

Is Pornography an Action?: The Causal vs. the Conceptual View of Pornography's Harm

In the past few decades, a new position concerning the legal regulation of sexually explicit materials has emerged, disrupting the traditional polarity between conservatives (who generally support regulation) and liberals (who generally oppose regulation). This new position is an avowedly feminist view that supports the legal restriction of certain sexually explicit materials, but for reasons distinct from those offered by conservatives.¹ The most prominent advocate of the feminist antipornography position is Catharine MacKinnon.

According to MacKinnon, some sexually explicit materials should be civilly restricted² on the ground that they harm women. This view, as stated, is hardly original, nor is it incompatible, *theoretically*, with the traditional liberal view concerning freedom of speech. Liberals are, of course, willing to see some speech restricted if that speech can be shown to be sufficiently harmful. Most liberals oppose the restriction of pornography, not because they oppose restricting harmful speech, but because they regard pornography as relatively harmless. They identify the harm of pornography as the harm of offense and maintain that the fact that some find certain materials offensive is not a sufficient reason for restricting those materials. MacKinnon's view, again as I have initially described it, is also consistent, to a point, with the conservative position, according to which the consumption of sexually explicit materials is harmful insofar as it damages the character or well-being of those who consume them.

What is original about MacKinnon's view is her account of the harm associated with certain sexually explicit materials. First, unlike conservatives, she identifies this harm as a harm done to women generally, not a harm done to those who consume sexually explicit materials. Second, unlike liberals, she characterizes this

harm as the harm of *subordination*, not offense. Finally, and most importantly, she maintains that certain sexually explicit materials are not only *causally* related to women's subordinate status, but that they subordinate women *in themselves*. Indeed she defines pornography—those sexually explicit materials that she wants to see civilly regulated—as "the graphic, sexually explicit subordination of women through pictures and/or words" ³

Despite the abundance of commentary on MacKinnon's position on pornography, comparatively few scholars have attended to the admittedly curious *identification* of pornography with subordination that we find in MacKinnon's definition. ⁴ The reason for this inattention, I suspect, is that, taken literally, the claim that pornography is the subordination of women seems so outlandish that the definition is interpreted as equivalent to the following: Pornography is the graphic, sexually explicit *depiction* of the subordination of women. ⁵ It is clear, however, that this interpretation is mistaken, for MacKinnon explicitly states, "[t]he definition does not include all sexually explicit depictions of the subordination of women. That is not what it says. It says, this which *does* that: the sexually explicit that subordinates women." ⁶ For MacKinnon, then, as she puts it, "[P]ornography is what it does, not what it says." ⁷ Certain sexually explicit materials, in other words, are not forms of speech, but are actions.

This aspect of MacKinnon's view represents a radical departure from the traditional approach to evaluating the harms associated with sexually explicit materials, which has centered around the *causal* connection between such materials, conceptualized as expression, and various types of harm. I will refer to this traditional approach as "the causal view." MacKinnon clearly endorses a feminist variant on this traditional theme. Throughout her work, she maintains that certain sexually explicit materials are causally related to various harms to women. I will refer to the original element of her view—the notion that pornography is itself an act of harm, and not simply causally tied to acts of harm—as "the conceptual view," since it defines pornography as a type of harm.

My first aim in this paper is to establish that MacKinnon's argument for the conceptual view fails. In particular, I show that, upon examination, her purported argument for this view serves

only to support a feminist variant of the causal argument. I argue, second, that a successful argument for the claim that pornography is an act of subordination, due to Rae Langton, does not support the view that pornography should fall outside of the scope of the First Amendment. It follows that Langton's argument is useless to MacKinnon, who wants to use the claim that pornography subordinates women to defend exempting pornography from the First Amendment.⁸ I argue, third, that MacKinnon is irrevocably committed to a particular, and implausible, version of the causal view, because only that view allows her to single out pornography for restriction among the vast array of presumably harmful sexist and misogynistic images currently available in the media. My discussion reveals that the antipornography feminists' position on the relation between language and the world places them in a quandary: the more convincing their argument that pictures and words can, in themselves, harm, the less convincing their claim that pornographic pictures and words should be singled out for regulation.

Before presenting my arguments, I will outline the causal view, in its feminist incarnation,⁹ in more detail and summarize what I take to be a plausible account of the conceptual view. My main purpose is to clarify the formal difference between these two perspectives before setting out to argue that MacKinnon essentially conflates them.

The Causal View

The causal view, quite simply, asserts that there is a causal connection between exposure to pornography and sexist or misogynistic attitudes and behavior, such as harassment and rape. For example, recent studies have indicated that exposure to violent pornography fosters positive attitudes toward rape and other forms of sexual violence and that such attitudes can lead to desensitization to sexual violence. There is also evidence that the consumption of violent pornography is positively correlated with aggressive acts toward women.¹⁰ If one holds that the sexist behaviors said to be causally associated with pornography are

constitutive of women's subordination, then one holds a version of the causal view according to which pornography helps cause the subordination of women. As I indicated earlier, MacKinnon endorses the causal view in addition to advancing the conceptual view.¹¹ Interestingly, though, she never states that pornography *causes* the subordination of women. She clearly holds, however, that pornography is causally linked to sexual violence and other forms of sexist and discriminatory behaviors, which are undoubtedly, on her view, aspects of women's subordination.

Notice that if one misinterprets MacKinnon's definition of pornography in the way that I described above, one transforms her account of the harm done by pornography into a somewhat bizarre version of the causal view according to which pornography *causes* the subordination of women by *depicting* the subordination of women.¹² It is important to see that the causal view endorsed by MacKinnon is not the causal view created by misinterpreting her definition. This latter view is problematic for at least two reasons.¹³ First, the notion of depicting subordination raises some very difficult philosophical issues.¹⁴ Indeed, it is not exactly clear what it would mean for a representation to depict subordination, just as it is difficult to imagine what it would mean for a picture to depict humiliation or degradation or approbation. Second, even if we could identify depictions of subordination, it is obviously the case that not all depictions of subordination cause subordination, nor is it the case that all depictions that cause subordination depict subordination. Suppose for the sake of argument that a depiction of a woman being raped is also a depiction of a woman being subordinated. Such a depiction occurring, say, in a feminist documentary about sexual violence, though it, *ex hypothesi*, depicts subordination, is not likely to be causally related to women's subordination. Suppose, furthermore, that a portrayal of a woman copulating, apparently voluntarily, with a dog does not portray her being subordinated. A portrayal of this sort, though it again, *ex hypothesi*, does not portray subordination, may be causally related to women's subordinate status. What I am calling the causal view does not entail the problematic view that I just described according to which pornography subordinates women primarily by depicting the subordination of women.

The Conceptual View

At first glance, the conceptual view—the view that pornography itself subordinates women—may appear as nothing more than conceptual confusion or perhaps a sleight of hand designed to preempt opposition.¹⁵ What follows is a summary of a defense of the claim that pornography subordinates women that shows these suspicions to be unfounded.

