

Political science prof hits porn, warns pornographers

By Dr. Reo M. Christenson

EDITOR'S NOTE: Dr. Christenson gave the following presentation at the National Consultation on Pornography, Obscenity and Indecency in Cincinnati September 6, 1984. He has been professor of Political Science at Miami University (Oxford, Ohio) since 1954. He is the author of six books and has contributed to numerous newspapers, magazines and professional journals. He is a recipient of both "The Effective Educator Award" voted by Miami University alumni as the professor having the greatest impact on their lives, and the "Benjamin Harrison Award" denoting an educator with a national influence. He has also testified as an expert witness for the prosecution in federal pornography cases.

The pornographers of America should take warning! The winds of change are blowing. Your days of wine and roses are fading. The public has seen what you do with the freedom you have been granted, and they don't like what they see. Nor do America's feminists. Nor do other women who care about their families, their community and their country. Nor do many of America's leading intellectuals—as I will point out later.

Let me start from square one.

The founding fathers never intended for the First Amendment to be interpreted as the courts interpret it today. They were sensible men, resolved to protect the right of heretics and dissenters to expound their views on social, economic, political and religious matters without fear of government reprisals. But they would have laughed to scorn any notion that things resembling Hustler magazine, vulgar T-shirts, naked dancers and X-rated movies could hide behind the First Amendment. Nothing could have been further from their intentions, or from the spirit which motivated the Amendment.

The Supreme Court has never accepted the absolutist view that no restrictions can ever be imposed on speech or press. A score of marginal restraints have been imposed, most of which are noncontroversial.

Obscenity not protected by First

Nor has the Court ever conceded that obscene material is protected by the First Amendment. But the Court has made two glaring errors; first, it took a long leap and gave commercial entertainment as much constitutional protection as political discourse. Well, almost. Then it tried to reconcile its exclusion of obscenity with its protection of commercial entertainment by setting up interpretive roadblocks which make effective enforcement of anti-obscenity laws next to impossible.

The pornographers have exploited this opening by employing expensive—very expensive—and unscrupulous lawyers concerned with nothing but the bottom line. Prosecutors are usually no match for these

legal hit men, skilled as they are at throwing sand in jurors' eyes. The pornographers have also used the American Civil Liberties Union (ACLU) as its front line of defense. The strategy has been brilliant, successful—and disastrous to those who care about the quality of life in their communities.

In Minneapolis and Indianapolis, feminists have sought to deal with some aspects of porn by declaring it violates women's civil rights and jeopardizes their prospects for obtaining genuine equality. They are doomed to fail. They have come too close to saying that speech which is deemed to be socially harmful has no constitutional protection. The implications are too broad and I regret that I cannot support the language employed by the well-intentioned people who drafted the language of these statutes. There is almost no chance that the courts will accept such law.

They should have used a more direct, straightforward approach. They should have sought a new federal law which banned the movement in inter-state commerce of any material real or simulated, or any performance which involves visually explicit sexual behavior, intended for commercial entertainment.

This could be defined as any performance or material which visually depicts ultimate

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sexual acts, including intercourse, sodomy, cunnilingus, fellatio, anilingus and masturbation, where the penetration or ejaculation of the genital organs is visible. And that, I might add, would largely dispose of the nagging problem of statutory vagueness. (Thank you, Bruce Taylor). And with the uncertainties involved in *Miller vs. California*: "patently offensive," "appeals to the prurient interest," "The work taken as a whole" and the "LAPS" test.

They should have argued that such entertainment is outside the orbit of constitutional protection because it does not contribute to the kind of social discourse which the founding fathers had in mind or which a reasonable interpretation of its purpose, in a democratic society, would justify.

Porn bypasses the mind

Porn, remember, is an appeal to the viscera which bypasses the mind rather than being

a serious attempt to contribute to reasoned or illuminating discussion of matters of social importance. Whatever its "message," that message is no more than subliminal. That does not mean it may not be powerful but it does mean it is not the sort of thing the First Amendment is obligated to protect. People don't see porn to be intellectually nourished and they aren't. They want raw meat and that's what they get. Whatever garnishes the main dish is strictly incidental.

