# RULING OUT ART
## Media Art Meets Law in Ontario's Censor Wars

Taryn Sirove

UBCPress · Vancouver · Toronto

# Contents

# Illustrations

# Introduction

In the province of Ontario, many experimental film and video exhibitors currently operate either in protest of the law or outright illegally. In Toronto, for example, the Images Festival publishes a protest statement in its promotional material, explaining that it complies with Ontario's Film Classification Act (2005) "under protest."[1] Former executive director Scott Miller Berry commented on the Act in the 2010 catalogue, writing,

> Sadly, our audiences are restricted to those 18 years and older: We are forced by the Ontario Film Review Board to adopt a blanket 18+ audience restriction as a result of our refusal to submit films and videos for ratings ... Images [Festival] would love to expand our audiences and share artist-made film and video with folks of all ages, but under this antiquated Act we are sadly unable to do so.[2]

While the Images Festival complies under protest, the artist-run collective Pleasure Dome, another Toronto new media exhibitor, openly admits on its website its deliberate, routine defiance of the law. Pleasure Dome states that it "fundamentally upholds the rights of freedom of speech, freedom of expression and access to information and therefore disagrees with the censorship or prior approval of any work of art in any form, and as such will not comply with the censorship, prior or otherwise, of works it exhibits."[3] In

these statements, "prior approval," "prior classification," and "prior censorship" refer to provincial regulations that require all films and videos destined for public viewing in the province to be pre-screened, approved, and rated by a provincial bureaucratic governing body called the Ontario Film Review Board (OFRB) – that is, unless the exhibiting organization qualifies for an arts exemption.[4] The Images Festival qualifies for this exemption and therefore accepts the blanket age restriction, but Pleasure Dome doesn't qualifty because it exhibits at various theatres year-round, and is therefore legally required to submit all films and videos to the OFRB for approval and classification – at a fee.[5] It refuses to do so.

Organizations such as Pleasure Dome are not secretive about their noncompliance with the law. In 2005 the president of Pleasure Dome, Linda Feesey, along with Roberto Ariganello of the Liaison of Independent Filmmakers of Toronto (LIFT), announced to a committee of the Ontario Legislature that their organizations were indeed operating illegally.[6] Feesey stated, "We do not submit works for classification because it is a form of prior restraint [i.e., prior approval and thus prior censorship] that infringes on our charter right to freedom of expression."[7] In addition to making rights and policy statements about censorship, Feesey and Ariganello plainly informed government officials that the organizations they represented broke the law on a regular basis. The law they were contesting at this 2005 meeting – Ontario's Film Classification Act – gave the OFRB its power to approve and classify films and videos prior to exhibition. It remains in place today.

Far from anarchistic defiance of the law, Feesey's and Ariganello's public admissions of lawbreaking and the Images Festival's statement of protest represent controlled acts of civil disobedience within a larger project to change provincial legislation and regulations so that they accommodate the practices of their organizations. Nonprofit media arts exhibitors have struggled with Ontario's film and video regulations since 1980. What may at first glance seem like an uncontroversial film-rating system is in fact a regulatory remnant of a history of resistance to more overt, conventionally understood forms of censorship that have involved government officials cutting scenes out of films and videotapes as well as banning films and videos from being shown publicly in the province at all. The censor wars of the 1980s kicked off a period of intensified activism on the part of arts practitioners and exhibitors, along with lesbian and gay rights groups and later AIDS activists and others, in response to a shift in policy that brought nonprofit and arts activities onto the Ontario government's radar.


Demonstration in protest of the International Conference of Film Regulators, Queen's Park, Toronto, September 17–21, 1984. Photograph by Paul Till, in *Now Magazine,* February 28–March 6, 1985. Courtesy of *Now Magazine*.

