

**UCLA**

**UCLA Women's Law Journal**

**Title**

*The Jaguar and the Anteater: Pornography Degree Zero* By Bernard Arcand (Wayne Grady, Trans. 1993). New York, N.Y.: Verso Publications. Price: \$29.95

**Permalink**

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**Journal**

UCLA Women's Law Journal, 4(2)

**Author**

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**Publication Date**

1994

**DOI**

10.5070/L342017604

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# BOOK REVIEW

## THE JAGUAR AND THE ANTEATER: PORNOGRAPHY DEGREE ZERO

BY BERNARD ARCAND (WAYNE GRADY, TRANS. 1993). NEW YORK, N.Y.: VERSO PUBLICATIONS. PRICE: \$29.95.

Reviewed by Barbara J. Harris\*

*The two of them were naked, the man and his wife, and they were not ashamed.*<sup>1</sup>

*'And they were not ashamed.' They did not know the ways of modesty to distinguish between good and evil.*<sup>2</sup>

*Pornography itself is an empty vessel. It is sex that is so gratuitous as to be excessive. Better still, real pornography is always what is found in the bunker of the defeated dictator, or in the apartment of the serial killer.*<sup>3</sup>

### INTRODUCTION

For such an empty vessel, the subject of pornography has received much attention and has long been discussed as part of a series of endless and inconclusive debates.<sup>4</sup> Pornography appears to be an inevitable and inescapable part of modern society, yet it has been “universally condemned” in public.<sup>5</sup> In *The Jag-*

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1. *Bereishis* 2:25, in 1 THE METSUDAH CHUMASH/RASHI 30 (Avrohom Davis & Avrohom Kleinkaufman, trans. 1991) [hereinafter METSUDAH CHUMASH].

2. Rashi, *Commentary on Bereishis* 2:25, in 1 METSUDAH CHUMASH, *supra* note 1, at 30.

3. BERNARD ARCAND, *THE JAGUAR AND THE ANTEATER: PORNOGRAPHY DEGREE ZERO* 58 (1993).

4. *Id.* at 59.

5. *Id.*

*uar and the Anteater*, Bernard Arcand purports to provide some explanation for the creation and persistence of pornography in modern society. Arcand notes that the subject of pornography already has been dealt with by an array of notable scholars including George Steiner, Susan Sontag, Roland Barthes, among many others, and accordingly admits that the subject must be tackled with a "good dose of humility."<sup>6</sup> Unfortunately, there is nothing humble about Arcand's approach.

Arcand commences his discussion with disclaimers about how difficult the subject of pornography is, then proceeds to discredit the definitions and debates surrounding pornography for the last several hundred years. Although Arcand then attempts to develop his own unique thesis explaining, defending, and justifying the existence and nature of pornography, he subjects the reader to more than two hundred pages of his predecessors' theses before presenting his own. By that time, Arcand has deluged the reader with so many varying thoughts on the subject, it is difficult to discern where Arcand is criticizing his predecessors and where he is presenting his own views. Only in the final pages do we learn anything about the jaguar or the anteater, and even then the link between these animals' traits and the author's thesis is tenuous at best.

Nonetheless, Arcand presents some unusual and interesting views (whether his own or his predecessors') about the nature of pornography. This Book Review attempts to present some of Arcand's more intriguing concepts, supplemented with my views on the subject, as influenced by the teachings and practice of traditional Judaism.

### I. THE DEFINITIONS OF PORNOGRAPHY

Arcand aptly notes that pornography typically has not been defined by what it is, but rather by what it does. "[Pornography] is known primarily by its effects."<sup>7</sup> The scientific approach, or the "View from the Ivory Tower," defines pornography as "the representation of obscene things," which deliberately offends public decency by evoking shame or unease.<sup>8</sup> The definition is therefore dependent not only upon the content of the representation, but the relationship between the content and its historical

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6. *Id.* at 12.

7. *Id.* at 23.

8. *Id.* at 24.

and social context.<sup>9</sup> According to Arcand, pornography is a social phenomenon, labelled and defined by the society to which it belongs (or, to be more precise, from which it is excluded).<sup>10</sup> There is no specific content that can be labelled pornographic; rather, a representation only becomes pornographic by its context or effect.<sup>11</sup> "The same object or image will take on different meanings depending on whether it appears in a medical textbook, a sexology clinic, page seven of a tabloid newspaper, or a school of fine arts."<sup>12</sup> In other words, objects which in one context may be subject to censorship as pornographic may become protected when displayed as a work of art. Thus, the definition is inherently fraught with subjectivity and uncertainty.