MacKinnon characterizes subordination as putting someone in a position of inferiority or loss of power or demeaning or denigrating them.¹⁶ The question is whether or not pornography can do that to women. Drawing upon the work of J.L. Austin, Rae Langton makes a convincing case that it can. She argues first that speech acts can in principle subordinate and second that pornographic speech acts may subordinate women. Let us consider first Austin's general account of speech acts. When we say something, Austin claims, we also do something, and in the case of some utterances what we *do* when we make them is more significant than what we *express*. These utterances he calls "performatives."¹⁷ Examples of performatives include saying "I do" in the course of a marriage ceremony, saying "Look out for the potted plants" or exclaiming "Go to your room!"¹⁸ Besides using sentences to describe the world, state facts, or express ideas, we also use them to marry, to warn, or to order.

Performatives, like other speech acts, are comprised of three separate (but simultaneous) acts. These are labeled by Austin, the *locutionary*, the *perlocutionary*, and the *illocutionary* act. The locutionary act "includes the utterance of certain noises, the utterance of certain words in a certain construction, and the utterance of them with a certain 'meaning' in the favourite philosophical sense of that word, i.e., with a certain sense and with a certain reference."¹⁹ The perlocutionary act is the act of "produc[ing] certain consequential effects upon the feelings, thoughts, or actions of the audience, or of the speaker or of other persons . . ."²⁰ Finally, the illocutionary act is the act of using a locution to do something; it refers to the function of an utterance. The acts mentioned above—marrying, warning, and ordering—all count as illocutions. To better understand these three kinds of

actions, let us consider the following example from Austin, which has been embellished by Langton:

Two men stand beside a woman. The first man turns to the second, and says "Shoot her." The second man looks shocked, then raises a gun and shoots the woman. You witness the scene and describe it later.²¹

On one level of description, what happened was that a man said to another man, "Shoot her," meaning by "shoot" to fire a gun and referring by "her" to the woman standing nearby. This description is of the locutionary act. At another level of description, the first man, by saying something, *shocked* the second man and *persuaded* him to shoot the woman. This description concerns the effects of the utterance and so is of the perlocutionary act. At yet another level of description, the first man, in saying "Shoot her," *urged*, or perhaps *ordered*, the second man to fire a gun at the woman. This description captures the illocutionary act.²²

An important feature of illocutionary acts is that they are conventional.²³ For instance, the illocutionary act of pronouncing a verdict depends upon the conventions of the legal system. Though I might assert "O.J. Simpson is guilty," I am not, in so doing, pronouncing a verdict. A similar locutionary act, however, performed by the foreperson of a jury, would have the illocutionary force of pronouncing a verdict. Though there are many elements of convention involved in illocutionary acts, this example reveals that some illocutionary acts require that the person performing the locution be in a position of authority. I emphasize this particular point about illocutionary acts because, as we will see, it is relevant to the question of whether pornography can subordinate women.²⁴

Langton argues that subordinating can be an illocutionary act. The locution "whites only," she says, borrowing an example from MacKinnon, is not only the perlocutionary act of keeping blacks away from certain areas, perpetuating racism, and so on, but is also the illocutionary act of *ranking* blacks as inferior, *legitimizing* discriminatory behavior toward blacks and *depriving* them of certain powers.²⁵ Hence it is an illocutionary act of subordination.²⁶

If speech acts can in principle subordinate, then perhaps pornography, as a speech act, can subordinate women. Since it is arguable that pornography *ranks* women as sex objects and

legitimizes or *authorizes* sexual violence against women, then it seems reasonable to say that it has the illocutionary force of subordination.²⁷ There is, however, hardly a consensus on the illocutionary force of pornography. Pornography is a kind of locution for which it is difficult to determine precisely its illocutionary force.²⁸ There exists a constellation of issues both interpretive and epistemological involved in ascribing the correct illocutionary force to a speech act. Langton maintains, and I agree, that the central issue in determining whether or not pornography is an illocutionary act that subordinates women involves the problem of authority. If, with MacKinnon, we regard pornographer's speech not as the speech of a vulnerable minority, but as the speech of a powerful and influential group that represents the interests of the dominant culture, then pornographic speech is, at least for some populations, authoritative. Its verdicts about the worth and appropriate treatment of women count. If this is the case, then pornography may have the illocutionary force of subordination.²⁹

We have so far been familiarized with both the causal and conceptual views of the harm associated with pornography. I am not so much concerned at this point with the merits of these views, but rather with getting clear on their content and the difference between them. The causal view, recall, simply states that there is a causal connection between pornographic depictions and harm to women. One form of this view states that pornography causes the subordination of women by causing the acts and values that comprise a system of male dominance. In Austin's terminology, this causal view states that pornography is a perlocutionary act of subordination. The conceptual view, as reconstructed by Langton, holds that, on the assumption that pornographic speech is sufficiently authoritative, it is an illocutionary act of subordination. Pornographic speech itself, on this account, subordinates women by ranking women as inferior to men and legitimating acts of violence and discrimination against us. As such, pornography is directly implicated in women's diminished moral and civil status.

Let me add one more complication before I move on to MacKinnon's position. Although the perlocutionary and illocutionary acts of a speech act are conceptually distinct, they may be empirically linked. An utterance may be the perlocutionary act that

it is, in virtue of being the illocutionary act that it is. Consider Langton's example of the utterance "whites only." One of the effects of utterances of this sort, she claims, is that they perpetuate racist attitudes and conduct. One reason for this might be that they are illocutionary acts of ranking blacks as inferior.³⁰ As Langton puts it, a speech act's effects might be best explained by attributing to it a certain illocutionary force.³¹ Part of the explanation for the occurrence of racist actions, to continue the example, might be that blacks are publicly ranked, by signs saying "whites only," as inferior to whites. It follows that the sexist attitudes and actions to which women are subjected may be partly explained by the fact that pornography sanctions and legitimates them.

MacKinnon's View

I begin my exposition of MacKinnon's argument that pornography is an action, rather than a form of expression, by discussing her latest work, *Only Words*. In this work, she strongly suggests the view that pornography is an illocutionary act of subordination.³² What I will show is that she fails to substantiate that view. Indeed, her defense of it is actually a defense of the causal view. After discussing the position she outlines in *Only Words*, I will assess some of her earlier work where her account of the notion that pornography is an action differs slightly from the one offered in *Only Words*. Her earlier argument, I maintain, is also a causal account, albeit one that contains a different emphasis from the view expressed in her latest work.

