# Lec-12





### **CASE STUDY:** "Nuremberg Trials: Visualize Abortionists on Trial"

- Preface...
- 1995: Wanted posters distributed by ACLA; FBI investigates.
- Jan 1997: Neal Horsley & others put up web sites
- Oct 1998: Outcry after shooting death of Dr.
  Barnett Slepian... Doctors consider sites as threat.
- Jan 1999: Lawsuit filed against ACLA. Trial.
- Digression: www.christiangallery.com/atrocity/

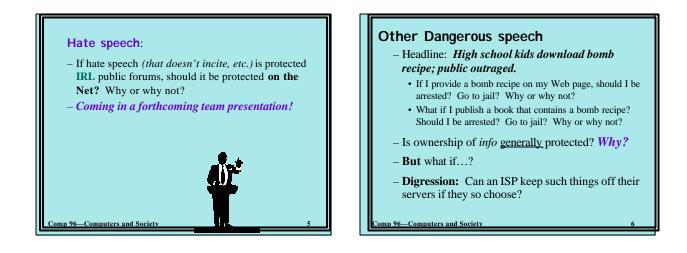
### CLASH:

(and if you saw recent news.....)

- In *your* opinion, did they cross a line here? Information? Incitement or advocacy?
- Threat? Privacy invasion? (whole other issue!) - 2 Feb 1999: Result of trial in Portland, Oregon.
- 2100 1999. Result of that in Fortian
- Verdict appealed.
- Separate but related issue: ISP shuts down site.(Later, Horsley sued Mindspring)
- Result of appeal: 28 MARCH 2001 (ER-11)
- Similar cases, different outcomes...

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#### More questions to consider.....

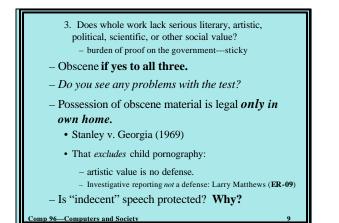
- Should the manner of delivery (or ease of access) matter in these cases?
- Is Web browsing, or downloading a file, more like using the **print** media (protected), or like **broadcast** TV (censored)?
- Digression: What did the federal judges, then the Supreme Court, compare it to when they decided the CDA case?

#### Pornography: obscenity & indecency

- Text, images, "hot chat," tiny-sex, animated sequences that are sexually explicit in nature.
  - Remember: Pornography that is found to be **obscene** or **child pornography** is **already** unprotected speech.
- Defining "obscene" (no national standard)
  Obscenity test (1973 Miller v. California):
  - 1. Would average person, applying contemporary *community* standards, find the work (taken as a whole) appeals to prurient interest? (intended audience matters)
  - 2. Depict or describe sexual conduct in a *patently offensive* way? (Intent: hard core, not just nudes)

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- Who contributed to the Great Internet Sex Panic of 1995?
- What were some of Rimm's findings, as reported in *Time*?
  - What impression did Rimm's findings have on the reader?
  - Why did the study seem so <u>credible</u>?
- What arguments discredited Rimm's report?



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- What *legislation* did Rimm's report influence?
- What did it forbid?
  - What information could also be thought of as indecent by, say, your straight-laced great-aunt, but which you would consider decent, useful, and legit?
- What rationale did its supporters use to pass the CDA?
- Why do you think it passed?
- What were some important arguments that caused the law to be struck down and declared unconstitutional?

• 1998: COPA: "CDA-2"

unconstitutional.

- 2000: CHIPA: *CDA-3?* Problems with filtering software? Despite emotional appeal, CDA-type legislation has generally been found
- WAIT! Then how *do* we protect children from on-line smut??
- Who do you think should be responsible for protecting children? (who should censor?)

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### To think about.

- Most Americans cherish their 1st Amendment rights.
- Filtering software will improve. Likely won't ever be perfect.
- Obscenity is considered indecency (protected speech) until it has received due process.
- Yes, pornography often serves to exploit and denigrate women.
- Important topic: but outside scope of this course.
- Anonymity can serve as a cloak for the depraved; but it has important and valuable uses.

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