Until 1980 film and video screenings in small art houses received little scrutiny from the OFRB's predecessor, called the Ontario Board of Censors until 1985 and commonly referred to as the Ontario Censor Board (OCB). The OCB focused on mainstream, commercial films screened in large, public theatres until the board discovered Toronto's Funnel Experimental Film Theatre in March 1980.[8] The Funnel was an artist-run centre featuring regular, often one-off screenings of contemporary films. Upon discovering that this venue was operating without submitting films to the board, the OCB began subjecting artists' experimental media works to cuts and bans, as well as to the same expensive and time-consuming bureaucratic process of screening before public exhibition to which it subjected commercial films. Filmmaker and Funnel director-programmer Anna Gronau and her colleagues became embroiled in the goings-on of this governing body as the board persistently restricted the scope of the Funnel's operations, from continually demanding the theatre "meet new building code requirements" to the outright banning of films from exhibition.[9]

The first criminal charges for contravening the Theatres Act (predecessor to the Film Classification Act) since its beginnings in 1911 were laid in 1981

against the organizers of that year's Canadian Images Festival in Peterborough (not to be confused with Toronto's Images Festival). The organizers were executive director Su Ditta, who was the curator of film and video at the National Gallery of Canada; David Bierk, who was the executive director of Peterborough's artist-run centre Artspace; Professor Ian McLachlan, who was an Artspace board member; and the Funnel's Michaelle McLean. They were found guilty of screening the banned film excerpt *A Message from Our Sponsor* (1979; from *Amerika* series 1972–83) by Al Razutis. This court case started the discussion in judicial arenas about the particularities of exhibiting media artworks. Several more cases would follow of artists and arts exhibitors challenging the OCB's operations in court before formal arts exemptions were introduced in 1988. The collision between artists and the state resulted in several arts organizations and groups entering into legal skirmishes around the issue of freedom of expression and protesting the laws through acts of civil disobedience. In the spring of 1985, exhibitors across Ontario organized *Ontario Open Screenings: Six Days of Resistance against the Censor Board,* a coordinated effort to illegally screen films and videos without approval from the board in an important act of group civil disobedience.

This book is concerned with the local history of both grassroots acts of resistance and the court battles that came to inform current laws regulating media arts expression in Ontario. The censor wars represent a series of interactions between two expert fields of knowledge – art and law – and in the following pages, I examine some of the ways the one is implicated in the other, asking how media arts influence disputes around freedom of expression and how important laws administering cultural expression have been shaped by encounters with arts practices. Although during the censor wars the state impinged on arts production and exhibition in very real ways, I argue that the administration of culture through censorship was not a simple top-down exercise but can be more accurately understood as a process of complex negotiation between cultural citizens and the state with formative effects. My purpose is to approach censorship as a relation of power that also invites the crystallization of sometimes competing knowledges. Thus this book explores the interplay between artists, exhibitors, policy makers, legal representatives, and regulators as they worked to normalize identities in the law and produce discourses about sexuality, race, AIDS, pornography, obscenity, censorship, fundamental freedoms, rights, and art.

There were two main anti-censorship concerns for artists and exhibitors when it came to provincial regulation and enforcement: (1) since there was

no parallel provincial regulatory body requiring pre-approval for the exhibition or distribution of other forms of expression, such as theatre, painting, or literature, the bureaucratic policy of pre-screening amounted to prior censorship; and (2) since the cuts and bans generally targeted explicit sexual imagery, they infringed on freedom of sexual speech. Members of art communities in Ontario and across Canada during the 1980s and 1990s were tasked not only with negotiating how contemporary art survived regulatory scrutiny in public policy arenas and the courts but also with defining the acceptable boundaries of sexual identities and citizenship in a field of heteronormative laws. At issue was the constitutionality of the OCB's authority to enforce *prior* restraint on expression, as opposed to, for instance, the federal laws of the Criminal Code, which give licence to prosecute crimes *after* they have been committed. As well, with regard to the Criminal Code, anti-censorship proponents questioned whether censorship ought to fall within provincial jurisdiction at all when federal laws, such as against obscenity and child pornography, already captured criminal representations.

Whereas the commercial film industry generally cooperated with this provincial regulatory scheme, artists were roped into a system that was not set up to accommodate their particular needs and practices, such as screening several short films in a single evening for an unpaying public. A difficult situation arose for media artists who were themselves participating in a far from unified film and video culture in Ontario, resulting in prohibitive bureaucratic obstacles to the screening of their work. The response from Ontario arts communities to the censor board's crackdown on media art marked the beginning of a period of both contestation and coalition between cultural participants and policy makers as artists took on roles as activists, expert witnesses, litigants, and criminals.

