Free Speech and Women’s Equality: The Porn Wars
Questions for Tuesday, November 30th

A coalition of Massachusetts residents including women’s rights advocates, religious leaders, and law enforcement groups has proposed a new law to combat widespread violence against women that they claim results from the availability and rampant use of pornography. You and the rest of the class constitute the Massachusetts Legislature and are charged with debating the law. You should take fifteen minutes to look back at the readings for today’s class (specifically the Strossen and MacKinnon readings) and marshal arguments for and against the law. What you are in essence charged with deciding is where a line should be drawn between First Amendment-protected speech and women’s safety and Fourteenth Amendment-guaranteed equality. You may choose one side or the other, but I highly appreciate those who see the shades of gray in such a debate.

Questions you might consider include:

1. What are the dangers that stem from the production or consumption of pornography? What benefits will result if this law is passed and to whom?

2. What are the dangers that stem from the proliferation of censorship? What benefits will result if this law is defeated and to whom?

3. If you are opposed to this law, are there types of speech (i.e. content) that you do believe should not be legal?

4. If you are in favor of this law, are there types of sexual speech that you believe should be protected?

5. How might you revise the law to deal with some of the objections you might have?

6. If you are opposed to the law, how do you propose to deal with problems of gender inequality and violence against women?
DEFINITIONS

(1) "Pornography" means the graphic sexually explicit subordination of women through pictures and/or words, including by electronic or other data retrieval systems, that also includes one or more of the following:

• Women are presented dehumanized as sexual objects, things, or commodities.
• Women are presented as sexual objects who enjoy humiliation or pain; or as sexual objects experiencing sexual pleasure in rape, incest, or other sexual assault; or as sexual objects tied up, cut up, mutilated, bruised, or physically hurt.
• Women are presented in postures or positions of sexual submission, servility, or display.
• Women's body parts—including but not limited to vaginas, breasts, or buttocks—are exhibited such that women are reduced to those parts.
• Women are presented being penetrated by objects or animals.
• Women are presented in scenarios of degradation, humiliation, injury, or torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual.

(2) The use of men, children, or transsexuals in the place of women is also pornography for purposes of this law.

CAUSES OF ACTION

It is sex discrimination to:

(1) Coerce, intimidate, or fraudulently induce any person into performing for pornography, which injury may date from any appearance or sale of any product(s) of such performance(s). The maker(s), seller(s), exhibitor(s), and/or distributor(s) of said pornography may be sued for damages and for an injunction, including to eliminate the product(s) of the performance(s) from the public view.

(2) Force pornography on a person in any place of employment, education, home, or any public place. Complaints may be brought only against the perpetrator of the force and/or the entity or institution responsible for the force.

(3) Assault, physically attack, or injure any person in a way that is directly caused by specific pornography. Complaints may be brought against the perpetrator, and/or the maker(s), seller(s), distributor(s), and/or exhibitor(s) of the specific pornography.

(4) Defame any person through the unauthorized use in pornography of their proper name, image, and/or recognizable personal likeness.

(5) Traffic in pornography—to produce, sell, exhibit, or distribute pornography, including through private clubs.

5a. This section applies only to pornography made using live or dead human beings and/or animals.

5b. Isolated parts shall not be the basis for complaints under this section.

5c. Any woman may bring a complaint as a woman acting against the subordination of women. Any man, child, or transsexual who alleges injury by pornography in the way women are injured by it may also complain.