

The Definition of Pornography and Avoiding Normative Silliness: A Commentary Adjunct to Rea's Definition*

David Edward Rose
Newcastle University

Many definitions of pornography implicitly involve begging the question concerning its moral value. One exception to this is Michael Rea's 2001 definition. The present paper identifies some counter-intuitive consequences of this definition of pornography and seeks to amend it. The aim of the paper is to separate a definitional understanding of pornography from a normative understanding of pornography in order to lay the foundations for future, coherent moral thinking on the subject.

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1. The Best Definition Out There

Michael Rea (2001) offers a two-part definition of pornography which is by far the best attempt to define which objects belong to the set that can be termed pornography and to which greater set such objects belong. It is by far the best definition of pornography because it avoids much "normative silliness" that is present in other rival and prior definitions of pornography. However, the definition is still inadequate and so the present paper will show where Rea's definition fails (Section 3) and offer a new conjectural definition of pornography open to public scrutiny and awaiting correction and reply (Section 4). Of course, prior to these discussions, it is pertinent to say a couple of things about why a definition of pornography is required and why most definitions can be accused of "normative silliness" as well as briefly looking at the justification of Rea's definition in terms of his intuitions and arguments (Section 2).

2. Why We Need a Definition

Pornography occupies both a legal and moral place in the public sphere. Legally, it is subject to censure and to discussions of whether or not it should be prohibited or distributed and to whom. Morally, it is subject to debate over whether or not it is a worthwhile use of time and, more significantly, whether participating in the making or consumption of pornography constitutes wrongdoing. Knowing what is actually being discussed would, then, seem to be quite important.

Although there is extensive academic literature on the subject, much of the philosophical work devoted to the discussion of pornography and pornographic objects makes a quite basic error. It confuses normative judgement with denotative meaning. "Murder" is "unlawful killing" and to ask whether or not murder is wrong is an empty question. The definition is a normative one (whether legal or moral meanings of unlawful are

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David Edward Rose, Ph.D., Lecturer in Philosophy, Philosophical Studies, Newcastle University, UK; main research fields: Normative and Applied Ethics, Hegel, History of Modern Philosophy.

intended) and the question “but is murder wrong?” is, to use Moore’s rather useful technique, a closed question. Yet, to ask whether “killing” is wrong is an open question. Murder is a subset of instances of killing and there is a need to separate the description of an event or object from an evaluative judgement. Killing is, to be disingenuously straightforward, the termination of life and to ask whether the actual fact of the termination of life is wrong is to do moral philosophy because cases such as euthanasia, war, and abortion challenge our moral understanding. All these problematic cases testify to the separation between a description (“killing”) and its normative counterpart (“murder”).

Moral theory requires descriptions to identify a set of cases to which subsets will be identified as good or right, bad or wrong, or morally neutral. So, killing is a set of events (the taking of a life) which is divided into normative sets (lawful, unlawful, accidental) under the rationality of a major premise derived from a moral theory (unlawful killing is killing that is a violation of the autonomy of the agent; or unlawful killing is killing that results in a decrease in overall welfare of all significant subjects affected, to be overly simplistic). Moral theory comes into play after the definition of the major set of objects has been identified. The definitions of pornography do not do this as a general rule and this leads to begging the question or, at the other extreme, emptiness of moral judgement. It is this type of philosophising that is best caricatured as “normative silliness” and the inherent silliness will hopefully be made clear below.

Pornography is variably defined as the production of sexual representation for the purpose of exchange (Huer 1987); artistic material with little, if any, aesthetic value (Berger 1977); the representation of persons as mere sexual objects (McElroy 1997); and the representation of institutional inequality between the sexes (Dworkin 1981; MacKinnon 1993; Langton 2009). None of these are remotely adequate and, more importantly, are to a large extent examples of begging the question in the most unphilosophical ways. Rea’s argument proceeds in terms of a simple method of reflective equilibrium: to offer a definition identifying some necessary property of pornography and then offer an object which does not fit the definition that a consensus would, however, agree *is* pornography; or offer an object which fits the definition that, however, a consensus would agree *is not* pornography. So, for example, the definition of pornography as “sexually explicit bad art” is problematic because one may want to argue that *The Story of O* (Réage 1972) is actually well written and structured but a consensus would still agree that it is pornographic. Alternatively, the racier passages of Jackie Collins are sexually explicit and arguably badly written, but a consensus would still deny that her novels were pornographic. If the definition is descriptive, then it is tested in one of two ways: first, it must not identify a set that excludes any objects we would intuitively understand to be an example of pornography; and, second, it must not identify a set that includes any objects we would intuitively understand not to be pornography. The claim of the present argument is that Rea’s own definition fails by this very requirement, but that will be discussed later. It is firstly pertinent to illustrate the storehouse of intuitions Rea believes will provide a consensus (2001, 120-22). His examples (with certain embellishments) are summarised below divided into those we (“the consensus”) consider to be pornography and those that we do not.

