

September 2024

## Book Review Essay: Defending Pornography: Free Speech, Sex, and the Fight for Women's Rights

Madhavi Venkatesan  
*Northeastern University, USA*

Rory Armstrong  
*Northeastern University, USA*

Follow this and additional works at: <https://vc.bridgew.edu/jiws>



Part of the [Women's Studies Commons](#)

### Recommended Citation

Venkatesan, Madhavi and Armstrong, Rory (2024) "Book Review Essay: Defending Pornography: Free Speech, Sex, and the Fight for Women's Rights," *Journal of International Women's Studies*: Vol. 26: Iss. 5, Article 26.

Available at: <https://vc.bridgew.edu/jiws/vol26/iss5/26>

This item is available as part of Virtual Commons, the open-access institutional repository of Bridgewater State University, Bridgewater, Massachusetts.

This journal and its contents may be used for research, teaching, and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan or sub-licensing, systematic supply, or distribution in any form to anyone is expressly forbidden. Authors share joint copyright with the JIWS. ©2022 Journal of International Women's Studies.

## **Book Review Essay: *Defending Pornography: Free Speech, Sex, and the Fight for Women's Rights*<sup>1</sup>**

By Madhavi Venkatesan<sup>2</sup> and Rory Armstrong<sup>3</sup>

Nadine Strossen in *Defending Pornography: Free Speech, Sex, and the Fight for Women's Rights* highlights her feminist perspective concerning the protection conferred to pornography under the First Amendment. The book, which was originally published in 1995 and reprinted in 2024, includes a new preface by Strossen where she addresses both the original and subsequent printings of the book and contends that pornography should be protected as free speech. The challenge for Strossen is that in the U.S., federal law prohibits the possession, distribution, sending, shipping, importing, and transportation of obscene material, although private possession of obscene material is not criminalized. Further, though the First Amendment protects pornography, with this term being used to mean any erotic material, the Supreme Court has interpreted that the First Amendment does not in fact protect two types of pornography: obscenity and child pornography.

In defining “obscene,” the U.S. Supreme Court has established a three-pronged test based on cases heard (U.S. Department of Justice, 2023). Any material that satisfies this three-pronged test may be found obscene:

1. Whether the average person, applying contemporary adult community standards, finds that the matter, taken as a whole, appeals to prurient interests (i.e., an erotic, lascivious, abnormal, unhealthy, degrading, shameful, or morbid interest in nudity, sex, or excretion);
2. Whether the average person, applying contemporary adult community standards, finds that the matter depicts or describes sexual conduct in a patently offensive way (i.e., ultimate sexual acts, normal or perverted; actual, or simulated, masturbation; excretory functions, lewd exhibition of the genitals, or sado-masochistic sexual abuse); and
3. Whether a reasonable person finds that the matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Arguably, given the Supreme Court interpretation, the issue with pornography relates to the legitimacy it is given and how it affects society and social norms of behavior. The test for obscenity can, given its “average person” qualification relative to the time period, result in changes over time that may reflect the degeneration of social norms rather than an elevation of them. Specific to pornography, its access may have influenced its acceptability. A Gallup poll of Americans notes that the percentage of respondents who find pornography to be immoral has declined from 70% in 2011 to 57% in 2018 (Dugan, 2018). Free speech is similar in this respect to free trade in that the freedom conferred is only in the best interest of all when specific underlying values of behavior limit the ability of the given freedom and prevent it from being an opportunity to exploit society or its members for personal gain (Venkatesan & Luongo, 2019, pp. 83-84).

---

<sup>1</sup> Strossen, N. (2024). *Defending pornography, free speech, sex, and the fight for women's rights*. NYU Press.

<sup>2</sup> Madhavi Venkatesan is an Associate Teaching Professor in the Department of Economics at Northeastern University, Boston, Massachusetts. Email: m.venkatesan@northeastern.edu

<sup>3</sup> Rory Armstrong is a BA candidate in Economics and International Affairs at Northeastern University, Boston, Massachusetts. Email: armstrong.ro@northeastern.edu