Provincial film and video censorship also affected other locations in Canada during this time, notably British Columbia, which I mention briefly in Chapter 5. Ontario, however, was a key political locus in this history. Since 1981 the most influential legal battles challenging the powers of provincial censor boards have been launched in Ontario, three of which were initiated by an organization formed specifically to do so: the Ontario Film and Video Appreciation Society (OFAVAS), whose acronym deliberately sounds like, "off of us." Constitutional challenges mounted by OFAVAS citing the Charter of Rights and Freedoms have set legal precedent and established the tone for addressing arts censorship in the rest of Canada. Ontario's film industry was robust and had a vested interest in the province's censoring practices, and Ontario was a location of focused and prolonged

anti-censorship activism that resulted in precedent-setting legal battles and historic protest events, the largest being *Ontario Open Screenings* in 1985. During *Ontario Open Screenings,* arts exhibitors coordinated forty screenings in thirty locations across eleven cities, all without the legislated prior approval of the newly renamed Ontario Film Review Board. Sixty-three organizations, including Vtape Distribution Centre (Toronto), A Space Gallery (Toronto), SAW Gallery (Ottawa), National Film Theatre (Kingston), Ed Video (Guelph), White Water Gallery (North Bay), Embassy Cultural House (London), and Lakehead University Film Society (Thunder Bay) – largely artist-run centres and gay and lesbian rights groups – formed a coalition for the event.

Having entered the courts in a series of legal challenges at the same time as they pursued extralegal forms of resistance, artists and other cultural producers formed, I argue, a full-fledged, province-wide, anti-censorship movement that was instrumental in creating legal and social change. In geopolitical contexts in which government is increasingly scaled back and citizens are increasingly active in mobilizing the law, cultural citizens from outside the formal apparatus of the state become key in governance. Not only do the censor wars provide a case study to examine how media artists, exhibitors, and their allies participate in shaping specific legal rules that in turn structure artistic practices, but more broadly, the events of the 1980s exemplify how cultural producers become active agents in conceptualizing or normalizing functions of art in the language of the law.

Conversely, this book also examines the law's purchase on art – the way legal structures variously constrain or inform artistic practices and the way legal language informs the way art conceptualizes itself. Which functional aspects of media arts practices are subject to regulation, and how do these regulations impact the everyday operations and exhibition policies of media arts exhibitors? What are the limits of freedom of expression with respect to art, and in creating these limits, how does the law cast art's role or social function in Ontario society? In other words, art is not the only discipline that has a purchase on the definition of art, and law is not the only discipline that has a purchase on the creation of laws.

In order to look at how two disciplines that generally view themselves as distinct interact with one another, this study necessarily takes what feminist sociologist Carol Smart calls a "decentred" view of the law.[10] This approach recognizes the way the law participates in producing social-value-making vocabularies as they overlap and converge with varied cultural and

disciplinary discourses that here contribute to definitions of sexuality, pornography, race, AIDS, censorship, fundamental freedoms, rights, community, art, and so on. To counter the way law and legal method tend to present themselves as having "privileged status in relation to truth,"[11] I draw on scholarship that has developed out of Foucauldian theories of governmentality to include law as one discipline, among many, that contributes to postsovereign power and management of a state. Here, the law indeed plays a role in cultural historian and social theorist Michel Foucault's notion that "the instruments of government, instead of being laws, come to be a range of multiform tactics."[12] Judges, lawyers, and traditional government agencies are joined by pressures from other disciplinary sources – in the case of film and video regulation, by nonprofit artists and exhibitors, pornography distributors, gay and lesbian groups, special interest lobbyists, feminists, and others – in competition over whether or not certain kinds of representation ought to be considered a social problem to be regulated or controlled and, if so, how.

There are two main reasons why the idea of a decentred approach to law is significant to this study, and these two reasons come to bear on the approach to censorship I take up in this book. First, if the law participates in social-value-making procedures in a competitive environment and is thus not the unidirectional authority it presents itself to be, state disciplinary apparatuses must function in hegemonic ways, where ideological meanings in fact underpin claims to neutrality. Second, in a decentred view of the law, rather than being viewed as purely at the mercy of a unidirectional authority, common citizens become vital links in the formation and distribution of power. If we recognize the negotiation between citizens and the state in the claiming of meanings, it follows that narrow definitions of censorship as a "negative exercise of power" – as in censorship only *removes* meanings from circulation as opposed to also creating or legitimizing them – ought to be complicated.[13] Censorship takes on broader significance as varied institutional sources take responsibility for administering the circulation of media culture. New directions in the interpretation of how censorship functions in liberal capitalist states shed light on the productive forces of censorship in engendering new meanings through public debate inside and outside the courtroom.

