Reading Lolita at Guantánamo

Or, This Page Cannot be Displayed

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In January 2005, a federal judge threw out the Bush administration's most prominent prosecution against obscenity, in an opinion that cast doubt on the constitutionality of every obscenity prosecution in the country. The Court of Appeals reversed that decision in December, but it did not question the judge's conclusion that the U.S. Supreme Court had undercut the foundations of obscenity law. The Court may soon have to confront, for the first time in decades, the question of whether it makes any sense to say that obscenity is not protected by the First Amendment. The answer to that question sheds light on an apparently unrelated issue: the peculiar self-deceptions that underlie the practice of the "war on terror."

The obscenity case, *United States v. Extreme Associates,* is the first high-profile federal obscenity prosecution in years. The video on which the charges are based, *Forced Entry,* shows rape-murders in a way that is clearly intended to be arousing to the viewer. (The film is advertised on the producer's Web site as follows: "Homicidal Rapists and Serial Killers as well as the poor, lost sluts they Kidnap, torture, rape and Kill! ... Not For The Squimish [sic]!" http://www.extremeassociates.com/fforcedentry.htm) The prosecution was the centerpiece of Attorney General John Ashcroft's effort to reinvigorate obscenity prosecutions, an effort that Alberto Gonzales is continuing.

That task was never going to be easy. There was an enormous boom in pornography in the 1990s, fueled by the growth of the Internet and cable television. Large corporations such as AT&T, Hilton, and Marriott have joined in its distribution. (Half of all hotel guests pay to view adult movies in their rooms, according to a 60 *Minutes* broadcast from 2003.) The boom was abetted by a lack of interest among federal prosecutors, because Bill Clinton's administration had other priorities. Clinton's attorney general, Janet Reno, thought that only child pornography was worth prosecuting. Ashcroft arrived with a different agenda, but the distraction of the September 11 attacks meant that federal prosecutions of pornography have resumed only very recently. Material that would certainly have been suppressed a few decades ago, and that would offend nearly every community, is now available in vast quantities. A cursory Internet search quickly yields graphic sexual fantasies involving rape, torture, bestiality, excrement, vomit, cannibalism, and necrophilia.

Things might have been different had Republicans been in charge. The administration of the first George Bush went after pornogra- phers with such excessive zeal that they successfully sued the Justice Department, as one of the leading marketers, Philip Harvey, recounts in his 2001 book *The Government vs. Erotica.* The DOJ adopted the clever tactic of filing multiple charges against the same distributor all over the country, with the avowed purpose of exhausting the defendants' financial resources and forcing plea bargains. When the strategy was uncovered, a federal court issued an injunction against it. Bruce Taylor, a former federal prosecutor who was recently hired as senior counsel in the Justice Department, has said that if federal prosecutors had been more vigorous when the Internet was first coming into existence, the amount of pornography available now would be much reduced. "If there had been continued federal prosecutions, you wouldn't see the Internet presence of the porn syndicate as

big as it is today," Taylor told PBS in 2001. "But the combination of the industry's willingness to go on the Web in a big way—and the prosecutors not indicting them for that—allowed it to explode beyond anybody's imagination." That claim seems doubtful, as it is easy to set up offshore sites beyond the reach of federal prosecutors, but it shows the difference in the ambitions of the two administrations.

Ashcroft's biggest problem was that community standards have relaxed. That made the DOJ timid about starting prosecutions. Even in the Extreme Associates case, the government did not get an indictment for another film it seized—one that seems even more objectionable, because in it (I am not making this up) Jesus comes down from the cross and rapes an angel. Extreme's attorney, Louis Sirkin, told me he is confident he can defend *Forced Entry* as consistent with community standards. *"Forced Entry* is no worse than some of the slasher movies," he says. "It has a story line. The bad guy is caught at the end. It portrays violence, but lots of movies portray violence. It's not a movie that I would buy, but I wouldn't buy *Friday the 13th* and those kinds of movies." The difference, of course, is that *Friday the 13th* doesn't show sexual penetration. But lots of hotels in the Western District of Pennsylvania show films with sexual penetration. Could it be that neither the violence nor the sex is obscene, but that a film is obscene if it puts them together? That's the question that the jury will have to decide.

