

On July 3, 1995, *Time* magazine greeted the newsstands and its readership with an exclusive report on »cyberporn«. Cyberporn, that is, pornography available in the new technological realm of cyberspace, was alarmingly prevalent. Basing their article on a Carnegie Mellon University study, due to appear later that week in the *Georgetown Law Journal*, *Time* magazine issued the following proclamation and question in their cover story headline: »A new study shows how pervasive and wild it really is. Can we protect our kids -- and free speech?«¹ Although the claims in the Carnegie Mellon study about the ubiquity and popularity of pornographic material on the Internet were rapidly dismissed as grossly exaggerated², the underlying basis of the study remained incontrovertible. There is pornography on the Internet, and it is available, to adults and children alike.

What is less clear is what, if anything, to do about it. Civil libertarians dedicated to the protection of First Amendment, free-speech rights would argue, quite simply, absolutely nothing. If freedom of expression is a cherished value in this country, guarded since 1791 by the First Amendment to the Constitution, »Congress shall make no law ... abridging the freedom of speech or of the press«, then any legislation restricting speech is a violation of civil liberties guaranteed by the Bill of Rights. In other words, for civil libertarians, the suppression of expression is a greater wrong than the expression of potentially offensive or otherwise abhorrent ideas.

Although the First Amendment has been repeatedly tested and challenged in the judicial system, typically in obscenity cases, Supreme Court justices have continued to reaffirm its founding premise, and promise. As Supreme Court Justice William J. Brennan, Jr. wrote in *Board of Education v. Pico* (1982), a case regarding a school board's decision to remove certain books from their library because they disapproved of the ideas expressed therein: »Our precedents have focused not only on the role of the First Amendment in fostering individual self-expression but also on its role in affording the public access to discussion, debate, and the dissemination of information and ideas ...«³

And yet, there are certain types of »information« or »ideas« that would seem to beg for protective legislation. Pornography is one such form of expression, and has been since 1873 when the federal government first established a set of anti-obscenity laws.⁴ The vulnerability of children to pornographic materials on the Internet has given a particular urgency and moral authority to the demands of those Federal lawmakers eager to control the flow of material on the information superhighway. There have recently been moves in both the House and the Senate for a new telecommunications bill that would broaden the scope of governmental control in the new industry.⁵ The House has advocated that major servers police the Internet for pornographic materials, while the Senate has advocated stricter, even punitive measures for those transmitting pornographic material.⁶

Were these calls for regulation and censorship in the telecommunications industry singular, they would nevertheless warrant our attention for their place in the history of censorship in the United States. But they are not. They emerge during an

era when freedom of expression is a highly contested right, in nearly every domain. Such impending legislation is significant, then, not only because it concerns a newly-emergent technological medium, but because it appears at a moment in the cultural and political history of the United States when forms of expression, be they spoken, written, pictorial, photographic, filmic or now, virtual, are increasingly subject to calls for regulation, legislation and control.

Already there exists a growing body of literature analyzing and documenting the increasingly censorious climate that has enveloped the United States.⁷ In contrast to the British journal *Index of Censorship*, however, which generally documents incidents of censorship world-wide that involve the violation of human rights, the attention to censorship in the U.S. overwhelmingly concerns acts of censorship that infringe upon cultural expression, as is evidenced in the political maelstrom that surrounds the now imperiled National Endowment for the Arts (NEA).⁸ Perhaps the most revealing insight into the current climate surrounding the arts is provided by art itself, in a self-reflexive project that does nothing more than catalogue incidents of censorship in the arts.

The project, initiated by Antonio Muntadas and entitled *The File Room*, was first presented at the Chicago Cultural Center in the summer of 1994.⁹ In its installation in Chicago, the virtual realm of the computer archive took on a concretized form. *The File Room* emerged in a darkened room, its walls lined floor to ceiling with black metal file cabinets and punctuated by computer screens, at the center of which stood a larger screened computer, keyboard, and mouse. But if the two-month long installation allowed for an initial home for the project and a localized means of exposure, from the outset its venue was virtual, atomized and global. In effect nothing more than an address, a road-stop on the information superhighway¹⁰, the project was and is an expandable archive on the Internet, an interactive resource on censorship and the arts throughout history.