Strossen's view of free speech is aligned to the presumption that individuals should have the ability to make their own decisions with limited, if any, intervention from the government. Further, she does not distinguish between the exercise of free speech and social good when writing, "If we restrict sexually explicit speech because it purveys sexist ideas..., then why shouldn't we restrict non-sexually explicit speech when it purveys sexist ideas?" (Strossen, 2024, pp. 29-30). This same sentiment is echoed by the American Civil Liberties Union (ACLU), an organization Strossen headed from 1991-2008. The ACLU has also been a champion of free speech, even defending "hate speech" as protected by the First Amendment (ACLU, 2024). However, one significant issue with both Strossen and the ACLU is that both agree that the exercise of free speech should not cause societal harm but instead assist in bringing society to a common foundation for well-being. Arguably what they neglect in their interpretation of social change is the underlying class, race, and economic heterogeneity that permeates American society and the differences across groups that have enhanced exploitation of some to the benefit of others. It is the differences between Americans and the lack of common values that may be making the exercise of freedom degenerative to society as a whole. Instead of looking at preserving freedoms assumed to be conferred, free speech should be aligned to the benefit of society resulting from its exercise. This perspective holds that free speech should exist within acceptable social norms of behavior. But if the exercise of free speech, in practice, limits the construction of social norms of behavior, does it not serve to limit the exercise of freedom given the need for legal constraints? Strossen does not engage in the discussion of social responsibility or impact to society from the exercise of free speech in the form of pornography. This is perhaps the most significant limitation of her work.

Strossen prefaces the 2024 edition of *Defending Pornography* by reiterating several themes covered in the book with modern examples to cement their relevance and consistency. Notably, she discusses the current political climate in which expression about sex is conflated with misconduct and punished as harassment in academic settings. The first few chapters of *Defending Pornography* lay the groundwork for Strossen's later arguments.

Chapter one details the history of society's villainization of the ideas of sex and pornography, using the term even for practices that are effectively harmless. The "second-class" (p. 46) legal treatment of pornography as obscenity, as opposed to all other speech, is fleshed out in the second chapter. Strossen warns of the probable effects of antipornography laws drafted and supported by Catherine MacKinnon and Andrea Dworkin, whom she calls "MacDworkin," finding their intended censorship of free speech to have far broader detrimental effects. Her breakdown of the harmful nature of antipornography legislation forms the third chapter. Strossen points out the role of government in regulating disagreement, stressing the need for debate and counterspeech to handle issues rather than resorting to censorship of subjectively undesirable expression.

Moreover, in chapter four, Strossen acknowledges the well-intended feminist efforts behind the antipornography movement; however, she calls out their alliance with conservatives whose antifeminist aims are ultimately promoted. Chapter five presents MacDworkin's extreme and problematic view of women's roles in sex and relationships, perpetuating the view that women are inherently victims. Strossen contextualizes this perspective in chapter six, where she calls out the infantilization of women and their sexuality as antithetical to a woman's personhood and equality. Because sexual harassment policies are usually invoked regarding woman's sexuality alone, Strossen finds that companies are incentivized to deny women career opportunities that may risk their liability under such charges. In chapter seven, she takes issue with the suggested "hierarchy of competence with respect to human consciousness" (p. 143) and with the pro-censorship faction's assumption that they are immune to the sociopathic tendencies that arise from

the consumption of porn while others are not. Chapter eight delineates the ways in which pornography assumes a positive role in society while noting the threat sexual expression poses to established political, moral, and cultural norms. Chapter nine considers MacDworkin's extreme denial of consent, even for sex industry workers, who would only face a deterioration in working conditions if the industry were driven underground due to censorship. Further, in chapter ten, Strossen confronts the threat to valuable works under censorship laws in the hands of a patriarchal culture, particularly those that educate women about rape. The notion that censorship laws are used to further oppress marginalized groups is advanced in chapter eleven, where she shows how the term pornography has historically been applied as an epithet to denounce expression that falls outside of popular political and social favor. The effect of self-censorship in bookstores under broad censorship laws threatens literature containing sex and LGBTQ+ characters without regard for merit of any kind.

Ultimately, Strossen stresses in chapter twelve that no study has definitively linked sexually explicit material with sexist or violent behavior towards women; she notes instead that an inverse relation was found between the availability of sexually explicit materials and levels of violence and discrimination. Strossen postulates that the issue lies not in pornography but in sexist views of women as family-centered, views which undermine gender equality. Strossen concludes *Defending Pornography* by emphasizing the real causes of discrimination: all forms of employment discrimination and the devaluation of work traditionally done by women such as childcare. She advocates for confronting sexism at its roots while condemning the antipornography movement for creating a scapegoat that fundamentally imperils women's equality.