"We are afraid to lose," a spokesman for Ashcroft told *Citizen,* the Web-based magazine for the conservative group Focus on the Family, "because we are afraid we are going to lower the bar for pornography." If, say, a prosecution for close-ups of sexual penetration ended in acquittal, "we have now told people making pornography that clearly visible penetration is not obscene." Of course, the other horn of this dilemma is, as Taylor pointed out, that declining to prosecute such cases creates a de facto standard "that the only thing that's obscene is bondage and torture."

Nonetheless, the Extreme Associates prosecution shows that the Justice Department *is* primarily targeting bondage and torture. (There is one other target, which I will discuss shortly.) *Forced Entry* is as nasty a video as the DOJ could find, and so is as likely as anything is to violate community standards of decency.

Judge Gary Lancaster thought the prosecution was barred by the Supreme Court's 2003 decision in *Lawrence v. Texas,* which struck down a statute prohibiting homosexual sodomy. The *Lawrence* opinion, Lancaster reasoned, established that "public morality is not a legitimate state interest sufficient to justify infringing on adult, private, consensual sexual conduct." And that meant that no legitimate government interest supported the use of obscenity laws to prevent people from buying pornography for their private use. *Forced Entry* is not available in stores. Government agents had to pay for a subscription to the Extreme Associates Web site in order to purchase it. There is no danger that unwilling adults will be exposed to it. It is not available to minors.

The Court of Appeals thought that the issue was resolved by earlier Supreme Court precedent. The Court held in 1969 that "the mere private possession of obscene matter cannot constitutionally be made a crime." But it also held two years later that laws

prohibiting distribution of obscenity remained valid. The result is strange: the individual has a right to view obscenity at home, but the law can punish virtually every means of getting it. This anomaly is old, and *Lawrence* doesn't change it. The Court of Appeals thought that these more direct precedents made *Lawrence* irrelevant. "If a precedent of this Court has direct application in a case," the Supreme Court has declared, "yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls it, leaving to this Court the prerogative of overruling its own decisions." The Court of Appeals offered no opinion on the question of whether the rationale for obscenity laws had been undercut by *Lawrence.* "I took solace in the fact that they really didn't discuss the merits," said Sirkin.

Sirkin's hope, when he moved to dismiss, was that he could use *Lawrence* to get around a doctrine that the Supreme Court is unlikely to revisit—namely, that obscenity is not protected by the First Amendment. It was a clever strategy, and it paid off, if only by delaying the trial for more than a year. Because the *Lawrence* claim doesn't rely at all on the First Amendment, the court could accept it without questioning the obscenity doctrine. If the Supreme Court agrees that the state cannot burden "an individual's fundamental right to possess and view what he pleases in his home," then someone could still be prosecuted for, say, showing obscene materials in public or to unconsenting adults —not a trivial restriction in the age of Internet spam. But pornography distributors would be safe from prosecution as long as they are reasonably careful to distribute their materials only to those who ask to see them. Government would be out of the business of thought control.

But does obscenity law make any sense absent the aim of thought control? For a long time, claims have been made that obscenity can lead to lawless conduct. This rationale begs the question. There is a lot of violence in the media, but it is well settled that no amount of violence will make a publication obscene absent some sexual element.

The classic definition of obscenity in Anglo- American law is the 1868 English case *Regina v. Hicklin,* which holds that a publication is obscene if it has a "tendency ... to deprave and corrupt those whose minds are open to such immoral influences." That test was followed in American courts for years, and the current test for obscenity is a modified version of it. Chief Justice Warren Burger wrote in 1973 that "a sensitive, key relationship of human existence, central to family life, community welfare, and the development of human personality, can be debased and distorted by crass commercial exploitation of sex."