The ultimate subjective standard is the "I know it when I see it" standard first articulated by Justice Potter Stewart in *Jacobellis v. Ohio*.<sup>13</sup> One problem with this definition is that, like the other definitions discussed by Arcand, it is contextual and not absolute. There is no "bright line" to be drawn between pornography and art or erotica.<sup>14</sup> What one may know to be pornography, another may as surely know to be art.

In the modern era, pornography is defined by the ever-expanding industry of pornography.<sup>15</sup> The resounding growth of this multi-billion dollar industry has continued to alter the boundaries of what has been historically defined as pornography.<sup>16</sup> The development of modern technologies will continue to change the nature and boundaries of the industry, moving the

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9. *Id.* at 28.

10. "An object thus becomes pornographic when removed from that which seems necessarily to belong to it." *Id.* at 29.

11. *Id.* at 28.

12. *Id.*

13. *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring). Although the issue in this case was whether a certain film was obscene under criminal standards, Justice Stewart opined that criminal laws on obscenity were limited to restrictions on "hard-core pornography," and that he "knows" such pornography when he sees it. *Id.*

14. ARCAND, *supra* note 3, at 27.

15. The industry of sex has been expanding not only in content ("every possible position, every imaginable combination of partners, every known or suspected perversion, every conceivable animal of the appropriate size"), but also in scope, as it aims to reach a wider audience, comprised of men and women of all sexual persuasions. *Id.* at 35.

16. For example, the black and white photos of slightly oversized women in "suggestive poses" typical of the early 1950s would hardly be ranked as top-billing in today's pornographic magazines. *Id.* at 33.

consumers of pornography from the cinemas of Forty-Second Street to the privacy of their own homes.<sup>17</sup>

Despite its overwhelming success from a business standpoint, as an industry pornography has been relegated to the fringes of society.<sup>18</sup> The pornography industry inevitably exists, and is tolerated, but not defended. "Like a wart on an otherwise perfect body, it is something we are aware of but hope everyone will forget about."<sup>19</sup> Arcand argues that, regardless of the admitted lack of quality in the products made and promoted by the industry, pornography is a phenomenon that has become an open and notorious part of modern society.<sup>20</sup> It is a product of the modern era as unavoidable as procreation itself. However, Arcand never satisfactorily explains why.

Finally, Arcand postulates that pornography is defined by the legislation of pornography. In other words, those in power determine what is pornographic and then serve as the official censors of pornography based on their decided definition. Arcand perceives censorship as a barometer of the "state of society" and the expression of the majority of its citizens' views.<sup>21</sup> Censorship therefore silences what is perceived to be "contrary to the normal order of things."<sup>22</sup> However, as pornography enters the private realm, censorship becomes both increasingly necessary and difficult to effectuate without a corresponding invasion of privacy.<sup>23</sup> The political will typically does not silence what is conducted in private.<sup>24</sup>

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17. Pornography has become increasingly available to private consumers by way of pornographic videos and "phone sex," soon to be further expanded by the use of "computer sex," which will allow for a "creative pornography tailored to the individual tastes of the user, whose only requisite for happiness is a sympathetic and anonymous soul somewhere out there on the electronic network." *Id.* at 42.

18. *Id.* at 44.

19. *Id.*

20. *Id.* at 48.

21. *Id.* at 53-54.

22. *Id.* at 54.

23. Arcand explains that when pornography was only accessible to those in power, it did not pose a threat to the order of society and therefore did not need to be censored. With the spread of the industry of pornography, and the move of the pornographic forum from public to private, pornography has been "spread out among the people who, like children, had to be protected by law. Until then, it would have been pointless to make laws for people who knew very well how to remain above them." *Id.* at 55.

24. For example, as the telephone becomes an increasingly popular vehicle for the transmission of "obscene" or "pornographic" material, there lacks a political will, or realistic ability, of any governmental agency to prohibit such obscene transmissions. To do so would require monitoring every single phone call. *Id.* at 57. As

Recently, however, society has become more receptive to regulating actions and behavior once believed to be within the untouchable realm of privacy (e.g., helmet laws, no-smoking laws, seatbelt laws), as long as the regulations are proven to prevent some greater harm to society at large. Perhaps society would overcome its fear of regulating pornography and its reluctance to regulate pornography if convinced that doing so would prevent some such harm.

