

Porno... Who Decides?

By Religious News Service

In the wake of the U.S. Supreme Court's June ruling on pornography, the nature and scope of laws dealing with the problem have once again become a major focus of study.

Whereas the problem of how to define pornography — a problem that the court itself was never able to solve — had posed dilemmas in the past, one of the new difficulties lies in determining what a community is.

One of the primary criteria for deciding whether material was obscene under the court's 1966 Memoirs decision had been that the material "affronts contemporary community standards relating to the description or representation of sexual matters."

Although "community standards" in that text had generally been interpreted as referring to national standards, Chief Justice Warren Burger denied that concept in the June 1973 Miller v. California ruling. He wrote: "Under a national constitution, fundamental First Amendment limitations on the powers of the states do not vary from community to community, but this does not mean that there are, or should or can be, fixed, uniform national standards of precisely what appeals to the 'prurient interest' or (is) 'patently offensive.'"

He went on to declare that "it is neither realistic nor constitutionally sound to read the First Amendment as requiring that the people of Maine or Mississippi accept public depiction of conduct found tolerable in Las Vegas, or New York City."

Thus the problem has shifted from a national to a primarily local focus, Ross Sackett, chairman of the Association of American Publishers, has said the decision created "a local-option mare's nest" in that it could lead to the adoption of 50 different state laws on obscenity.

Although several state legislatures are now drafting new pornography laws, they are not required to do so by the latest rulings. In fact, the chief justice commented that states are free to adopt a "laissez-faire" policy, "and drop all controls on commercialized obscenity, if that is what they prefer, just as they can ignore consumer protection in the marketplace, but nothing in the Constitution compels the states to do so."

If this is done, federal statutes on pornography would still have to be observed, such as the prohibition against sending such material unsolicited through the mail.

Persons on all sides of the issue agree on one point — there will be more prosecutions of producers, sellers, and distributors as a result of the latest court rulings. But there is no general agreement on what is a "community."

Even if a definition of "community" can be reached, the problem of how to determine its standard remains. This was demonstrated in New York in mid-August, when State Supreme Court Justice Abraham J. Gellinoff declared that state's civil statute on obscenity to be overbroad in its provisions and therefore unconstitutional.

In his 10-page ruling, which is being appealed by the New York City Corporation Counsel, and the Manhattan District Attorney's Office, Justice Gellinoff wrote, "There is no evidence before this court, at this stage of the case, to enable to the court to gauge the contemporary standards of this community."

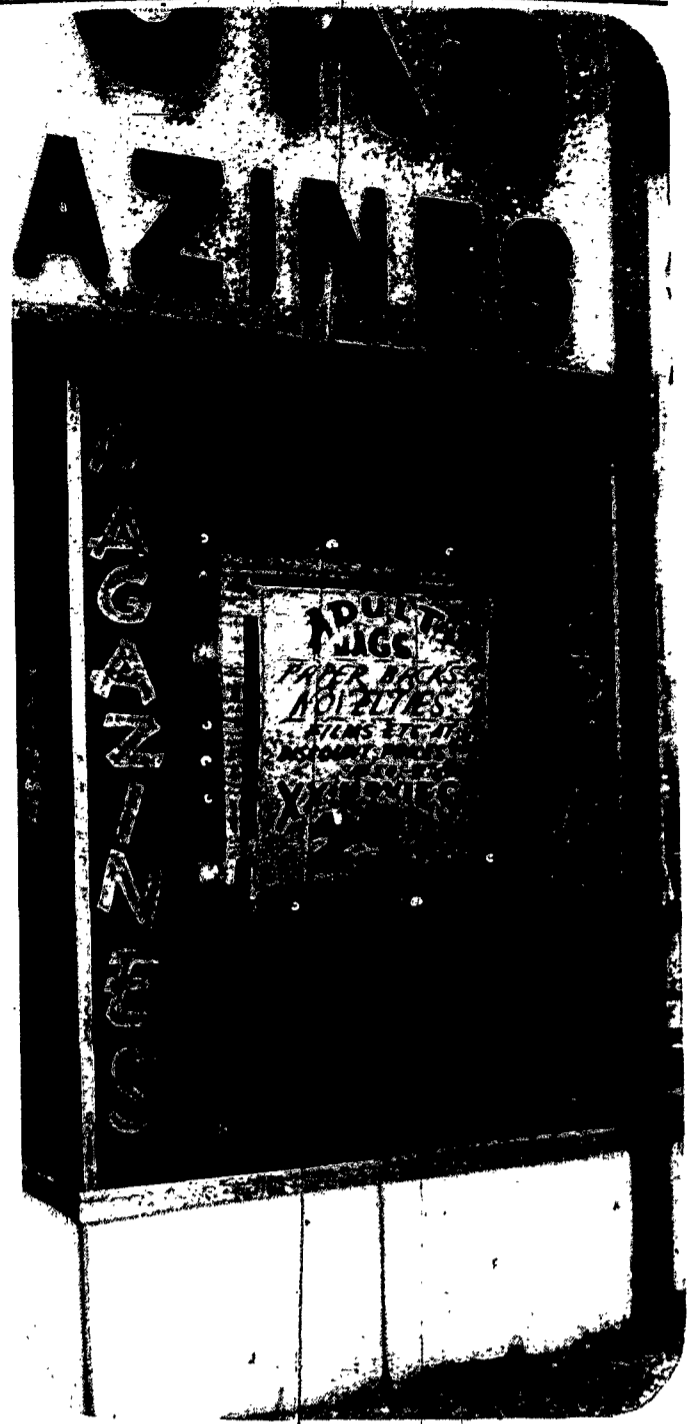
Furthermore, he continued, "While the court knows its own standards, and knows what it believes the community standards should be, there are no facts presented before the court to enable it to say, with reasonable assurance, in advance of a full trial, what the trier of the facts will find the community standards actually to be."

