Censored bodies, censored selves. Towards a feminist critique of neoliberal anti-porn legislations

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Abstract In the contemporary societies we see an amazing focus on protecting the children from both: being exposed to sexually explicit material and being used in production of such. This focus is often strengthened by feminist argumentation against pornography. With all the respect to efforts in combating sexual harassment and violence, I would like to propose a feminist critique of contemporary forms of censorship growing in such a “protective” context. I will also provide a
wider context for my reading of several cases of censorship of feminist work, where the culture wars worked perfectly in pair with neoliberal economic changes.

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Whether it is the fault of conglomerate publishing controlled by accountants or a failure of inner-directedness on the part of writers, my generation seems focused upon crowd pleasing and success to the detriment of being free to tell the truth
Erica Jong, The Devil at large, Capra Press 1993, p. 36

The opposition of art and pornography or the aesthetic and the obscene, is one which has structured much modern cultural discourse.
L. Nead, “Above the pulp-line”. The Cultural Significance of erotic art

As Paul Ricoeur used to say, symbols “donnent à penser” (give to think, “feed” the thought). Hans Georg Gadamer continued this thought while elaborating on art as “game,” which allows the viewer to involve engage in free play, which he understood as disinterested1. Even though this definition of art's duty might sound slightly classist, we can still regard it as a relevant to the exhibition of Jacqueline's Livingston photographs in the Palace of Abbots in Gdansk in 2009. Rethinking intimacy, kinship and relations, gender, and family from a progressive, feminist perspective seems a refreshing opportunity in Poland, since the ubiquitous Catholic ideology dominates narratives of family and kinship.

There is however another definition of art, which comes from the French sociologist, Pierre Bourdieu, who undermined the belief in “disinterested” character of aesthetic experience, so very praised since Kant and later also Gadamer. In his definition, art and aesthetics are both not only socially produced, but also help to reproduce social class divisions by generating elites on the basis of cultural competence2. Feminist writers, including Linda Nead and Carol Jacobsen, draw strong conclusions from the fact of social production of art and aesthetic norms – they show, each in a different manner – how art has always been a field of a misogynist exclusion of women, people of color and queers from the mainstream of cultural production3.

Lynda Nead proposed interesting critical insights concerning the term “obscene”. She sees it as a socially-produced category that enables the exclusion of politically difficult topics when they enter the domain of art. It is extremely useful in reproducing repressive and exclusionary social categories of “otherness”4. Calling a feminist or gay artist “obscene” constitutes, in her opinion, a particularly functional way of neglecting the value of her/his art and its themes. As a social and political factor, this exclusion has been particularly helpful in silencing debates over cultural perception and regulation of sexuality, including pornography. Nead writes that

Obscenity appears as a given or intrinsic quality of an object of representation; it is the point at which the sacred powers of art are rendered useless. If art represents here the domain of pure culture, then obscenity symbolizes the profane, where culture disintegrates and the subject is strictly beyond representation”5.

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However, the distinction between “pure art” and “the obscene” is culturally produced, as Nead persuades us. The historicity and function of these categories make them purely political in the sense given to the word by Aristotle and later repeated by Hannah Arendt: they are active, they produce effects, they are not just descriptions, they are deeds or – to use the very famous term from language and then also queer theory – they are performatives, they reproduce social distinctions.

To call a work of art “obscene” automatically means to deprive it of its aesthetic value and engage in a procedure of shared abjection. The notion of “obscenity,” applied to the work of Jacqueline Livingston thirty years ago and repeated by some journalists in Poland in 2009, does not allow us to understand or sometimes even approach her work; it condemns it before even allowing us to see it. The pictures exhibited in Gdańsk were family shots, including breast feeding or adults and children, clearly family members, sunbathing. Most journalists remade their vocabularies after seeing the exhibition: they understood the inappropriateness of the rhetoric of ‘obscenity’, and were able to approach her project in a more flexible manner.

The price many feminist and gay artists pay for exhibiting their family pictures has rarely been discussed. One of the most interesting accounts of these stories can be found in the groundbreaking book on contemporary forms of censorship edited by Robert Atkins and Svetlana Mincheva, *Censoring culture*. In this work, we read of the shockingly brutal effects of the “war against kiddy porn”; for example,

> On the morning of February, 3 2000, on my way to work, I dropped off a roll of film at the MotoPhoto in Upper Montclair, New Jersey, with a note stating that I would pick up my pictures some time around 3:30 the same day. When I went to pick up my film, the police was waiting for me. They proceeded to question me about the photographs. The images were of my granddaughters, age 3 and 8, naked, frolicking around the bedroom prior to taking a bath. (Marian Rubin).