Nonetheless, it remains difficult to regulate that which cannot be defined. All of the definitions set forth by Arcand simply skirt the issue of identifying the content of pornography with any specificity. If it is anything worthy of discussion, we should be able to define it. As Arcand notes, societies usually give names to things that concern them.<sup>25</sup> We should not be afraid of defining the content of pornography, at least within the context of our own society. Rather than acknowledge this simple fact, Arcand simply points out the difficulties with each of the definitions described above, without ever adopting any coherent definition as his own.

## II. THE DEBATES

After setting forth and criticizing each of these so-called definitions of pornography, Arcand proceeds to describe the numerous and interminable debates that have surrounded pornography.<sup>26</sup> None of the debaters set out to defend the merits of pornography itself, though some challenge the power to condemn or censor pornography. But according to Arcand, despite the volume of opposition, pornography's opponents have failed to present any argument which has had any significant impact on the production, consumption, or regulation of pornography.<sup>27</sup> Each of the arguments opposing pornography has run

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Arcand notes, this phenomenon provides some explanation why the numerous governmental studies about the evils of pornography, such as the Fraser Commission report conducted in Canada, or the American studies conducted by the Johnson Administration or Attorney General Ed Meese, were virtually ignored and had no significant impact on the industry or regulation of pornography. *Id.* at 56-57. That is, governments have acceded to the fact that they no longer have the means to control pornography.

25. *Id.* at 128.

26. *Id.* at 59-121.

27. As Arcand notes:

And yet all these criticisms seem to run into so many brick walls, for, despite all the negative things that have been said about pornography, in the end nothing much has been done about it, and the apparently

into a "brick wall" of silence,<sup>28</sup> leading again to the conclusion that pornography is an inescapable part of modern society.

The debates Arcand frames take three primary paths. The first debate focuses on the social impact of pornography and the concern about whether there is any demonstrable link between criminal sexual behavior and the consumption of pornography.<sup>29</sup> This debate relies on social data and experimentation which was ultimately deemed inconclusive by some and unreliable by others.<sup>30</sup> In the aggregate, these studies merely prove that no meaningful link could be established between the consumption of pornography and the commission of sexual crimes.<sup>31</sup>

The second line of attack is that pornography shreds the moral fiber of society and the traditional family values embedded in it — a view which is more appealing to me than it was to Ar-

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unanimous denunciations have resulted in nothing but a few timid laws and vague restrictions.

*Id.* at 59.

28. *Id.*

29. Some researchers sought to prove that the growth or consumption of pornography is paralleled by an increase in sexual criminal behavior. Conversely, other researchers sought to demonstrate that pornography has the opposite effect; that is, allowing free and unlimited access to pornography will provide a healthy outlet for criminal sexual urges and result in a decrease in sex crimes. *Id.* at 64.

30. According to Arcand, some "researchers" were accused of having "cooked the results" by making up some statistics and ignoring others in order to reach predetermined conclusions. Other studies were based on models of human behavior that were too simplistic to provide any meaningful results. *Id.* at 65-66.

31. The Meese Commission Report, like other more recent studies, concluded that people who consume pornography become rapists neither more nor less often than those who do not consume it. In other words, pornography is not in itself a sufficient or necessary cause of violent sexual behavior. *Id.* at 71. Arcand's statement suggests that the Meese Commission's conclusion applied to all pornography. However, the Meese Commission actually subdivided the materials into four categories, noting that looking at all sexually explicit materials, or even all pornographic materials, was an "oversimplified way of looking at a complex phenomenon." ATT'Y GEN. COMM'N ON PORNOGRAPHY, FINAL REPORT 1986, at 321.

Exposure to sexually violent material, one of the four subdivisions of pornography, was found to increase the likelihood of aggression, particularly in the form of aggressive behavior toward women. *Id.* at 325. The Meese Commission further stated that clinical evidence and common sense *do* support the assumption that increased aggressive behavior toward women is causally related to increased sexual violence. *Id.* Based on research with nonviolent materials depicting degradation, domination, subordination, or humiliation, "there is some suggestion that the presence or absence of negative effects from non-violent material turn on the material being considered degrading." *Id.* at 330. The only subdivision that supports Arcand's statement is the one concerning non-violent and non-degrading materials. *Id.* at 337. According to the Meese Commission, however, "only a small amount of currently available highly sexually explicit material is neither violent nor degrading." *Id.* at 336.