While the problems of defining a community and determining its standards are now getting attention, the old difficulty of determining just what is pornography still remains.

Although Chief Justice Burger did not propose a formal definition, he declared that a state law must be "limited to works which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way, and which, taken as a whole, do not have serious literary, artistic, political or scientific value."

Ironically, while Chief Justice Burger relied on the "behavioral effects" argument in one of the majority opinions in the June rulings, this argument has fallen into disuse on the part of pornography opponents because of the difficulty of trying to prove it.

In his opinion in the Paris Theater case (one of the June rulings, involving two Atlanta theaters), the chief justice wrote, "Although there is no conclusive proof of a connection between antisocial behavior and obscene material, the legislature of Georgia could quite reasonably determine that such a connection does or might exist."



Photos by Anthony J. Costello

He went on to raise the question, "If we accept the unprovable assertion that a complete education requires certain books, plays, and art lift the spirit, improve the mind, enrich the human personality and develop character, can we then say that a state legislature may not act on the corollary assumption that commerce in obscene books, or public exhibitions focused on obscene conduct, have a tendency to exert a corrupting and debasing impact leading to anti-social behavior?"

Father Morton A. Hill, SJ, the national president of Morality in Media, Inc., and one of the most vigorous opponents of pornography, has commented: "We have always agreed that there is no direct, provable causal relationship between pornography and sex crimes." And a United Methodist minister who headed two studies for the Presidential Commission on Obscenity and Pornography, the Rev. Robert T. McIlvenna, has labeled the belief that sex acts in photographs or movies will make viewers perform the same acts as a "voodoo theory."

One aspect of the June rulings that won praise from Father Hill was that, he said, the court "has settled once and for all the most vital issue in this area, that is, that 'social value' is not a test of obscenity." According to the Jesuit priest, "it was the insidious promotion of this phrase that opened up the floodgates in the first place — for any piece of trash can have a smidgen of social value built into it."

Aid Programs Crippled by Food Shortage

New York [RNS] — Reductions in U.S. food surpluses are crippling and may kill overseas anti-hunger programs run by religious relief agencies and other voluntary groups.

Assessments of the situation by officials of religious distribution units here range from "calamitous" to "very serious."

The U.S. Department of Agriculture has informed the agencies that it will not be able to buy commodities for the Food for Peace program in August and, possibly, not in September.

For 20 years, voluntary organizations have been able to obtain surpluses for overseas distribution under the provisions of Public Law 480.

CARE (The Cooperative for American Relief Everywhere) and Catholic Relief Services have the largest of the food programs. Substantial operations are maintained by Church World Service, an agency of the National Council of Churches, Lutheran World Relief and the American Jewish Joint

AFRICA AID

Anyone wishing to send assistance to those victimized by the drought in West Africa may do so through Catholic Relief Services, West African Famine Fund, Empire State Building, New York, N.Y. 10001.

Distribution Committee. There are many other smaller operations with religious sponsorship.

Collectively, religious organizations are the major shippers and distributors of the U.S. commodities, which aid some 80 million to 100 million persons.

In recent years, surpluses have consisted mainly of wheat or flour, corn meal, rolled oats, vegetable oil and a high protein mixture of corn, soya and dried milk.

All of the groups with distribution programs are attempting to stretch out existing supplies. They are not sure when

the Department of Agriculture will be able to resume the purchase of large quantities of staple food items.

A number of factors contribute to the reduced surpluses. One is the large sale of grain to the Soviet Union. This not only cut the surpluses but also sent prices soaring. With current prices, spokesmen for the religious relief groups say they cannot make up shortages by going to the open market to buy.

Other reasons for the cutback in surpluses are both droughts and floods in grain producing areas and generally poor harvests.

A spokesman for Catholic Relief Services said that 50 to 60 per cent of the commodities may be restored if the government is able to buy in September.

A Church World Service official noted that all supplies have not been terminated. He said the availability has been cut from one-third to one-fourth, and anticipated gradual increase if the next crop improves and there is less Russian demand for wheat.

A Lutheran World Relief official described the situation as "calamitous," a view held by Catholic Relief Services and CARE. Church World Service preferred to say the shortage is "very serious."

In the last fiscal year, the Catholic agency received 417,000 short tons of goods through PL 480 for use in 50 countries. That total is vastly larger than any received by any other religious operation.

Church World Service (CWS)

NCR Calls for Women Priests

Kansas City, Mo. [RNS] — The National Catholic Reporter, a liberal independent weekly published by Catholic laymen, has called for the ordination of women priests.

"There simply are not, and could not be, any serious reasons to exclude women from the priesthood," says an editorial published in the issue of Aug. 17. It said a theological study of the priesthood commissioned by the American bishops concluded that "there were no theological reasons why women couldn't be

received 23,740 short tons, while Lutheran World Relief (LWF) obtained 10,711 short tons and the American-Jewish Joint Committee got around 2,350 tons.

If new surpluses are not available, Catholic Relief Services says it will be forced to stop many programs by the end of the year.

Under PL 480, the needs of poor Americans and U.S. foreign sales commitments must be met before surpluses are made available to the voluntary relief operations.

ordained." And, the paper said, the current decline in the number of priests, as well as other pastoral considerations, favored the ordination of women.

The editorial stated, however, that the "changing nature" of the priesthood should be considered along with the ordination of women. "Women do have a right to be ordained to the priesthood," it said. "But they have a right to be ordained to a renewed priesthood that will be of greater benefit to both men and women priests and the people of God."