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Aristotelian Privacy: Perfectionism, Pornography, and the Virtues of the Polis

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ARISTOTELIAN PRIVACY: PERFECTIONISM, PORNOGRAPHY, AND THE VIRTUES OF THE POLIS

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In the United States privacy is a hot topic, not least because of the current administration's desire to have unbridled access to its citizens' overseas conversations. But in what follows I do not plan to deal directly with any legal or policy concerns. Instead, I am interested in the philosophical foundations, if any there be, of privacy as something to which individuals and other groups may be entitled. Because much of the discussion of "privacy rights" has revolved around matters sexual, I shall key the discussion to individual access to sexually explicit publications and what limits, if any, moral reflection should place on such access. Specifically, I am going to discuss a view — perfectionism — which has notable proponents in moral, political, and legal philosophy, sketch its response to pornography as a test case, and then suggest an Aristotelian alternative which, I'll maintain, has all of the virtues and none of the vices associated with its perfectionist rival.

The perfectionism I want to discuss is that of the Princeton legal

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1 This paper was originally presented at the annual meeting of the Association for Legal and Social Philosophy in Glasgow, in June 2005. Among the many peculiar things about higher education in the United States is that, having required our 17 and 18 year olds to run through a fairly uniform secondary school curriculum, most US colleges and universities make them do it again. After five years of teaching Aristotle's Ethics, as part of a "great books" requirement, I realised that the vocabulary of my grumbling while reading the daily paper had become unmistakably Aristotelian. For the last 20 years I have been trying to convince people working at the junction of ethics, religion, and political theory to spurn Rawls, Nozick, Singer and the like, and return to the rock-solid reasonableness of the Philosopher. I don't know how successful the paper was in bring my audience out of the modern dark, but I am nonetheless extremely grateful to Glen Newey for the original invitation and for his interest in including this version in this volume.
theorist Professor Robert George. George is no academic eccentric. He received his law degree from Harvard and his D.Phil. from Oxford, where he worked with John Finnis and Joseph Raz. He is widely influential in American government and politics. The talking points of such conservatives as Senator Rick Santorum of Pennsylvania sound as though they have been borrowed from George's essays. And he claims Aristotle as an important forbear. Thus in Making Men Moral George defends:

the perfectionism of the central tradition. I shall argue that sound politics and good law are concerned with helping people to lead morally upright and valuable lives, and, indeed, that a good political society may justly bring to bear the coercive power of public authority to provide people with some protection from the corrupting influence of vice.

He goes on to assert that "no one deserves more credit or blame than Aristotle for shaping the central tradition's ideas about justice and political morality". Aristotle's formative contribution to the central tradition of western moral and political theory, as George has it, is the distinction between a "political association" and a "polis." The former is "an association for residence on a common site, or for the sake of preventing mutual injustice and easing exchange," while "a polis is an association of households and clans in a good life, for the sake of attaining a perfect and self-sufficing existence" (citing Politics, 1280b). A good life, on George's reading, is not merely a matter of security and exchange; it is a shared way of life defined by mutually recognised goods to which the community as a whole commits itself.

Because people, particularly the young or inadequately trained, tend to be swayed by passion rather than reason, "the law must first settle people down if it is to help them to gain some appreciation of the good, some grasp of the intrinsic value of morally upright choosing, some control by reason of their passions". It is the responsibility of the public authorities generally to educate and to enforce because "people, notably including children, are formed not only in households, but in neighborhoods, and
wider communities”. To protect and foster the goods of the polis, as opposed to those of individual households, the authorities must make sure that everyone is playing by the same rules. Otherwise the political fabric that holds those households together will be subject to dangerous stresses and strains. “For example,” George writes,

parents can forbid their teenage sons to look at pornographic magazines; if, however, other boys with whom they have contact are freely circulating such material, it will be difficult for parents to enforce their prohibition ... Whatever authority parents have over their own children, they lack the authority to deprive other people in the community, or other people’s children, of the legal liberty to perform immoral acts; only public officials possess authority of that kind.7

Immoral acts are not only intrinsically defective, they foster immoral habits and desires, all of which work against the stability of the polis. If the public authorities are not given the mandate to suppress vice, or if they are lax in suppressing it, the system is at war with itself, frustrating the ability of the community to pursue the very goods to which it is committed.

But how do we recognise the truly immoral, as opposed to the locally offensive? This is hardly a new question. Not just Plato and Aristotle, but their predecessors in the “Greek enlightenment” worried constantly about the discipline needed to discern the truth when “knowledge is dragged about by the human passions and emotions”.8 George seems to take for granted the idea that desire renders action irrational or anti-rational. This seems to me to be a misunderstanding of both rationality and desire. For the orthodox Aristotelian, the mature individual of virtue and good character has the right desires in the appropriate circumstances. Those desires are the direct by-product of good habits. Thus it is both right and reasonable to act on those desires. Obviously some qualification must be made for the contingencies of time and place that may lead even the individual of virtue to act in an akratic manner, though I cannot elaborate in this context.