> Or:

> In 1976, as an assistant professor of photography at Cornell University, I exhibited a few photographs of male nudes, including one of my 6-year old son, Sam, playing with himself. (...) I refused to remove my photographs and argued in their defense: <My photographs were meant to challenge a sexually repressed culture, (...)>. A month later I was told my contract would not be renewed. (...) My son was asked about how he felt about the photographs of him (“Fine, we’re nudist”) and I was asked, “Are you photographing other children nude?” (“No”) (Jacqueline Livingston).

> After reading these testimonies (the book also provides stories by Marylin Zimmerman and Betsy Schneider), I am glad that my mother, who – as an artist, often painted me, also naked (bathing or sun-tanning) or my father, an amateur photographer, who documented my childhood with his camera, never had to go through that kind of investigation -- no MotoPhoto has ever had access to their work. Interestingly, an important aspect of Jacqueline Livingston's artistic interventions has always been the capacity to bring into the public sphere the family pictures which most people produce, but never show in public. The private/public division is here questioned in a very special way – only after seeing some of her pictures do we realize we might have plenty of similar ones... which somehow never left our desk.

The scandal surrounding the photographs of Jacqueline Livingston has always been

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7 After the Gdansk exhibition I was interviewed by three of them.


9 Idem, p. 213.

fascinating for me. Her art has always had all the elements of what interested me in feminism – a discussion of gender norms and the public/private division, a questioning of the existing limits of artistic production, a deep interest in sexuality and its repression/governance, and a non-traditional approach to family and intimacy. I was more than proud to be invited to give a talk in the session accompanying the exhibition of her photographs of in Gdansk in 2009.

The scandal concerning her work first came to light in 1976, when she exhibited her family pictures at the Cornell University, including the photographs of her son playing with himself, later published in the Village Voice. The scandal led to court, with the artist accused of child pornography, becoming one of the most known cases of censorship in the USA. The artist was fired from Cornell University, where she worked as assistant professor, and, although all charges were eventually dropped, her job was never reinstated. This led her to sue the University, ultimately resulting in a settlement; Livingston was however never again allowed to teach at Cornell. She later opened a “One-Artist's Gallery” in New York, but already in the 1980s, after regular visits by the FBI and difficulties exhibiting anywhere, she decided to change professions.

In My Story, written in 1994, Jacqueline Livingston declared: “Wilhelm Reich's book The Mass Psychology of Fascism influenced my thinking about child rearing. According to Reich, being raised in sexual freedom (i.e. masturbation is healthy, premarital sex and sex education are a person's human right) is the first step in structuring personalities who will not follow authority. Most contemporary sociology books used in college courses today support Reich's ideas, particularly that masturbation is healthy”¹¹. Her example clearly shows that there still are some things, which have been accepted in theory, but which are being punished if discussed/presented in public. One of them apparently is the sexuality of children and artistic representations of children’s nudity. When these topics are discussed in a scientific context, they do not seem to generate controversy; in the fields of art and media, however, they are not only rarely present, but, when they are, become subject to severe observation, contestation and government intervention. In the USA, Canada, the EU and Japan, new legislative tools have been produced since 2000 to prevent this kind of material from appearing, thus generating new forms of censorship.

Livingston’s exhibition in Poland was followed-up by an act of censorship: an article written on her art and representations of nude children was banned from publication in the most popular art magazine in Poland, Obieg, for “promoting child abuse”; the main argument from one of two editors of the magazine was, “I am a father, I know what abuse is”. This phrase, as upsetting as it might sound if taken literally, reminds us of the still astonishing dominance of white heterosexual men in the art scene. As Carol Jacobsen has written, “The focus on overt, after-the-fact acts is actually a conservative brand of censorship based on the ideological assumption that public expression is a “natural” entitlement of the dominant (i.e. white, heterosexist Western male) perspective”¹². Never mind the clear effort of the author of the article to problematize the strategies of preventing child abuse based on some 10 years of experience as a trainer for students and teachers in topics such as sexual harassment, domestic violence and the rights of women and girls. The editors of “Obieg” based their disgust, censorship and labeling of Livingston and the author of the article as supporters of child abuse, only on their “personal feeling,” which, not surprisingly, reflects the more general, conservative attitude of society¹³.