Rea uses two hypothetical examples (see Table 1 below, No. 6 and 7) that require further elucidation. The *profit machine* describes an investor who sets up a computer to produce a commodity for a specific market place that will be a success. The computer produces and distributes a magazine much like *Playboy*. The investor knows nothing about what has been produced but happily takes the money. What he produces, Rea sensibly assumes, is pornographic material. The profit machine describes the production of pornographic material without the intention of producing material that has the effect of sexual arousal (the investor knows nothing nor

cares about what his product is). The idea is that a director may earnestly make a film with aesthetic intentions, but it is received as pornography despite his own sincere intentions. The *shoe fetishist island* example describes a community in which for some reason the images of shoes are sexually arousing for most members. A normal shoe catalogue is then sold to the island and is bought for the purpose of aiding sexual gratification and protest groups demand its prohibition because of supposed harm to the community. The shoe catalogue illustrates that what we take to be pornographic may not be in other cultures and some objects we would see as non-pornographic would be in other cultures. Both examples also puts pay to Jan Naverson's (1993) definition of pornography as material produced with the aim of aiding sexual gratification since, in both cases, the intention of the producer is superfluous to the reception of the object.

Table 1

Examples Categorized according to Rea's Definition

Pornography	Non-pornography
1. Photographic images in <i>Playboy</i> , <i>Penthouse</i> , <i>et cetera</i> ;	8. The <i>Bible</i> ;
2. Films such as <i>Deep Throat</i> and <i>Debbie does Dallas</i> ;	9. Photographs of naked bodies in <i>National Geographic</i> magazine;
3. Peep show performances and sexually explicit adult theatre shows;	10. Artworks such as Michelangelo's <i>David</i> and Goya's <i>La Maja Desnuda</i> ;
4. Marilyn Monroe naked in <i>Hustler</i> magazine circa 1940;	11. Marilyn Monroe naked in <i>Life</i> magazine circa 1996;
5. Literature such as <i>The Story of O</i> or a collection of the letters from a <i>Penthouse</i> type magazine;	12. A lingerie catalogue;
6. "The profit machine";	13. Images identical to No. 1 (in left-hand column), but appearing in a plastic surgeon's portfolio or a medical book;
7. "Shoe fetishist island";	14. Images identical to No. 1 used as evidence in a trial;
	15. Intimate images, films, performances (strip shows) made by a partner for their partner and kept private.

Rea economically and convincingly dispenses with the "standard" definitions of pornography (2001, 123-34). An overtly idle summary of his arguments is expressed in the following bullet points. "Pornography is ...:

(1) ... sexually explicit material." The definition cannot be necessary since the *Bible* is sexually explicit.

(2) ... sexually explicit material produced for the sake of profit" (Huer 1987). Imagine an amateur short film involving sexually explicit acts uploaded to *youporn.com* by a consenting couple. The film is not produced for profit but does satisfy some exhibitionist urge. It is still, though, surely pornography.

(3) ... bad art" (Berger 1977). An overtly aesthetic approach to the question that is obviously keen to protect Goya and Michelangelo from charges of obscenity (No. 10). One feels the real worry is obscenity and we shall discuss that below, but some pornographic objects may well exhibit characteristics typical of good art: Pauline Réage (1972), Georges Bataille (1977), and Donatien Marquis de Sade (1990) are obvious contenders. In fact, there is often a latent poetry in much pornographic discourse. The simple phrase "a pearl necklace" does actually embody several layers of poetic craft: the very good visual description of what the metaphor represents coupled with the ironic idea of a conventional gift for a certain type of woman. Pornography can satisfy many of the requirements of good art.

(4) ... the portrayal of subjects as mere sex-objects" (McElroy 1997). Whatever this may mean, it is simply not true. Characters in pornography films are not mere objects more than any other type of film: they are business women, housewives, babysitters, teachers, exotic dancers, timid, exhibitionist, sly, innocent, and so on. The characterisations are often not of the level of an Oscar winning film, but the basics are at least present. Moreover, No. 12 represents women as mere clothes horses: their bodies are used merely to show the curves and stitching on the underwear. At least page 3 in *The Sun* attempts to tell us about the likes, hobbies, and

political views (usually right-wing!) of Sharon, aged 20, from Essex.

(5) ... obscenity" (RCOFC 1979). There are obvious instances of obscenity that are not pornographic, especially when considering it as a form of offence: passing wind and swearing jump to mind. Of course, pornography is sexually explicit offensive material, but there exists sexually explicit material that is not obscene (No. 8 and 13, for example). If, however, one were to ask why these are not obscene, the answer will be something along the lines of "it is not pornography." Obscenity or offence without a pre-understanding of a distinction between pornographic and non-pornographic objects will do no work whatsoever as it remains painfully circular.