George’s response is to move beyond Aristotle to embrace the account of basic human goods associated with Germain Grisez and John Finnis. An outline of this position, frequently called the “new natural law theory,” will have to suffice. For Finnis and Grisez, when the mature human agent,

7 George, Making Men Moral, 27.
unencumbered by vice or bias, reflects on his reasons for action, they turn out to be either norms or non-moral reasons that are not in conflict with norms. When he reflects on the source of those norms, it turns out that they are ultimately grounded in irreducible human goods. “If there were no intrinsic human goods, no basic reasons for action,” writes George, “practical reason would be what Hume, for example, thought it to be, namely, a mere instrument in the service of desire; and rationally motivated action would be impossible.” 9 Since we engage in rationally motivated action all the time, he suggests, the Humean position cannot be correct. 10

When we reflect on our reasons for action it turns out that the instrumental ones can be traced back to some basic good such as: “Life (in a broad sense that includes health and vitality); knowledge; play; aesthetic experience; sociability (i.e. friendship, broadly conceived); practical reasonableness; and religion”. 11 These goods are not metaphysical ideals nor are they biological facts. They are the objects of informed practical action, recognised by reflecting on the “data of inclination and experience”. 12 Since the pursuit of some of these goods may preclude pursuing others, no individual is required to realise them all. The pursuit of religion in one particular way – through monasticism or the Catholic priesthood, for example – may make it impossible, morally speaking, to pursue another – marriage, as a form of friendship “broadly conceived.” The demand that anyone pursue all the basic goods would be impossible, hence irrational. The only imperative is that we should never act in a way that directly contravenes one of the basic goods. 13

George’s moral perfectionism amounts to the view that human beings realise themselves as fully as possible in the reasonable pursuit of the basic human goods and those subordinate goods that are consistent with the basic goods. Furthermore, fully realised moral agency has, as a
constitutive component, an ongoing commitment to eliminating from the individual any habits or inclinations to act contrary to the good. His legal and political perfectionism is merely the extension of this moral perfectionism. It insists that:

sound politics and good law are concerned with helping people to lead morally upright and valuable lives, and, indeed, that a good political society may justly bring to bear the coercive power of public authority to provide people with some protection from the corrupting influences of vice.14

The paternal duty of the state to secure a public space for the pursuit of morally upright and valuable lives invests it with the authority to protect the public square, and the individuals who act within it, from potentially corrupting elements and practices. Thus, pace contemporary liberal theory, morals legislation is not only proper, but essential, for becoming the sorts of persons we should want to be.

When George turns to pornography, he begins by endorsing the Supreme Court’s 1968 decision in Ginsburg v. New York, which held that the New York Legislature might rationally conclude that exposing minors to pornographic materials, even of a sort not considered obscene for adults, constitutes an abuse which, as [Justice Brennan] put it, might impair “the ethical and moral development of youth”.15

While adults may, if so inclined, find a use for pornography that does not offend the interests of the state, children are incompletely formed. It is the province of parents to instruct their children in matters of sexuality and to allow children access to such materials outside the scope of parental control thus puts those children, and possibly others, at risk. Selling pornography to minors can be criminalised and punished for exactly the same reasons that selling them beer can be criminalised and punished.

But George thinks this does not go far enough. Pornographic images, he writes:

corrupt and deprave by doing precisely what they are designed to do, namely, arousing sexual desire that is utterly unintegrated with the procreative and unitive goods which give the sexual congress of men and women, as husbands and wives, its value, meaning and significance.16

14 George, Making Men Moral, 9.
16 George, In Defense of Natural Law, 187.
For George, sex is a natural expression of human biology, part of our evolutionary inheritance. As an evolutionary mechanism sex is indispensable to the development of modern humans. But when we become rational moral agents, seeking to be the sort of people we should be, it becomes necessary to examine the precepts on which we act, including those on which we act sexually. This means seeing other human beings as equal participants in the pursuit of genuine human goods. This, in turn, means seeing others as potential partners in a mutually shared good that we could not accomplish independently. That is the meaning of the family. It makes possible the shared goods of parenthood and collective action to further the good of another human being who is a unique product of that family. But pornography subverts this project even, to take the best possible case for pornography, when spouses employ pornographic materials as means of stimulating their sexual desire for each other. What pornography arouses in, say, Mr Smith is the desire for a woman – perhaps a desire for a certain sort of woman – a woman with large breasts, for example, not a desire for the bodily actualisation and expression of his unique relationship of marital union with Mrs Smith as such. 17

If Mr Smith is perusing pornography simply for arousal, this is a species of lust. If the arousal is then consummated with Mrs. Smith, the malice of lust is in fact compounded by the dehumanisation of his wife. She just happens to be the most convenient, preferably willing, object with which he can satisfy the lust brought on by pornography.

