

POLICING THE INTERNET: *JAKE BAKER* AND BEYOND

March 9, 1995

QUESTION TEN: A QUESTION ABOUT CATHARINE MACKINNON'S POSITIONS ON OBSCENITY AND PORNOGRAPHY

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PROFESSOR LOWENSTEIN: Question right there?

AUDIENCE PARTICIPANT:

Yeah. Professor MacKinnon has stated that we now (inaudible) communication that's like any other communication speech and in a sense that it should be protected unless there is a show of harm. And there we have a show of harm and what do you interpret as show of harm.

They make efforts to show this real threat and the (inaudible) of what may be a real threat and that he threatened to carry out a place to be, et cetera, et cetera, to show this.

But then, you admit that, no, it's not just this issue of, is it a real threat but that you would be opposed to (inaudible) to display an expression of anything that shows women in this submissive position, and again, what is this interpretation, your interpretation, of submissive position, for example? Which were quite consensual, perhaps.

So I think you know (inaudible) try to show that, no, don't the issue -- the issue of is it a real threat, the details of the Baker case (inaudible).

But then it turns out it's really a broader issue. It's broader even -- Professor MacKinnon, you were actually, as I understand it, last year instrumental in suppressing a student in exhibition, and this particular entry showed and depicted various aspects of daily of life and the exploitation of, in the life of a prostitute, in which (inaudible). I think, the point is, the reason why it's not an issue of so much what are the details of this case, and what's the outcome, because I think that this (inaudible) that you were lucky enough to find someone who used a real name, who talked about making plans, who was foolish enough, in my opinion, to give his actual -- I mean to give up his privacy rights; hand it over to the FBI.

So I think that this stance shows, at very best, a naive faith in the government and a willingness to hand over the government, the state, the right to judge which speech should be suppressed and which speech isn't. As though this were some (inaudible) state. Now this is the state which carried out the McCarthy witch hunt, as you well know, FBI assassinations of civil rights, and other activists, assassinations and invasions overseas, it's right now, today, as well, moving to judicial code --

PROFESSOR LOWENSTEIN: I want ask you if you can narrow this down, if you have a question for somebody.

AUDIENCE MEMBER:

I was first going to ask, would your position really be different if there were no actual name mentioned, no supposed real plan of the abduction, but you, yourself answered that, so I will ask, what better hope is there for getting us (inaudible) and supporting the policy of suppressions of speech. When things begin with such a clearly compulsive (inaudible).

PROFESSOR MACKINNON:

I appreciate the chance to repeat myself and straighten some of this out. Although, I must say I'm not real optimistic about doing it. I said a showing of harm, that means that harm needs to be shown. I didn't say a show of harm -- showing of harm. The structure of what I said began by talking about, yes, indeed this is a threat. It is.

I then moved into saying other things that it also is. Now if it's possible to hold two thoughts in mind at the same time, they would be, first, that it is a threat, second, that there are things in addition to that that it is, a lot of which involve the pornography. That doesn't mean the pornography is not a threat, it simply means that the E-mail communications make very concrete the threat which is both contained in the pornography and the other aspects of the pornography then go beyond that threat.

Now, I was not instrumental in suppressing an exhibition. That isn't what happened. A complaint that there was pornography under the sponsorship of a student group here was made to me. I communicated the complaint to the student group, and told the student who asked me, 'How shall I get back to you on this?'

I stated, 'You are not accountable to me on this.' That student, together with others, went off and made a decision -- the only other thing, by the way, that I said to her was, 'Did anybody look at this before you put it up under your sponsorship?' She said, 'No, not that I know of.'

So the other thing I did suggest to her was that someone should look at it. That's what I said. Now I think that's generally considered speech, you know, when people look at things that are and consume it and so on.

I do find it fascinating the way pro-pimp forces characterize reality as a lucky break for people who seek to do something about pornography. Unfortunately everyday, there is yet another lucky break for us. That is to say, yet another woman being violated in very real ways through this stuff.

It's not a lucky break. It's reality and it keeps happening. And it keeps finding the people who haven't been able to be shut up on talking about it. How about that?

Now the only luck thing, I think, about this, aside from the fact that people are taking it seriously, which I don't know what to attribute that to, but I guess luck is as good as any, is that we do know so much about this man. That, indeed, does make this somewhat exceptional. Not entirely so, but somewhat so. And knowing as much as we do about him, by his own permission, has made it possible to fill out the picture that usually we are left imagining. In other words, usually we say, "Boy, I wish we knew more about this guy," what he really thinks, et cetera.

People relate to cyber space as putting in a lot of things that we have always known, or thought about, imagined, planned. If there's one, there's two, three, four, probably, but we don't know it. If he's thinking about it, maybe he's talking about doing it. But we don't always know that.

So, you know, the lucky break here, really, I would say, to the extent I would agree with you about that is that we know as much as we do about this piece of real life.