The tenor of these discussions is, though, a red herring because the above descriptions are not normatively neutral. They are all guilty of the normative silliness that was alluded to above and one can make this silliness stark through a consideration of the most influential of the definitions of pornography: pornography is material that oppresses certain individuals or a specific group (MacKinnon 1993; Dworkin 1981; Langton 2009). The *Bible* oppresses certain groups if it is read in a certain way, but no doubt the claim is that there is a specific use of predominantly sexual discourse to produce oppression. One way to comprehend the claim is to consider Irish jokes: since the Irish are always represented as foolish in English jokes (much as the *Carabinieri* are in Italian jokes), then it has an influence on the agent's understanding of an individual who happens to belong to that group. One is more likely, due to unconscious associations brought about by these jokes in early character development, to prefer an English lawyer to an Irish one. And such an association (as is clearly the case here) may well be ideology which requires reflection and refusal since it is due to historically conditional circumstances (such as the social exclusion of Catholics in British society). It could plausibly be argued that the representation of women in pornography reinforces and reproduces institutional inequality in that, when seeking advice, one is more likely to prefer a male lawyer to a female one. The existence of pornography obstructs the possibilities and opportunities of *all* women.

Whatever the truth of the empirical claims, the problem with such a definition is that it is conceptually useless in moral discourse. If pornography is to be defined as sexually explicit material that is oppressive of individuals or groups, then it is an empty definition. If one objects and points to sexually explicit material that is not oppressive, say *Lucía y el sexo* (2001), then they will be told that it is *not* pornography. But then one is forced into agreeing that all pornography is bad and is conceptually so. So, the definition of pornography is overtly normative from the start and, what is more, it begs the question: if something is pornography then it is necessarily bad and if it is not bad then it is not pornography. And that is problematic because one might want to point to attempts to deconstruct the oppressive hierarchies by using pornography itself (as *Baisse-moi* [2000] intends to do even if not wholly successful) in the same way as an Irish comic may well use Irish jokes and our expectations of them to invert the ideology at their heart. Sexually explicit material could be premised on equality or attempt to challenge the institutional inequality at the heart of the discourse and industry.

The issue that arises here is why not define pornography descriptively (say as sexually explicit material) and then add that of the set of pornographic objects, some are oppressive, some are harmless and some are progressive. Take once more the comparison with Irish jokes. The repetition of jokes about the Irish should be discouraged and subject to sanction in line with race laws in extreme cases since the necessary foundation of such jokes is the association of the Irish with foolishness. However, it is still possible to tell *a joke* that is not racist nor sexist (or not so to a relevantly offensive degree). There are jokes and some of them are immoral.

Their immorality rests in the reproduction of ideologically dubious conventions.

Similarly, there are representations of sex and some of it is pornography and some of that is immoral. One needs to separate the description from the evaluation, otherwise one is guilty of begging the question or making a normatively empty judgement. It is akin to defining killing as the illegitimate taking of a life and refusing to countenance the existence of any killing that is not illegitimate, much as a Jain may hold. The gap between a descriptive definition and a normative judgement defines the grey areas of moral discussion which are evaluatively interesting.

And that means we still require a denotative meaning of the word pornography which is normatively neutral. Rea's definition is normatively neutral in that it identifies a set of objects which are pornographic. Furthermore, it is more consistent than rival definitions with a storehouse of intuitions about objects one ordinarily terms pornographic or non-pornographic. However, it is overly complex and inadequate. Or, at least, the following section will attempt to show this.

3. Why the Definition is Inadequate

So, here is Rea's definition in full:

Part 1: *x* is used (or treated) as pornography by a person *S* =_{DF} (i) *X* is a token of some sort of communicative material (picture, paragraph, phone call, performance, etc.), (ii) *S* desires to be sexually aroused or gratified by the communicative content of *x*, (iii) if *S* believes that the communicative content of *x* is intended to foster intimacy between *S* and the subject(s) of *x*, that belief is not among *S*'s reasons for attending to *x*'s content, and (iv) if *S*'s desire to be sexually aroused or gratified by the communicative content of *x* were no longer among *S*'s reasons for attending to that content, *S* would have at most a weak desire to attend to *x*'s content.

Part 2: *x* is pornography =_{DF} it is reasonable to believe that *x* will be used (or treated) as pornography by most of the audience for which it was produced. (2001, 120)

The argument against Rea's definition proceeds by firstly offering an object which is intuitively not pornographic yet fits part one of his definition. The argument then concentrates on part two of the definition and demonstrates that Rea assumes that communicative material is aimed towards an *ideal* or *primary* audience. This assumption will be shown to be false and that it creates a problem with certain intuitions that Rea takes for granted in his original examples.