Pornography, George must conclude, is bad not only for the unshaped characters of hormone-driven adolescents, but for the adults who partake of it and the families, if any, they may attempt to establish. "Sexual liberationism," he writes, "is a sort of self-contradiction. Freedom lies not in sexual self-indulgence or self-gratification, but rather in sexual self-integration, self-possession and self-control". 18 When vice creeps in it renders people unfit for the very institutions they claim they want to maintain. It also renders their children unfit for free and public association with their peers as equals. The dehumanisation of others inherent in pornography, regardless of gender or sexual preference – and I use the phrase in the broadest possible sense – is but an instance of the willingness to turn other people into instruments and victims of our wills. Once this becomes characteristic of our interactions with others, we have no internal

17 George, In Defense of Natural Law, 187.
18 George, In Defense of Natural Law, 189.
motivation to hold ourselves to the basic standards of justice. Were we to head down this path, the work of the law would become both more important and more difficult. Anyone who understands this should endorse perfectionism and should authorise the civil authorities to take the strongest measures consonant with law to eradicate vice and what contributes to it.

This is in many ways a compelling argument. Even the most liberal amongst us, myself for example, is likely to have been revolted on some occasion or another by vulgarity that seems antithetical to the sorts of attitudes, feelings, and desires, we hope we share with our neighbours. We are, I imagine, tempted to think that the vulgarity in question should just be banned and the perpetrators run out of town. But like many seemingly compelling arguments it is overly simple, both in its view of Aristotle's polis and in its view of sex and pornography. I have studiously tried to state the case in a content-neutral way, but as soon as I get specific the arguments begin. I can imagine, for instance, saying that I am unclear just what the evil consequences of explicit pornography might be on very young children. In my experience they already think sex and everything having to do with it is distasteful and are likely to flee at the faintest whiff or eroticism. On the other hand, for children to watch the participants in, and their parents enjoying the viewing of, Survivor, Fear Factor, and American Idol, surely courts moral disaster. The not so subtle juxtaposition of money, coercion, humiliation, and abuse, it seems to me, sends as corrosive a message as I can imagine about the relations among economics, power, and virtue in American society. Given our differences about what is offensive, why, and when it reaches a degree of seriousness that calls for public intervention, we would do well to get clear on the general philosophical issues before recommending action. I shall begin with Aristotle.

For George, the controlling text in arguing for the perfectionist paternalism of the state is Politics III, 1280b, where Aristotle writes that "a state is not a mere society, having a common place, established for the prevention of mutual crime and for the sake of exchange". But at this point in his argument, Aristotle is not defining the internal structure of the polis; he is, rather, contrasting the polis with inter-city treaties, alliances, and trade groups. Compared with these sorts of organisation, the polis is much more tightly bound, but its "perfect and self-sufficing life" is not one in which the populace is forced to march in moral unison. The goods which the polis pursues are, indeed, more positive and more extensive than preventing crime and facilitating commerce. Its citizens are typically expected to share a commitment to public institutions that are interrelated
and in support of which they are willing to make concessions, either financial or in terms of a time commitment. They are expected to support and play their part in the political life of the community and endorse the judgments of the law, even in those cases where the finding is not in their individual best interests. The polis, in turn, makes it possible, by virtue of its self-sufficiency, to imagine, pursue, and realise goods that are only imperfectly imaginable, and rarely achieved, in the village or the family. At the very least, it is only in the polis that citizens can realise "the necessities of life and the things that make for comfort and recreation," that make it possible to act on our "wonder" and pursue the knowledge we naturally desire.  

However we interpret the ideal life endorsed in Ethics X, it is only available in the context of the polis.  

But Aristotle does not envision the polis as a single organism. Thus, in Politics II, he considers three alternatives, namely those where "the members of the state must have (1) all things or (2) nothing in common, or (3) some things in common and some not". The second option he sees as "clearly impossible." Even the allies of Politics III have to share an interest in security and commerce. So the real options are having all things in common vs. having some things in common. Politics II is a systematic critic of the monolithic state, in its theoretical articulation by Plato and others, and in its practical embodiment in Sparta, Crete, and Carthage. This seems so obvious that it comes as something of a shock to read a recent commentator, T.J. Saunders, asserting that "Book II concerns 'utopias'". But then it turns out that Saunders spends so much of his commentary defending Plato and worrying about the political correctness of Aristotle's views on women and slaves that he misses the fundamental shape of the argument. Most importantly, he misses what I will call

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19 Cf. Metaphysics 980a-982b.
20 In this and what follows I believe I am following the lead of John Cooper, particularly "Politics and Civic Friendship", in Cooper, Reason and Emotion: Essays on Ancient Moral Psychology and Ethical Theory (Princeton, NJ: Princeton University Press, 1990). I'm afraid, however, that this may not be completely evident on the face of it, given Cooper's conclusion that the "common good" available to human beings living in the best sorts of cities "is not available to them except on the basis of their all being, and feeling themselves to be, bound together by the bond of civic friendship" (376-377). But Cooper does accept Aristotle's critique of Plato, remarking that "Civic friendship, Aristotle insists, is a specific type of friendship, distinct (e.g.) from family friendship" (368-369, n.15). All I am attempting is to sketch the limits of that particular type of friendship.
21 Aristotle, Politics, 1260b.
“Aristotelian privacy”.

