

## **POLICING THE INTERNET: *JAKE BAKER* AND BEYOND**

**March 9, 1995**

### **QUESTION THREE: HOW CAN THE INTERNET BE USED FOR EMPOWERMENT?**

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**PROFESSOR LOWENSTEIN:** Question, here.

**AUDIENCE PARTICIPANT:**

This is a question for Mr. Steinhardt, but perhaps Ms. MacKinnon would also like to comment after Mr. Steinhardt. The Nation Magazine, a strong advocate of equalizing power between the sexes and a strong critic of Catharine MacKinnon's way of doing it, says we need to organize impassioned public censure; C-E-N-S-U-R-E, not the state censor, so when I refer to that, I include civil remedies and state Courts that are as fierce or fiercer than the criminal records. Doesn't the Internet create an exciting new opportunity, to use organizing to empower women and to protect all impressed with violence, not only violence of rape, but police violence, state violence, and work violence, and isn't the state interference with pornography being used to coerce accepting censorship of one form or another, who's end purpose is to protect the military industrial complex and trust, mass education, and organized democracy.

**PROFESSOR LOWENSTEIN:** Barry Steinhardt, do you want to try to answer that?

**BARRY STEINHARDT:**

I will try to answer that without making reference to the military industrial complex.

**PROFESSOR LOWENSTEIN:** Maybe you can summarize what the question was?

**BARRY STEINHARDT:**

No, I'm not going to attempt to do that, I'm just going to try to answer it, as I prefer to understand it.

*(Laughter)*

One of the things that we didn't talk about, I don't know if it's unique, but certainly distinctive about interactive communications, is that interactive communications give you the ability to respond to speech that you find distasteful or offensive or whatever, instantly, and to do it reaching exactly the same audience, through exactly the same medium.

For example, if you're a follower of a news group about the Holocaust -- this is a real example some of you may know -- and you read that someone out there is denying that the Holocaust, that the mass slaughter of 6,000,000 Jews ever took place, you have the capacity, by hitting that reply button, to respond instantly, and to reach the very same people and it costs you nothing more than whatever your, you know, minute-by-minute charge is from your particular provider, whether you're on one of the commercial providers or on the Internet.

That is very different, you read something you don't like in the New York Times, or the Detroit Free Press, or whatever. What's your remedy? Well you can try to write a letter to the editor. But there are lots of letters to the editor. Your chances of being published are pretty slim, and certainly you're not going to get the same play as a front page story got.

It really is very different out there, and it does empower people to respond to what they regard as bad speech with good speech, and I think we have to keep that feature in mind.

**PROFESSOR LOWENSTEIN:** Do you want to comment on that, Catharine MacKinnon?

**PROFESSOR MACKINNON:**

Your plug for the Nation made me feel really good about it. Better than I have in some time.

*(Laughter)*

I think it's clear, from what I said, that I think that the Internet, as such, does provide a marvelous possibility for communication, organizing, and speech among people who have had fewer resources than international corporations, whose speech is the speech that has been protected mainly to date. And, yeah, I think it's a great thing. The repeated use of the word, 'interactive,' I would just like to add something about that, and that is there's another thing going on, and that's the development of interactive pornography. Which I think does begin to raise some slightly different issues than we've seen in pornography to date. That is, interactive pornography in which the consumer, I think appropriately called the user here, can feed back into the computer what he wants to see and have the woman on the screen perform, or be seen to perform a whole series of acts and so on, in interaction with him and his demands. In other words, this moves it increasingly yet one more step closer to the real enactment of it on a person. It makes it more real. I'm not saying the other isn't real, I'm just saying it does make it -- that level of interaction with it poses, I think, the possibility as the technology improves of -- you know, I don't know why everyone else doesn't think this is the most interesting issue of the relationship between art and life that's ever been conceived here. It is, you know, it is elaborate. It is immediate. And the relationship between these materials and the living out of real life, I think, has the possibility of taking yet another step, you know, in the direction of art being life even more closely than it has before through this use of the word interactive in this medium.

**DANIEL WEITZNER:**

I just want to say your question prompted this thought that I think we're all in, you know, resounding agreement that this technology has the potential to change some of the significant power relationships that have shaped media, that have shaped expression. I think we all agree on that.

I do think that we are, in a sense, in looking at pornography as Professor MacKinnon would have us look at it where words act. I think there's something that is quite timely about that notion really in connection with a number of other issues that arise on the Net.

It is timely because not only are we, as Barry said, in a communications revolution, probably more importantly we're in an information revolution. And I always hate that term, but there is a

little bit of -- there is, I think a lot of truth in the notion that our economy is increasingly information based. Well, information is words, is speech.

The problem that we are facing in a number of areas in the encryption arena that people have brought up is that speech is also becoming property. What some people would see as discourse and dialogue involving the words and information of others, can also be construed as theft and misappropriation of that property.