The overall structure of the first chapter of *Only Words*, which is devoted to pornography, is as follows: MacKinnon maintains, at the outset, that pornographic speech is analogous to a variety of speech acts that are unproblematically regarded as performatives. Since these speech acts are seen by the law as actions rather than forms of expression, and as consequently beyond the reach of the First Amendment, then, she claims, pornography too should be regarded as an action and as beyond the reach of the First Amendment.³³ Her justification, as we will see, consists in arguing that (a) harmful and coerced actions are often necessary

to produce pornography, (b) consuming pornography often involves an act, and (c) men who consume pornography act to hurt women. "[S]ocial life," MacKinnon observes, "is full of words that are legally treated as the acts they constitute without so much as a whimper from the First Amendment."³⁴ Many of these speech acts are prohibited by law because they constitute discrimination. Examples include "'help wanted—male', 'sleep with me and I'll give you an A', 'fuck me or you're fired', . . . and 'it was essential that the understudy to my Administrative Assistant be a man'."³⁵ "Social inequality," she continues,

is substantially created and enforced—that is, *done*—through words and images. Social hierarchy cannot and does not exist without being embodied in meanings and expressed in communications.³⁶ . . . [A]uthoritatively *saying* someone is inferior is largely how structures of status and differential treatment are demarcated and actualized. Words and images are how people are placed in hierarchies, how social stratification is made to seem inevitable and right . . .³⁷

To illustrate this perspective, she relates the by now familiar example of a sign stating "White Only":

A sign *saying* "White Only" is only words, but it is not legally seen as expressing the viewpoint "we do not want black people in this store," or as dissenting from the policy view that both blacks and whites must be served, or even as hate speech . . . It is seen as the act of segregation that it is . . . Segregation cannot happen without *saying* "get out" or "you don't belong here" at some point. Elevation and denigration are all accomplished through meaningful symbols and communicative acts in which saying it is also doing it.³⁸

Pornography, MacKinnon reminds us, is not typically seen as an act of this sort, but is seen as speech. It is therefore regarded as deserving of First Amendment protection, at least *prima facie*. On this view of pornography, she tells us:

[I]t is conceived in terms of what it says, which is imagined more or less effective or harmful *as someone then acts on it*, rather than in terms of what it does. Fundamentally, in this view, a form of communication cannot, *as such*, do anything bad except offend. Offense is all in the head. Because the purveyor is protected in sending, and the consumer in receiving, the thought or feeling, the fact that an unintended bystander might have offended thoughts or unpleasant feelings is a mere externality, a cost we must pay for freedom. That the First Amendment protects this process of interchange—thought to thought, feeling to feeling—there is no doubt.³⁹

This approach, according to MacKinnon, is seriously mistaken. "Pornography," she claims,

contains ideas, like any other social practice. But the way it works is not as a thought or through its ideas as such, at least not in the way thoughts and ideas are protected as speech. Its place in abuse requires understanding it more in active than in passive terms, as constructing and performative rather than as merely referential or connotative.⁴⁰

Finally she tells us what precisely pornography does such that it should be regarded as an action that helps constitute the social inequality between women and men: it "subordinat[es] women through sex."⁴¹

These passages contain the following line of reasoning:

(1) Plenty of speech acts that help constitute unjustified inequality are regarded, generally and by the law, as actions and not speech. In Austin's terms, certain speech acts are recognized as performatives whose illocutionary force is a kind of harm, for instance, the harm of segregation or of the illegitimate curtailment of rights.

(2) In traditional legal theory, the harm of pornography has been conceived as causal. In particular, pornography has been viewed as possibly causing offense and perhaps as sometimes causing individuals exposed to it to engage in acts of harm. Again, in Austin's terms, pornography has been conceptualized chiefly as a perlocutionary act of offense. It has also perhaps been acknowledged to be a perlocutionary act that occasionally persuades or convinces men to harm women.

(3) If it is correct to see pornography as a form of expression that may cause offense or even physical harm (provided that the harm is rare and tends to occur only under unusual circumstances),⁴² then it is rightfully protected by the First Amendment. That is, if pornography is best regarded in terms of its perlocutionary dimension, so long as its effects are not too drastic or extensive, then it deserves First Amendment protection.

(4) However, pornography should not be conceived for legal purposes as speech. Because of the way it contributes to women's diminished social status, it should be seen as an action. In other

words, pornography should not be regarded chiefly as a perlocutionary act, but rather as an illocutionary act of subordination capable of creating inequality between women and men.

If my reconstruction is correct, MacKinnon is claiming, first, that if the harm of pornography is exclusively causal, and if that harm consists primarily in offense, then pornography is rightly regarded as a form of speech that falls within the scope of the First Amendment. Second, she is asserting that the harm of pornography is *not* exclusively causal and that its harms extend beyond offense. Pornography, MacKinnon claims in these passages, is a performative that has the illocutionary force of subordination. How does she support this view? First, she maintains that certain harmful actions are often performed in order to produce pornography. Some women are blackmailed and physically intimidated into making it.⁴³ And, in that making they may be physically hurt, sometimes brutally, as the testimony of Linda Marchiano graphically documents.⁴⁴ And even when women are not directly coerced or physically abused in the making of pornography, their decisions to participate are not wholly voluntary because they are made in a context of inequality based on sex. Often those who participate in the production of pornography, MacKinnon maintains, are "poor, desperate, homeless, pimped women who were sexually abused as children."⁴⁵ We can, of course, recognize the severity of these circumstances without assenting to the plainly false assertion that pornography is an action because actions are required to make it. Actions are required to make a cake too, but that does not make a cake an action.

The second way that MacKinnon attempts to support the view that pornography is an action involves a similarly glaring non sequitur: "Pornography is masturbation material. It is used as sex. It therefore is sex."⁴⁶ That pornography is used in certain actions, however, does not make it the case that pornography is an action. Cakes are used in the act of eating, yet are clearly not, on that basis, themselves actions.

Finally, MacKinnon maintains that pornography is an action because it causes harmful acts. As I mentioned above, besides espousing the conceptual view, MacKinnon also explicitly endorses

the causal view. She maintains that pornography is causally related to acts of sexism and violence against women. So, we should not be surprised to find passages in her work that support the causal thesis. Problems arise, however, when it is clear that she is invoking the causal thesis to support her claim that pornography itself is an action. For instance, after asserting that the liberal view of pornography mistakenly conceives of it as ideas rather than acts, she says: "it is not the ideas in pornography that assault women: men do, men who are made, changed, and impelled by it."⁴⁷ She also states:

Sooner or later, in one way or another, the consumers want to live out the pornography further in three dimensions. Sooner or later, in one way or another, they do. *It* makes them want to; when they believe they can, when they feel they can get away with it, *they* do.⁴⁸

Where MacKinnon is here *unmistakably* appealing to the causal view, elsewhere she endeavors to defend the view that pornography is an action by obscuring the fact that she is invoking the causal picture. For instance, she asks us to consider the following:

Suppose that the sexually explicit has a content element: it contains a penis ramming into a vagina. Does that mean that a picture of this conveys the idea of a penis ramming into a vagina, or does the viewer see and experience a penis ramming into a vagina? If a man watches a penis ram into a vagina live, in the flesh, do we say he is watching the idea of a penis ramming into a vagina? How is the visual pornography different? When he then goes and rams his penis into a woman's vagina, is that because he has an idea, or because he has an erection?⁴⁹

Basically, what MacKinnon is trying to do in this passage is to break down the distinction between a depiction of an act and the act depicted. She is claiming that when it comes to pornography, the distinction between a depiction of an action and the action itself is irrelevant. Why is it irrelevant? Because both the action itself and the visual representation of the action share an important feature: they are both capable of eliciting a sexual response. What is important about pornography, she is claiming, is not that it conveys ideas, but that it, like the actions it portrays, sexually arouses. Pornography, that is, does not simply or typically or essentially relate propositions but rather causes sexual arousal. It

may thereby prompt its users to engage in actions similar to those it endorses. The fact that pornography causes sexual arousal and may thereby prompt individuals to act, however, does not make pornography itself an act.