Aristotle notes right off that he is not interested in discussing the practicality of sharing women, but rather “the premise from which the argument of Socrates proceeds, ‘that the greater the unity of the state the better’”. 23 Socrates, as Plato’s spokesman, fails to recognise that the state is not a single organism. It is not even a family, which, while made up of individuals, frequently acts as though it had a single mind pursuing a single good. “The nature of a state,” Aristotle insists, “is to be a plurality.” The polis is not like an army, where there is a very limited division of labour and command always comes from the top down. It “is not made up only of so many men, but of different kinds of men.” Aristotle envisions the polis as a place that not only contains, but positively accommodates a variety of men pursuing self-sufficiency through engaging in crafts, trades and professions which, taken together, make it possible for the members of the community to enjoy a variety and quality of goods that are not available even to the extended family, much less the isolated individual.

The village is a precursor to the city, but because it typically lacks multiple individuals plying the same trade, the villagers are not in a position to identify the best and to compensate the tradesman appropriately. “The principle of compensation,” for which Aristotle refers the reader back to Ethics V, distinguishes the city more than anything else from the family. In the family everyone has a task that is ordered to a single common good. Performing your task is not optional and it is insolent, if not obnoxious, to demand special consideration for doing what needs to be done. Some of us, by way of illustration, may provide our children with allowances, but should my son or daughter decide to forgo the allowance in favour of enhanced leisure time all pretence of their being independent contractors would abruptly end. The trash needs to be taken out and the voice of the parent will not brook insolence.

In the polis things are fundamentally different. There “arise in cities family connections, brotherhoods, common sacrifices, amusements which draw men together,” writes Aristotle in the text that is central to George’s argument, but it continues, “these are created by friendship, for the will to live together is friendship”. 24 Unlike the family, these friendships are voluntary and they run the gamut of all three sorts discussed in Ethics VIII and IX. 25 Whatever their occupations, the citizens are equals and demand

23 Aristotle, Politics 1261a.
24 Aristotle, Politics, 1280b.
25 Lest anyone assume that I am evading confrontation with a seemingly recalcitrant text, I want to acknowledge that Aristotle writes immediately after this that “political society exists for the sake of noble action, and not of mere
to be treated as such. Because they want to ply their trades successfully among their fellow citizens, they are happy to live together. But because their fellows occasionally put private interest before fairness, they eventually develop constitutional and judicial systems to rectify matters when one or another of them feels aggrieved. This is the substance of *Ethics V*, which is presupposed here in the *Politics*. To make sure that the system of government retains its credibility, “it is just that all should share in the government (whether to govern be a good thing or a bad”). In the complex *polis*, however, not everyone will be capable of resolving the coordination problems governing presents, or want to take time away from his work, and so “an approximation to this is that equals should in turn retire from office and should, apart from official position, be treated alike. Thus the one party rule and the others are ruled in turn, as if they were no longer the same person.” Private persons become public persons and then return to private life. An individual remains who he is, despite going from private to public and receiving the unequal deference that applies to the public role. Public roles in the *polis* reflect neither nature nor virtue in any simple way.

Plato, not Aristotle, is the true precursor to George’s authoritarian perfectionism, and Aristotle worries that this is a dangerous trend, that the “extreme unification of the state is clearly not good”. “The state is by nature clearly prior to the family and the individual” because it is in the *polis* that individuals become free to deliberate, choose, and pursue the widest possible set of goods through the widest possible set of means, in conjunction with other self-sufficient and like-minded individuals whose friendship is of the best sort. Even when we interact with others who do not fully share our virtues and interests, we do so on the basis of a shared civic friendship that reflects our commitment to cooperating as equals under the rule of law. The *polis* thrives on diversity and innovation.

companionship” (*Politics* 1281a) I don't think this touches my point because Aristotle is here distinguishing those members of the *polis* who contribute directly to the governance of the community from those who do not. He does not think that the one group constitutes the only true citizens or that the others are wicked or irresponsible. He is saying that those who undertake the burden of directing the community for the good of all are entitled to a greater share of the community’s goods and respect than those who do not. That seems fair.

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29 I attempted to sketch a sense of the importance of pluralistic friendship for solidarity in the state in my *Warcraft and the Fragility of Virtue: An Essay in Aristotelian Ethics* (Moscow, ID: University of Idaho Press, 1992), ch. 5,
Citizens possessed of practical reason will recognize the danger “extreme unification” and take positive steps to prevent it. The obvious way to do this is to prevent the civil authorities consolidating their power and enforcing uniformity. Should this extend to the protection of pornography? This question would be easier to answer if we had a clear sense of what we were talking about. But our notion of “pornography” is barely two hundred years old. Webster, in 1864, defines it as “licentious painting employed to decorate the walls of rooms sacred to bacchanalian orgies, examples of which exist in Pompeii”: dirty pictures. But Webster, of course, begs the question; “licentious” and “dirty” are judgments about the moral status of those pictures. As Mary Douglas insisted, many years ago, dirt is a by-product of cosmology. What seems cosmically

“Friendship, Justice, and Military Service”. Bernard Yack developed a similar, though independent account in his The Problems of a Political Animal: Community, Conflict, and Justice in Aristotelian Political Thought (Berkeley, CA: University of California Press, 1993) ch. 4, “Political Friendship”. Both have been superseded by Danielle Allen, Talking to Strangers: Anxieties of Citizenship since Brown v. Board of Education (Chicago: University of Chicago Press, 2004), not only in her ch. 9, “Brotherhood, Love, and Political Friendship”, but in the book as a whole. I am not sure that either of these other scholars would agree completely with the position I stake out here.