When we talk about censorship, the definition we are most accustomed to is one that refers to the infringement by governments upon free access to information. Certainly, this is the sort of censorship media artists faced

during the 1980s when the Ontario Board of Censors cut scenes out of their films and videos or banned their work altogether. In a libertarian, free-speech definition of censorship, the problem of censorship is usually framed in terms of for or against – as a question of whether governments ought to censor or not censor. Literary theorist Stanley Fish calls this an attempt to generate a "'principled' answer."[14] This framework relies on the assumption that censorship is a self-identical phenomenon that functions separately from other disciplinary practices and operates similarly in every context, thus disposing it to the possibility of being eliminated or stopped. In a totalitarian system of government, censorship might easily be identified as a government's total control over information or communication, making a principled answer available. In contrast, given the dispersal of power in modern liberal democracies, modes for censoring public expression are much more diverse and intricate.[15] Contemporary cultural studies scholars taking up censorship as an analytical concept are dubious of any theoretical or even political grounds for ending censorship. There are three main reasons for this view: (1) as literary scholar Klaus Petersen puts it, "restraints on the freedom of speech are not always illegitimate even in liberal democracies"; (2) locations for censorship are not always centralized but are dispersed across many fields of disciplinary practices and governance, making them difficult to counter; and (3) there are in fact productive aspects of censorship in the field of culture.[16]

To address the first point, Petersen points out that what distinguishes censorship in liberal democratic societies from censorship in totalitarian societies is due process of the law. Although a libertarian would credit liberal democracy with abolishing the censorial powers of the church and state during the Enlightenment and would treat any new appearance of censorship as though it were anachronistic and ought to be eliminated, most liberal democracies in fact censor or limit expression as a matter of course.[17] Censorship is not strictly a feature of totalitarian or previous societies or an error in the story of conventional history. Although all democratic societies have some version of a constitutional guarantee of freedom of speech or expression, they also contain exceptions or limitations to this freedom. For instance, in the United States some forms of speech do not count as "expression," in Germany some restrictions do not count as "censorship," and in Canada all guarantees in the Charter of Rights and Freedoms are conditioned by "such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."[18] As a result, censoring operations are built into democratic rights as safeguards for protecting, for

instance, the welfare of children, national security, and minority groups from discrimination.[19]

In Canada, communications and legal scholar Sheryl Hamilton points out that limitations to free expression are an important way we "negotiate social norms" and that in the areas of hate speech, obscenity, and child pornography, "Canada has some of the strictest limits on free expression in the western world."[20] These limitations appear at several levels of law: we criminalize expression we deem harmful using laws for obscenity, child pornography, and hate speech; we limit expressive materials entering our borders via the Canada Border Services Agency, which is another form of prior restraint in that materials can be seized and banned prior to their entering the country; and we continue to afford most provincial film review boards the power *not* to approve films for public consumption, effectively banning them. Nonetheless, the enforcement of these laws does not go unchecked. Official restrictions on speech or expression are not authorized without due process of the law.

The second point regarding why some calls to end censorship are misplaced has to do with the way contemporary formations of power and governance necessarily contain constraining operations that promote some ideas and suppress others. Scholars rethinking the concept of censorship – like the contributors to the anthologies *Interpreting Censorship in Canada* (1999) and, in an American context, *The Administration of Aesthetics: Censorship, Political Criticism, and the Public Sphere* (1994)[21] – point to nonjudicial practices such as "institutional regulation of free expression, market censorship ... boycotts, lawsuits" as examples in which the circulation of public expression undergoes some kind of selection process that determines and/or creates legitimacy.[22] In terms of art, processes of curating exhibitions and policies for adjudicating public funding could be added to that list. This is not to say that there are two separate categories of censorship, one enacted by the state and one not. Contributing to this decentralizing effect of censorship is the very relationship between the marketplace and the state in neoliberal societies. As an economic model and ideological rationality, neoliberalism focuses on deregulation and diminished state intervention for the sake of the freedom of markets, private interests, and, by extension, individuals. It is, according to geographer and urban studies theorist David Harvey, "a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade."[23]

Of course, the state's role does not disappear in this formation of governance; rather, "the role of the state is to create and preserve an institutional framework appropriate to such practices."[24]