The real problem with obscenity, according to the Court, is that it presents a "debased and distorted" view of what sex is about. The harm it seeks to prevent is moral harm: readers and viewers will be persuaded to adopt a morally debased view of sex.

The idea of moral harm is neither crazy nor the exclusive property of the religious right. It is what most parents have in mind when they screen what their children are allowed to see. If someone causes Sam to regard other people's bodies as mere opportunities for his pleasure, so that Sam now takes no interest in the persons who

inhabit those bodies, then Sam has indeed been depraved and corrupted. Of course, the sadism of the Extreme Associates video goes even further, beyond callous self-centeredness to outright cruelty. This is why Extreme Associates is regarded as beyond the pale even by most of the pornography industry.

When we try to think through how literature causes moral harm, matters become more complicated. In his book *The Company We Keep: An Ethics of Fiction,* Wayne Booth developed a sophisticated account of the moral effects of literature. As we read, "a large part of our thought-stream is taken over, at least for the duration of the telling, by the story we are taking in." The reader is invited to view the world in the same way that the narrative does. Literature is good for us when it teaches us to view the world, and particularly human interaction, subtly and sensitively. The "facts" that we take in when we read a narrative are of two kinds, Booth argues. One is "nonce beliefs," which the reader embraces only for the duration of the story: "Once upon a time there was a farmer who had the good fortune to possess a goose that laid a golden egg every day ..." But any story will also depend for its effect on "fixed norms," which, Booth notes, are "beliefs on which the narrative depends for its effect but which also are by implication applicable in the 'real' world." When Aesop concludes the goose story with the claim that "overweening greed loses all," the reader is meant to keep thinking that once the story is over. And the point applies to all fiction, whether or not it has overt moral lessons as Aesop's does.

Morally bad literature is literature that promulgates morally bad fixed norms. Just as good literature invites us to perceive the world subtly and empathetically, it is possible —indeed, it is common—for novels or films or television shows to view the world crudely and insensitively, and to spin out self-aggrandizing fantasies that invite self-centeredness and cruelty. There is a lot of that stuff in our culture. It is a huge problem. Will censorship make matters better?

It's unlikely. First, even the most evil ideas are protected by the First Amendment. Government can't stop Nazis from publishing fascist propaganda. Defenders of obscenity law get around this difficulty by regarding sexual arousal as entirely unrelated to ideas, and so insidious that it short-circuits the normal process of rational assessment of texts. But the argument doesn't work. Most human sexual behavior, like most human behavior in general, responds rationally to incentives.

The legal standard for determining obscenity also focuses rather determinedly on irrel- evancies. The current test for determining whether a publication is obscene, laid down in 1973 in *Miller v. California,* is

> (a) whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest, (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

The concern about corrupt fixed norms is not identical with, and only fortuitously overlaps with, concern about the dissemination of any particular image or subject matter. The *Miller* test addresses problems of vagueness by declaring that any obscenity statute must specifically define the conduct that may not be depicted, and offers as examples "[p]atently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated," and "[p]atently offensive representation or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals." Justice William J. Brennan, Jr., reportedly relied on what his clerks called the "limp dick" standard, according to which a work was obscene if and only if it showed an erect penis.

But the content of any photo or film has no necessary relation to the fixed norms it propounds. The most problematic type of pornography is that which, like *Forced Entry,* portrays violent sex in an arousing way. It is this type that has been shown in laboratory experiments to make male viewers more willing to aggress against women and more tolerant of rape. If one were to be concerned merely about portrayals of sexual violence, however, then one would be required, absurdly, to ban feminist films such as *Boys Don't Cry.*

Even with portrayals of sexual violence that make the violence appear attractive, matters are complicated. There may be valid moral reasons for such portrayals. One of the most vivid literary treatments of sexual cruelty is Vladimir Nabokov's 1955 novel, *Lolita,* which is told from the point of view of the eloquent and witty pedophile Humbert Humbert. For half a century critics have debated whether Nabokov went too far in letting Humbert's voice dominate the novel. *Forced Entry* isn't *Lolita,* of course. *Lolita* is a literary classic, and *Forced Entry*—to put it gently—is not. And this matters, because under the *Miller* test material can't be obscene if it has substantial literary value.

