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Obscenity And the Eye Of the Beholder

Interpreting the Helms Amendment: Who Would Decide What Art Is Indecent?

By Elizabeth Kastor
Washington Post Staff Writer

Supreme Court Justice Potter Stewart may have known it when he saw it, but for a lot of other people, deciding what qualifies as pornography—or obscenity, indecency, assaults on religious belief and “material which denigrates, debases or reviles a person,” as Sen. Jesse Helms puts it—isn’t an easy task.

Helms (R-N.C.) raised the subject Wednesday night when he introduced an amendment to a Senate appropriations bill that would forbid the National Endowment for the Arts from funding “indecent” art along with a variety of other art that offends or assaults beliefs or people. The amendment was adopted by the Senate, the art world immediately began to scream, and the inevitable question came up: Who would decide what was offensive?

“It’s a very subtle issue,” said author Joyce Carol Oates. “I know that some of my work would be violently disliked by Mr. Helms and some of his friends, and I’m not sure I would want them to like it. Serious art often concerns itself with the exploration of what we call taboo. It’s an anthropological term, and what Freud meant by taboo is that which is in violation of the conscious. Naturally this upsets people.

“I think the related issue is, should the constituency of a nation support this effort. That’s the most subtle issue. In a democracy, the constituency has its own ideas, of course, about what it wants to support.”

Artist Chuck Close argues that Helms’s definition of what the constituency wants to support is so sweeping as to be anathema to art.

“You could hardly make a Woody Allen film that wasn’t offensive to Jews, or certainly to Hasidim,” Close said yesterday. “You couldn’t make a Ronald Reagan cowboy movie without being offensive to Indians. It’s amazing when you stop and think about it. There’s no place it could stop. There’s no logical cutoff. Something is always offensive to somebody.”

Pat Sheehy, artistic director of Source Theatre and chairman of the D.C. Commission on the Arts, says her theater has not received NEA funding, “but if we did rely on it, the amendment would wipe out our whole past season—‘Sister Mary Ignatius,’ ‘Babe Ruth,’ ‘Tartuffe,’ ‘Safe

Obscenity and the Helms Amendment

NEA, From C1

Sex,' 'Dream Man.' The problem of broad wording leaves it so open. Personally, I find a play like 'The Fantasticks' offensive. It presents a dreamland, fantasy, unreal world that I think is wrong."

Close has received an NEA grant, and like most artists is a strong supporter of the agency's procedures, which have come in for criticism because of NEA funding of work by artists Robert Mapplethorpe and Andres Serrano. Close and Sheehy are unlikely ever to agree with Helms, and many arts supporters expect—or are at least "cautiously optimistic"—that Helms's amendment will be removed by the House-Senate conference committee. But even if the language is removed, the conflict between personal taste and governmental imprimatur remains.

At the center of the conflict is Serrano's photograph "Piss Christ," which shows a crucifix submerged in a container of urine.

"I would say the bottom line is that my work is intended to spark a dialogue, not end it, as Jesse Helms would like to end this argument right here," Serrano said yesterday. The New York artist received \$15,000 from the Winston-Salem, N.C., Southeastern Center for Contemporary Art, which had gotten \$75,000 from the NEA, and his photograph was included in a national traveling show.

Helms has described the piece as "garbage," and a number of congressional critics and others have said Serrano deliberately set out to offend religious sensibilities.

Serrano rejects that interpretation of the picture, although he remains reluctant to pin a rigid meaning to it.

"The piece is ambiguously provocative," he said. "It reflects my own ambivalent feelings about Christianity—being drawn to Christ, and accepting and respecting the teachings of Christ, and yet resisting organized religion. It's not meant to be anti-Christian at all. It's been used as a tool by those people who think that they're really on to something here and can point a finger and say, 'This is anti-Christian bigotry.' I think it's funny that they can do that in one breath, but also revere people like Goya and the filmmaker Luis Bunuel who—like myself—are Hispanic and have very strong ties to the Spanish tradition of art, which can be both violent and beautiful."

Oates draws a parallel between the NEA controversy and the debate over whether society should allow pornography, a debate that has made unlikely allies of some feminists and some conservative activists.

"Certain radical feminists are against pornography or obscenity—and, in a sense, free speech—so liberal feminists are caught between these two poles," she said. "Sadomasochistic pornography is very abusive of women, but as a feminist writer I am very much against censorship. Who would be the censor? Senator Helms? If we opt

for censorship, we're surrendering our autonomy to other people."

As the NEA battle has progressed, the rhetoric has gotten hotter and hotter, with cries of "censorship" from one side and "pornography" from the other and with both sides accusing the other of escalating the rhetoric.

"In the United States it is very, very difficult to get a sensible discussion of free speech because the words themselves carry such an emotional overtone, given the history of government suppression," said conservative legal scholar Bruce Fein. "The flag-burning case shows how difficult this is. In the United States there is an almost religious reverence for anything that travels under the banner of free speech. In any argument that's labeled 'free speech' people become hysterical about any possible restrictions."

Officials at the NEA are loath to imagine how they would respond practically to Helms's amendment if it should become law. Fein suggests that since the legal definition of "denigrating" a belief or "debasing" a person depends on the artist's intent to denigrate or debase, the NEA could satisfy a large part of Helms's amendment by simply asking artists to sign an affidavit that they had no such intentions.

"If you're asking me is it a major difficulty in administration, I would say no, that's the simplest. There would, however, be some legal ambiguities as applied to particular works of art. But I don't think there would be thou-

sands of them. My impression is that 99½ percent of the grants wouldn't even come within shouting distance of these prohibitions."

Even if the NEA could function with such an agreement, given the law of averages and the laws of the contemporary art world some NEA-funded art would be bound to offend somebody. And if Congress or the National Council for the Arts—a presidentially appointed group that advises the NEA and meets here next week—have to decide on a method for filtering out offensive art from the federal pool, there remains the problem of who will say which piece is offensive.

"One of the reasons it's such a difficult issue is that ideas and issues will always be controversial to some citizens and some legislators, and that's one reason that free access to the broad range is practical," says Jonathan Katz, executive director of the National Assembly of State Arts Agencies. "Otherwise, you have to identify some mechanism that is going to limit the range, and the American public from the time that the Constitution was formed through the present has always acted against the limiting of its access to ideas and images. Who would want to be the person to say, 'This image is to be denied public access,' or 'This idea is too controversial for the American people.' I wouldn't want to do it, and I wouldn't want to be the representative or senator responsible."

No matter what the immediate resolution is, the subject is bound to return, says U.S. Poet Laureate Howard Nemerov. "In a democracy, a republic—thank God—these things can never be resolved. It will always come up and there will be a great brouhaha. We just go on revolving, knowing it will come up again and again."

Staff writer Kara Swisher contributed to this report.