MacKinnon strongly suggests, by her analogies and by her account of the connection between speech acts and social inequality, that pornography is a performative: an action that has the illocutionary force of discrimination and subordination. On this ground, she maintains, it should not be protected by the First Amendment. Her argument for this claim consists in a discussion of the variety of actions that are associated with pornography: the actions necessary to produce it, the action in which it is often implicated, and the actions it sometimes causes. Her discussion of the last of these makes some headway against the liberal view she opposes, for that view sees the harm of pornography as consisting primarily in offense. If the effects of pornography extend considerably beyond offense to assault and harassment, as she claims, then clearly liberals will have to reassess their position. Nonetheless, in identifying the detrimental effects of pornography, MacKinnon has not succeeded in removing the pornography issue from its traditional home within the causal framework. Rather, she has utilized that framework to argue for the restriction of pornography.

Pornography and the Social Construction of Women

As we have seen in *Only Words*, MacKinnon advances the view that pornography ought to be regarded in terms of its illocutionary force, rather than as a locutionary act. She emphasizes, however, in her support of this notion, pornography's perlocutionary dimension; she relates the effects that pornography has upon men's attitudes and behavior toward women. This emphasis reflects a shift from her earlier work, where she was primarily concerned to demonstrate the effect on women of living in a culture saturated with pornography.

In her earlier writings, MacKinnon claims that pornography is vital to the maintenance of male supremacy because it aids in the

constructing of social reality, in particular the institutions of sexuality and gender, in a way that promotes the interests and power of men. Pornography, she states, is a major vehicle for defining what women are. At the same time, it presents itself as a mere reflection or representation of social reality, rather than as a factor in its construction. She states:

[Pornography] institutionalizes the sexuality of male supremacy, fusing the erotization of dominance and submission with the social construction of male and female. To the extent that gender is sexual, pornography is part of constituting the meaning of that sexuality. Men treat women as who they see women as being. Pornography constructs who that is. Men's power over women means that the way men see women defines who women can be. . . . Pornography is not imagery in some relation to a reality elsewhere constructed. It is not a distortion, reflection, projection, expression, fantasy, representation, or symbol either. It is sexual reality.⁵⁰

The definition of women that pornography provides and enacts is one according to which, by nature, women

. . . desire dispossession and cruelty. We desperately want to be bound, battered, tortured, humiliated, and killed. Or, to be fair to the soft-core, merely taken and used. . . . Subjection itself, with self-determination ecstatically relinquished, is the content of women's sexual desire and desirability. Women are there to be violated and possessed, men to violate and possess us⁵¹

By sexualizing this conception of women, pornography endorses and legitimates it;⁵² it makes the dynamic of male dominance and female submission sexy.⁵³ It thereby helps to construct women as beings that are subordinate to men.

It is the power of pornography to define what women are, through both its message and the process by which that message is conveyed, that on MacKinnon's earlier view makes pornography an action. It is an action, she thinks, because it helps create social reality.⁵⁴ The message of pornography is that women are mere objects to be used or beings whom it is legitimate to violate and harm. The process that conveys this message is the process of erotization. This process, MacKinnon believes, is a very effective means of authorizing and promoting what pornography depicts.

MacKinnon distinguishes this social construction account of the harm done to women by pornography from the standard causal

view of harm embedded in most legal reasoning.⁵⁵ The social construction view, nonetheless, is a causal account of pornography's harm: it identifies pornography as a major cause of the misogynistic views prevalent in our culture and as, therefore, a major cause of the sexist actions produced by such attitudes.⁵⁶ Indeed, MacKinnon herself describes the social construction view as causal in a special sense.⁵⁷

She sees the standard causal view as overly narrow, since it recognizes as harm only those acts perpetrated by individual men against individual women. On the standard view, a woman has not been harmed by pornography unless a particular action occurs (say, a rape) that can be traced directly to a particular person who has consumed a particular piece of pornography that depicts the act that he performed and it is clear that the depiction moved him to perform it. (The "Long Dong Silver" incident described during the confirmation hearings for Clarence Thomas may be an example of this kind of harm. An individual man was impelled to sexually harass an individual woman, presumably, in part as a consequence of consuming a particular and specifiable piece of pornography.) What the narrow causal view overlooks, and what the social construction view takes into account, MacKinnon claims, is the "more complex causality" involved in the process by which pornography defines women as beings who are subordinate to men. It overlooks the role of pornography in creating the norms of sex and sexuality and the imperatives of gender so as to create a hierarchy wherein women are socially located beneath men.⁵⁸

So far we have seen four ways in which pornography is said by MacKinnon to be an action: (1) actions are often involved in its making, (2) it is sometimes used in the performing of an action, (3) it is causally connected to some individual acts of harm to women, and (4) it is causally linked to the social definition of women as beings who are inferior to men. I have argued that, while these various assertions about pornography may be true, none of them works as a defense of the idea that pornography itself is an action. MacKinnon's account of the relationship between pornography and "reality," as she puts it, is at times original and

insightful, and of course also open to objection. Yet her attempt to move beyond the causal framework is not successful.

Pornography as Conditioning

Despite her warning that confining our view of causality to the doctrine expressed by the standard view will make us overlook much of the harm created by pornography, MacKinnon reminds us that even by the standards of the standard view, pornography causes harm to women. There is a direct and discernible causal link, MacKinnon tells us, between individual men's use of pornography and their tendency to hurt women. In *Only Words*, her account of this causal connection takes on an unmistakably behavioristic cast. MacKinnon's resort to behaviorism, I will argue, is motivated by two concerns. First, it allows her to explain in more specific terms how it is that pornography can have the immense constructive power she attributes to it in her earlier work. She is concerned to show, that is, precisely what the mechanism is that enables pornographic depictions to have the defining influence that she claims they have. Second, her behavioristic account enables her to explain why, among all the sexist and misogynistic representations that exist, only pornography has such immense constructive power. She needs to make this case, of course, in order to justify restricting *pornography* but not other sexist speech acts.

MacKinnon's account, in *Only Words*, of the causal process that links pornographic images to male behavior is as follows:

Pornography, not its ideas as such, . . . gives men erections that support aggression against women in particular. [Some who use it] . . . are sexually habituated to its kick, a process that is largely unconscious and works as primitive conditioning, with pictures and words as sexual stimuli.⁵⁹ . . . [Pornography represents] . . . unconscious mental intrusion and physical manipulation.⁶⁰ . . . [Its] message is addressed directly to the penis, delivered through an erection, and taken out on women in the real world.⁶¹

As these passages suggest, MacKinnon sees the process whereby men view women being harmed or objectified in a context that is sexual and which often involves arousal and orgasm on the part of

the viewers as having a significant impact on their attitudes and behavior. She says:

With pornography, men masturbate to women being exposed, humiliated, violated, degraded, mutilated, dismembered, bound, gagged, tortured and killed. In the visual materials, they experience this *being done* by watching it *being done*. What is real here is not that the materials are pictures, but that they are part of a sex act. The women are in two dimensions, but the men have sex with them in their own three-dimensional bodies, not in their minds alone.⁶²

The association of the subjection of women with sexual response and pleasure, MacKinnon holds, creates and fortifies contempt for women in the minds of men and hence prompts them to treat women in sexist and misogynistic ways.