IF you're concerned about moral harm, however, literary value may just make matters worse. Humbert's perspective is presented with dazzling skill. A sample: "I do not intend to convey the impression that I did not manage to be happy. Reader must understand that in the possession and thralldom of a nymphet the enchanted traveler stands, as it were, beyond happiness. For there is no other bliss on earth comparable to that of fondling a nymphet. It is hors concours, that bliss, it belongs to another class, another plane of sensitivity." Gee, that sounds great. I have not seen *Forced Entry,* but I will bet that it doesn't make the case for the delights of committing rape nearly as well.

Many readers will not notice how Nabokov subtly subverts his narrator's ingenious apologetics. The same problem is present in any narrative that makes the appeal of evil actions intelligible, such as that of John Milton's heroically defiant Satan in the early pages of *Paradise Lost.*

On the other hand, as Azar Nafisi shows in her recent best seller, *Reading Lolita in Tehran,* some readers will see Nabokov's subversion of Humbert very clearly, and will be grateful for this window into the mind of a certain familiar type of solipsistic wielder

of power. Nafisi's memoir describes the meetings of a clandestine book-reading group of women in modern Iran. Ayatollah Ruhollah Khomeini's regime was brutal in the fashion typical of any authoritarian regime, routinely jailing and killing its critics. But its peculiar brand of Islamic fundamentalism also called for micromanaging the lives of everyone and of women in particular. A woman could be punished for running, or giggling, or talking to a man, or because strands of her hair showed from underneath her veil. One woman was expelled from college because a man complained that he had been aroused by a visible patch of her skin. Another's only offense was her striking beauty; she was jailed on a trumped-up morals charge and repeatedly raped by the guards. In this regime, reading Western texts was an act of active subversion. Nafisi notices a parallel between what Humbert tried to do to Lolita and what Khomeini tried to do to his subjects: both involve "the confiscation of one individual's life by another." "Humbert, like most dictators, was interested only in his own vision of other people. He had created the Lolita he desired, and would not budge from that image."

Portrayals of evil such as occur in *Lolita* are risky, but morally valuable, precisely because they help to dispel the comfortable notion that evil is wholly other. That notion tends to beget the thought that what we are doing cannot possibly be evil, since we are the ones who are doing it.

And here is the connection to the "war on terror." It is more than coincidental that the same Department of Justice that has revived obscenity prosecutions has also found itself defending the extraction of forced confessions from alleged terrorists who turned out to be innocent. The Bush administration has also interned more than five thousand people without charge and has held some for years, but it has obtained only a few dozen convictions. The administration has claimed, in the *Padilla* and *Hamdi* cases, the right to hold anyone without charge indefinitely, on the basis solely of the president's word that the prisoner is a terrorist. And there have been numerous revelations of torture, including cases where prisoners were tortured to death, in Afghanistan, Iraq, and Guantanamo. Senator Jim Talent (R-Mo.) responded to these abuses summarily: "I don't need an investigation to tell me that there was no comprehensive or systematic use of inhumane tactics by the American military because those guys and gals just wouldn't do it."