One might be tempted to hold that there are objects which a consensus would agree are *not* pornographic but, according to Rea's definition, are seemingly so. For example, the music video for 50 Cent's song *P.I.M.P.* (2005) has a high degree of sexual content, even though there is no nudity nor actual sexual activity. If that case is controversial, one might want to cite the video of Beyoncé and Shakira's *Beautiful Liar* (2007). The video is obviously not pornography nor at all sexually explicit, yet one can imagine a fourteen-year old male who wishes to use the content of these videos to gratify himself, but he was in fact a heavy metal fan who actively dislikes the music in itself. In this case, the pop video meets all of the conditions of part one of Rea's definition: the video is a token of communicative material by which the boy wishes to achieve sexual gratification and he does not believe (unfortunately, he sighs!) that the video will foster any intimacy between him and Beyoncé or Shakira and, lastly, he would personally not attend to the video if he did not wish to achieve gratification as he actively dislikes the music.

Rea would, of course, cite the second part of his definition: "it is reasonable to believe that *x* will be used as pornography by most of the audience for which it was produced" (2001, 120). The music video is not pornography because the fourteen-year old is exceptional as most agents would attend to the video to enjoy the

visual interpretation of the music and it is not “reasonable” to assume that most of the audience are going to use the video for sexual gratification.

Just as the fourteen-year old is exceptional, so too are those agents who use extreme images of fetishism that would not normally be expected to satisfy or gratify: images of sexual violence, or women dressed as nursing maids and breastfeeding full-grown adults. Such communicative material would not appeal (one assumes!) to a majority of agents wishing to be sexually aroused, but the issue is not one of majority and minority preferences as these are still pornographic images. Part two of the definition states that “by most of the audience for which it was produced” and it could be argued that these images, unlike the music videos, are produced in order to gratify a specific audience and that there is no audience beyond that. So, music videos are not pornography because they have an audience of which a subset attend to them for different reasons whereas fetishism videos are *only* attended to by those who wish to seek sexual gratification.

The producer of the music video is well aware that he is marketing a song and, given this intention, he is producing the video with the intention of selling it. There are parts of the audience who will consume it because it is a visual interpretation of the music, those who will consume it as an embodiment of lifestyle and those who will consume it for purposes of arousal. Each of these forms a separate “audience” as it were and the producer wishes to appeal to as many “audiences” as possible in order to maximise sales. The producer has “mixed motivations” in producing the video and to each of these “motivations” corresponds “an audience.” It is not impossible to concur that a music video has been produced to be sold to a specific audience who will use it as pornography (according to part one of Rea’s definition) over and above those who will attend to it for its normal or supposed use.

And if one admits that music videos overtly use sexual imagery to sell their product and their production is based on this expectation, at least in part, then music videos meet part two of the definition. And that means Rea’s definition identifies a set which includes an object (music videos) that a consensus would not agree is pornography. Rea’s mistake is to assume that objects of the sort he is discussing have a homogeneous and ideal audience when they can have various uses for different possible consumers.

So, music videos could be considered pornography by Rea’s definition. He has two responses: to bite the bullet and say yes they are (and he would not be alone) but he loses his claim to consensual plausibility. Alternatively he could say that music videos, unlike pornography and the fetishist examples above, possess qualities that can create a strong desire to attend to them even if the agent does not want to use them for sexual gratification. Even though the teenager above does not attend to them for these reasons, musical videos are objects which possess qualities which most of the intended audience would identify as creating such desires. And these qualities define an “ideal” or “primary” audience that give substance to the “reasonable” nature of our attentions. Just as statements created in the language English are primarily aimed at an English-speaking audience, the communicative content of music videos is primarily aimed at music lovers.

Yet, if Rea does say something of the sort, then it creates problems for his other examples. *The Story of O* is rightly described as an example of pornography. A doctoral student reading gender studies, however, may attend to the book both as a literary document and for purposes of sexual gratification. When the student has finished being gratified and returns to the book, she still has an interest (or strong desire) in attending to the object as the subject of her doctoral thesis. If one agrees that the book has some literary merit, then it is not pornography because the intended audience understand it as a literary work even if it is also used as pornography. Furthermore, it is reasonable to assume that *The Story of O* would be primarily attended to as a

literary work rather than as pornography. In this respect, the book differs from the anthology of Penthouse letters which Rea believes are of the same class (No. 5). And so it seems to exclude music videos from the set his definition identifies, Rea must also exclude an object that a consensus would normally take to be pornography, viz., *The Story of O*.

Rea's obvious reply is to invoke the distinctions between tokens of a specific type. The type-token distinction allows him to assert that the images of Marilyn Monroe are both pornography and not pornography because of the variables "1940/*Hustler*" and "1996/*Life*." The actual instantiation of the type as a token determines its ideal or primary audience. So, the music video is both pornography and not pornography because of the variables "musically interested" and "hormonally charged" and similarly so *The Story of O* which is pornography in one's own bedroom, but not pornography in the university lecture theatre. These assertions need to be considered in more detail.

