

The Tin Drum under attack in Oklahoma City

Democratic rights and the religious right

David Walsh
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The trial docket date for the lawsuits arising from the attempt to ban *The Tin Drum* in Oklahoma City, most recently set for October 13, has been moved once again. Two of the civil suits—one filed by the American Civil Liberties Union (ACLU) and the other by the Video Software Dealers Association—challenge a ruling that the 1979 film contains child pornography; a third suit filed by Oklahoma County District Attorney Bob Macy seeks affirmation of that ruling. A variety of legal procedures and technicalities may delay consideration of the cases, originally scheduled to begin last April 13, for weeks or even months. Nonetheless, it is worth examining the issues at this point, particularly as this serious attack on democratic rights has received scant coverage in the national media.

In June 1997 Oklahoma City police, acting at the behest of a local Christian fundamentalist group, seized copies of *The Tin Drum*, by German filmmaker Volker Schlöndorff, from the public library, several video stores and the home of private citizens who had rented the video, on the grounds that the film was obscene under the state's child pornography laws. The film, an adaptation of the well-known Günter Grass novel (1959), follows the story of Oskar, a small boy who wills himself to stop growing as a protest against the rise of the Nazis and the Second World War. The novel's theme, according to the author, concerns the effort 'to escape the process of becoming an adult and the inherent responsibilities' of adulthood.

Oklahoma City authorities cited three of the film's scenes as proof of child pornography. All involve Oskar, mentally an adult but physically still a child, either briefly engaging in simulated sexual activities or observing them. The actor, David Bennent (then 11 years old), and actress, Katharina Thalbach (then 24), involved in the scenes have both issued statements denouncing the attack on the film and verifying that no sexual contact of any kind took place during filming. In an affidavit filed in federal court, Thalbach stated, 'I was particularly opposed to any display of nudity by me in the film, and I displayed none.' Bennent, whose mother and father were present on the film set, explained that he and his parents had studied the Grass novel to prepare for him for the part. Schlöndorff has also filed an affidavit outlining the serious content of the film, explaining the details of its shooting and rejecting any suggestion that it had prurient intent.

The details of the attack against *The Tin Drum*, which won the Academy Award for Best Foreign Film and the Cannes film festival Palme D'Or as Best Picture, provide a chilling picture of collusion between the extreme right wing, Oklahoma City authorities, the judiciary and the police.

The seizure of Schlöndorff's film in June of last year was the product of a sustained campaign by the Christian fundamentalist Oklahomans for Children and Families (OCAF) directed against the city's Metropolitan Library System. Since October 1996 OCAF and its executive director, Bob Anderson, had been accusing the library of maintaining pornographic materials and demanding that its open access policy be ended. According to the Oklahoma Department of Libraries (ODL) web site, 'Library commissioners maintained that the library did not purchase materials

considered obscene by state statutes, and that it is the parents' job, not the library's job, to decide what materials their children can access.'

Rebuffed by the library commissioners, the OCAF began making appearances at city council meetings across the county. At one such meeting the organization distributed literature referring to the library as an 'adult bookstore' and charging the system's librarians of being 'smut peddlers.' OCAF next attempted to have a law passed in the state legislature that 'would have prevented the Oklahoma Department of Libraries from distributing State Aid funds to local libraries that did not segregate materials.' That measure failed, thanks principally to a letter writing campaign by librarians.

The Tin Drum was at the center of another right-wing lawsuit in 1996. A former student at Bethel College, a Christian seminary in Minnesota, sued the institution, alleging that it forced her to watch films, including Schlöndorff's, as well as *Like Water for Chocolate* and *Do the Right Thing*, as part of her schoolwork. In May 1997 a judge dismissed the suit, a decision that was much discussed in the fundamentalist-operated media, such as Pat Robertson's *700 Club*. OCAF's Anderson heard about the case on the radio while driving in his car. He then checked to see if the Oklahoma City library system had *The Tin Drum* on its shelves; one branch did. Now he had an issue!

At a June 19, 1997 meeting of the Library Commissioners Anderson demanded the Commissioners watch selected scenes from *The Tin Drum*. 'The commission reminded OCAF that the library had a policy in dealing with challenged materials, and asked the group to follow that policy. In a heated exchange, captured on video and run on local television stations, Anderson threatened to turn the copy of the film over to the police,' according to the ODL web site.