30 ·The word; of course, means “writing about whores”. The OED cites a medical dictionary from 1857 as the earliest English occurrence: “pornography, a description of prostitutes or of prostitution, as a matter of public hygiene”. In this sense pornography exists in Aristotle’s Athens because there are laws regulating brothels; but that is clearly not what interests us. On courtesans and brothels in ancient Athens, see James Davidson, Courtesans and Fishcakes (New York: St Martin’s Press, 1997), ch.3.

31 In addition to Mary Douglas, Purity and Danger: An Analysis of Concepts of Pollution and Taboo (London: Routledge, 1966), see the essays in Douglas, Implicit Meanings: Selected Essays in Anthropology, 2nd edn. (London: Routledge, 1999), particularly 7, 12, 19, and 20, with the accompanying reflections. Beginning from a broadly Durkheimian perspective on social anthropology, Douglas realised in the early 1960s that “innatist” ideas about both perception and ethics were an impediment to anthropological interpretation. This led her to what I called a “pragmatic turn” (Scott Davis, “The Pragmatic Turn in the Study of Religion”, Journal of Religious Ethics 33, 659-668). “Anthropologists,” Douglas later writes, “cannot support supposed universal phobias against snakes, or universal disgust at blood or dirt ... Disgust and fear are taught, they are put into the mind by culture and have to be understood in a cultural (not a psychologistic) theory of classification and anomaly” (Douglas, Implicit Meanings, ix). Early on, in an essay from 1967, she recognised that “we would expect to find that the pollution beliefs of a culture are related to its moral
dangerous to Noah Webster or Robert George may not have carried such freight for the Greeks of Aristotle's day. The beautifully rendered breast or penis is to be appreciated and admired. Otherwise it is hard to explain their ubiquity in Greek visual art. Arousal is an epiphenomenon. Almost anything can lead to sexual arousal. John Boardman remarks of Praxiteles that "his naked Aphrodite of Cnidus was copied time and again, but it is hard to see beyond the copies what there was to the original which made it so famous, apart from its suggestive near nudity". Boardman writes with the detachment of the art historian; I find myself strangely moved. The fifth century daughter of Niobe pictured a few pages earlier makes me swoon. But I take it that neither Boardman's book nor most of the statuary he discusses count as pornography.

Closer, perhaps, is the Boeotian Cabirion cup, which pictures a traveller fleeing some wild but beckoning creature, with its oversized genitals dangling between its legs. But it would be hard to find this arousing. The writings of de Sade are no more arousing to me than the Boeotian cup, but it is generally agreed that his works are pornographic. The problem, I think, is that George's attack on pornography is motivated by two different, if related, concerns: dirt and arousal. Pornography as dirt reflects his sense that sexually explicit materials challenge the basic moral categories of his cosmos. The attack on sexual arousal seems to derive more specifically from his view of what sex should be. But what seems cosmically threatening and dangerous to George is a subject for many more subtle shades of depiction and response for the Greeks of Aristotle's day. The Greek holding his penis and chasing a bent-over barbarian on the Eurymedon Vase, however this scene should be interpreted, is surely comic in its intent. Cups and kraters are awash with flute-girls and seductions. A tomb near Posidonia sports a banquet scene where a bearded man gazes deeply into the eyes of, and strokes the hair of, a beardless values, since these form part of the structure of ideas for which pollution behaviour is a protective device" (Douglas, Implicit Meanings, 111). I have attempted to link my own Aristotelian inclinations to this pragmatic turn in my "Wittgenstein and the Recovery of Virtue", in Jeffrey Stout & Robert MacSwain (eds.), Grammar and Grace (London: SCM Press, 2004), 175-196.

33 Boardman, Greek Art, 181.
34 The quasi-Kantian view that sex is only morally pure when it is not tainted by personal pleasure or desire seems more Protestant than Catholic. In any case, it is hard to know what to do with an attack on something that is almost unavoidable for most humans.
35 Davidson, Courtesans and Fishcakes, 170-173.
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adolescent.36

How did most Greeks feel about living in an omnisexual cosmos? According to James Davidson, the cosmos is not so much omnisexual as shot through with possibilities for pleasure. In classical Athens, as Davidson portrays it, depictions of sex, banquets, and anything else that might excite the hope of pleasure may be funny or enticing, but they are also opportunities for political commentary. The Greeks generally, and the Athenians in particular, seem to have taken our appetites as given. Having them is not a big deal, but how we act on them is.