In each of these cases, the administration's remarkable confidence in its own virtue and trustworthiness is doing a great deal of work. Long-standing constraints on government power are casually discarded. Justice Antonin Scalia observed in the *Hamdi* case that "The very core of liberty secured by our Anglo-Saxon system of separated powers has been freedom from indefinite imprisonment at the will of the Executive." But the administration thinks these traditional restraints aren't necessary anymore, because citizens can trust their government to know what is best. (Strangely, this contempt for the achievement of centuries goes by the label of "conservatism.") And this self-confidence is accompanied by a determination to count the victims as nonpersons—a tendency that reaches its maximum in the litigation concerning the Guantanamo prisoners, who, the administration contends, have no rights whatsoever—neither as criminal suspects

nor as prisoners of war. "The important thing to understand," Vice President Dick Cheney said, "is that the people that are at Guantanamo are bad people. I mean, these are terrorists for the most part."

Nafisi thinks that "respect for others, empathy, lies at the heart of the novel" as a literary form. The villain in modern fiction, in Austen and Flaubert and James and Nabokov and Bellow, is "a creature without compassion." And this view had political implications. It explained why literature classes were so subversive in the totalitarian regime that is modern Iran. "Lack of empathy was to my mind the central sin of the regime, from which all the others flowed."

The debate over the treatment of prisoners has often focused not on whether torture is happening, but on whether critics of that treatment have used intemperate rhetoric. Amnesty International issued a report in May 2005 detailing the abuses to which captives were routinely subjected. The report's list of interrogation techniques is exhausting and dispiriting to read: forced walking barefoot on barbed wire, pepper spray in the eyes, cigarette
burns, death threats, dousing in cold water (sometimes approaching the point of drowning), electric shocks, exposure to extreme cold, deprivation of food and water, mock execution, punching, kicking, sleep deprivation, withholding of toilet facilities, and, of course, as well documented from the Abu Ghraib photos, humiliating use of nudity. It also described twenty-eight cases of prisoners who had died in custody, often after beatings. The press didn't pay much attention to any of this, but many stories appeared on the negative reaction to Amnesty's description of Guantanamo as a "gulag." Senator Richard Durbin read an FBI agent's description of detainees at Guantanamo who had been left "chained hand and foot in a fetal position to the floor," where they had "urinated or defecated on themselves, and had been left there for 18–24 hours or more." One detainee was nearly frozen by intense air conditioning; another, in an unventilated room where the temperature was over 100 degrees, was nearly unconscious, with a pile of hair next to him, which he had apparently been pulling out throughout the night. These facts got much less attention than Durbin's statement that "If I read this to you, and did not tell you that it was an FBI agent describing what Americans had done to prisoners, in their control, you would most certainly believe this must have been done by Nazis, Soviets in their gulags or some mad regime—Pol Pot or others—that had no concern for human beings." The *Chicago Tribune* denounced Durbin on its editorial page, White Flouse spokesman Scott McClellan denounced Durbin's statement as "reprehensible," and Rush Limbaugh said that the statement "is the kind of thing that ought to force him to resign in disgrace." Within a few days, the pressure on Durbin became so intense that he was forced to apologize, with his voice trembling, on the Senate floor. In both cases, what was actually being done to the prisoners disappeared from view. Those details did not fit comfortably into the narrative that the press wanted to tell—a narrative of a pure and innocent Us against an evil and alien Them. What elicited moral outrage was not the abuse of prisoners, but the fact

that someone was saying bad things about what Americans were doing. (Months later, Congress did pass a law prohibiting torture. Nobody has apologized to Durbin.)

Talent has a point: how is it possible for those guys and gals, people so much like us, to behave so badly? Well, here's another connection with the obscenity debate: perhaps the corrupting effect of bad literature does have something to do with it. Iris Murdoch, the philosopher and novelist, who thought as profoundly as anyone about the connection between morality and literature, wrote in *The Sovereignty of Good* that the chief enemy of morality is "personal fantasy: the tissue of self- aggrandizing and consoling wishes and dreams which prevents one from seeing what is there outside one." Moral harm may be understood precisely as mistaking such fantasies for reality. The best art, Murdoch argued, is that which "shows us the world, our world and not another one, with a clarity which startles and delights us simply because we are not used to looking at the real world at all."