Rea affirms that photos of naked people can be non-pornographic in contexts such as *National Geographic* magazine or in art, even if used by teenagers for sexual gratification, which is intuitively agreeable. However, in the same paragraph, we are told that "something might also depict pornography without itself being pornography" (2001, 121). Amongst such things, we are told that pornography used as evidence in a trial (No. 14) and sexually explicit photographs of a spouse on a mobile phone (No. 15). More puzzlingly still, he states: "if by some strange accident a sexual encounter between two people happened to be broadcast live to the nation or to be photographed and published on the internet ...," it would not be pornography (2001, 121). The examples here seem to be instances of pornographic material that are excluded by Rea's definition and one feels his intuitions are misplaced.

The assumed agreement or consensus with Rea's intuitions on these cases is not credible. If my friend has sexually explicit images on his phone of his spouse and he tells me so, I would describe these as pornographic images and he too might well describe them in this way to others. Similarly, the jurors at the trial would say, on returning home, that they had been made to look at pornographic material. Less controversially, stolen sexually explicit home videos made available on the internet against the sincere wishes of the participants are, when watched three thousand miles away on a PC screen, pornography. Such claims, contrary to Rea's assertions, are intuitively plausible.

Take firstly the evidence in a trial. It *is* evidence in a trial, but it does not cease to be pornography even if it is not being used in such a manner by the jurors and barristers. One guesses that it is probably evidence and of significance because it *is* pornography. If a knife is used as evidence in a murder trial, it does not stop being a knife, it is just being put into a different context and can be put into that context because of what it is. Again, the object has a different use dependent on the context, but Rea uses the type/token distinction in order to propose that the type can be different at different times and places. Yet, there is a metaphysical mistake about the nature of objects here which shall be discussed below.

The further example is perhaps more telling: intimate images, films, performances (strip shows) made by a partner for his or her partner and kept private (No. 15). This group contains two very distinct types of objects. A wife doing a strip show for her husband is no more pornographic than the two of them having private sex. But once that show is filmed, even if kept for private use on his phone, it would be described as "having pornographic images on his phone." Even if he had them behind security passwords and firewalls because the original strip show now exists as a possible object of public viewing.

Clause (iii) of part one of the definition rightly excludes acts of personal intimacy from the set of

pornographic objects. Yet, the images may not be pornographic for the spouse, but only in the same way as a painting is not art for the philistine investment banker who buys a Van Gogh painting for its expected accretion in value but can see no beauty or worth (other than monetary value) in the object. The husband and the investor have a particular attitude to an object which obstructs them from having a proper public attitude to the object. It is the reverse, if you will, of the fourteen-year old's special interest in certain music videos.

Two further examples bear out these intuitions. First the husband of a pornography model will nearly always stand in a particular relationship to pictures of his wife, but they do not cease to be pornographic for the rest of the audience. Second, private homemade films that originally fitted category 15 but have been stolen and distributed around the internet against the *sincere* wishes of the participants are pornography. The contingent fact about how a film has been exchanged, whether it has been stolen or sold, seems incidental to whether or not it is pornography. If the husband's wife strips for him, it is not, nor ever could be, pornography, yet the images on his phone are pornography from the moment they are taken.

The filming of the wife's strip or naked photographs of the husband makes the object into a possible public object of exchange. You cannot exchange the act of sex between private consenting agents (no matter what the performance entails) but once filmed or photographed or related in a diary, then there exist two objects: one, the event intimate to the participants and, two, the public object. No doubt this is true of all actors and their films and models and their images. One can imagine Burt Lancaster watching *From Here to Eternity* (1953) and remembering just how cold that sea was or how the water entered his nose as the waves crashed on him. But those are his memories not ours. We see a man consumed with passion and oblivious to the crashing, metaphoric waves. It is the plural nature of communicative content whether it be due to the mixed motivations of its creation or relative contents of its consumption that is not exhausted by the simple type-token distinction (although that is necessarily part of it). And it is the nature of such objects that demands to be amended in the definition under discussion.

4. How to Amend Rea's Definition

As has been made pertinently clear, the definition Rea offers is by far the best definition of pornography out there, but remains problematic. First, the definition is in terms of what is reasonably to be used as pornography and is in two parts. A two-part definition is nothing more than inefficient rather than seriously flawed, but it is "odd that what is pornography" is to be defined in terms of "what it is to be used as pornography," as Rea himself admits (2001, 35). His reasons for doing so are clear: the picture of Marilyn Monroe circa 1940 in *Hustler* would have been pornography (No. 4) whereas the same picture in *Life* circa 1996 would not have been (No. 11), and pictures such as those that appear in *Playboy* are pornography (No. 1) but if the same pictures were used in a trial, they would not be according to him (No. 14). Part one identifies pornography as a token of a type and part two of the definition determines the "ideal" or "primary" context of that token in terms of reasonable expectations.