cand. Pornography, viewed from this perspective, undermines the concept of the family as the only "morally acceptable context for sexuality in our society."<sup>32</sup> Arcand criticizes this view as internally inconsistent because, he argues, if the family is the key to society and the basic instinct is to preserve and protect the family, then the state should not be able to regulate any conduct within the four walls of the home.<sup>33</sup> Thus, even for those who individually despise pornography, the act of condemning pornography is worse than the pornography itself.<sup>34</sup>

This argument is unconvincing because it assumes that the state, as opposed to some other entity or force, will be the one regulating the conduct within the family. Arcand fails to consider that the force driving the moral codes may be a higher religious authority which individuals or a society are bound, by their beliefs, to follow. In other words, in order to regulate family conduct, it is not necessary for the state to intrude into family life; rather, it is the word and laws of a deity that could be the governing force. In modern American society it is not at all apparent that the images of sex and violence in the media, whether described as pornographic or simply as graphic, have not in fact been a contributing factor to the breakdown of the moral fiber of society.<sup>35</sup> The blatant deterioration of the traditional family and the insurmountable problems of drugs, violence, and crime

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32. ARCAND, *supra* note 3, at 76. Even Arcand admits that the ideology underlying this viewpoint is "rigorous and consistent, and the principles that follow logically from it constitute an extremely precise moral guide." *Id.*

33. *Id.* at 78.

34. Arcand also argues that the conservative opposition to pornography is inconsistent because the harsh, immutable moral code embraced by conservatives allegedly ensures the existence of pornography and creates the attraction to it. For example, laboratory experiments have shown that an image will be judged more exciting if the group viewing it has been warned in advance that it is going to be shown an obscene picture. *Id.* at 80. I contend that the truth of Arcand's contention depends upon the source of the moral code.

35. In fact, many television series not only feature but rely upon sexual intrigue and indecency to boost their ratings. Shows such as *L.A. Law*, *Melrose Place*, and *NYPD Blue* are just a few examples. See, e.g., Tom Gliatto, *Hot Property*, PEOPLE, Feb. 21, 1994, at 64.

The nine tenants [on *Melrose Place*] are all in their 20s, with nicely toned bods beneath their studiously casual clothes. They hop in and out of bed with each other, flaunting the gymnastic alacrity of aerobically fit youth . . . . In the beginning . . . *Melrose* . . . sank. That mistake was repaired . . . when [they] added more affairs, sex, [and] dirty stuff.

*Id.* at 65-66.



plaguing the cities of America may constitute a harm sufficiently grave to justify an invasion of privacy through regulation.

The feminist movement has raised the final, most recent, and most vocal debates, arguing that pornography serves to objectify and degrade women and provides an "unacceptable example of the exploitation of women by and for the interests of men."<sup>36</sup> These debates have come up against several obstacles that have destroyed the potential for a consensus among women that all pornography is bad for women.<sup>37</sup> The first, and most unlikely, obstacle is the fact that the women in the pornography industry like their jobs.<sup>38</sup> The second obstacle Arcand notes is that censoring pornography threatens freedom of speech, a right which has been of paramount importance to the feminist movement.<sup>39</sup> Finally, Arcand notes that pornography has a new audience: women. Thus, to the extent women have become willing consumers of pornography, they can hardly pose a united threat to its existence.<sup>40</sup>

Having presented three major debates which, in Arcand's view, have all run into "brick walls of silence,"<sup>41</sup> Arcand launches into a discussion of the history, origin, and inevitable existence of pornography.

### III. THE ORIGINS OF PORNOGRAPHY

Arcand presents some interesting notions about the socio-political origins of pornography. According to Arcand, pornography was once within the domain and control of the upper echelons of society. It was the rich men who routinely shielded women, children, and the poor from pornography.<sup>42</sup> As an example, Arcand discusses the history of the decorative sculptures on the Temple of Surya at Konarak in India, built during the thirteenth century by King Narasimha to celebrate his victory over the Yavanas Muslims. Among the figures depicted in the elabo-

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36. ARCAND, *supra* note 3, at 84.

37. A recent article in *Ms. Magazine* exemplifies precisely the lack of consensus not only among women in general, but also among women considered to be feminists. See *Pornography: Does Women's Equality Depend On What We Do About It?*, *Ms.*, Jan.-Feb. 1994, at 42; *Where Do We Stand On Pornography?*, *Ms.*, Jan.-Feb. 1994, at 32.