Anderson was true to his word. Police Officer A. Gracey's report of his visit to OCAF headquarters on June 20 indicates the intimate working relationship that existed between the city police and the fundamentalist group: 'Upon arrival I met with Bob Anderson, President of OCAF who brought in the Library copy of *The Tin Drummer* (sic) and proceeded to explain to me how he thought this was actually child pornography. He then took me to the conference room at OCAF and proceeded to show me the video on a video monitor, showing the places where he believed child pornography took place in the movie.'

On June 23 police brought a copy of the videotape to Oklahoma County District Judge Richard W. Freeman in his chambers. It remains unclear whether Freeman watched the entire film or simply the scenes under scrutiny. In any event, the following day Freeman told Police Sgts. Se Kim and Britt High (who happens to be married to Assistant District Attorney Patricia High, one of those who allegedly gave approval for the eventual seizure of the videos) that the film contained child pornography.

Questioned later by a reporter, the 65-year-old Freeman declared, 'It was just an advisory opinion.... There is no force of law behind it. I wasn't out to set any precedents here.'

Armed with this judicial opinion, but neither a court order nor search

warrant, the Oklahoma City police set out the next day to round up the copies of the offending film. According to the universal testimony of those they targeted, they had also decided to throw their weight around. Affidavits by video store managers, according to an article in *The Oklahoman*, Oklahoma City's daily newspaper, report that police officers "bullied," intimidated and threatened them with arrest if they did not surrender the videos or reveal customer information that is private under federal law.'

For example, 'Blockbuster store Manager Pandora Warren wrote that she felt threatened by the three Oklahoma City officers who showed up June 25, 1997, and 'demanded' her store's two copies.... She said High told her a judge had ruled the film obscene and it was a felony to possess it. High told her to give him the videos.... High also told her that it was against the law to interfere with the investigation and asked her if that's what she was doing, she said. Warren said she felt 'threatened with arrest' and replied that she was trying to comply.'

Other video store managers recounted similar stories. At one Blockbuster outlet the video was out on rental. The store manager 'said High 'insisted' on having the name of the customer who had rented the store's one copy of 'The Tin Drum.'

"I felt threatened and intimidated by the increasingly insistent tone of Officer High, who kept telling me that he wanted the customer information and he wanted it then,' she wrote. Out of fear of arrest, she involuntarily gave them the information, she said.'

Michael Camfield, the development director for the ACLU of Oklahoma, had rented the video because it had come under attack. He had not even finished watching the film when the police arrived at his door, at 9:40 at night, demanding the tape. According to Camfield, 'I tried to explain to the officers that they were trampling on constitutional rights and that this serious film was protected by the First Amendment.... But they confiscated it anyway.'

The zeal with which the district attorney's office and police conducted their operation is indicated by an e-mail message from officer Gregory A. Taylor to Police Major Bill City, included by ACLU lawyers in one of their motions: 'Last night at the direction of the district attorney's office, Sgts. (Britt) High, (Se) Kim and (Matt) French traveled around the OKC area to round up all of the available copies of 'The Tin Drum.'

'The boys located and seized without incident a total of six movies. There is still one at-large at this time, but we will endeavor to find the remaining one as soon as possible. No expense will be spared. No stone will be left unturned.' (emphasis added)

The ACLU suit filed July 3, 1997, with Camfield named as plaintiff, charged the police and city officials with violating several constitutional rights, including free speech, the Fourth Amendment's bar on unreasonable search and seizures, and due process. The suit also invoked a federal video privacy law that protects an individual's rental history from police scrutiny.

On Christmas Eve 1997 Judge Thompson, in response to a request for a preliminary injunction, brought by the Video Dealers association and the ODL, ruled that the seizure of the videos had been unconstitutional and ordered the copies of the film returned to their rightful owners. The ruling did not address the legality of the film under Oklahoma obscenity statutes. That will be decided in the upcoming court case.

Part of a systematic assault

The campaign against *The Tin Drum* forms part of a sustained assault on democratic rights being engineered by the religious right. Libraries and bookstores in particular have been targeted, in the name of fighting child pornography or keeping pornography out of the hands of children. A grand jury in Williamson County, Tennessee, for example, indicted a local Barnes & Noble store with 'improperly displaying material harmful to

minors.' The store was carrying copies of two books by photographer Jock Sturges, which feature photography of nude minors. Barnes & Noble faces charges of violating child pornography laws in Alabama. A Borders bookstore in suburban Pennsylvania was also threatened with legal action over the same book. According to the ODL, 'The campaign against Sturges' books is being led by Dr. James Dobson of Focus on the Family, and Randall Terry, former leader of the anti-abortion group Operation Rescue.'