So we have, I think, blurring lines here between speech, property and action that I really think we have to start sorting out.

It is not simply enough to say that everything that goes on the Internet is discourse and it is by definition protected by the First Amendment.

This may be sacrilege, I'm a little uncomfortable about saying it, but I think we have to face it. I really think we do.

That if we're in an information economy, if the terms that somehow bind and mediate our society are increasingly information, that can't all just be absolutely protected under the First Amendment. We're going to have to start sorting out these lines.

I happen to think that pornography may be a particularly bad case to try to sort out a lot of those lines.

*(Laughter)*

**DANIEL WEITZNER:**

But I think it's an instructive case. I do.

**PROFESSOR MACKINNON:**

It's a particularly bad case because of what it makes you need to think, right?

**DANIEL WEITZNER:**

Well, I'm not sure why it's a bad case.

**PROFESSOR MACKINNON:**

In other words, I'm suggesting it makes you need to think that something has to be done about it if you go down that road, or does it not?

**DANIEL WEITZNER:**

No, no, no. It's because I'm not sure that what has to be done about pornography is the same thing that has to be done about speeches property or anything else.

**PROFESSOR MACKINNON:**

I agree with that. I would agree.

**DANIEL WEITZNER:**

I don't think that the solutions are the same, and I think if we try to have First Amendment rules that are shaped by a response to pornography, they're not going to be the same kind of First Amendment rules that are shaped by political discourse or by exchange of property.

I think we've got to sort all these things out.

My concern simply is that we seem to be sorting them out first, driven by pornography, and I don't know that that's -- which is not to say we shouldn't sort out that -- but we shouldn't extend that to these other areas.

**PROFESSOR MACKINNON:**

I completely agree that an analysis of pornography and the way it is approached is and needs to be kept very specific to it. It is a very specific kind of thing.

What I would just like to inject in this though, that is so amazing is, what is it about this cyber space that has permitted this discussion? That is to say, the discussion about pornography, about how it is that it can be that words do things. Why is it possible that all of a sudden people are seeing that here? You know, why do we need this screen around this thing for people to come to see that this thing that is going on in what is called RL? Why is it more real in VR than in RL -- put it that way -- you know suddenly?

There's an amazing article that I'd like to refer you all to by Julian DeBelle, which was in the "Village Voice," December 21, 1993, called "Rape in Cyber Space," and I made a brief reference to what happened there.

He says towards the end of this:

The commands that you type into a computer are a kind of speech that doesn't so much communicate as, in italics, make things happen directly and intellectually the same way pulling a trigger does. I can no longer convince myself -- this is Mr. DeBelle -- that our wishful insulation of language from the realm of action has ever been anything but a valuable kludge of philosophically damaged stop gap against oppression that would just have to do till something truer and more elegant came along.

The end of quote from him.

It is thinking about cyber space that led him to see that words do real things.

Of course, the next necessary question is, you know: if they do that in cyber space, why don't they do that in the rest of the world?

**PROFESSOR LOWENSTEIN:** Virginia Rezmierski, you had a comment.

**VIRGINIA REZMIERSKI:**

Quickly.

The two concepts that are really important, it seems to me, that keep coming back to this and certainly the concepts that show up in so many of the incidents that we're dealing with are the issues of intrusiveness, and certainly the technology is intrusive. It intrudes on my desk every morning with a hundred E-mail messages in every minute later as I have to use it to do my scheduling over Meeting Maker, or whatever. So it has intrusive components in and of itself. But what people can do with the technology is also intrusive. So one concept is intrusiveness.

Another concept is a concept and the importance of empowerment. I think that when we start talking about electronic access to pornography we mix some things.

We mix the issue of access and our rights to access or not access material.

The position of the university has been that we will not censor -- that the university community has the right to access anything it wishes to access for its purposes.

Now, put access aside for a second, though that's not altogether an easy thing to do in these circumstances.

The second piece of this that always gets mixed in with when we talk about pornography is what people get to do with the stuff they have accessed. And these are the kinds of incidents that we are experiencing.

An individual will access pornography, or something that someone else may find to be offensive, and then send it to their electronic mail or dump it into their class account so that people are unwittingly exposed without making any decisions that they wish to access that material. Their rights to make an access decision are taken away by the person who exercised their right to access it.

The material is dumped on a common printer, so you go to pick up your material, you have to be exposed to the material that someone else accessed while they sit back and watch their intrusive act on your behavior.

So there are big issues that we need to deal with at a university, it seems to me, and that is, how to empower individuals to make determinations about their boundaries and to be able to say: you don't have the right to exercise your rights on one side and take away my rights on another.

I think it's important for us to keep these two issues separate. Access is a really important one when it comes to censorship or non-censorship. But equally important is the issue of my rights to make a decision about my work and personal space. And that's an empowerment, an issue of limiting the intrusiveness of both the technology and other individuals on me.

*(Applause)*