They should, then, have noted that the Supreme Court has always permitted reasonable restrictions on marginal aspects of speech and press, e.g. laws forbid perjury, libel, incitement to violence, divulging military secrets, advocating federal strikes, making obscene, threatening or harassing phone calls, advertising cigarettes on TV, fraudulent ads and many more. Indeed the First Amendment itself limits free speech by implicitly forbidding religious indoctrination in public schools.

The point is that porn falls squarely into this category of excepted speech and press.

Nor are the essential elements of speech and press impaired so long as those who would challenge existing laws and moral codes are free to publish and circulate, by whatever appeals to reason they can muster, their case for abolishing the family, or eliminating legal restraints on any kind of sexual behavior. They have a right to make this case, no matter how painful it may be to the rest of us. But through an attempted appeal to reason, not through visual entertainment which assaults the very core of mankind's concern for decency and which scorns a fair fight in the marketplace of ideas. That's a fight they cannot win. There isn't a legislature in our 50 states which is willing to repeal all laws against obscene and pornographic materials.

That porn is a marginal aspect of speech and press cannot, it seems to me, be denied. But why are the proposed restraints reasonable? Yes, because of the damage we can reasonably expect porn to do.

1970 Porn Commission refuted

Let me back up a bit. The President's Commission on Pornography and Obscenity in 1970 issued a voluminous report which concluded that there was no persuasive empirical evidence that such material led to anti-social behavior.

That report has been cited ten thousand times in the press. What the public does not know is that no social scientist, to my knowledge, has re-examined the report and

found it defensible. It has been denounced by outstanding social scientists, psychologists and journalists—none of whom believe it met the test of scientific objectivity. I do not have time to enumerate its flaws, but if you wish, you can consult the analyses of Lane Sunderland, Leonard Berkowitz, Harry Clor, Victor Cline, James Q. Wilson, and Garry Wills.

Well, things are much worse today than they were in 1970. We have had a scandalous outpouring of child porn, which is currently on the defensive but has by no means been eliminated. We have an avalanche of material featuring sado-masochistic sexual behavior, an avalanche which was predicted all along by realists who were skeptical of all the talk about people getting bored if only they had free access to porn. And not only by sado-masochistic stuff but also by every form of bizarre, grotesque and shameless imagery which depraved minds can concoct.

I agree with Professor Wilson of Harvard who states that social science does not have sufficiently sensitive and sophisticated techniques and tools for definitively proving what damage porn does or does not do. Especially when it comes to its long-range impact and its impact on people who are not emotionally healthy and hence are particularly prone to commit anti-social acts. I might add that science can't tell us whether love is better than hatred, democracy better than dictatorship, peace better than war or about anything else in the realm of values—that is, in the things that matter most.

Social scientists concur porn requires common sense

But if science cannot give us assured answers, let us use our common sense. Porn leaves the impression with its viewers that sex has no relationship to privacy, that it is unrelated to love, commitment or marriage, that bizarre forms of sex are the most gratifying, that sex with animals has a specially desirable flavor and that irresponsible sex has no adverse consequences—no venereal disease, illegitimate births, abortions, premature marriages, single-parent families or moral erosion. I see no way that a torrent of materials with this subliminal message, which ultimately fans out to reach people of almost all ages, can fail to have pernicious effects. As has often been said, if destructive material can do no harm, then constructive material can do no good—and everything conscientious parents have believed since the dawn of the family is wrong.

Not that someone sees porn and then rushes out to commit rape. That may happen but

that's not the main problem. But whatever conditions people to regard destructive sexual behavior as harmless, or worse, as desirable, will inevitably weaken those barriers which society erects against irresponsible sexual conduct. If this is not true, then black is white and up is down.

It is interesting that while a dozen studies have demonstrated that violent entertainment stimulates violent behavior on the part of those who witness it, entertainment which features irresponsible sexual behavior is alleged to have no effect on its consumers. As Professor Berkowitz put it, "You can't have it both ways."

Professor Cline has brought you up to date on recent research on porn's effects but I would emphasize the significance of the study by professors at the University of Indiana and the University of Evansville showing that persons who see a lot of porn believe rapists should be treated more indulgently than those who don't. Charles Peters summarized earlier research from Purdue, Colorado, Wisconsin and Manitoba as indicating that violent porn inspires violence. Peters added, "This strikes me as about as surprising as the news that hungry men want to eat." And Newsweek reported on the University of Wisconsin study which showed MASSACRE make men more likely to accept the notion that women enjoy rape. It also reported a UCLA study demonstrating that men exposed to violent porn show an increased willingness to inflict pain on women.