Her earlier work left somewhat unclear the mechanism by which pornography functions to define and construct women. There she relies on the vague notion of "erotization" or "sexualization." While one can see how erotizing something may put a positive spin on it, it is unclear as to why this particular method of promoting a certain view or message can have such a uniquely strong ideological impact. The behavioristic model, which holds that men are *conditioned* through the use of pornography to regard and treat women as inferior objects, serves as an explanation of the extensive influence MacKinnon attributes to pornography. It explains, that is, why men so often, in her view, come to see women in the way that pornography presents us. If pornography operated at only the rational level, or at the level of "ideas," as she puts it, men would be much more immune to its message.

The behavioristic model also allows MacKinnon to isolate pornography from other media that contain misogynistic or sexist images of women. This move, as I stated earlier, is crucial to her desire to see pornography—but not other images that might arguably subordinate women—restricted. She observes that the content of pornography is not unique: "[t]here are many ways to say what pornography says, in the sense of its content. But nothing else does what pornography does."⁶³ The reason for this is that pornography functions as masturbation material. As such, it "does not engage the conscious mind in the chosen way the model of 'content,' in terms of which it is largely defended, envisions and

requires."⁶⁴ Of course, theoretically, just about anything can function as masturbation material, and hence "not engage the conscious mind." But pornography combines a particularly damaging and invidious message with a particularly potent method of conveyance. And, as sexually explicit, and hence sexually arousing, it is more likely than other images to be used in masturbation. Therefore, pornography is, among other sexist images, on MacKinnon's reasoning, especially critical to the construction of gender and sexuality in ways that help constitute male dominance.

At this point we are in a position to piece together MacKinnon's overall account—one that spans her earlier and later works—of pornography's role in the subordination of women. It works by portraying, sexually explicitly and in an endorsing context, women being harmed, or women whose agency has been erased or reduced to a slavish desire to please men sexually. In essence, it portrays women as less than full persons and as, therefore, diminished in status relative to men. These depictions engender sexual arousal and are used for masturbation. The act of masturbation implants in the minds of men, the view of women presented in the pornography. The view so implanted and the actions that may ensue from it—from sexist remarks, to leering, to gang rape—help structure and enforce a system of male supremacy.

Despite its complexity, and regardless of its plausibility, this account does *not* establish that pornography is an action. Rather, it describes a complex causal process tracing the various links between sexually explicit, misogynistic images on the one hand and social practices and institutions on the other. Its behavioristic component, I have argued, serves to support the notion that pornography, among a wide variety of sexist images and texts, is especially definitive in the social construction of women and that therefore pornography, among a wide variety of sexist practices and ideologies, is central to the maintenance of male dominance.

Pornography, Speech Acts, and The First Amendment

Earlier, I claimed that Langton outlines what is arguably a plausible version of the conceptual view. If I am right that MacKinnon's

defense of the conceptual view is inadequate, it seems natural to inquire whether Langton's view can serve MacKinnon's purposes. In what follows, I argue that it cannot, because Langton's view does not support the speech-action distinction in a way that would justify placing pornography beyond the reach of the First Amendment.

As a preliminary point, we must note that in showing that pornography is an illocutionary act, Langton has not shown, nor does she intend to, that it is an act *as opposed to* a form of expression. All speech acts are illocutionary acts. As Austin states, "[t]o perform a locutionary act is in general . . . also and *eo ipso* to perform an illocutionary act" ⁶⁵ Speech acts that are ordinarily regarded as speech and not actions have illocutionary force. For example, stating is an illocutionary act. ⁶⁶ Therefore, MacKinnon would not be aided in her effort to establish that pornography, *unlike other utterances*, is an action by showing that it is an illocutionary act. But recall that Austin was especially interested in certain kinds of utterances which he called "performatives." These are speech acts that seem to be more act-like than speech-like; they are actions done with words. The examples considered above included such things as warning, marrying, ordering, and pronouncing a verdict. As we saw earlier, though MacKinnon *asserts* that pornography is on a par with some harmful performatives, such as bribery, collusion, and segregation, she does not successfully argue for that claim.

Nor does Langton argue directly for the claim that pornography is a performative. In the course of her argument that pornography is an illocutionary act of subordination, however, she compares pornography to a speech act that arguably is a performative—the utterance "whites only." Langton's strategy of using a performative to illustrate how an utterance can have the illocutionary force of subordination raises the following question: Is "whites only" a performative *because* it has the illocutionary force of subordination? Or, more generally, are speech acts appropriately classed performatives depending upon what in particular their illocutionary force is? If the answer is "yes," then showing that pornography subordinates may be tantamount to showing that it is a performative, which, in turn, may be a way of distinguishing

it from other utterances as an action. Furthermore, if pornography is an action, then the issue of its restriction, as MacKinnon maintains, should not be adjudicated within a First Amendment framework.⁶⁷ Hence, if pornography is a performative, then it may be permissible to restrict it without violating the First Amendment. To find out how to identify performatives as such, we must turn to Austin.

Austin distinguishes at the outset of *How to Do Things With Words* between "performatives" and "constantives." The latter are everyday sorts of statements that can have a truth value and that are generally used to describe the world or state facts. The former, by contrast, are not typically true or false, nor are they normally regarded as saying something. Instead, they are regarded as doing something. The issuing of the utterance is the performing of an action.⁶⁸ Notably, the rest of Austin's book is basically devoted to undermining this original distinction. Indeed, he discovers that the task of identifying a set of expressly performative verbs that would allow us unambiguously to distinguish performatives from constantives is futile. What he originally identified as paradigmatic examples of performatives are not such because of the kind of illocutionary acts they are—marrying as opposed to merely stating, for example—but because their illocutionary dimension seems more salient. Austin says:

With the constantive utterance, we abstract from the illocutionary . . . aspects of the speech act, and we concentrate on the locutionary With the performative utterance,⁶⁹ we attend as much as possible to the illocutionary force of the utterance

In short, the difference between constantives and performatives is not a difference in kind.