I’d rather not have to censor myself and I would prefer that brilliant feminist photographers like Jacqueline Livingston not have to search for alternative careers, as Livingston did after the scandal with her pictures. I would like the children of my colleagues to be able to choose whether they want to cover their bodies or not, which – especially in the case of girls – still remains an impossible choice, since they are thought to need ‘protection’. This liberty seems for me to be an important, yet not so much emphasized, element of the feminist legacy, if we take the feminist

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²² C. Jacobsen, Redefining Censorship, op. cit., p. 42.
¹³ The story of the Obieg article is described here: http://www.indeks73.pl/pl_aktualnosci,_20_731.php and the text which was finally published by the feminist section of the Obieg magazine was initially challenged by the editors. It is available here: http://obieg.pl/artmix/14370
artists’ interventions seriously and decide to follow the efforts of reversing and undoing the normative gaze.

Somewhere between the identification we experience with the family pictures made by Livingston and a child’s body captured while involved in a sexual activity there is a line. What actually happens between these two stages? I think we might want to carefully reconstruct the “crime scene” before referring to clichéd labels like “obscenity”. The nakedness of a child’s body might be a surprising element of what we might understand as a “family album”, if we see it exhibited in a gallery. The sexual activity of a child presented in an album becomes more than surprise for many viewers, although the pictures of Livingston's son have not been exhibited for years now. They have been captured by the label of “abuse”, although courts dropped their charges in the early ‘80s. Why does her work still cause fear, and why it cannot be reproduced or exhibited?

First of all, we should know that nudity has always been an important element of the artist’s family life. Not only did she, her partners and children visit nudist beaches and help to create one, they would also remain naked also in their household and suggest their guests do so as well. This information allows us to see the act of nude photographing in this particular family not merely as an exposure of a naked child's body to the invasive gaze, but as a part of a wider project of eliminating the taboo of nudity, in which the whole family had already been involved. Secondly, Livingston had photographed her family since the early ’60s. It had not been a scandalous, one-time activity of capturing someone in an unnatural situation; on the contrary, this was how this family behaved daily, and Livingston’s photographs did not constitute a scandalous intervention, but rather a long-term documentary practice. Thirdly, she and her family never barred their children from masturbating; photographing her son in this activity did not mean exposing a child to a new, potentially shocking situation.

I would not like to argue that these arguments provide an immediate answer to the question I asked above, but they definitely constitute some background to Jacqueline Livingston's photographic practice and they allow us to rethink some typical arguments in the wake of the labeling of her work as obscene. Most families in Western societies do not allow nudity, and only some of them practice it, usually in very restrained way. Sexuality of children is rarely discussed and masturbation does remain a taboo practice when children are involved, although it was decriminalized and even supported as important element of the sexual lives of adults. As early as in 1959 Theodor Adorno undermined the focus on “pedophilia perversion,” which he perceived as a way of omitting the origins of social problems. He clearly saw a paradox in the fact that the existence of a sexual dimension in children's lives was still contested and he criticized the media for scandalizing adults’ sexual contact with minors while remaining blind to violence against women and children. Adorno was astonished by the penalization of homosexuality in post-war Germany and he seemed just as critical of the lack of effective work on violence against children and women in families in his society. He observed that “[...] sexual liberation in contemporary society is mere illusion. This illusion arose together with the phenomenon sociology elsewhere describes with its favorite expression, ‘integration’: the same way in which bourgeois society overcame the proletarian threat by incorporating the proletariat”14. Adorno thought that the healthy sex life appeared as a concept in capitalist, post-war societies, masking rather than correcting sexual repression; the sexual taboos revealed by Freud 50 years earlier remained completely untouched. A similar point of view was presented in Sex Wars by Lisa Duggan and Nan Hunter.15

I would like to suggest that the new legislations concerning child pornography and the general focus on “protection of children” introduced in the USA, Canada, EU and Japan since 2000 can be seen as a very good example of the power of contemporary neoliberal governance. They have all the elements of disciplinary governance as it was described by Foucault: the control of art and new media, especially internet, is particularly strong. ‘Protection’ is used to control citizens’ interests rather, than practices of violence. The topic of child abuse is very powerful, since it can

unite various political options otherwise not able to cooperate, and the atmosphere of scandal allows for the imposition increasingly harsh rules while systematic work in the field of violence against children remains unaccomplished. This moralistic pseudo-preoccupation with the “good of our children” does not meet any standards articulated by pedagogues and psychologists as effective in situations of sexual harassment; it only creates an atmosphere of panic, in which it is easy to accuse a feminist artist or a progressive psychiatrist of abuse, although the statistics of violence against children do not seem to decrease.