Conclusive proof? No. Persuasive evidence, yes.

If, then, we can reasonably assume that a flood of porn will gradually erode barriers against irresponsible sex, what are the ultimate implications? Here I would like to cite a highly significant study made 50 years ago by Professor J. D. Unwin of Cambridge, a study in which the author found the opposite of what he hoped to find. (That always

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impresses me, because it is so easy for social scientists to formulate a study, or interpret its findings, to get the results they want.)

Sexual permissiveness, cultural advances inversely related

After examining the sexual practices of more than 80 primitive and more advanced societies, Unwin concluded that sexually permissive behavior led to less cultural energy, less creativity, less individualism,

less mental development and less cultural progress in general. Primitive societies with the greatest sexual freedom had made the least cultural advances. Those with stricter limitations had made the greatest progress. Among civilized societies, the same rule held. Those with restrictive sexual codes had made the greatest cultural strides, and when more permissive sexual standards appeared, cultural decline set in. Unwin said there was no known instance of a society that retained as high a cultural level after relatively relaxed sexual standards replaced more rigorous ones (although he conceded that it might take several generations before the debilitating effect was clearly manifest).

William Stephens, after studying 90 primitive cultures, wrote that the tribes lowest on the scale of cultural evolution have the most sexual freedom. Sigmund Freud, surprisingly to some, associated cultural advances with limitations on sexual activity. Arnold Toynbee, celebrated student of world civilizations, declared that a culture which postpones rather than stimulates sexual experience in the young is a culture most prone to progress. Will and Ariel Durant, after a lifetime of studying world history, wrote in The Lessons of History that it was imperative to maintain rigorous sexual restraints upon the young.

Again, this does not constitute irrefutable proof. But it is surely evidence worthy of respect—and it would have received that respect, and widespread publicity, if only its findings had been what liberals wanted to hear. That is why most of you have never heard of it.

So we aren't talking about trivial matters here, or matters of limited or peripheral importance to our society. We are getting down to bedrock. Since the widespread circulation of porn is doubtless an important factor in subverting cultural barriers against irresponsible sex, there are solid grounds for our concern.

Obligation to fight porn

Do we have a religious obligation to fight porn? I think we do. Can you imagine what the outspoken prophets of the Old Testament would have said if they could witness the kind of debauchery that floods our newsstands and postal channels and X-rated theaters and videocassettes? Is there any doubt what their attitude would be? No wonder the American Jewish Congress has expressed concern about the growth of porn in this country.

What would St. Paul have said about the current scene, the same St. Paul who denounced the sexual licentiousness of his day? Would he have said, "Condemn it, but

then shrug your shoulders and walk away"? I don't think so. Should not Christians actively oppose grave social evils, especially when they are recognized as evils not only by Christians but by responsible people of every religion and no religion?

To privately deplore but publicly ignore is to default on the responsibility we all have to promote the well-being of our community and our country. Certainly Christians are not exempt from this obligation.

Happily, we have allies today which not long ago were not with us. Feminists, although often intimidated by the ACLU, are up in arms about porn. They see beyond the superficial and glib arguments of porn's defenders to the heart of what is really involved.

I might add that the ACLU has done many constructive things during its history. It has fought some noble battles for the Bill of Rights. Occasionally, it still does. But it has become shrill, dogmatic and closed-minded on the issue of porn. It cavalierly ignores the arguments of those who disagree with it, and it insists that the freedoms we all cherish will be gravely imperilled if Hustler is hustled off the scene. "No censorship," it cries, hoping that buzz word will frighten people from exercising independent thought in this field.

Well, let me tell you something. Almost everyone in America believes in censorship, including those who think they don't.

What sensible person believes that a community would exceed its proper authority if it denied a license to an entertainment troupe which wanted to exhibit men lashing women with whips for their sexual pleasure, operating on the principle that women as well as men can relish sexually-related pain if only they have the proper perspective? What sensible person thinks a community would exceed its proper boundaries if it forbade a license for entertainers to perform live sex on stage? And all of those who vow "No censorship" want to censor child porn.

Only 'yahoos,' Puritans believe in censorship?