Because his initial distinction proved so problematic, Austin abandoned it in the end in favor of a five-fold classificatory scheme that groups together speech acts having a similar illocutionary component. Some of these categories contain speech acts that we are likely to regard in terms of their illocutionary force, and so are likely to treat as actions. The category "exercitives" is an example. It encompasses utterances that represent "the exercising of powers, rights or influence" including "appointing, voting, ordering,

urging, advising, warning, etc."⁷⁰ Other categories contain speech acts whose illocutionary element we normally overlook in favor of their locutionary element. These are speech acts that we generally regard as speech. They include describing, mentioning, telling, stating, and remarking.⁷¹

It follows from these considerations that by showing that an utterance has the illocutionary force of subordination one has not shown that it is a performative. The very category "performatives," Austin found, dissolves under scrutiny. Hence, showing that pornography has the illocutionary force of subordination does not distinguish it as an action from other forms of expression. Words that subordinate, insofar as they are illocutionary acts, are no more actions than are words that describe. Indeed, images that subordinate are no more actions than are images that simply depict, for depicting is also an illocutionary act. Consequently, even if one grants that pornography is comparable to the kinds of speech acts that Austin thought of as paradigmatically performative, one has not shown that pornography is different in kind from other sorts of speech acts; Langton's account of the way in which pornography is an action is not useful to MacKinnon, because Langton's view entails, as did Austin's, that all utterances are actions. Hence Langton's account does not support MacKinnon's claim that pornography's status as an act of subordination differentiates it from other harmful utterances, such as hate speech,⁷² which are forms of expression. Consequently it does not support her claim that pornography, as a harmful *action*, should be beyond the reach of the First Amendment.

Perhaps one can argue, however, that pornography should be restricted, not because it is metaphysically different from other utterances, but because it is normatively different. While all utterances are illocutionary acts, one might grant, the fact that the illocutionary act that pornography is is the act of subordinating women warrants its exclusion from First Amendment coverage. The defect of this position becomes apparent when one observes that Langton's argument for the claim that pornography is an illocutionary act of subordination does not depend upon the fact that pornography is sexually explicit. Many non-sexually explicit speech acts that arguably have the illocutionary force of

subordination are generally regarded as rightfully protected by the First Amendment.⁷³ They include billboards, music videos, films, television commercials, religious texts, and so on. Surely if pornography subordinates women by authoritatively ranking us as inferior to men and by legitimating sexist and misogynistic behaviors, then many of these other utterances subordinate us as well.⁷⁴

Because a whole host of non-sexually explicit utterances are illocutionary acts of subordination (if any are), MacKinnon must give prominence to the behavioristic account of the impact of pornography presented in her latest work. She cannot argue that pornography should be exempt from the First Amendment simply because it subordinates women, for this view would commit her to endorsing the restriction of a wide range of speech acts. She needs an argument for restricting sexually explicit subordinating speech acts. The behavioristic model, as we saw above, by claiming that pornography, in virtue of being sexually explicit, has a particularly powerful effect on the attitudes of its consumers, permits MacKinnon to single out pornography, among subordinating speech acts, as especially harmful. But notice that this move completely obviates the need for establishing that pornography is an illocutionary act of subordination. The claim that does the work in the argument is the claim that pornography, as a form of *conditioning*, is capable of inducing men to engage in acts of harm toward women. That pornography may subordinate women by assigning to us an inferior status relative to men is rendered, by the behavioristic approach, immaterial. And, once again, the debate about pornography's regulation is shifted to the issue of its causal relation to harm.

Problems with the Conditioning Theory

We began with an examination of the metaphysics of the speech-action distinction as expressed in the work of MacKinnon. I argued that her defense of the notion that pornography should be seen as an action is unsatisfactory because, at every turn, she equates pornography with actions associated causally with it. I also argued that attempting to differentiate between speech and action meta-

physically with a view to shedding some light on the issue of pornography's eligibility for First Amendment protection is not a productive strategy. It turns out that any reasonable argument for the claim that pornography is an action is also an argument that all forms of speech are actions. Furthermore, if one grants that all utterances are actions, insofar as they are illocutionary acts, but claims that pornography should be regulated because of the kind of illocutionary act it is, namely the act of subordination, one is singling out pornography arbitrarily. Many utterances that are illocutionary acts of subordination are not sexually explicit. If subordinating speech acts should be restricted qua subordinating, then non-sexually explicit subordinating speech acts should be restricted. Assuming that one does not want to cast one's net that wide, one must, as MacKinnon does, shift one's argument to causal grounds. The causal considerations that MacKinnon attempts to motivate, however, seem somewhat far-fetched, for two reasons.⁷⁵

First, it seems implausible that repeatedly experiencing sexual arousal and orgasm while viewing women in demeaning poses is any more potent a force for shaping attitudes than is, say, repeatedly attending certain Christian church services and studying the Scriptures. The image of women conveyed by Christianity is as dangerous and as damaging as that presented by pornography: women are said to exist to serve men, to bear "their" children, our sexuality is seen as dangerous and in need of control, our bodies as mysterious and filthy. Furthermore, religious convictions tend to be inculcated in nonrational ways and are often experienced by the devout as deeply emotional. And, the pronouncements of Christianity concerning women's nature and our appropriate role are issued from a source regarded by many to be the highest authority. Religious speech, in short, like pornographic speech, operates largely at a nonrational level, conveys, blatantly and subtly, contempt for women, and is, for many, authoritative.

My second worry relates to the issue of the direction of causation. One cannot help but wonder why some men are so intensely attracted to and moved by pornographic images while others are less so or not at all. That is, why are *some* men, to use MacKinnon's words, "habituated to its kick"? It seems that one's

prior attitudes toward women and sexuality will be a determining factor in one's choice to use pornography. If this is the case, then pornography does not have the far-reaching constructive influence that MacKinnon attributes to it. Instead, it caters to a set of sexist values, beliefs, and attitudes already held by its consumers. It exerts whatever influence it has, then, primarily on those individuals predisposed to be drawn by its message.

The most serious implication of the feminist antipornography position takes the form of a dilemma: on the one hand, the feminist antipornography view provides grounds for believing that pornography contributes to the oppression of women, both by subordinating us directly (as an illocutionary act) and by helping to cause our subordinate status (by influencing people's attitudes and actions). These considerations lend support to the notion that pornography ought to be civilly restricted. On the other hand, if words and images have the power to construct and impose social inequality that antipornography feminists claim they do, it follows that a whole assortment of images and texts, and not just pornography, is implicated in women's inequality. Hence it follows that a whole assortment of texts and images, and not just pornography, should be civilly restricted. antipornography feminists have, in a sense, created for themselves a paradox: the more compelling their account of the metaphysical impact of images and words, the less compelling their argument for restricting pornography. Unless one accepts MacKinnon's implausible behavioristic approach to explaining why pornography—but not other subordinating speech acts—plays a special role in the construction of social reality, one does not have nonarbitrary grounds for targeting pornography for regulation.