This, for Davidson, is a central theme of Plato’s Symposium. On the one hand there is Socrates, advocating small cups and reasonable democratic discourse. On the other, there is Alcibiades, drunk and disorderly. “He elects himself leader of the drinking,” Davidson notes, “and tries to get everyone as intoxicated as he is”; Alcibiades is the type of the tyrant, “his desires were already outpacing the resources of a private citizen and forcing him into extremity. He needed to overthrow the system to get himself out of debt”.37 The individual who allows his appetites to dominate him must ultimately become either tyrant or slave. Both are inimical to democracy and political freedom.

Plato seems to think that individual virtue is too fragile to keep us free. For him, we need the coercion of the law. As Martha Nussbaum notes, Aristotle


does not find the sexual appetite per se problematic ... we are inclined from birth to balanced and appropriate choice in the sexual realm – though of course it requires much education for those inclinations to mature into a fully virtuous disposition. In general, then, Aristotle lacks Plato’s intense anxiety about our bodily desires in general and our sexual desires in particular.38

36 Boardman, Greek Art, 100-101.
37 Davidson, Courtesans and Fishcakes, 299.
38 Martha C. Nussbaum, “Platonic Love and Colorado Law: The Relevance of Ancient Greek Norms to Modern Sexual Controversies” in Robert Louden & Paul Schollmeier (eds.), The Greeks and Us: Essays in Honor of Arthur W. H. Adkins (Chicago: University of Chicago Press, 1996), 168-218. Nussbaum’s essay is the culmination of a travelling academic road-show that she and John Finnis put on in the mid-1990s in their capacities as competing experts in the debates engendered by Colorado’s Amendment 2, an anti-homosexual referendum passed in 1992. Those who saw them, either together or following each other from one venue to another, may recall the intense acrimony and ad hominem attacks. As with George on pornography, such seemingly disproportionate responses can usually be traced to some perceived threat to the cosmic order.
Not surprisingly, Aristotle finds it easier than Plato to endorse a robust democracy. As long as they do not get the best of the citizenry, the voluptuous, the lewd, the comic and the crude, are just part of the cultural landscape. If citizens make fools of themselves chasing fish and females, they will find themselves dealt with in the court of public opinion. Absent any urgent demands of justice, the polis should be discouraged from attempting to enforce any corporate notion of perfection that would transform the community into a single household or individual.

This is, however, not a particularly satisfying conclusion for the contemporary moralist. For it might explain why there isn’t much by way of pornography in ancient Greece, despite all the portrayals of nudity, sex, and unbridled desire, but it doesn’t give us much help deciding on what to do with those portrayals in our own civic cosmos. The way into this discussion, I think, is to take seriously the language of sacrament that George regularly uses when talking about marriage, and about sex in marriage. As societies became complex enough to preclude the simple exercise of raw power, the trend seems to have been to incorporate sex into a system of cosmic directives and sanctions. Hindus, Muslims, Christians, Jews, and pretty much everybody else has regulated sexual relations by developing a trilateral system in which sexual behaviour is dictated by the cosmic order and enforced on individuals by social coercion backed by the threat of cosmic sanction. Sex, then, is incorporated into a sacramental system that removes it from the ordinary activities of day to day life. Crossing those boundaries is a matter of social concern not only because it risks social and cosmic sanction, but because


40 Theophrastus’ Characters, whatever its intended use, is both a guidebook and a mirror for the fourth century Aristotelian concerned about his public persona. Sex is not one of Theophrastus’ major preoccupations, but when it does appear it is usually in conjunction with a man becoming a buffoon. The boor, for example, “seduces his cook without anyone knowing, but then joins her in grinding up the daily ration of meal and handing it out to himself and the whole household” (Char. 4, 10) I had assumed that this was boorish because it violated some sort of pollution belief, an Attic twist on Roth’s Portnoy, but Theophrastus’ most recent editors are surely right in seeing this as a matter of decorum. James Diggle notes that “it was the wife’s job, not his, to supervise the bread-maker and to help the housekeeper measure out the rations”. Theophrastus, Characters, tr. & ed. James Diggle (Cambridge: Cambridge University Press, 2004), 213.
the failure of sanction calls the cosmic order into question.

Pornography as a term of art, distinct from the ribaldry of medieval fabliaux and the quaint seductions of Boccaccio and Chaucer, is a product of the social and economic upheavals of the 16th through the 19th centuries. Lynn Hunt, introducing a collection of essays on pornography and modernity, writes that “from the days of Aretino in the sixteenth century, pornography was closely linked with political and religious subversion”. This urge to subvert the political and religious establishment spread, particularly in 18th century France, and “culminated in the writings of the Marquis de Sade”. To see pornography as political criticism, and to see the Marquis de Sade as pushing that critical instrument to its logical limits, takes us to the heart of George’s anxieties.

It is surprising how much of George’s Making Men Moral seems to be about making people conform sexually so as to protect a sacramental institution. In Defense of Natural Law, once George gets out of the theoretical essays, is overwhelmingly about justifying the enforcement of traditional Christian sexual mores. A commentator in the tradition of Durkheim is likely to see this as a strategy in defence of an embattled cosmology. George’s perfectionism is an attempt to write into law the “negative cult” of the ancien régime, itself the heir of Augustine’s Christian stoicism. But one of the blessings of contemporary urban life, at least for that part of the populace with whom I feel at home, is that religion is ‘optional; if I don’t find George’s cosmos compelling, I don’t have to live there. If I find the pressure of my peers to be noxious, I can pick up stakes and seek out new friends. And my friends and I are very wary of a perfectionism that would authorise the law to constrain me in any of these matters.