The truth is, then, that almost everyone believes in censorship, including newspaper editors who say they don't, and a lot of ACLU members who think they don't. They just draw the line at a different point.

So much, then, for those who say, "See what you want to see and turn away from what you disapprove, but don't tell others what they can and cannot see." People who say that haven't thought things through.

Parenthetically, doctrinaire liberals are often monotheists. They worship only one god and its name is the ACLU. When this

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Deity speaks, they reverently genuflect, suspend their critical judgment and parrot its lines. And feel very smug and superior to the great unenlightened masses who, being clear-eyed rather than dogma-ridden, regard porn as a disgrace which ought to be curbed.

Note I said doctrinaire liberals, not all liberals. On many issues, I am more liberal than conservative, so I don't want to be misunderstood.

It is often implied that only yahoos and Puritans worry about porn or favor its censorship. Well, listen to this.

Irving Kristof, co-editor of the Public Interest and columnist for the Wall St. Journal, favors it. Charles Peters, editor of the respected Washington Monthly, says, "Pornography seems clearly outside the realm

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of political discourse—while the argument that we should have the right to publish porn is clearly within it." (That's precisely what I'm saying). Peters further states that the censorship of violent porn on TV "does not bother me in the least and I am astonished by the legal minds who cannot distinguish between it and the censorship of political discussion..."

James Fallows, political editor of one of the nation's most prestigious magazines, The Atlantic, says "...can't we use common sense, if not First Amendment absolutism, to agree on the difference between political beliefs and sexual services? Can't we find a way to ensure the Klan's right to march and the Communists' right to organize without waiving our culture's right to shape its moral environment."

In a recent issue of Harper's magazine, editor Lewis Lapham observes that Americans "have insisted on the right to free speech...to the point of confusing it with pornography..." Charles Krauthammer, an editor of the New Republic, wrote a recent essay in Time in which he said, "Many are prepared to make expression a bit less free in order to make their community a bit more whole, or as skeptics might say, wholesome. That is nothing to be ashamed of."

Henry Fairlie, another contributing editor to the New Republic, says liberals "have abetted the perversion of the First Amendment until it is used to protect the peddlers of filth."

Norman Podhoretz, editor of Commentary, wrote that "Committed indiscriminately...to free speech, on what grounds of principle could (liberals) stand against the tidal wave of hard-core pornography...?"

Identifying himself with those who place a high value on community life, Prof. Michael J. Sandel of Harvard says "Communarians would be more likely than liberals to allow a town to ban porno bookstores, on the grounds that pornography offends the way of life and the values that sustain it."

George Kennan, initiator of America's long-maintained "containment" policy, lists pornography as one of the most serious threats America faces from within.

Finally, George Will, in Statecraft as Soulcraft, writes that, "Even more injurious than the flood of obscenity that has been let loose have been the arguments for letting it loose."

Some yahoos! Some Puritans!

Not all of these would extend censorship as far as some of us would, but these citations should illustrate the point that many intellectuals are either allies or potential allies of our cause.

Time to act

In conclusion, I wholeheartedly support Bruce Taylor's proposal that "Congress should consider legislating an outright prohibition of all hard-core pornography which is commercially distributed for other than bona fide medical, psychological, educational or other proper nonexploitative uses." But be sure to exclude books from the area of restraint (in the absence of obscene illustrations). Books aren't the real problem, and any attempt to ban books not only creates insuperable difficulties in mustering the necessary public support, but book banning is the kind of governmental power most subject to abuse. Excluding books may not be wholly logical but it is sensible. If we want to be effective, this caveat should be heeded.

But I think the time has come to act. Time to confront presidential and Congressional candidates with a proposal to ban from interstate commerce material or performances which involve visually explicit sexual behavior intended for commercial entertainment, and time to force them to take a stand. Time for the nation to realize, for the courts to realize, that communities have a right to set minimal standards of decency and a right to enforce them.

The licentiousness of modern pornographers has become a stench in our nostrils. The age of unbridled individualism, of individualism *uber alles*, is fading, the attitude that "I want to do what I want to do and see what I want to see and if the community doesn't like it, it can go suck its thumb"—that is passing. An age which seeks a more sensible balance between the rights of the individual and the rights of the community is already on its way. Let us work to hasten its coming.