As debates around the NEA have suggested, Muntadas' virtual archive confirms that more often than not in this country, contemporary cases of censorship in the arts involve work which is invariably deemed »offensive« and »pornographic«. More specifically, since May 18, 1989, when Republican Senator Alphonse D'Amato tore up a photograph of Andres Serrano's now infamous photographic work *Piss Christ* and threw the pieces onto the floor of the U.S. Senate, the arts, particularly, but not exclusively those that have received or have applied to receive funding from the now imperiled NEA, have been increasingly charged with blasphemy and obscenity, the most vociferous voices emerging from the religious right. These cries escalated around a show of Robert Mapplethorpe's photographic work, »The Perfect Moment«. Although it remains Mapplethorpe, never directly funded by the NEA, who generated the most public attention, censure, and censorship, artists working in the aftermath of that debacle continued to suffer the fallout of the heightened sensitivity to »blasphemous«, »obscene«, or otherwise »offensive« forms of artistic expression.

Among these artists affected were John Fleck, Karen Finley, Holly Hughes, and Tim Miller, the so-called »NEA-Four«, an appellation earned after then NEA chair John Frohmyer vetoed committee grant recommendations for the four, a decision based specifically on the content of their work. According to Frohmyer, each artist, in explicit dealing with issues of sexuality, violated the »general standards of decency« outlined in the »obscenity pledge« of the NEA.¹¹ One might look as well to

the events surrounding the San Francisco photographer Jock Sturges, whose home and studio were subjected to an F.B.I. search after a local photo-lab alerted police to possible child pornography.¹² To the names of Serrano, Mapplethorpe, Finley, Fleck, Hughes, Miller, and Sturges, we might add the names of David Wojnarowicz, Sally Mann, Marlon Riggs, and Annie Sprinkle, artists who, since 1989, have been embroiled in free speech and censorship debates.

That the names of Judy Chicago, best known for her collaborative, celebratory projects on women's history and identity, and Sol Lewitt, best known for his rigorously reductive, mathematically motivated, serial white sculpture, might be included in such a list, may seem surprising. Nevertheless, in the summers of 1990 and 1991, it was the work of these two artists, namely, Chicago's *The Dinner Party*, 1979, and Lewitt's *Muybridge I*, 1964, that inspired heated controversy in the nation's capitol.

Chicago's 1979 piece inspired great wrath after its proposed installation at the University of the District of Columbia (UDC), as part of a collection for its new multi-cultural arts center. The monumental piece, which collectively represents thirty-nine famous women from history and mythology in the form of individual, abstract, ceramic place-settings, was deemed by various conservative congressmen to be »weird sexual art« that was »clearly pornographic«. As a result, the proposal for its permanent installation, which began in the form of a gift to the UDC, but which required money for repairs to the planned exhibition space, was never brought to fruition.¹³ Given the growing sensitivity to sexually explicit art, particularly that which is specifically tied to identity politics, be they feminist, black or gay, it would seem that Chicago's canonical piece became newly-radical, its abstract symbolism now »clearly pornographic«.

The case involving Sol Lewitt exposed similar concerns, albeit emerging from a different political camp. The piece, *Muybridge I*, a long box punctuated by ten small, evenly-spaced peep-holes through which the viewer sees a black-and-white photographic image of an approaching nude woman, was part of a traveling exhibition slated to debut at the National Museum of American Art (NMAA) in Washington, D.C. in the summer of 1991. Entitled »Motion and Document, Sequence and Time: Eadward Muybridge and Contemporary American Photography«, the show was an attempt to demonstrate the influence of the late-nineteenth century photographer Eadward Muybridge on forty-six contemporary artists.¹⁴ During its installation at the Smithsonian museum, conditions of space demanded that a number of pieces be edited from the exhibition. A total of fifty-two works were cut from the show, Lewitt's among them. It was only Lewitt's piece, however, that was removed on the grounds that it was objectionable. According to Elizabeth Broun, the director of the NMAA, the piece was »degrading to women«, precisely because »peering through successive peepholes and focusing increasingly on the pubic regions invokes unequivocal references to a degrading pornographic experience.«¹⁵

As word leaked out regarding Broun's decision, she was almost immediately faced with a groundswell of opposing opinion. In response to the furor, which ranged from an impassioned letter from the show's organizer to a threat of an artist's boycott, Broun staunchly defended her curatorial decision, arguing, »I am not obliged to provide a public stage for work I find degrading, simply to defend freedom of expression.«¹⁶ In the end, however, just three days after the controversy broke out, Broun reinstated the piece, accompanied by a warning and a blank book for viewer's comments.