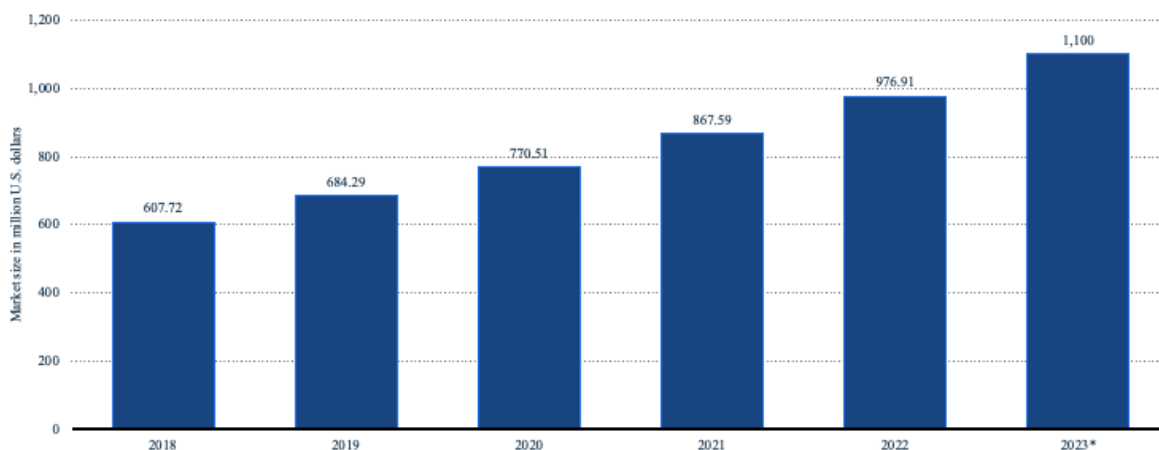
The root of Strossen's stance on pornography lies in her First Amendment belief in a staunch adherence to the protection of sexual expression as an important facet of free speech. The censorship of pornography directly jeopardizes the free speech of marginalized groups including the feminist movement itself. Without conclusive evidence to support perceived benefits to censorship, and substantial evidence to the contrary, Strossen argues that feminist efforts should focus instead on counterspeech and combating more insidious causes of discrimination and violence.

Throughout the discussion, Strossen limits the social impact of pornography, perhaps because freedom was a more significant issue to her than the topic of its exercise. However, the critical reader is left to contemplate why the preoccupation with sex is so widespread in American society and how the demand for pornography affects societal norms. Sexual activity can be addictive, multiple partners can lead to the spread of disease, and sex alone does not constitute a mutually respectful relationship. The legitimacy given to sexual preoccupation has increased over time and is evident in all media channels, but the liberation of women has not necessarily increased with the normalization of sexual activity. Instead, the characterizing of women's "freedom" has been marketed so cleverly in the present period that women promote their own objectification and perpetuate their sexual commodification through wardrobe and social behaviors (Bhuvanesh, 2017).

As noted in Mansfield (2018), "Self-interest, the other enemy of free speech, also has an argument. Its proponents say that one's speech follows from one's interest, reflects it, and cannot change it. You can change your mind but not your interest; your mind is the prisoner and slave of your interest. While self-expression is heated and demanding, self-interest is cool and calculating" (para. 19). Self-interest in this respect aligns with the implicit self-interest that has promoted commerce. To the extent that pornography generates financial returns (See Figure 1 on annual

revenue generation from online channels), free speech discourse may simply be used to legitimize profits from an activity that the majority of Americans (57% as of 2018) believe to be immoral.

**Figure 1: Market Size of the Online Pornographic and Adult Content Industry in the US from 2018 to 2023 (in millions U.S. dollars)**



Source: Statista, 2022

Strossen provides the reader with a perspective based on absolute standards of interpreting the law, yet this approach ignores the significance of context and normative standards. These are two areas for future research that her work indirectly facilitates, as it would be interesting to understand how the monetization of demand and supply as it relates to pornography has impacted social cohesion, family creation, and general life satisfaction. In other words, can the absolute protection of free speech negatively impact the society that affirms it? Under what conditions does free speech benefit and harm societal welfare?

### Acknowledgements

The authors declare that no AI was used in the development or writing of the book review.

### References

- ACLU. (2024). *Defending the speech we hate*. <https://www.aclu.org/news/civil-liberties/defending-speech-we-hate>
- Bhuvanesh, A. (2017). From attire to assault: Clothing, objectification, and de-humanization – A possible prelude to sexual violence? *Frontiers in Psychology*, 8. <https://doi.org/10.3389/fpsyg.2017.00338>
- Dugan, A. (2018). More Americans say pornography is morally acceptable. *Gallup*. <https://news.gallup.com/poll/235280/americans-say-pornography-morally-acceptable.aspx>
- Mansfield, H. C. (2018). The value of free speech. *National Affairs*. <https://nationalaffairs.com/publications/detail/the-value-of-free-speech>

- Statista. (2022). Market size of the online pornographic and adult content industry in the United States from 2018 to 2023 (in million U.S. dollars) [Graph]. <https://www-statista-com.ezproxy.neu.edu/statistics/1371582/value-online-website-porn-market-us/>
- U.S. Department of Justice. (2023). *Citizen's guide to U.S. federal law on obscenity*. <https://www.justice.gov/criminal/criminal-ceos/citizens-guide-us-federal-law-obscenity>
- Venkatesan, M., & Luongo, G. (2019). *SDG8: Sustainable economic growth and decent work for all*. Emerald Publishing Limited.