Perhaps the way to resolve this problem is to maintain that considerations of equality should prevail.⁷⁶ After all, no one is endorsing prior restraint. If those in positions of authority choose to produce and distribute images and words, sexually explicit or not, that subordinate or are clearly causally linked to harmful actions, then they should be prepared to suffer the consequences should they be sued. At the same time, depending on how the courts treated these cases, such a policy might have a "chilling effect" on speech that would be detrimental to everyone, including

members of marginalized groups who are supposed to benefit from this restriction.⁷⁷ In any case, MacKinnon's core insight that social inequality is substantially created through words and images and symbols cannot be ignored. Her discussion exposes the naiveté of the liberal view of speech as "only words" and has begun to shift the burden of proof toward those who would defend the right to perform subordinating speech acts.⁷⁸

Notes

1. This is not to say that all, or even most, self-identified feminists support the feminist antipornography position.
2. The laws she advocates provide grounds for civil suits, in contrast with obscenity laws, which make the production and/or distribution of "obscenity" a crime. For a discussion of this difference, see John Stoltenberg, *Refusing to be a Man: Essays on Sex and Justice* (New York: Penguin Books, 1989), pp. 159-63. See also Nadine Strossen, *Defending Pornography* (New York: Scribner, 1995), pp. 63-69.
3. Catharine MacKinnon and Andrea Dworkin, *Pornography and Civil Rights: A New Day for Women's Equality* (Minneapolis: Organizing Against Pornography, 1988), pp. 36, 101. The definition, from the Civil Rights Antipornography Ordinance crafted by MacKinnon and Andrea Dworkin, specifies that being graphic and sexually explicit are each necessary conditions for material to be considered pornography and they are not jointly sufficient. Such material must include at least one of nine other features listed in the law in order to constitute pornography. These other features, which specify content, determine whether the material in question subordinates women. They are as follows: (1) women are presented dehumanized as sexual objects, things, or commodities; (2) women are presented as sexual objects who enjoy pain or humiliation; (3) women are presented as sexual objects who experience sexual pleasure in being raped; (4) women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt; (5) women are present in postures of sexual submission; (6) women's body parts—including but not limited to vaginas, breasts, and buttocks—are exhibited, such that women are reduced to those parts; (7) women are presented as whores by nature; (8) women are presented being penetrated by objects or animals; (9) women are presented in scenarios of degradation, injury, abasement, torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual. Also see Catharine MacKinnon, "Francis Biddle's Sister: Pornography, Civil Rights and Speech," in her *Feminism Unmodified: Discourses on Life and Law* (Cambridge, Mass.: Harvard University Press, 1987), p. 176.

The original Civil Rights Antipornography Ordinance was passed by the Minneapolis City Council in December of 1983, was vetoed by the mayor in January of 1984, was passed again by a newly elected city council in July of 1984, and was again vetoed by the mayor. A slightly modified version of the law was passed by the Indianapolis City Council in April of 1984 and signed into law. The city was immediately sued by a group called the Media Coalition with backing from the ACLU. In November 1984 the law was found unconstitutional by the district court and that decision was upheld by the Seventh U.S. Circuit Court of Appeals. Finally, the Supreme Court, in February 1986, voted six to three not to hear oral arguments in the case and affirmed the decision of the appeals court. For explanation and history of the ordinance see Stoltenberg, pp. 137-71, and Strossen, pp. 73-82.

4. Exceptions are Melinda Vadas, "A First Look at the Pornography/Civil Rights Ordinance: Could Pornography Be the Subordination of Women?," *Journal of Philosophy* 84 (1987): 487-511, and Rae Langton, "Speech Acts and Unspeakable Acts," *Philosophy & Public Affairs* 22 (1993): 293-330. Both authors argue that pornography can be the subordination of women. For a critique of Vadas's account, see W.A. Parent, "A Second Look at Pornography and the Subordination of Women," *Journal of Philosophy* 87 (1990): 205-11. Langton's article will be considered at length in this essay.
5. Vadas, p. 489 n. 9, observes that Judge Frank Easterbrook, who handed down the appeals court decision on the Antipornography Ordinance, makes exactly this error. Strossen makes a similar mistake in her discussion of Easterbrook's decision. Moreover, she systematically makes this mistake throughout her book. She conflates MacKinnon's claim that pornography degrades women with the claim that pornography is degrading *to* women; she mischaracterizes MacKinnon's definition of pornography as concerning sexually explicit *expression* that *leads to* the subordination of women; she misinterprets MacKinnon as promoting the regulation of sexually explicit materials on the ground that they *advocate* or *depict* the subordination of women, etc. See Strossen, pp. 19, 30, 42-43, 60, and *passim*. For further discussion, see Langton, pp. 293-95.
6. MacKinnon, "Francis Biddle's Sister," p. 176. See also p. 196: "One can say—and I have—that pornography is a causal factor in violations of women; . . . but one can also say simply that pornography violates women."
7. Catharine MacKinnon, "Pornography: An Exchange," *New York Review*, 3 March 1994, p. 47.
8. Technically the claim that pornography subordinates women is a tautology, since MacKinnon defines pornography as graphic, sexually explicit materials that subordinate women. The point is that MacKinnon believes that the fact that certain sexually explicit materials subordinate women (and hence are "pornography") is a ground for placing them outside of the reach of the First Amendment.

9. Henceforth, by "the causal view" I will mean the feminist, as opposed to conservative or liberal, account of the harm caused by pornography .
10. Alisa Carse, "Pornography: An Uncivil Liberty?," *Hypatia* 10 (1995): 155-82, p. 164. See also Langton, p. 306. For extensive lists of the available empirical research done on the effects of pornography, see Carse, p. 178 n. 31, Langton, p. 306 n. 33, and MacKinnon, *Feminism Unmodified*, pp. 264-65 n. 9, 273 n. 59, 295 nn. 116-18. The feminist causal view is hotly disputed, since some claim that the causal evidence is inconclusive. See Ronald Dworkin, "Liberty and Pornography," *New York Review*, 15 August 1991, pp. 13-14, and Strossen, chap. 12. It is hard to resist the conclusion that those who remain skeptical about the empirical evidence are motivated by nothing more than the desire to have pornography available, since, as Carse points out, "[t]o deny any relation between pornography and attitudes, and attitudes and behavior, would be to deny standard conceptions of learning according to which repeated exposure to phenomena, especially when such exposure is made vivid and compelling as it is through sexual arousal, tends to lead to acceptance and habituation" (p. 164).
11. See MacKinnon, "Not a Moral Issue," p. 147, "Francis Biddle's Sister," pp. 175 and 184-88, *Only Words*, pp. 15-19, and "Sexuality, Pornography and Method: 'Pleasure Under Patriarchy'," in Cass R. Sunstein (ed.), *Feminism and Political Theory* (Chicago: University of Chicago Press, 1990), pp. 226-27.
12. See Langton, pp. 294 and 305.
13. MacKinnon doesn't *deny* the view that depictions of subordination may be causally related to acts of subordination. See *Only Words*, p. 92. My point is that her account is much richer and more complicated than this view.
14. See Vadas, *passim*.
15. One judge referred to the definition contained in the ordinance as a "certain sleight of hand." See Langton, p. 294. Ronald Dworkin refers to a different, though related, component of MacKinnon's account as a "metaphysical sleight of hand." See his "Women and Pornography," *New York Review*, 21 October 1993, p. 38. And Thomas Emerson, in a response to MacKinnon, maintains that the conceptual view is "no more than a play on words." See his "Pornography and the First Amendment: A Reply to Professor MacKinnon," *Yale Law and Policy Review* 3 (1984): 130-43.
16. MacKinnon, "Francis Biddle's Sister," p. 176. See also Langton, p. 303.
17. J.L. Austin, *How to Do Things With Words* (New York: Oxford University Press, 1965), p. 6.
18. The first of these examples is from Austin, p. 5.
19. *Ibid.*, p. 94.
20. *Ibid.*, p. 101.
21. Langton, pp. 295-96.
22. Roughly, we can distinguish these three types of acts that constitute a speech act as follows: a locution is the act *of* saying something, a perlocution is