The National Coalition Against Censorship has reported that a number of libraries--in Medina, Ohio; Mexico, Missouri; and Oneida, New York--have come under attack. In Loudoun County, Virginia the library board apparently installed content filters on its computer system so restrictive a breast cancer survivor couldn't get information about the disease via the Internet.

The fundamentalist attack has received aid and comfort from the US Congress, which overwhelmingly passed the Child Pornography Prevention Act of 1996, and Bill Clinton, who signed it. Authored by Republican Orrin Hatch of Utah and Democrat Joseph Biden of Delaware, the bill defines child pornography as 'any visual depiction ... of sexually explicit conduct' involving minors. It would also cover cases where 'such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct.'

Nadine Strossen of the ACLU has pointed out that this law would condemn an entire category of works, including 'films in which adults play minors; paintings or sculptures depicting minors; and photographs showing a minor's bare bottom, even if taken by a loving parent or with the parent's permission.'

The 1996 film adaptation of Vladimir Nabokov's *Lolita*, directed by Adrian Lyne, was essentially banned for two years in the US for fear that it would contravene or be seen as contravening this new law. The statute 'imposes draconian penalties, including five years' imprisonment for possessing offending images (parents had better purge the family photo albums of bathtub shots) and up to 30 years for producers and distributors' (Strossen).

Any civilized society would take measures to prevent the sexual abuse or exploitation of children. Clearly neither *The Tin Drum* nor *Lolita* involve such abuse or exploitation. They are serious works, intended to elucidate certain aspects of life, including the relationship of childhood to adulthood. Sexuality, including children's sexuality, comes into play, but as a subject of consideration for adults.

The religious right has seized on the issue of child pornography not out of any concern for the state of real, existing children. An article in the *Gayly Oklahoman* (October 1, 1997) reports that at one tumultuous library meeting the library system's executive director 'challenged OCAF members to put away their squabble with the library system and do something 'productive and meaningful' for Oklahoma's children in such areas as poverty, abuse, and neglect. To this challenge, several OCAF members were observed merely rolling their eyes and shaking their heads.' Fundamentalist organizations have vigorously supported the wholesale attack on social welfare programs carried out by the federal and state legislatures, an attack that will worsen conditions for millions of working class and poor families.

OCAF and such groups are not isolated sects crying in the wilderness. They have official allies. A Republican state representative, Bill Graves, addressed library meetings as the group's supporter. US Representative Ernest Istook, an Oklahoma Republican, sponsored a bill in Congress this year requiring filtering software to be installed by public schools and libraries which receive federal funds for computers. The software would restrict computer access by minors 'to obscene or pornographic material.'

The ultra-right attempts to organize the more confused and backward layers of the population around the highly emotive issue of child pornography, while it conceals its real social and political agenda:

sustained attacks on democratic rights up to and including the imposition of new, authoritarian forms of rule.

The attack on *The Tin Drum* has provoked anger in artistic and intellectual circles. Library officials have done an admirable job of defending their institution and its policy of open access against the provocative, right-wing attacks. The serious, artistic quality of Schlöndorff's film being a relatively easy matter to establish, it is entirely possible, although not certain, that the Oklahoma City case against the film will be thrown out. Perhaps the state's laws will even be found unconstitutional. However, it would be a political error to imagine that this is simply a case of a few country bumpkins who are going to get their fingers burned in the court system. A defeat in this case will not make the Bob Andersons disappear. These are radicalized petty-bourgeois forces who do not play by the established rules of the game.

After all, there is one political question that no one in the current debate in Oklahoma City has apparently dared to touch upon: the terrorist bombing in April 1995 carried out by neo-fascist forces that resulted in massive loss of life.

Without mincing words, it is necessary to state the elementary truth that while there is a certain division of labor between the militia-type movements, to which Timothy McVeigh belonged, and the groups on the religious right like the OCAF, they inhabit the same extreme right-wing political milieu and share many common ideological traits: anticommunism, apocalyptic fundamentalism, American chauvinism, militarism, racism and anti-Semitism. These tendencies are being secreted through the pores of a crisis-ridden system. There is no way to defeat them without raising a movement, with deep roots in the population, on a program of radical changes in economic and social life.

See Also:

The anti-gay lynching in Wyoming: who is responsible?

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For more information on *The Tin Drum* case visit the Oklahoma Department of Libraries information pages.



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