Albeit but two episodes in the recent history of censorship and the arts, seen together, the Chicago and Lewitt controversies nevertheless embody many of the complexities, contradictions, and political exigencies that typify the current censorious climate, blurring as is so often the case the increasingly murky boundaries between art and pornography, legality and morality. That the incidents occurred in Washington, D.C., one at the arts center of its public university, the other at a national museum funded in large part by the Federal government, demonstrates the powerful presence of federal politics in the support and exhibition of art, and in turn, the growing sensitivity with which museum curators and directors must treat their viewing constituencies.

More pointedly, the incidents demonstrate the way in which calls to suppress the »offensive« in the name of protecting certain values often elide and collapse the differences between the Left and the Right. For even if Broun's impulse was framed as working in the service for women, in deeming the piece not only degrading and damaging to women, but unfit for exhibition, Broun's response to Lewitt's piece was not simply censure, but censorship, and would have accomplished precisely what the conservative driven Congress did to Chicago's.¹⁷ The sight of the female body, whether abstractly and symbolically rendered in Chicago's celebratory gathering, or expressly subjected to a voyeuristic, potentially erotic gaze in Lewitt's piece, was deemed offensive and in some sense, dangerous, as worthy of control, regulation and censorship as the provocative performance pieces of Karen Finley or Holly Hughes, or the pornographic images feared to be multiplying upon the Internet. In other words, despite the relative innocuousness in today's artistic context of both Chicago's and Lewitt's pieces, they nevertheless fell victim to the censorious climate, whose powerful effect on the arts was manifested in the removal of previously accepted and acceptable works from public exhibition.

If what has preceded has taken the form of a report on censorship, focusing in the end on two cases which demonstrate the peculiar alliances forged when attempts are made to regulate forms of expression, in conclusion, I would like to offer a speculative explanation for the anxious and censorious climate that surround artistic expression in the United States today.

As revisionist scholarship has demonstrated, postwar American painting represented far more than its rigorously abstract surfaces, or the Greenbergian criticism surrounding them, would allow. It has been theorized that New York School painting was championed and »triumphed«¹⁸ precisely for the way in which it could be instrumentalized to symbolize America, its support of freedom, and its belief in individualism and so forth. A homogenized picture of America and American culture, this Cold War construct could function as a useful tool in the dissemination of ideological dualisms.¹⁹

In 1995, the world is divided by different dualisms, and art no longer carries that symbolic mantle, nor the presumed uniformity of purpose and style necessary for such monolithic constructions. For in the arena of world politics, 1989 marked the fall of the Berlin Wall and the collapse of Communism, and with that the end of the Cold War. Interestingly, in the arena of domestic politics, 1989 marked not an end, but a beginning, the commencement of America's »culture wars«, as indicated by the Serrano and Mapplethorpe controversies.

In fact, one might say that with the fall of the »evil empire«, we have witnessed the construction and demonization of a new other, an enemy within. In a society that is increasingly diverse, increasingly burdened by economic woes, and increasingly racked by discontent, elected officials face perhaps unprecedented challenges on the domestic front. It would seem that as attempts to solve the problems of the »real« grow ever more futile, attempts to police the realm of the »virtual«, the realm of the representational, the realm of the arts, grow ever more vigilant. In 1989, art would seem to have become, then, less a triumphant symbol of American freedom, perhaps precisely because it no longer had to bear that particular symbolic burden, than a mere reflection, at least in the eyes of its politician beholders, of too much freedom, of the newly empowered speaking just a little too loudly.²⁰

In conclusion, I offer one final thought. In judicial opinion that has sought to preserve the right of free speech in the name of unfettered artistic expression, judges and justices have written of the »chilling effect«²¹ that increased government regulation could have on artistic expression, of the conformity, rather than creativity, that would result in such an Orwellian climate. The final irony of the present culture wars will be if the climate for artistic expression here, at least in terms of what is sanctioned and supported on the level of the state, comes to reproduce that of a now fallen empire, rather than to reflect the ideals of what was positioned as its democratic alternative. The »chilling effect« on the artistic community will give new meaning to the phrase »Cold War«, the domestic culture wars translating and reinscribing its binary logic to produce nothing other than a Cold War within.