- what one does *by* saying something and an illocution is what one does *in* saying something. See Austin, pp. 99 and 108-9, and Langton, p. 300.
23. Austin, p. 133; Langton, p. 304.
 24. See Langton, pp. 304-5.
 25. *Ibid.*, p. 303. MacKinnon draws an analogy between pornography and signs saying "White Only" in "On Collaboration" (p. 202), "Not a Moral Issue" (p. 156), and "Francis Biddle's Sister" (p. 194), in *Feminism Unmodified*, and in *Only Words*, p. 13.
 26. Langton points out that not every instance of legitimating, ranking, or depriving of power is an instance of subordinating. She claims that what makes such illocutionary acts acts of subordination is that they involve injustice or unfairness. This suggests that the illocutionary verb "subordinate" is itself normative. Subordinating, however, like ranking, can be justified or unjustified. The subordination of blacks is unjust because blacks are the moral equal of whites and so should be granted the same civil status that whites enjoy. (The same holds, of course, for the subordination of women to men.) Subordinating a sergeant by depriving him or her of his or her stripes due to misconduct is an instance of justified subordination. It follows that subordination, contrary to Langton's view, is not itself a normative notion. Notice that MacKinnon's characterization of subordination contains both descriptive and normative elements; to put someone in a position of inferiority or loss of power is not *necessarily* morally objectionable. However, to demean or denigrate is, barring unusual circumstances, morally objectionable.
 27. Langton, pp. 307-8.
 28. *Ibid.*, p. 308.
 29. *Ibid.*, pp. 311-12.
 30. From what I can tell, Austin is not clear as to whether the effects of an utterance issue from its locutionary or illocutionary dimension.
 31. Langton, p. 309.
 32. Langton's article came out before *Only Words* was in print.
 33. Showing that something is an action is clearly not sufficient for showing that it should not be covered by the First Amendment. Flag burning, for example, is protected by the First Amendment. Although it is an action in the ordinary sense, flag burning is protected as speech because it serves primarily to communicate a message. MacKinnon's claim that pornography is an action and should therefore not be covered by the First Amendment is an argument that even though it consists of words and images, pornography is an action that is not primarily communicative.
 34. MacKinnon, *Only Words*, p. 12.
 35. *Ibid.*, pp. 13-14.
 36. *Ibid.*, p. 13.
 37. *Ibid.*, p. 31.
 38. *Ibid.*, p. 13.

39. *Ibid.*, p. 11 (first two emphases mine).
40. *Ibid.*, p. 21. MacKinnon cites Austin here.
41. *Ibid.*, p. 29. A strange locution at best.
42. Here I refer to the common view that restricting harmful speech is only justified if the harm issuing from the speech outweighs the harm resulting from curtailing it. See MacKinnon, "Francis Biddle's Sister," p. 192.
43. MacKinnon, *Only Words*, p. 15.
44. Linda Marchiano with Mike McGrady, *Ordeal* (Secaucus, N.J.: Citadel Press, 1980), and *Out of Bondage* (New York: Citadel Press, 1986).
45. MacKinnon, *Only Words*, p. 20.
46. *Ibid.*, p. 17. She also states: "What was words and pictures becomes, through masturbation, sex itself" (p. 25).
47. *Ibid.*, p. 15.
48. *Ibid.*, p. 19.
49. *Ibid.*, p. 24.
50. MacKinnon, "Francis Biddle's Sister," p. 173. See also "Not a Moral Issue," pp. 148-49, and "Sexuality, Pornography and Method," pp. 221-25. For a general account of the social construction of sexuality through male power and in terms of male interests, see "Sexuality, Pornography and Method," pp. 208-17. The claim that pornography is reality is, of course, an overstatement. The charitable interpretation of this assertion is that pornography helps to construct social reality and is invisible as a mechanism of construction to the extent that it is successful in making reality in its image. The more successful it is, the more it seems like a representation. See "Francis Biddle's Sister," p. 166.
51. MacKinnon, "Francis Biddle's Sister," p. 172. See also "Sexuality, Pornography and Method," p. 220.
52. MacKinnon, "Francis Biddle's Sister," p. 171.
53. *Ibid.*, p. 172.
54. MacKinnon, "Linda's Life and Andrea's Work," in *Feminism Unmodified*, p. 130.
55. See MacKinnon, "Not a Moral Issue," p. 156. Cf. "Francis Biddle's Sister," pp. 184-88.
56. Dworkin makes a similar point. See Dworkin, p. 14.
57. MacKinnon, "Not a Moral Issue," pp. 156 and 161.
58. MacKinnon, "Francis Biddle's Sister," p. 173.
59. MacKinnon, *Only Words*, p. 16.
60. *Ibid.*
61. *Ibid.*, p. 21.
62. *Ibid.*, p. 17. See also MacKinnon, "Francis Biddle's Sister," p. 173.
63. *Ibid.*, pp. 14-15. See also p. 108.
64. *Ibid.*, p. 16.
65. Austin, p. 98.
66. *Ibid.*, p. 133.

67. See n. 33.
68. Austin, pp. 4-6.
69. Ibid., p. 144.
70. Ibid., p. 150.
71. Ibid., p. 161. These speech acts fall into the category "expositives."
72. See MacKinnon, *Only Words*, p. 13.
73. See Langton, p. 299.
74. Strossen, pp. 261-62, makes a similar point in the context of criticizing the causal component of the feminist antipornography position .
75. For a criticism of MacKinnon's view that pornography is a major causal factor in the oppression of women, see Lisa Duggan et al., "Feminist Antipornography Legislation," in James P. Sterba (ed.), *Morality in Practice* (Belmont, Cal.: Wadsworth, 1991), pp. 318-27.
76. See Rae Langton, "Whose Right? Ronald Dworkin, Women and Pornographers," *Philosophy & Public Affairs* 19 (1990): 311-59; David Dyzenhaus, "John Stuart Mill and the Harm of Pornography," *Ethics* 102 (1992): 534-51; and Robert Skipper, "Mill and Pornography," *Ethics* 103 (1993): 726-30.
77. This is one of Strossen's main arguments against antipornography ordinances of the sort that were proposed in Minneapolis and Indianapolis. See Strossen, pp. 60-62.
78. I thank Lori Alward, Alisa Carse, Mary MacLeod, Jane Reid, Paul Warren, Rebecca Whisnant, and an anonymous reviewer for *Social Theory and Practice* for their very helpful comments on various drafts of this paper.

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