A key feature of this political formation is what socio-legal theorists Alan Hunt and Gary Wickham call the "proceduralisation" of law, where legal regulation is connected to "the rise of the risk or insurance principle."[25] Increasingly, it is the role of consumers to manage risk to personal and commercial security by purchasing all manner of private insurance as opposed to relying solely on criminal law for welfare needs. Yet the insurance industry is of course regulated by norms and standards that the law provides. In fact, Hunt and Wickham consider "proceduralisation" to be an expansion of law, which "rather than setting positive rules to control activities, lays down procedures for how decisions are to be taken."[26] Regulatory laws become setters of norms rather than "'principles' or meta-rules."[27] One of the consequences of the "proceduralisation," or expansion, of law is that legal decisions are placed in the hands of nonlegal professionals. When the representatives of arts organizations fill out documentation to submit to the censor board as per Ontario's conditions for exempting them from submitting the physical films, they decide what they deem pertinent information to include and basically decide in that moment whether they feel the work will contravene the law. Here, liberal self-governance includes modes of self-censorship. Decisions about where, when, and how to limit expression are made by varied agents, not just agents of the law. In the Foucauldian theory of governance, which informs my conception of a decentred legal system, legal operations work alongside other agencies in the coordination of conduct.

Given this dispersal of power and shifting of responsibility for censorious decision making, cultural studies theorist Richard Burt's term "(de)legitimation" is useful for referring to the more diffuse and subtle sets of suppressions and influences characteristic of modern government, and his use of the term "administration" is useful for denoting the multiple locations of agents across fields of discipline that oversee the administration of culture. These terms foreground the way expression is constrained in all aspects of policy and invite consideration of the way so many cultural citizens – artists, exhibitors, civil liberties associations, and other legal intervenors like lawyers and judges – are players in the contestation of meanings. This approach also complicates narrow ideas of censorship, defining it in terms of negative prohibitions like "destroying materials, blocking access to them, limiting their distribution and circulation, and assigning penalties

for collecting and consuming forbidden materials."[28] Although censorship is ostensibly a manoeuvre to suppress ideas, the performance of censorship, even especially in its overt forms – such as black bars, beeps, and blurs, or in the case of film and media works, the denial of approval by censor boards – draws attention to the very items it attempts to suppress, in fact placing those items into public discourse. As feminist legal scholar Brenda Cossman argues, censorship creates "the conditions of its own failure by producing the space for its contestation, and moving the offending speech into it."[29] Thus I argue that the censor wars were a moment of positive productivity in terms of contesting and creating definitions of art and representation, as well as creating art, forging solidarities, and building community among artists and other allies in the struggle over cultural values.

Artists were instrumental in writing the history of independent media production as part of a broader artist-run culture, producing archives that speak to many of the issues at stake. The methodology in this book draws from the journals and periodicals generated by artist-run culture, which allowed for self-sufficiency in terms of networking, advocacy, and developing a critical discourse.[30] Artist-run organizations also initiated activities such as panels, festivals, special calls, and symposia about the topic of censorship, and following media artist and cultural policy scholar Clive Robertson, I examine "the network and alternative infrastructure-building work of artists."[31] Participant interviews form an important part of the research for this book and are a significant source of historical knowledge and interpretive insight. I spoke or corresponded with filmmakers (Al Razutis, Michael Snow, and John Porter); video artists (Lisa Steele, Kim Tomczak, Richard Fung, and Gary Kibbins); artists, curators, administrators, and others involved in legal cases against the censor board (Su Ditta, Ian McLachlan, David Poole, and Cyndra MacDowall); lawyers involved in cases against the censor board (Frank Addario, Charles Campbell, and Jonathan Dawe); participants with policy perspectives (Demetra Christakos and William Huffman); and participants implicated in broader feminist debates under the umbrella of the feminist sex wars (Jennifer Gillmor and Brenda Cossman).[32] Focusing on the 1980s and 1990s, the periods approaching and during the height of skirmishes around identity politics, I interrogate activist and lobbying entities like Feminists Against Censorship, Film and Video Against Censorship, and the Ontario Film and Video Appreciation Society, as well as organic manifestations like various curatorial projects, symposia, and other artistic alliances informed by these cultural politics.

