesbians and as men. Another image is a self-portrait in which Opie had artist Judie Bamber cut on her

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55. Marks, *supra* note 49, at 14.

56. See, e.g., Robin Yeamans, *A Political-Legal Analysis of Pornography*, in TAKE BACK THE NIGHT 248, 250 (Laura Lederer ed., 1980) ("Pornography is virtually soliciting men to commit crimes of violence . . ."); MacKinnon, *supra* note 2, at 799 ("Pornography increases men's perception that women want rape and are not injured by rape, that women are worthless, trivial, non-human, object-like, and unequal to men.").

back a childlike drawing of lesbian domestic bliss. With this image, the battles in lesbian communities idealizing either the sex radicalism of practices like cutting or a life of stable domestic coupledness become the integrated reality of the complexity of desire.

As a graduate of Cal Arts and the San Francisco Institute of Art, Opie is well-versed in art-photography discourse. It has not been until the last few years (corresponding, interestingly enough, with the upswing of censorship attacks on visual art) that she has been able to integrate the subject matter she distributed in sex-radical lesbian publications with the vernacular of social-documentary photography and a "high art" formalism. As I mentioned earlier, an overt exploration of sexuality has traditionally not been considered a legitimate subject of either documentary or art-photography investigation. Rather, it has been treated more as an aberration and/or infrequent endeavor. What is hopeful about artists such as Opie, who is more than a generation younger than the other photographers mentioned, is that they have been given permission to break new representational ground in which marginalized sexual practices, formalism, and the historicizing force of documentary work are no longer balkanized by rigid categories. For example, seeing the work of Robert Mapplethorpe, especially the "X Portfolio," was crucial to Opie's development of a sense of entitlement to put her current work into the art establishment. However, unlike Mapplethorpe, her images are very much about making visible the queer communities she inhabits—something that she correctly divined was never the primary motivating force in his work.<sup>57</sup>

The battles that have been fought around censorship, like Carol Jacobsen's and Dennis Barrie's, greatly help to mitigate against self-censorship (although Opie's initial hesitation to integrate subject matter certainly speaks to the sorts of powers at work demanding an internal silencing). I have no doubt that artists and photographers will continue to undertake diverse investigations of sexuality. My concern is that this kind of production remain visible and that, if an artist/photographer chooses to work in it, she/he will not automatically have resigned herself/himself to a series of inevitable attacks.

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57. Telephone Interview with Catherine Opie (Oct. 1993).

