

The ACLU: Bait and Switch

Andrea Dworkin

A Note from the Editors:

We asked Andrea Dworkin's permission to publish this piece after hearing her present it at an informal reading.

Although Dworkin wrote the piece in 1981, she explained that, like many of her essays, it has never been published in the United States. It was published in England in the spring of 1988 in a collection of essays entitled *Letters from a War Zone*. If all goes well, *Letters from a War Zone* will be published in the United States next fall and *Pornography: Men Possessing Women*, which has been out of print for years, will be republished.

The *Yale Journal of Law and Feminism* is pleased to publish *The ACLU: Bait and Switch* for the first time in the United States. We include the short preface Dworkin wrote to the piece for *Letters from a War Zone*.

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The American Civil Liberties Union claims to protect rights, political dissenters, and the vitality of political and creative discourse. The organization, in my view, is exceptionally corrupt, a handmaiden of the pornographers, the Nazis, and the Ku Klux Klan. Only the pornographers give them lots of money. The Nazis and the Klan they help on principle. It's their form of charity work. I didn't understand this in 1981. I thought something was wrong but I wasn't exactly sure what. I wrote this piece to try to raise a real debate about the values and tactics of the ACLU. Forget it, folks. The ACLU is immune to criticism because virtually none gets published — none on the Left. I couldn't get this piece published but I did get some mean — even handwritten — letters from left, progressive, and libertarian editors expressing their disgust with my "contempt" for free speech. Speech is what I do; it ain't free; it costs a lot. This piece has never been published before.

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Towards the end of 1975, I received several letters asking me to become a member of the ACLU. The stationery was lined with the names of eminent women. The letters were signed by an eminent woman. The plea was a feminist plea: the ACLU was in the forefront of the fight for women's rights. In 1975, I earned \$1679. Deeply moved by the wonderful

work being done by my sisters in the ACLU, that crusading organization for women's rights, I wrote a check for fifteen dollars and joined. I received a letter thanking me. This letter too had names on it, all male. It was signed by Aryeh Neier, then Executive Director. Verily, a woman's name, a reference to feminist issues, was not to be found. I wrote Mr. Neier a letter that said in part: "All of the mail soliciting my membership was exemplary in its civility—that is, female names mingled with male names on the letterheads; even men were chairpersons, etc. Now that I am a member, I find that I have been deceived by a bait and switch technique. My form letter welcoming me is replete with 'man's' and men, and nary a woman or a nod to feminist sensibilities is to be found." Of course, being very poor, I had missed the fifteen dollars, but not for long. Mr. Neier returned it to me immediately. He said that he would rather receive my complaint that old stationery "doesn't use the latest neologism than a complaint about profligacy for discarding it." My membership fee was "cheerfully refunded."

In the intervening years, letters soliciting money continued to arrive at a steady pace. Despite Mr. Neier's cavalier attitude, it seemed that my fifteen dollars was sorely needed. As feminists confronted the issue of pornographic assault on women as individuals and as a class, prominent civil libertarians, Mr. Neier foremost among them, denounced us for wasting civil libertarian time by speaking about the issue at all. Meanwhile, the ACLU saw to it that Nazis marched in Skokie and that the Klan was defended in California. While we feminists piddled around, the ACLU was doing the serious business of defending freedom.

In January 1981, I received yet another letter claiming that the ACLU needed me, this time from George McGovern. The letter said that the ACLU was fighting the Right, the Moral Majority, the Right to Life Movement, the New Right, and the evangelical Right. The entire thrust of the letter pitted a gargantuan Right against a broadly construed left. Reading it, one could only believe that the passion and purpose of the ACLU was to triumph over the terrible and terrifying Right. And what were the Nazis and the Klan, I asked myself. Chopped liver?

The ACLU, in both philosophy and practice, makes no distinction between Right and Left, or Right and Liberal, or Right and anything else. It does not even make a distinction between those who have genocidal ambitions and those who do not. The ACLU prides itself on refusing to make these distinctions.

Some think that the ACLU would not choose to defend Nazis if Nazis were what is called "a real threat." For some, this supposition gets the ACLU off the hook. But the Klan is "a real threat": count the dead bodies; watch the murderers acquitted; see the military training camps the Klan is establishing. It is time for the ACLU to come clean. Its fight is not against the Right in any form, including the Moral Majority or oppo-

nents of the Equal Rights Amendment (as Mr. McGovern's letter claims). Its fight is for an absence of distinctions: "kill the Jews" and "rape the women" indistinguishable from all other speech; action mistaken for speech; the victim confounded into honoring the so-called rights of the executioner. In bondage photographs and movies, we are to interpret the bondage itself as speech and protect it as such. The symbol of free speech ACLU-style might well be a woman tied, chained, strung up, and gagged. Needless to say, she will not be on any letterhead. If the ACLU were honest, she would be.

I am tired of the sophistry of the ACLU and also of its good reputation among progressive people. In 1975, it seemed smart to rope in feminists, so eminent women were used to proclaim the ACLU a strong feminist organization, which no doubt they wanted it to become. This year, people are afraid of the so-called Moral Majority, and so the ACLU gets bucks by claiming to be a stalwart enemy of the Right. There is nothing in ACLU philosophy or practice to prohibit the use of those bucks to defend the Right—the Nazis, the Klan, or the Moral Majority.

There is nothing as dangerous as an unembodied principle: no matter what blood flows, the principle comes first. The First Amendment absolutists operate precisely on unembodied principle: consequences do not matter; physical acts are taken to be abstractions; genocidal ambitions and concrete organizing toward genocidal goals are trivialized by male lawyers who are a most protected and privileged group. Meanwhile, those who are targeted as victims are left defenseless. Of course, the ACLU does help the targeted groups sometimes, in some cases, depending on the resources available, resources depleted by defenses of the violent Right.

It is time for the ACLU to stop working both sides of the street. Some groups exist in order to hurt other groups. Some groups are socially constructed for the purpose of hurting other groups. The Klan is such a group. Some people are born into groups that others want to hurt. The distinction is fundamental: so fundamental that even the ACLU will have to reckon with it.

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