My engagement with varied sources and agents suggests to me the usefulness of a cultural studies approach, which, according to cultural studies scholar Toby Miller, "by looking at how culture is used and transformed by 'ordinary' and 'marginal' social groups ... sees people not simply as consumers but as potential producers of new social values and cultural languages."[33] To contextualize my study of how artists became producers of new cultural languages during the censor wars, Chapter 1, "Historicizing Censorship," interrogates government archives and popular media, tracing the evolving rationalities in administrative logics of the current Ontario Film Review Board (1985–present) and its former incarnation as the Ontario Board of Censors (1911–85) to trouble the board's longstanding, self-described function: to assure public safety from harm. The genealogy brings to the fore the particular cultural values at stake over the course of the board's history in terms of the content on the chopping block and censorship as a cultural concept in and of itself. Although the board's early practice of censorship functioned as a relatively uncontroversial tool with which to promote national symbolism and a domestic film industry, community perceptions eventually regarded censorship in general as antiquated. This negative pressure was partly evidenced in Ontario by the board's decision in 1985 to semantically transform its public persona, changing in name only from the Ontario Board of Censors to the Ontario Film Review Board. Focusing on the board's home base of Toronto, this chapter closes with a discussion of the mid-1970s Clean Up Yonge Street campaign and the accompanying media-led moral panic that targeted sexualities constructed in media sources as lying outside the norms of acceptable citizenship. Extensive media coverage of this moral panic is relevant to the study of censorship, as many Toronto conservative lobby groups pushed for a legal solution to perceived social problems in the form of intensified regulation of video and film.

Chapter 2, "Misunderstandings between Art and Law," explores initial encounters between the OCB and experimental film and video exhibitors through an examination of anti-censorship activist literature, interviews, and newspaper features and reporting. Upon discovering the Funnel Experimental Film Theatre in Toronto, the board began treating it and other small art houses that presented one-off screenings of often short artworks the same way it treated big, commercial film theatres. At the same time that lawyers and lawmakers were interpreting arts practices, artists and exhibiting representatives were actively learning the legal language of rights claims. Through negotiation, the board began to make awkward concessions

and exceptions for artworks, fraught as they were, in a struggle to define the social role of art in Ontario society. What would it mean to art audiences if experimental film theatres were to be designated as private clubs? Or if films were to be allowed exhibition in government-funded arts venues but not in others? These developments not only revealed initial assumptions about the legitimacy of the arts from the perspective of lawmakers but also prompted arts professionals to confront ideas about their own practices that they may have taken for granted. In the process, I argue, anti-censorship efforts moved toward consolidating the anti-censorship movement's priorities.

Chapter 3, "Competing Anti-Censorships and Mixed Legal Outcomes," builds on Chapter 2's discussion of contested strategies for resistance to censorship and follows the development of increasingly organized anti-censorship efforts in Ontario as interested stakeholders' approaches to resistance generally began to coincide. Drawing from several interviews with artists, exhibitors, arts policy makers, lawyers, and legal intervenors, as well as examining organized anti-censorship campaigners' archives, I interrogate internal debate within what I argue became a full-fledged, province-wide anti-censorship movement as participants negotiated preferred avenues for action within, and resistance to, the structures and culture of the judiciary. This chapter considers key court battles over censorship that took distinct judicial paths. In each, an engaged cultural citizenry confronted state regulations that restricted and defined freedom of expression. These cases include the trial of the organizers of the 1981 Canadian Images Festival in Peterborough, who, in a measured act of civil disobedience, publicly screened videos without the prior approval of the OCB; Toronto-based artist-run A Space Gallery's Divisional Court appeal of the OCB's confiscation of video playback equipment and artists' videotapes in 1984; and the first set of constitutional challenges against the OCB after the entrenchment of Canada's Charter of Rights and Freedoms by the nonprofit Ontario Film and Video Appreciation Society in 1983, 1984, and 1986. Discussion of these legal cases reveals the legal avenues available to actors to contest censorship in Ontario, as well as documenting internal debates that shaped these trials. Throughout, I emphasize how legal arguments were transformed or dropped as actors tested concepts in court and as concepts were filtered through legal vocabularies and frameworks.