One story that dominates American popular culture, from R-rated movies to Disney cartoons, is a struggle between good guys and bad guys, in which the problem is solved in the end by the death of the bad guy. The reader is invited into a world in which violence is the answer to all our problems, and the only question is whether the evil ones will in fact be wiped out. It is a tale that bears a striking resemblance to the worldview of the September 11 attackers. Under some circumstances, such narratives are accurate, preeminently during the Second World War, which still dominates the American imagination. (Even then, a more ambivalent view of our ally Stalin would have served us better.) But that narrative is a dangerous paradigm with which to approach the world, which is usually much more complicated. At Abu Ghraib, for example, it seems to have made it harder for the jailers to notice that the overwhelming majority of their prisoners were innocent people who were merely picked up on the basis of suspicions later proved groundless.

The same narrative appears to have played a large role in the biggest foreign policy disaster since the Vietnam War: the failure adequately to plan for the occupation of Iraq. Bush and his advisers desperately wanted to prevail there. They doubtless feared above all that Americans would die unnecessarily if they failed to plan adequately for the war. Yet somehow, none of them could comprehend that their difficulties might not be conclusively solved by the defeat of Saddam Hussein. Chalk another one up to the corrupting effects of bad literature.

The absence of empathy, the conviction that our adversaries are weird and entirely unlike us (and correspondingly, that people who seem weird are our enemies), is also at the heart of today's obscenity policies. The Justice Department has not only prosecuted violent pornography. The real criterion appears to be whether the pornography is of a kind that will disgust a jury. In August 2003, Michael Corbett and his ex-wife, Sharon Bates, were convicted of selling videos of women defecating, with titles such as *Outdoor Pooping Paradise* and *Scat Sampler.* Broke and fearful of longer sentences, the two accepted a plea bargain. Corbett got eighteen months in prison, three years' probation, and a $30,000 fine. Bates got thirteen months, three years' probation, and a

$10,000 fine. They forfeited $15,010 seized from their bank accounts and the equipment used to make the videos. They agreed to pay an additional $60,000 to avoid forfeiting their home, which had been used in the sale of the obscene materials. Their Internet domain name, girlspooping.com, became the property of the United States. If you visit it today, you will find only the Justice Department's press release announcing the conviction.

Deputy Assistant Attorney General John G. Malcolm, head of the Child Exploitation and Obscenity Section, explained the meaning of the conviction thus: "This type of material has a coarsening and desensitizing effect on our society, and can lead some to commit other degrading, and sometimes violent, sexual offenses against others.''

Not much is known about why some people are turned on by the sight of women defecating. It might have something to do with early childhood toilet training. It might involve the expiation of deep shame or guilt. Who knows? There is, however, no reason at all to think that pornography that appeals to such people will lead to an increase in violence. With a rape film like *Forced Entry,* one can at least construct a plausible scenario in which a "monkey see, monkey do" effect leads to actual harm. But what do you imagine that *Outdoor Pooping Paradise* is going to incite? Magical thinking is going on here: these people are very strange to us; they are nothing at all like us; therefore they are dangerous and have to be suppressed.

Somebody in this story is in the grip of a violent sexual fantasy. But that person is Malcolm, not Corbett. As Nafisi observes, "all oppressors have a long list of grievances against their victims, only most are not as eloquent as Humbert Humbert." Malcolm is obviously disturbed by Corbett's videos. Those videos are not to my taste, nor perhaps to yours. But they were distributed by mail order. No unwilling person ever had to see them. Malcolm, though, is the scary one: he is deluded, he has plenty of political power, and so he gets to send Corbett to jail.