I suppose there is a libertarian minimalism in this approach to the law, but I take that to be consistent with my Aristotelian commitments. Thomas Aquinas, usually the best commentator on Aristotle, even when they

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41 James Brundage, the most careful student of medieval sex and law, notes that what sexually explicit material was produced “did not attract much attention from legal writers before 1500, although it was to become an important issue for later generations”; Brundage, Law, Sex, and Christian Society in Medieval Europe (Chicago: University of Chicago Press, 1987), 549.
43 Hunt, The Invention of Pornography, 35. She writes in the same passage that “No one has ever been able to top Sade because he had, in effect, explored the ultimate logical possibility of pornography: the annihilation of the body, the very seat of pleasure.”
disagreed, thought so too. In discussing whether any human act can be morally indifferent, Aquinas remarks that:

according to the Philosopher, it is what is harmful to other men that is properly evil, and on that basis he says that the prodigal is not evil, because he harms no one but himself. And so too with all the other acts that are not harmful to the neighbor (ST IaIIae, 18, 10 ad 2). 44

Without a supernatural end in place, a cosmic template against which to measure human lives, perfectionist conformity is little more than authoritarian social control. Justice, not perfection, is the appropriate Aristotelian demand. Someone impressed by George's account of natural law, but unmoved by the claims for sexuality in his particular cosmos, might think sex really belongs in another category, perhaps the basic human good of exercise or play. 45 Sex, on this reading, becomes a part of physical culture, with contraception and abortion as methods of keeping it from sliding into an unwanted social relationship.

Davidson's account of Athenian appetites might suggest something like this. Since everybody knows what everybody wants, more or less, and since fifth and fourth century Athens was becoming ever less susceptible to invocations of cosmic sanction, Athenians felt free to employ sexual imagery in everyday life, enjoy satyr-plays as part of what were in origin religious festivals, and embrace a variety of institutions to facilitate exchanging sex for money. Davidson notes that "the fourth century saw an explosion in manuals and handbooks ... Among them were sex manuals, which included advice on flattery and seduction, as well as a range of sexual positions". 46 These manuals, and the sex trade that went with them, lent themselves to comedy and satire. Youth and others with too much time on their hands, or too little supervision, scrawled insults and lewd suggestions on out-of-the-way walls.

We know these people. But I do not think that we are these people. Davidson writes that the Greek attitude to pleasure "may have been less dogmatic," than that of many 21st century westerners, "but it was also more totalitarian and at times much more intense". 47 Despite their urban

44 Thomas Aquinas, *Summa Theologiae* IaIIae, 18, 10 ad 2.
45 Nussbaum, though perhaps tongue in cheek, makes a move something like this when she notes that "Finnis has no consistent way of assailing masturbation while approving of such innocuous activities as hiking, or going for a swim, or smelling a rose". Nussbaum, "Platonic Love and Colorado Law", 206, n. 13.
46 Davidson, *Courtesans and Fishcakes*, 117.
47 Davidson, *Courtesans and Fishcakes*, 314.
democracy, the men of classical Athens remain much closer to the heroes of Homer than, I hope, most of us would like to be. Social stratification remains rigid, the world is one properly dominated by males, and even Aristotelians continued to be committed to that social vision. But I, at least, am not. I want not simply to avoid, but actively to criticise and subvert whatever remnants of male-centred totalitarianism persist in my polis. And that means at the very least worrying about the moral and political impact of pornography.

How should the Aristotelian think about 21st century pornography? The first thing to note is the incredible diversity of pornography. Thanks to the internet, shy, middle-class academics like myself can boldly go where all sorts of people who I would not want to recognise me have gone before. One electronic clearing house, in its desire to be customer friendly, provides an enormous menu. The site constantly changes, but in one of its avatars I counted close to one hundred categories, divided equally between movies and still pictures. But that is incomplete, because I left out all the gay categories or the categories of the other clearing houses to which it was linked. Within the straight section, there was a major division between “teen” and “mature.” And within the category I will decorously refer to as “mature oral activities,” there were further subdivisions of 30+, 35+, 40+, all the way up to “granny.” More or less anything imaginable is readily available.

But that claim needs immediate qualification. On the site in question there was nothing manifestly unjust, in the sense Aquinas attributes to Aristotle. I do not know how to find the paedophiliac or the torture sites; the only people I want to find those are the authorities. The production of such materials involves undisputed injustice. There are certain genres that are less obviously, but nonetheless certainly, implicated in injustice. For example, impoverished villagers in Southeast Asia sell their daughters into the sex trade with alarming alacrity. These girls wind up in Bangkok, for example, as virtual slaves. Even though they are advertised as “of age,” the teen categories are suspect if only because of the coercive power men exercise over their young and insecure girlfriends.