Chapter 4, "Defining Communities with Uncertainty," considers the law's tendency to find truths and how this tendency impacted the way its official

language interpreted the function of images. In responding to the legal terms that define images, artists and feminists articulated a politics of representation. Prior censorship through provincial film review boards was not the only avenue through which film and video was regulated in Canada. The federal obscenity and child pornography laws set out in Canada's Criminal Code were and are powerful mechanisms of constraint. This chapter traces important transformations to laws during two moments of vigour during the censor wars – the early 1980s and the early 1990s – with a focus on attendant assumptions about the special power of moving images to affect the attitudes of viewers. Changes to these laws were famously incited by feminist advocates around the topic of pornography, and this chapter summarizes some of the already well-documented pro-censorship and anti-censorship feminist debates – with a focus on local voices – and the uneven targeting of representations of alternative sexualities as a fallout from the landmark *Butler* decision at the Supreme Court of Canada in 1992. Here, I investigate the intersection between attempts of the courts to make laws dealing with the power of images objective and arguments of artists and feminists for socially and politically situated interpretations of images. This analysis sheds light on the way these laws have come to recognize or not recognize specific social groups – communities of women, gay and lesbian communities, and arts communities – and the authority given to their representatives to speak about representations.[34] In the absence of proof that images influence conduct, I argue after Lori G. Beaman, who writes in the context of religious freedoms,[35] that Canada's federal obscenity law appeals to common sense as a disciplinary tool, invoking the slippery term "risk" to reinforce disciplinary mechanisms that, in this case, come to bear on sexual citizenship and communities recognized by law.

In Chapter 5, "Media Artists Mobilize, Mobilizing Media Arts," I focus on the different roles specific artworks played in the anti-censorship movement. Notably, this section analyzes the significance of incorporating media artworks into movement strategies. Illegally screened artworks supported movement strategies as part of acts of civil disobedience. Many artworks functioned to negotiate the way the anti-censorship movement framed its arguments. The subjects of artworks often unpacked and critiqued the language of the law, and artworks often produced new languages to articulate an eroticism to counter the definitions the state would attempt to cement in laws and regulations. Remembering that Ontario arts communities and the overlapping anti-censorship movement did not form a wholly unified

front against censorship, I argue that art put to use in the service of movement strategies reveals the productive intersections between art and law, where legal languages and constraints can be formative of cultural production.

In the conclusion to this book, I return to the present state of the law. Through the lens of the most recent challenge against the Ontario Film Review Board, I ask whether it was all worth it. Did these social citizens succeed in bringing about change? *Ruling Out Art*'s topic of study reaches beyond distinctively arts and law to culture and state relationships, grassroots resistance movements, anti-racist and queer studies, and media arts practices. For legal audiences, this book demonstrates the way art practices participate in determining the parameters of freedom of expression, a fundamental and far-reaching legal right dictating the way a government may administer its jurisdiction. For arts readers, it shows that the law is not just a set of oppressions, nor is it merely a tool. Instead, law helps to shape definitions of art and its role as an expression of identities. In advancing these arguments, *Ruling Out Art* takes as its case study a set of arts practices that are themselves understudied: media arts traditions as they intersect with artist-run culture in Canada. This study also adds to Canadian histories of cultural activism while providing a special emphasis on politically motivated artistic practices that take up juridical, rather than radical or strictly oppositional, avenues for resistance. Ultimately, this book provides a focused local consideration of the way contemporary arts practices and provincial legislation intertwined during Ontario's censor wars and asks, What new disciplinary ties are then discovered between art and law? These vital legal battles represent an important historical moment in Canada's history of contemporary art, and they directly inform today's media laws.

ISBN 978-0-7748-3708-8 (hardcover)
ISBN 978-0-7748-3710-1 (PDF)
ISBN 978-0-7748-3711-8 (EPUB)
ISBN 978-0-7748-3712-5 (Kindle)

Cataloguing-in-publication data for this book is available from Library and Archives Canada.

Canada

UBC Press gratefully acknowledges the financial support for our publishing program of the Government of Canada (through the Canada Book Fund), the Canada Council for the Arts, and the British Columbia Arts Council.

This book has been published with the help of a grant from the Canadian Federation for the Humanities and Social Sciences, through the Awards to Scholarly Publications Program, using funds provided by the Social Sciences and Humanities Research Council of Canada.

Set in Futura Condensed and Warnock by Artegraphica Design Co. Ltd.
Copy editor: Robert Lewis
Proofreader: Lauren Cross
Cover designer: David Drummond

UBC Press
The University of British Columbia
2029 West Mall
Vancouver, BC V6T 1Z2
**www.ubcpress.ca**