One of Sigmund Freud's key insights was that the overt and latent content of fantasies (sexual or otherwise) are likely to be very different from each other. Sexual fantasies operate at a quasi-infantile level of consciousness, where the superego cannot operate and where moral judgment is misplaced. Nancy Friday's reports of women's sexual fantasies found that rape scenarios are exceedingly common. (Friday thinks that the fantasy served to absolve the women of guilt, because the sex that occurred was not their fault.) The disproportionate importance of latent content in pornographic texts complicates the effort to discern the fixed norms in those texts.

The obscenity section of DOJ and the jailers of Guantanamo are very far apart, but these branches have a common root. Evil is rarely committed by mustache-twirling villains. More often it is done by people who have succeeded in weaving an elaborate tissue of self-justification, so well-crafted that it completely masks the reality of what they are doing to other people. The Bush administration's serene confidence in its own innocence, and in the absolute evil of its adversaries, is the scariest thing about it.

The Justice Department has appealed Judge Lancaster's decision. Perhaps the most powerful support for his reasoning is a Supreme Court decision that he does not men-

tion. In *Ashcroft v. Free Speech Coalition,* the Court invalidated a law that prohibited "virtual child pornography": sexually explicit images that appear to depict minors but which were actually produced by computer imaging or by using adults that look like children. "As a general principle," Justice Anthony M. Kennedy explained for the Court, "the First Amendment bars the government from dictating what we see or read or speak or hear." There was no compelling interest that could justify such a broad prohibition, the Court reasoned. Any causal link between such images and actual child abuse was "contingent and indirect." Government had a legitimate interest in preventing children from seeing such images, but "speech within the rights of adults to hear may not be silenced completely in an attempt to shield children from it."

Ashcroft v. Free Speech Coalition leaves an enormous incoherence in the law of obscenity. For if the idea that children are appropriate sexual objects, presented in a sexually alluring way, is not terrible enough to justify suppression, then what idea could possibly be so much worse that it is beyond the pale? It is no longer clear that moral harm can justify suppression. If (and it is a big if) the Court follows the logic of its decision, that will be the end of obscenity law.

The lesson Nafisi took away from her experience was that "genuine democracy cannot exist without the freedom to imagine and the right to use imaginative works without any restrictions." Nafisi obviously didn't have *Forced Entry* or *Outdoor Pooping Paradise* in mind. The appeal of those films may be strange, but that doesn't mean that censorship is harmless.

The unconscious mind has its own logic. Sexual desire is not an animal process. Animals do not have fetishes or need to act out sexual scripts. These are distinctively human activities. They reveal the creative potential of the human mind. For that reason, they have a dignity of their own. If people are entitled to respect, then their sexual desires are entitled to respect. People live better lives if they have some space in which those desires are not judged. The impulse to crush what is strange and disgusting is as dangerous here as it is in Iran.

The undeniable crudeness of our culture, which largely motivates the call for censorship, is mirrored by the crudeness of the would-be censors' understanding of what is wrong with that culture. The problem, apparently, is not that so much popular entertainment is crass and exploitive. It is not even the cold, performance-driven conception of sexuality that pervades so much pornography. The problem, we are told, is that we once saw Janet Jackson's breast on television. It is not clear what the remedy could be for this foolishness, but empowering politicians to be our supreme cultural critics will make the problem worse.

Forced Entry is nasty, but the availability of such trash in a regime of free speech has its benefits. Depictions of evil that make evil attractive are troublesome. It is dangerous to feel empathy with evil people. If we can place ourselves in their skulls, then we can experience the temptations to which they have succumbed. If we do not do that, if the law polices what we see to make sure that we do not do that, then we cannot see the ways in which we are like evil people. And that means that we don't

see our own temptations. The comfortable, secure belief in our own innocence is the most insidious temptation of all. Next to that, the seductiveness of sex is pretty tame. Andrew Koppelman is the author of "Does Obscenity Cause Moral Harm?", recently published in the *Columbia Law Review,* and *Same Sex, Different States: When Same-Sex Marriages Cross State Lines* (forthcoming from Yale University Press).

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