38. ARCAND, *supra* note 3, at 87.

39. *Id.* at 88-89.

40. *Id.* at 90.

41. *Id.* at 59.

42. *Id.* at 118.

rate sculptures that adorned the temple are "the image of a man bent over, placing his lips on the vagina of a woman who is lying on her back sucking his penis, while, standing beside him, another woman dressed as a servant has her finger inserted in his anus."<sup>43</sup> This was not a single isolated sculpture, but was typical of the temple decoration prevalent throughout India from approximately 900 to 1400 A.D. These images were not hidden or obscured, but rather prominently displayed. Because sex was central to human life, it had to be shown, and was shown without shame or embarrassment.<sup>44</sup>

At the roots of this Indian civilization was a concern about fertility and the preservation of life. While religion devised methods of ensuring fertility, no method was more direct than the celebration of sex itself.<sup>45</sup> The marriage of sex and religion was consummated in many rituals in which the people spoke obscenities to the gods and decorated their temples with obscene motifs. What is puzzling is that the depictions on the temples were inconsistent with the strict moral codes that regulated Hindu sexual conduct.<sup>46</sup>

Thus, postulates Arcand, there must be an explanation for the emergence of these elaborate and sexually explicit temple decorations, as well as the similar decorations that permeated non-religious, artistic life, which is not strictly rooted in the culture's religious beliefs. Arcand attributes the development of these images to the fall of the Roman empire and the effect this had on India's commercial trade. The loss of India's trade partner created a rise in Indian feudalism, with a concomitant rise in an important military class which replaced the merchants in the hierarchy of power.<sup>47</sup>

This class of *nouveau riche* needed an outlet for its fortunes, and a legitimacy to its cause. This resulted in the rampant building of temples, which became more imposing and more innovative in decoration. This class of individuals who had more money than they knew what to do with turned to a life of luxury, which included the elevation of sex to the level of art.<sup>48</sup> What Arcand

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43. *Id.* at 197.

44. *Id.* at 198-99.

45. As Arcand notes, these depictions of sexual conduct were not necessarily rooted in a celebration of sex for the sake of sex (as in pornographic depictions) but rather were a celebration of fertility, a celebration of life itself. *Id.*

46. *Id.* at 198-201.

47. *Id.* at 202-03.

48. *Id.* at 204-06.

seems to be saying is that sex became a fascination and was depicted widely throughout the culture because this class of people had the means to do so. There was a merger of the sacred and the profane — “a religion that condoned eroticism and employed it tinged with a touch of magic, and a cultural tradition that placed high value on sexuality and encouraged a taste for ornamentation.”<sup>49</sup> Now, in the modern era, those same depictions are labelled pornographic. The question is why.

Arcand explains the difference by looking at the concept of the individual. In Indian tradition, the individual was required to unite with another in order to become a fully realized individual.<sup>50</sup> Arcand eventually equates this concept of the individual to the jaguar, a virile and social being. In Western secular society, the individual has become the be all and end all, more closely resembling the anteater, an antisocial yet driven and strong creature. Independence and isolation create a mistrust of sex, while the former philosophy depends on it.<sup>51</sup>

The tension between these two views of the individual has been poignantly illustrated during the last several decades. During the fifties, the family unit was the foundation of American society, and moral codes, often rooted in Judeo-Christian ethics, governed the sexual behavior within society. Sex was something which of course occurred, but was not talked about much. Lucy and Ricky Ricardo slept in separate beds, as did June and Ward Cleaver. These were the prevalent images of society during that time.<sup>52</sup>

The country moved away from these traditional models during the 1960s and 1970s, in which the advent of the birth control pill gave women a new-found sexual freedom, and drug use be-

49. *Id.* at 206.

50. The same concept is present in the Judeo-Christian societies, as it is written: “It is not good for the man to be alone. I will make a helper for him.” *Bereishis* 2:18, in 1 METSUDAH CHUMASH, *supra* note 1, at 26. Similarly, “Therefore, a man shall leave his father and his mother, and cling to his wife, and they shall become one flesh.” *Bereishis* 2:24, in METSUDAH CHUMASH, *supra* note 1, at 29–30.