Judith Levine, author of a book about the problematic “protection of children”, makes a direct link between financial neoliberalism and the preoccupation of adults with child sexuality. She openly states that “[t]he social correlate of economic privatization is ‘family values’.” She postulates a significant shift of funding to the state’s institutions, which should work with violence against children, women’s organizations, which are more and more frequently appointed by governments to do it instead of institutions, and the governmental/ institutional involvements in campaigns against pornography. The strategy applied here could be diagnosed as withdrawal of public funds from the systemic work on violence against women and children (which should include education in public schools, work with victims and perpetrators and with the families of both groups). Far less funding is being provided for small projects by nongovernmental organizations which, although often very well-qualified and successful, cannot replace a country-wide system of preventive and protective work. These changes are typical for neoliberal societies, where all public sectors are currently being privatized in a very similar manner. This sometimes includes the intermediary stage of the involvement of the third sector (i.e. in public services), or not (i.e. in the health sector and universities/ education). Censorship of child pornography could therefore be seen as an ideological justification for cutting costs; it can easily be observed that a systemic, centralized system of prevention and protection of children would cost much more than short-term media campaigns and conferences on pornography supported by the introduction of harsh anti-porn laws. A critical interest in the connection between the market liberalization and the conservative cultural turn was expressed by Lisa Duggan in Neoliberalism, Cultural Politics and the Attack on Democracy, where she stresses the necessity of reshaping the way the conflict between pro- and anti-democratic forces has been described. Since the only way current economic changes, including the new, non-redistributory ‘equality’ and ‘multiculturalism’, are expressed is as purely neoliberal, we might need to rethink the language in which contemporary social contradictions are inscribed. I think it is also important to observe the shifts in funding of various sectors, at least in Europe. Svetlana Mincheva argues that there is something quite surprising in the attention directed at pornography in the media when the rate of children living in poverty in the US is higher than ever.

As Amy Adler argues in her article about child pornography laws, although the very existence of these laws generally brings more benefits than costs to the public, we need to carefully examine their impact on cultural production, since their application might restrict various freedoms otherwise granted by the constitution and other laws. While discussing the history of pornography and activities surrounding violence against women and children, it would be good to remember that research on family-based abuse directed at women and children begins farther back in history than thirty years ago. It was the research and interviews with so-called hysterical women that led Josef Breuer and Sigmund Freud to the discovery of the family darkest secrets – the hidden sexual abuse of women in their childhood. Although Freud is usually rightly portrayed as a misogynist chauvinist with a discriminatory perspective on gender and a stereotyped image of women, it was nevertheless he who allowed “hysterical” women, most of whom suffered from what we now call “post-

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tragic stress disorder”, to talk about their experiences of sexual violence and harassment in childhood. As we see, the history of the discovery of child-abuse did not start with late second-wave American feminism, as Adler’s narrative might suggest, but should be seen as beginning in the 19th century with research on hysteria in early psychoanalysis.

Gayle Rubin discussed the case of Jacqueline Livingston in her text about cultural production of sexuality and taboos. Even though she follows the Foucauldian mode of analyzing the production of prohibition rather than critiquing it, she still mentions all the repressive instruments used against Livingston, including the court cases, police raids and pedophilia charges. Like Adorno, Rubin saw the artificiality of scandals around pedophilia, which the media still tended to produce in the ‘80s (and nowadays, we might add). For her, they were not an effort to protect children, but primarily a prolongation of a repressive discourse on sexuality. Rubin expressed her discontent with the taboo on child sexuality, which in some cases appears more important to protect than the children themselves.

It seems that just as the slogan “pornography is theory, rape is practice” coined in the ‘70s by anti-porn feminists from Women Against Pornography, including Robin Morgan, Andrea Dworkin and Catherine MacKinnon, supported the anti-pornographic legislations in Indianapolis, Minneapolis, some provinces in Canada and in Australia, another slogan could be produced based on the legal practices of the EU and USA from the ‘90s and ‘00s: “graphic representations of children’s nudity are theory, and child abuse is a practice.” Interestingly, in the newly-installed anti-child porn legislations regarding graphic representations of children’s sexuality produced without the participation of any real child is equated with hard pornography produced by exploiting women and in real presence of female model. Just as Karl Marx once observed in 18 Brumaire of Louis Bonaparte, history repeats itself, once as a tragedy, once as a farce.

The case of Jacqueline Livingstone allows us to see both parts of this repetition – her work was first punished on the basis of the general anti-porn turn; subsequently, an even more ridiculous censorship took place in contemporary society’s control over images, where concern for children’s nudity coincides with the liberalization of the economy, leading to financial cuts in welfare and education.