Rea tells us that:

The property *being pornography* isn't an intrinsic property of anything, and it does not supervene on the intrinsic properties of anything. Otherwise, the same item could not count as pornography in one context but not another. In this respect, the property *being pornography* is more like the property, *being a work of art* or *being money* or *being an English word* than the property *being a person*. Whether something has the property depends importantly on how it can reasonably be expected to be used or treated by some group of rational agents. (2001, 135)

A photograph that appears in *Playboy* is pornographic but that very same image used in a portfolio by the model is no longer so. The image is the same but its intended use has changed. Similarly, images of nudity in *National Geographic* and underwear magazines are not pornographic even though they can be used as such. Being a pornographic object is a cultural convention and it must be a made object and not a natural one.

Although it is clear that agents attend to objects differently in different contexts, it does not follow that the categories they have are merely pragmatic ones of relation. It is possible to disagree with Rea's intuitions about the court trial (No. 14) because although the photographs are not being attended to as pornographic images, they *do remain* pornographic images. Pornographic objects are a subset of other cultural objects in that they excite sexual arousal in their audience. Other aesthetic objects do not or not, at least, primarily. With pornographic objects this needs to be a central expectation. However, *de facto* arousal cannot be taken to be definitive of pornography. People like different types of cheese and similarly different types of objects arouse different individuals. A shoe catalogue may be sufficient to bring one individual to climax, but it is not pornographic. Moreover, sexual arousal need not be the only aim: *Last Tango in Paris* (1973) and *Baisse-moi* (2000) also have political aims, but there are very real pornographic elements present.

The problems that the "use" and two part form of the definition are supposed to overcome are the possibility that the same type can be pornography for one agent and not for another without falling into subjectivism where anything can be pornography if one person finds it arousing. So, part one of Rea's definition identifies those objects that one could personally use as pornography, but since such objects, as has been shown, can include music videos and shoe catalogues for specific individuals, it is insufficient. Part two, therefore, limits the set identified by part one to those objects the community would expect to be used as pornography, thus ruling out exceptional, subjective preferences.

An alternative way to do so, though, is to make the definition culturally relative from the start, which is wholly appropriate for such objects. Such an approach has the advantage of making the definition of pornography culturally sensitive and yet, by avoiding reference to a particular user, does not fall into subjectivism.

The issue here has to do with the nature of irreal objects. Pornography is an irreal object, but so are knives, tables, chairs, or anything that is a cultural artefact (broadly conceived). Pornography belongs to a set of objects which are cultural. If there were not such things as minds, the object could continue to exist but it would do so quite differently. A knife, for example, exists because there are minds which want to cut things. If there were no intentions to cut, nor anything that could have aims to cut, then the object would not really be a knife but instead a mixture of metal and wood in the same way that some rocks are a mix of quartz and granite. Communicative material is always cultural because it is an artefact of minds for minds and it requires a community of knowers (or attendants) to recognise the object as a certain thing that it would not be if that community did not exist. Music for example exists because there are human beings: Beethoven's *Ode to Joy* remains a piece of music even if a farmer plays it very loudly in the field to scare away crows. The category music cannot exist independently of a random collection of sounds unless there are minds pre-prepared, educated, and expectant to receive certain collections of sounds as music and others as not. If pornography is an irreal object, then it exists as it is conceived by the community even when temporarily understood in a special way or put to another use.¹

The nature of cultural objects can explain the difference between Marilyn Monroe in *Hustler* and Marilyn Monroe in *Life* and also the difference between *Playboy* read for sexual gratification and *Playboy* used in a trial. A cultural artefact is an historical object and the community who understands it can be very temporary, almost

permanent or something in between. Identical images of Marilyn Monroe exist for two different communities in a very brief time; circa 30 years. The images used as evidence in a trial exist for the same community as pornography but are being attended to in a special or exceptional way. So, they remain pornography whilst the images of Marilyn Monroe do not. The quality pornographic exists as long as the community can “reasonably” expect agents to attend to the object in that way even if a “special point of view” is currently occurring.

And the phrase “a special point of view” is significant here. Cultural artefacts are objects that would normally be understood one way or another by a given community and that understanding determines their nature. Unique cases will be possible but will not be determining of the nature of the communicative content: objects used as evidence in trials, Beethoven used to scare crows, music videos attended to by hormonally charged teenagers, odd sexual predilections, and so on. All these remain exceptional uses. Inversely, Marilyn Monroe’s images cease to be pornographic as attitudes of the community change and these attitudes *do* determine the nature of the object because the way in which one attends to an object is not a special point of view but a transformation in the accepted point of view.