51. ARCAND, *supra* note 3, at 208.

52. While it is debatable whether the popular culture images on television reflect the mores of a given society, or dictate them, it appears that there is a correlation between the images depicting a society and the reality in that society. Contrast the images of Lucy and Ricky of the 1950s to the parade of sexual pairings on recent *Melrose Place* episodes: Billy and Allison, Billy and Amanda, Amanda and Jake, Jake and Jo, Jo and Reed, Michael and Sidney (female, who is the sister of Jane, Michael's ex-wife), and the list goes on. Notably, none of these “pairings” occurred within the context of a marital union.

came a way of life for America's youth. Nonetheless, even during these decades when the younger generations were breaking with traditions of the past, they still remained tied to a sense of community, as evidenced by the growth of communes and similar group living arrangements, and remained committed to a common political cause through the protests against the Vietnam War.

By the 1980s, society had progressed to a generation of "yuppies," the individualized, independent generation whose strongest ties were to material goods, not to family, religion, or society. Yet now, as we enter the 1990s, tainted with our knowledge of AIDS, the recession, and the savings and loan crisis, this generation of yuppies is looking for somewhere to turn, and is beginning to seek greater meaning and value in their lives, a way to become connected, rather than detached. I suggest that they are turning not to pornography, but to its modern antithesis: religion.

It is with these recent trends in mind that Arcand's description of the Garden of Eden and the original sin takes on particular significance, at least to me.<sup>53</sup> As described in the book of Genesis, by violating God's instructions, and eating of the forbidden fruit, Adam and Eve lost their innocence, but simultaneously gained a sense of modesty. They recognized that they were naked, and immediately covered themselves.<sup>54</sup> The beginning of society was formed, as each society requires some form of modesty in order to function.<sup>55</sup>

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53. See ARCAND, *supra* note 3, at 211.

54. *Id.* at 212. Arcand describes the path of Adam and Eve's transformation:

Before their disobedience [in eating from the forbidden Tree of Knowledge], 'they were both naked, the man and wife.' [*Genesis*] (2:25). As soon as they ate the fruit of the forbidden tree, however, 'the eyes of both of them were opened, and they knew that they were naked; and they sewed fig leaves together, and made themselves aprons.' [*Genesis*] (3:7). The text later explains that the guilty couple hid because God came to them and His first question was, 'Who told thee that thou wast naked?' [*Genesis*] (3:11).

*Id.*

55. *Id.* at 213. Arcand discusses Tuareg society as an example of the role of modesty in society. The Tuareg live as nomadic herders in the Sahara Desert. They wear veils that cover almost the entire face except for the eyes. The attention to their veils indicates the degree of modesty they apply to interactions with various classes of relations. Contrary to our notion of social norms, the Tuareg are far more open and direct with strangers, and find modesty most necessary among those who are close and intimate, because to cross the lines of modesty is to threaten one's individual identity. *Id.* at 216.

Yet for pornography to exist, one needs to penetrate the bounds of modesty.<sup>56</sup> The desire for pornography is therefore the desire to go outside the social order and to destroy modesty, a necessary element of society. That is the lure of the anteatr, the antisocial being who functions in isolation, apart from traditional social constraints.<sup>57</sup> But we only have this desire when the social contract has failed — when we, like the anteatr, have retreated into a world of isolation and independence, on the margins of social interaction.

#### IV. THE CURE FOR PORNOGRAPHY?

It is against this backdrop that I feel compelled to disagree with Arcand's conclusion that pornography is beneficial, necessary, or inevitable. There are societies that allow themselves to be governed by a rigid, though principled and consistent, set of laws in which there is no need for pornography, and no room for pornography, regardless of how pornography is defined.

I have in mind traditional, observant Jewish communities,<sup>58</sup> though I expect that other religious communities may share similar views and exhibit similar behavior.<sup>59</sup> In these communities, the governing principle is that of following God's laws, which are encoded in the Torah and other writings interpreting it.<sup>60</sup> Those laws provide a disciplined and unwavering guide to every aspect

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56. *Id.* at 222.

57. *Id.* at 254-55. Arcand describes this phenomenon as follows:

Whereas sociability had its down-side, and made it possible to escape from public life by retreating to one's home, or to flee from domestic tyranny by finding refuge in work, to be more at ease among women, among men, the young or anyone else, pornography offers complete evasion. At this instant, the social as we have always known it has to disappear, and it is this that would no doubt make the Tuareg incredulous.

*Id.* at 226.

58. Some refer to these communities as "Orthodox," a label that I do not adopt because of its potential political implications.