So why not follow Catherine MacKinnon and the late Andrea Dworkin in condemning all pornography as a manifestation of the male desire to dominate, degrade, and ultimately destroy women? The more you examine pornography, and the rest of the sex trade, the more it turns out to be too complex, too nuanced, too variegated to allow of the simple judgments

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48 It is important to insist, in making this claim, that torture is not to be equated with bondage and discipline. The latter involves voluntary role playing; torture requires not a submissive, but a victim.
“yea” or “nay.” From the consumer standpoint, the sex trade is more about remaking a shattered cosmos than lust and arousal. Sallie Tisdale writes of pornography that:

> It just plain disgusts me sometimes, with its juvenile assumptions, boring repetition, lack of depth. But as much as what is wrong with porn, I see what is right: in porn, sex is separated magically from reproduction, marriage, and the heterosexual couple, all of which most feminists would agree have been oppressive to women. In porn, people have many and many different kinds of orgasms, and intercourse is only a part of sex ... Porn treats taboos openly and often humorously, emphasises foreplay and a broad view of what is erotic. If you don’t think this is true, you haven’t seen much porn.  

On Tisdale’s account, some pornography is stupid, some is gross, some is frightening. But “women like Catharine MacKinnon and Andrea Dworkin,” she writes, “have allied themselves with a political camp that is also against reproductive choice, gay rights, and gender equality”. George himself recognises the affinities, writing of “feminist opponents of pornography” that, they seem “eager to distance themselves from the ‘moralistic’ arguments made by people like me. I am less interested, I think, in distancing myself from arguments made by people like them – arguments equally moralistic, and none the worse for that. I think that pornography is degrading and dehumanizing for everyone, but I have no doubt that women and girls get the worst of it in a society in which pornography flourishes”.

The central thrust of my argument here is that George would find the social impact of pornography even more horrifying if it contributed, as Tisdale suggests, to the liberation of countless mix-and-match sexual identities. Pornography, with all its myriad categories, is do-it-yourself theatre, in which those too afraid to participate, or embarrassed to watch in person, can mix and match the possibilities to create a world in which a fundamental and inescapable part of their existence is rendered available and inviting and open and honest. Sometimes it is open only to monologue, but sometimes that is better than nothing. For Tisdale, pornography, as a genre, makes it possible for people to take charge of their sexuality and make whatever choices seem to work, regardless of the perfectionist commitments of the authoritarian majority. Pornography, she

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50 Tisdale, *Talk Dirty to Me*, 158.
concludes, "validates desire, of course, but it also uproots traditional female roles of passivity, creates emotional confusion, stimulates introspection, and presents a world without the nuclear family".\textsuperscript{52}

I take it that George would have no difficulty identifying these as among the ways in which pornography "depraves and corrupts". But the conservative Catholic vision of marriage and sexuality becomes credible only in the larger context of a divinely created and providentially ordered cosmos, in which human beings are ordered to a supernatural end that incomprehensibly dwarfs any finite and contingent human pleasures. Moral perfectionism is a pale shadow of the theological perfectionism of Dante’s celestial rose. Only that eternal, supernatural, end can loom so large over the contingent happiness of our little lives as to beat our unrequited desires back into submission. In ancient Athens social pressure could do it, at other times the long arm of the law. For most people, through most of history, it has probably been a combination of all three. But it now seems at least possible that we can both embrace the Athenian attitude to pleasure and maintain our commitments to freedom, democracy, and gender equality.

Tisdale imagines "a crumbling of boundaries: between male and female, feminine and masculine, top and bottom, gay and straight ... Whether or not the culture that results will be more or less exploitative than the one in which we live is an unknown".\textsuperscript{53} Unless we are willing, \textit{per impossibile}, to return to a world where we not only expect, but desire, moral conformity of the broadest possible sort to be imposed from the top down, the Aristotelian in me thinks we would all be better off aligning ourselves with Tisdale. She ends her essay on a note of critical anarchy, citing Richard Nixon who, in 1970, proclaimed that tolerating pornography:

"would contribute to an atmosphere condoning anarchy in every other field." Nixon was really talking about permissiveness toward sex itself; pornography was just an easy target. Sex is threatening. Sex undermines the conventions of our mental life; we go back to them in time, but first they disappear for a while.\textsuperscript{54}

If it were only subversive, pornography would be an important weapon in the arsenal of political criticism, but Tisdale lays out, without developing, a much more positive role for pornography in our

\textsuperscript{52} Tisdale, \textit{Talk Dirty to Me}, 159.
\textsuperscript{53} Tisdale, \textit{Talk Dirty to Me}, 325.
\textsuperscript{54} Tisdale, \textit{Talk Dirty to Me}, 326-327.
contemporary moral world. She imagines it as a form of critical leverage to be deployed against the oppressive residue of the old order. Absent the authoritarian cosmos of Professor George, and always mindful of the demands of justice, my 21st century Aristotelian sees the pluralist and tolerant polis as the best place to carry out these experiments. Those forms of pornography that observe the limits of justice seem not only tame, but downright beneficent.