The issue with Rea’s definition resides in the fact that it is a “use” definition. The “use” definition approach entails that when an object is not being treated as a pornographic object, it ceases to be pornography. On the one hand, the evidence in the trial is pornography even if not being used as such and *The Story of O* is pornography even if being read for its representation of women in early twentieth-century France. On the other hand, the images of one’s spouse kept on one’s mobile phone are pornographic images even if not (or never) shared with anyone else. Something cannot be pornography at one moment and not at the next because the way in which it should be understood is determined by the community of attendants and not its use in that instant for a particular subject. Rea’s definition fails to acknowledge that cultural artefacts are heterogeneous objects open to interpretation but that a standard collection of categories will determine their expected use.

Here, then, is a proposed definition that acknowledges these considerations:

x is pornography for a specific community $C =_{DF}$ (i) x is a token of some sort of communicative material; (ii) x exists in the public domain as a possible object of exchange, and (iii) it is reasonably expected by C for some subjects to attend to x with the exclusive aim of being sexually aroused.

In other words, pornography is that subset of cultural objects which a historically and geographically defined community would normally expect to sexually arouse or gratify the person who attends to them with the desire to be sexually gratified or aroused. But these attitudes are, contrary to Rea’s definition, not exclusive. *The Story of O* can arouse not only sexual desire but also aesthetic appreciation and it remains pornography in both of these cases.

The first thing to notice is that the definition does not use the word pornography to define pornography. The second point is that the definition is for a community and does not make reference to an individual subject using that object. This means that there is no need to include the clause “(iii) if S believes that the communicative content of x is intended to foster intimacy between S and the subject(s) of x , that belief is not among S ’s reasons for attending to x ’s content,” because the husband who watches images of his wife (and vice versa) stands in a special relationship to the object in the same way as Burt Lancaster to his film, the art investor to his Van Gough and the fourteen-old to his Shakira. They have a special or exceptional relationship to the object which though intelligible to the community is recognised as exceptional due to circumstances. Thirdly, the judgement of whether x is to be treated as pornography is removed from the individual so that special cases no longer pose

a problem. It removes the assumption of an “ideal” audience implied in the assertion that it is reasonable to believe that “most of the audience” will use an object in a certain way and admits that there are mixed motivations in the production of and heterogeneous uses of cultural objects, but that a certain community will still be able to designate it as something: so evidence in a trial is still pornography, *The Story of O* studied by the doctoral student is still pornography and Beethoven’s *Ode to Joy* used to scare crows is still music.

The new (ii) entails that a difference exists between the performance of private sexual acts and the recording (whether it be in a diary, in etchings, in still photographs), since once it is known that this record exists, even if it has not been read or viewed, it is pornography. The spouse’s private strip show is akin to private sex in that it cannot possibly be an object of exchange. A public strip show or performance in a theatre can. Once the spouse’s strip is filmed and stored on the mobile phone then the images are pornographic once at least one person outside the couple is aware of their existence.

The new definition allows a new, more intuitive division of the standard examples of pornographic and non-pornographic objects:

Table 2

Examples Revised according to New Definition

Pornography	Non-pornography
1. Photographic images in <i>Playboy</i> , <i>Penthouse</i> , et cetera;	9. <i>The Bible</i> ;
2. Films such as <i>Deep Throat</i> and <i>Debbie does Dallas</i> ;	10. Photographs of naked bodies in <i>National Geographic</i> magazine;
3. Peep show performances and sexually explicit adult theatre shows;	11. Artworks such as Michelangelo’s <i>David</i> and Goya’s <i>La Maja Desnuda</i> ;
4. Marilyn Monroe naked in <i>Hustler</i> magazine circa 1940;	12. Marilyn Monroe naked in <i>Life</i> magazine circa 1996;
5. Literature such as <i>The Story of O</i> , <i>Emmanuelle</i> , a collection of the letters from a <i>Penthouse</i> type magazine;	13. A lingerie catalogue;
6. “The profit machine”;	14. Images identical to No. 1 (in left-hand column), but appearing in a plastic surgeon’s portfolio or a medical book;
7. “Shoe fetishist island”;	15. Intimate performances made by a partner for their partner.
8. Intimate images, films made by a partner for their partner;	
9. Images identical to No. 1 used as evidence in a trial;	

Notice the difference between No. 9 and 14. The images may well be identical but, even if individuals may well use No. 14 for sexual gratification, it would never be considered pornography. On the other hand, No. 9 is pornography used in a special way.