59. Admittedly, there have been examples of Biblical figures and more modern observant Jews engaging in acts of prostitution. While a full discussion of this topic is beyond the scope of this Book Review, I nonetheless view prostitution (although violative of the laws of the Torah) as distinct from pornography. Pornography, as described by Arcand and as I understand it, does not involve the actual engagement in sex between two people, but rather the fantasy of sex (and perhaps masturbation) while viewing depictions of sex, in magazines, movies, or video. It is this type of active fantasy which has no role within observant Jewish communities and which is addressed by this Book Review.

60. RABBI HAYIM H. DONIN, *TO BE A JEW: A GUIDE TO JEWISH OBSERVANCE IN CONTEMPORARY LIFE* 24-27 (1972).

of life. While pleasures exist, they exist within these strictures of following God's laws.

Within these communities there is little or no public display of affection or discussion or depiction of sex, especially in mixed company. There are strict laws about unmarried men and women being alone together. All of these concepts are embodied in the *hilchot tzniut*, the laws of modesty.<sup>61</sup> In addition to the laws of modesty, there are specific laws governing sexual behavior. While the members of these religious communities participate in vibrant, healthy, and indeed pleasurable sexual relations, sexual relations are only permitted to exist within the confines of marital relations, where the sexual act is shared between husband and wife. Even within the marital union, there are numerous restrictions as to when sex should be performed.<sup>62</sup> Nonetheless, by per-

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61. Much of what would be considered a normal part of average everyday life in modern American society would be considered violative of the laws of modesty to an observant Jew. Modesty in dress is required (although the mores may differ slightly from community to community), and for most neither mini-skirts nor bikinis would be acceptable in mixed company. Some communities require women to cover their arms below the elbows and for married women to cover their heads. BLU GREENBERG, *HOW TO RUN A TRADITIONAL JEWISH HOUSEHOLD* 185–88 (1983).

The laws of modesty also apply to manners of behavior and speech. *A fortiori*, any form of pornography (by anyone's definition) would be beyond the bounds of modesty: "Vulgarity in all its forms, whether in art, literature, movies, theater, television, or newspapers and magazines, is the very antithesis of Judaism. Public display of nudity, sensual lust, and the promotion of sexual license constitute the sort of vulgarity against which Judaism set itself apart from its very inception." DONIN, *supra* note 60, at 140.

Given the pervasiveness of images and conduct within modern society that are pornographic, obscene, and well beyond the bounds of modesty to the observant Jew, it has become such a struggle to maintain their bounds of modesty that certain observant communities have found that the only way to combat the images of the outside world is to obscure them. These tactics may include not watching any television, not subscribing to any secular newspapers or magazines, and insulating themselves from other forms of popular culture. Unfortunately, a discussion of the merits or shortcomings of such a strategy is beyond the scope of this Book Review.

62. These principles are embodied in the laws of *taharath ha-mishpahah*, the laws of family purity. NORMAN LAMM, *A HEDGE OF ROSES* 63–64 (1966). While sexual relations are only condoned within the bounds of a proper marriage, sexual comradeship within those bounds is an "intrinsic good, beyond the demands of procreation. . . . The loving companionship of husband and wife is an end in itself, a virtue sanctioned and sanctified by the Creator." *Id.* at 26–27. Unlike the view of other philosophical and religious teachings, according to the laws of family purity sex is not intrinsically shameful or dirty, but rather, is one of the most holy of human functions. ARYEH KAPLAN, *WATERS OF EDEN* 43 (1976).

It is within this philosophical framework that the laws of family purity place restrictions on when married couples may engage in sexual relations. The *Torah* dictates that a woman with a vaginal discharge of blood from menstruation or from another source is ritually unclean, or *niddah*, and may not engage in sexual relations

forming the sexual act in accordance with God's laws, the sexual act becomes one in which God participates. The physical is thus merged with the spiritual.<sup>63</sup>

These notions of modesty and family purity may seem obsolete and primitive within modern American society, and perhaps even sexist. However, there is substantial evidence that couples following these laws are more successful in keeping marriages together, and keeping sexual relations alive and exciting, even and especially within a world within which most marriages fail.<sup>64</sup> Moreover, in religious Jewish communities, women are well-respected, indeed revered, by their husbands and other men in the community, contrary to the view of many feminists.<sup>65</sup> While men and women play admittedly different roles, women are entrusted with keeping some of the most important *mitzvot*, or commandments.<sup>66</sup>