The current EU anti-pornographic programs and legislations often refer to the feminist concern about the abuse of children. I would like to propose some emphatic observations about this kind of use of preventive arguments against violence. From my long experience as a trainer for equality in education in schools, providing workshops for both teachers and pupils, I need to stress the importance of getting to the roots of the problem of violence against children instead of just curing its symptoms. Although, as Freud used to say, symptoms never lie, we need to examine the whole social context of sexual violence, not only its facade. During workshops about sexual harassment in schools in Poland, many teachers still declare that a piercing in the navel of a teenage girl can be the cause of rape or other forms of violence. This fetishisation of children’s sexuality is far from either explanatory or preventive; rather, it serves only to control girls’ self-expression.

Silence surrounding cases of sexual violence, the lack of knowledge and support of children are much more important obstacles to their safety than is a piercing in a teenager's body or graphic representations of children’s nudity.

The proposition of anti-porn legislation presented by the government of Poland in April 2009 and accepted in September with some emendations is a result of the EU anti-pornographic regulations. Finland introduced a similar law a couple of years ago, unfortunately without

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22 The original qute is a bit longer, see: K. Marx, 18 Brumaire of Louis Bonaparte, available on-line at: http://www.marxists.org/archive/marx/works/1852/18th-brumaire/index.htm.
23 See my article on the topic: E. Majewska, Kołczyk w papku nastolatki, czyli o fetyszyzacji seksualności dziecięcej na użytek cenzorskiego prawodawcy, available on-line: http://www.indeks73.pl/pl_web_journal__50__145.php
supplementary measures protecting artistic or scientific work. There is already one victim of this harsh legislation—on the May 21, 2008, the artist Ulla Karttunen was sentenced after some months on trial for producing graphics with hard child pornography without the participation of any living models. The ironic side of the Finnish story is that the artist is active against the objectification of women and children in pornography and her work was meant to warn society about the violence experienced by children forced to participate in the illegal child porn industry. The court decided to refrain from punishing the artist, but still found her guilty, which she declared to be a verdict she feared the most and found most difficult to deal with.

The presentation of Livingston’s work in Gdansk was in my opinion a brilliant idea, since it is in this city that many of the 200 Polish cases of censorship happened after the political change in 1989, including the case of Dorota Nieznalska’s “Passion”, whose trial still continues, although it started in 2002. Her work was aimed as the ideals of male muscular bodies, which make real men consecrate their time, efforts, and often even their health, to invest in the “perfectly muscled” body. The artist spent some 6 months researching and interviewing men going to body-building clubs, and in the end she produced a documentary video and a graphic depicting male organs in the shape of equal-sides cross. The work was immediately taken to court on the basis of the frequently-cited section 196 of the Polish penal code, which protects the “religious feelings” of any citizen from offense. Some of the “offended” declared in court that they had never seen the piece; nevertheless, the artist was banned from leaving the country, the gallery was closed soon after the beginning of her trial, and, although the last verdict from June 4, 2009, declared her innocent, there has since been an appeal, which led to the final judgment in March, 2010: the artist was declared innocent and acquitted of all charges, therefore the process will not be continued.

The current Polish debates on family only rarely surmount a conservative, catholic vision, sometimes disguised in a neoliberal costume. The photographs of Livingston therefore tell us something particularly inspiring—that there are alternative modes of representing, but also, of understanding and living family life. And that they might not be ideal; some ironic pictures showing the models’ anger or boredom were also on display at Livingston’s exhibit. Still, perhaps they let us think about relationships in a less objectifying way...

From the perspective of the long history of the scandal around Livingston’s photographs we can see the correctness of a statement on censorship by Svetlana Mintcheva in Censoring Culture: “The ultimate dream of censorship is to do away with the censor.” It is not repression anymore, it’s protection. The famous observations of Foucault about the pastoral power, the interest contemporary authorities have in protecting rather than punishing human beings is clearly at work here. We could add to that the examples of feminist artists I quoted in this article, which demonstrate that there is still much repressive power. Nevertheless, the message is clear: il faut défendre la société.

24 See a description of events by the „Helsingin Sangomat” - available on-line: http://www.hs.fi/english/article/Artist+convicted+of+child+pornography+plans+appeal/1135236553989
25 A comprehensive documentation of most of these cases of censorship is available at the website of Indeks73, the anti-censorship in Poland; see: http://www.indeks73.pl/en_index.php
26 Some more details of this case are available in the article of Izabela Kowalczyk, Struggle on Freedom available on-line: http://www.indeks73.pl/en_analizy__81__405.php
Selv Portrait with Sam & Richard, C Jacqueline Livingston, 1969