1 Philip Elmer-Dewitt, »On a Screen Near You: Cyberporn,« *Time*, Vol. 146, No. 1 (July 3, 1995) pp. 38-45. – Dank an Andrea Lange für das Lesen der Korrekturfahne.

2 The study asserted that »83.5 % of all images posted on the Usenet are pornographic,« when in fact, pornographic images account for only three percent of the messages on this particular global network of discussion groups, and less than one half a percent of all images on the Internet. See Jeffrey Rosen, »Cheap Speech,« *The New Yorker*, Vol. 71, No. 23 (August 7, 1995) pp. 75-80.

3 Justice Brennan, Board of Education v. Pico (1982) as cited in Barbara Hoffmann's »A Tribute to Justice Brennan,« *Art Journal*, Special Issue on Censorship, Vol. 50, No. 3 (Fall 1991) p. 9.

4 The emergence of censorship in America can be traced back to a dry-goods clerk named Anthony Comstock, who in 1868

aided a police raid on a book store that sold mildly salacious materials. The ensuing anti-obscenity laws which were passed, referred to as the »Comstock laws,« banned twenty-three items »for the prevention of conception.« At the time of their creation, these anti-obscenity laws were as much concerned with the elimination of obscenity as with the criminalization of abortion and contraception. See Bruce Shapiro, »From Comstockery to Helmsmanship,« *Nation* (October 1, 1990) pp. 335-38.

In recent years, the issue of »hate speech« has emerged as well in the censorship debates, »hate speech« being words which are considered likely to incite violence on the basis of race, sex, religion or sexual orientation. See, for example, *Speaking of Race, Speaking of Sex: Hate Speech, Civil Rights, and Civil Liberties*, Henry Louis Gates, Jr., Anthony B. Griffin, Donald E.

- Lively, Robert C. Post, William B. Rubinstein, Nadine Stossen (New York: 1995).
- 5 Images transmitted through cyberspace may represent for the post-modern what prints, photographs, films, television broadcasts, and videos did for the modern. In early modern Europe, print culture represented for the social elite the threatening possibility of the masses gaining access to written and pictorial texts, of gaining power through knowledge. It was precisely this rising democratization and availability of knowledge, particularly potentially subversive knowledge, that engendered within the social elite the desire for regulation and control. Pornography was constructed as a separate genre of representation that specifically allowed for both the possibility of governmental control and for the declaration of boundaries between the public and the private, the decent and the obscene. For more on the historical formation of pornography in early modern Europe, see *The Invention of Pornography: Obscenity and the Origins of Modernity, 1500-1800*, Lynn Hunt, ed. (New York: 1993) and Walter M. Kendrick, *The Secret Museum: Pornography in Modern Culture* (New York: 1987).
 - 6 Although the bill has yet to come before President Clinton, he has already endorsed a software filter for home computers, analogous in function to his proposed »V-Chip«, a device to be installed in all new televisions that would allow parents, according to published ratings, to screen out those shows that they deem too violent, or otherwise objectionable.
 - 7 For a range of discussions, see, for example, Robert Hughes, »Pulling the Fuse on Culture«, *Time*, Vol. 146, No. 6 (August 7, 1995) pp. 61-68; *Culture Wars: Documents from the Recent Controversies in the Arts*, Richard Bolton, ed. (New York: 1992); Marcia Pally, *Sex and Sensibility: Reflections on Forbidden Mirrors and the Will to Censor* (New Jersey: 1994); *The Arts & Media in America: Freedom or Censorship*, Oliver Trager, ed. (New York: 1991); and *Art Journal*, Vol. 50, No. 3 (Fall 1991) and Vol. 50, No. 4 (Winter 1991), special issues on censorship. We might look as well to the example of the Getty Center, which in the spring of 1993, in collaboration with the American Academy of Arts and Sciences, organized a conference at UCLA. Out of that meeting grew a year-long project, »Censorship and Silencing: Practices of Cultural Regulation«, the culmination of which will be a symposium at the Getty in December of 1995, with a forthcoming volume of essays to be edited by the Berkeley First Amendment scholar Robert Post.
 - 8 In recent reporting on this country, for example, *Index of Censorship* focused on the current controversy surrounding the imprisoned, black, radio journalist Mumia Abu-Jamal, a former Black Panther and MOVE supporter, sitting on death row in Philadelphia for a murder of a police officer he may not have committed, his impending execution perceived more as an act of silencing than anything else. Although Abu-Jamal has become a cause celebre in this country in recent weeks, cries of censorship more typically surround creative, rather than journalistic expression.
 - 9 Muntadas, a Spanish born artist working in this country since the early 1970s, uses video and other technological means to explore issues of power. Prior to *The File Room*, Muntadas is perhaps best known for his project *The Board Room*, exhibited in 1989 at the Moos Gallery in New York, which confronted the intersection of religious and corporate power in the present age of telecommunications. The current project was realized with the support of the Randolph Street Gallery, a nonprofit, artist-run gallery concerned with the intersection between artist and society, and the Electronic Visualization Laboratory of the School of Art and Design at the University of Illinois/Chicago.
 - 10 *The File Room* can be accessed via the following address: <http://fileroom.aap.uiuc.edu/FILEROOM.html>.
 - 11 In January of 1991, a judge struck down this clause, in *Bella Lewitzky Dance Foundation v. John E. Frohmayer*, noting that although the government has no constitutional obligation to subsidize an activity simply because it is constitutionally protected, once it does, it cannot then make con-