Thus, despite the rooting of observant Jewish communities in such traditions as family and religious belief, is there anything inherently anti-feminist about the philosophical underpinnings of these traditions? In these communities, it is unthinkable for one man to comment to another about a woman's appearance or sexuality in any explicit manner. It would be equally unthinkable for men to display the kinds of pictures, have the types of conversations, or make the kinds of jokes that create the rampant examples of sexual harassment in the workplace. Perhaps the sacrifice of a certain perceived sexual freedom (promiscuity) may result in

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during this time. Jewish law dictates that the transformation from ritual impurity to ritual purity, occurring seven days after the end of menstruation, is effected through immersion in the *mikvah* (ritual bath), after which time sexual relations may (and should) resume. Unfortunately, any more detailed discussion of the whys and hows of these laws, or their particulars, is well beyond the scope of this Book Review. The reader is invited to consult Aryeh Kaplan's beautiful and spiritual explanation of these laws in *The Waters of Eden*, *supra*, and Norman Lamm's more summary account in *A Hedge of Roses*, *supra*. For a more detailed account of the practice of the laws of *taharath ha-mishpahah*, see TEHILLA ABRAMOV & MALKA TOUGER, *THE SECRET OF JEWISH FEMININITY* (1988).

63. See *supra* note 62.

64. These laws help prevent the husband from treating his wife as a thing or object to be had, because both husband and wife are bound to follow laws that trump the power of sexual lust and desire. They also serve to "keep the honeymoon alive," by allowing the couple to renew their sexual relations each month after a period of abstinence. LAMM, *supra* note 62, at 60-61.

65. See LYNN DAVIDMAN, *TRADITIONS IN A ROOTLESS WORLD* 199 (1991).

66. Women are entrusted with keeping the laws of *kashrut* (kosher), making most of the preparations for the Sabbath, the holiest of days, and keeping the laws of *taharath ha-mishpahah*. These are three of the central rituals which characterize the life of an observant Jew. GREENBERG, *supra* note 61, at 121.

a greater good, where sex is practiced not only for the sake of sex, but rather within societal constraints in which sexual relations have a higher and holier purpose than pleasure for pleasure's sake.

Maybe the recent onslaught of AIDS and the increase in other sexually transmitted diseases will cause many to rethink notions of free love and rampant sex that have permeated the last few decades. Sexual freedom, once women's greatest liberation, may be their ultimate captivity. In fact, what may be most liberating for women is the adoption of a social norm in which there are strict rules for sex, which neither men nor women feel compelled to break. Such rules are liberating because they eliminate much of the temptation — as well as the opportunity for temptation — that destroys many marriages and families. The existence of such strict rules may also eliminate the desire to destroy the limits of modesty (and to create or consume pornography), because within that modesty is found the greatest pleasure — the pleasure of the ultimate social contract, the marital union.

Within observant Jewish communities, pornography has no need or means by which to develop. Modesty is defined broadly enough to prohibit, without fear of doing so, anything that could be remotely construed as pornographic. The bounds of modesty are explored only within that marital union, keeping the union intriguing and special. Where pornography is an industry and sex has become a commodity, the sexual union is stripped of any higher meaning.<sup>67</sup> Without pornography, perhaps that meaning can be restored.

#### CONCLUSION

I found Arcand incapable of tying together any of the loose threads woven throughout his book. It remains unclear how the temples in India, the Tuareg culture, or the original sin are re-

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67. There are, apparently, no secrets left any longer. Enlightened, knowing all the answers from our very earliest youth, we are also "emancipated": we strip sex of its shroud of mystery, which we consider mere romantic nonsense, look upon it as nothing more than a natural biological urge, and condemn traditional religious and moral standards as hypocritical at worst and guilt-breeding and neurosis-inducing prudery at best. *Playboy* is the Bible of our "sexual revolution". . . . The "new morality" is the old hedonistic immorality in a new and appealing guise. . . . This is the prevailing sentiment of the environment in which most of us live.

LAMM, *supra* note 62, at 19–21.



motely connected to the jaguar or the anteater. Thus, I am tempted to conclude with equal disjointedness. Just a few final thoughts.

Simply being in existence for a long time does not necessarily make pornography inevitable. Diseases that once killed throngs of ancient populations are now rampant only in the history books. Perhaps one day this society will realize that it is very ill, and that pornography is one of its most debilitating diseases — but at least it is a disease for which there may be a cure, if we are willing to look for it.