There are, of course, a few obvious objections to consider. The first concerns the use of the quantifier “some” in clause iii. Logically it entails that communicative content can be pornography only if more than one subject within the community can reasonably be expected to attend to the object in order to be sexually aroused. The range of sexual preferences is very vast and at times particularly idiosyncratic, but just because one member of the society can gratify him or herself using the latest John Deere tractor catalogue, it does not follow that the catalogue is pornography. However, it would be obviously impossible to expect that “all subjects” in a community could form the same attitudes to a particular object. “Some” falls between “one” and “all.” The actual empirical objects that fit the clause would be found out by hermeneutical endeavour by the sociologist who defines the particular community in question. The hermeneutical endeavour may well be as simple as asking a section of the community what it believes are pornography, or as difficult as interpreting the artistic production of a culture. So, the shoe catalogue is not pornography for the UK in 2010, but it is for Rea’s fictitious island. The images of Marilyn Monroe are pornography in 1960 but not in 1996.

And that leads to further objections: the capacity for a thing to be both pornography and not pornography

at the same time. The point is not truly a problem if one admits that cultural objects are very often conditional in just this very sense. If one thinks of “Inuit art,” the objects that constitute such a group would not normally be art if they were produced in one’s own community. However, “Inuit art” like “children’s art” identifies a set of objects that one comprehends as “art” for a particular community. Terms such as “art” and “pornography” implicitly possess the condition “for us” if never stated and that “us” identifies a relevant community; one can sensibly talk about “Victorian pornography,” “Islamic pornography,” and so on.

The conditional nature of the concept entails that judgements may well differ within a society which almost inevitably will be made up of distinct communities. What may be not pornography for me could plausibly be so for Islamic or Christian communities. Again, though, this is not truly problematic. Films in the UK are evaluated by the Film Classification Board and given age restrictions. Such evaluations say that the film is appropriate for certain groups. At present, such judgements concern only age but it is not implausible to assume that a multi-cultural society may feel necessary to offer advice on which films are inadvisable for which religions. “Pornographic” may well work in this way. As such, the concept is open and flexible. What may be pornography for a fourteen-year old may not be for an adult. What is not pornography for a thirty-year old may well be pornography for adult over sixty-five years of age.

But, of course, that opens up the definition to the most problematic objection? Who are the “us”? What is the community? Communities are geographical and historical objects and an agent can belong to more than one. The problem is to identify the borders of such communities: where do they end and new ones begin? Such a metaphysics of communities is beyond the scope of this paper, but one can talk of Victorian England and England in 2010 as two different communities and the Muslims and Christians as two different communities because the values and topics of reasoning are different and available to hermeneutical investigation. Such differences are all the definition needs to be plausible.

Finally, does the definition do any work at all? It seems that the differentiation of objects into pornography and non-pornography is still largely an intuitive one. Such a problem was inherent also in part two of Rea’s definition, but consider two problematic cases: Medem’s *Lucia y el Sexo* and the educational film *The Lover’s* (sic.) *Guide* (1991).² A definition ought to be able to allow us to assign the descriptor pornographic or not to these objects. Rea’s definition is rather binary: an object is or is not pornography. So, trial evidence is not pornography but the same images, if taken home and used, become once more pornography.

Conversely, for the current definition, the trial evidence is pornography. *Lucia y el Sexo* is pornography.³ It meets the requirements of the definition. But, like *The Story of O*, just because it is pornography, its aesthetic value is not negated because one can still have desires to attend to the objects that are not sexual.⁴ Rea’s definition seems to implicitly embody the “bad art” definition of pornography and find it unable to admit that pornographic films or novels could possibly be worthwhile aesthetically. The educational film is similar. The object is both pornographic and educational and is equally both because both audiences are reasonably expected by our community. For Rea’s definition, it could not be pornography because there are non-sexual desires to attend to it (to be educated). So, it seems that the definition does do some work when our intuitions are confused in that it helps to sort out our thinking in borderline cases.

5. Conclusion

Like Rea’s prior definition, the present paper has also sought to offer an evaluatively neutral definition of those objects that belong to the set pornography and to simultaneously rectify some counter-intuitive

consequences of Rea's definition of pornography. The definition offered is: " x is pornography for a specific community $C =_{DF}$ (i) x is a token of some sort of communicative material; (ii) x exists in the public domain as a possible object of exchange; and (iii) it is reasonably expected by C for some subjects to attend to x with the exclusive aim of being sexually aroused." It might be mentioned that clause iii of this definition makes the set of objects that are pornography very broad, including aesthetic objects which one might want to exclude. However, it is important to note that the definition makes no normative judgement and those who feel uncomfortable about including such objects in the set of pornography are guilty of an assumption that pornography is morally wrong. That assumption has not here been discussed and the definition deliberately says nothing that may make one hold such an assumption (or its opposite).

Notes

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1. It would be disingenuous of me not to mention that such an idealist position offers much to Hegel.
 2. We shall ignore the grammatical error that seems to suggest that the guide is intended for a single would-be Casanova rather than a couple.
 3. Remember that this is not evaluative. It is descriptive. It says nothing about the worth of the film.
 4. Unlike the fourteen-year old and music videos since he is exceptional (or a special case).

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