- tent-based restrictions.
- 12 An autobiographical film entitled *Art for Teachers of Children* (1995) sheds a new light on the then contested actions of the F.B.I., as it documents an affair between Sturges and an underage teenager, the writer and director, Jennifer Montgomery.
 - 13 For a further discussion, see Lucy R. Lippard, »Uninvited Guests: How Washington Lost »The Diner Party«, *Art in America*, Vol 79, No. 12 (December 1991) pp. 39-49.
 - 14 James L. Sheldon and Jock Reynolds, *Motion and Document -- Sequence and Time: Eadweard Muybridge and Contemporary Photography* (Philips Academy, Andover: 1991).
 - 15 As cited in Brian Wallis, »Peeping Sol?« *Art in America*, Vol. 79, No. 9 (September 1991) p. 29.
 - 16 As cited in Robin Cembalest, »Tempest in a Peephole,« *Art News*, Vol. 90, No. 7 (September 1991), p. 31. Broun further justified her decision by pointing out that the problem was not so much the nudity, but the peepholes, of which she was unaware until the piece arrived.
 - 17 Broun's initial impulse is ideologically linked to the anti-porn rhetoric of Andrea Dworkin, Catherine MacKinnon, and other pro-ordinance feminists, who argue that degrading images of women are a form of harassment that infringe upon women's civil rights. See Dworkin's *Pornography: Men Possessing Women* (London: 1981) and MacKinnon's *Only words* (Cambridge, MA: 1993) and the jointly authored *Pornography and Civil Rights: A New Day for Women's Equality* (Minneapolis: 1988). As with other instances of anti-pornography activism or legislation, its proponents often form an interesting alliance, with pro-ordinance feminists like MacKinnon and Dworkin, who are outraged by pornography's relentless degradation of women, joining forces with such groups as the Christian Coalition and the American Family Association, who see in pornography an affront to »family values«.
 - 18 See, for example, Irving Sandler, *The Triumph of American Painting: A History of Abstract Expressionism* (New York: 1970).
 - 19 See, for example, *Reconstructing Modernism: Art in New York, Paris and Montreal 1945-1964*, Serge Guilbaut, ed. (New York: 1990), *Pollock & After: The Critical Debate*, Francis Frascina, ed. (New York: 1985), and Serge Guilbaut, *How New York Stole the Idea of Modern Art: Abstract Expressionism, Freedom, and the Cold War*, Arthur Goldhammer, trans. (Chicago: 1983).
 - 20 Furthermore, that this enfranchisement was echoed in the pluralism of contemporary practice, a practice that could be excoriated for its departure from traditional, even modernist notions of aesthetic value, made it an easy scapegoat.
 - 21 The »chilling effect« doctrine, that artistic expression would be restrained by free speech limitations, emerges from Justice Brennan's opinion in *Spieser v. Randall* (1958), a foundational case for other First Amendment cases to follow. See Hoffman for further discussion.