

An interview with Mimi about *Chilling Effect* (interviewer Ann Wendland)

Chilling Effect focuses on pornography and its relationship to free speech and to our troubled culture. What cultural conversations are you hoping to inspire with this book?

- I'd like to encourage readers to reconsider their beliefs about the first amendment and freedom of speech. Specifically, I would like to promote awareness that the courts have never said that the first amendment would prohibit a well-thought-out and well-trying lawsuit seeking to impose financial liability on the producer of a film, video, or book that advocates evil behavior, if one of its consumers accepts the invitation to harm someone else. It's not because I'm against freedom of speech that I promote this idea, but because I am for it. I recognize the power of the speech (and images) we consume to make us who we are. And so in a larger way I'd like to promote a conversation about the link between freedom and responsibility in the context of speech. Freedom to do what I wish does not imply that I do or should enjoy freedom from the consequences of what I have done.

Can you expand on the concept of freedom with accountability?

- I have always disliked the sort of first amendment conversation that suggests that pornographers, for example, are heroes for exercising their right to free speech. Certain pornographic representations may be protected by free speech, the same way my house is protected by the fire department. But merely accepting this protection does not make me a hero, nor does it suggest that I have no responsibility if I should harm others by the things I do in my house. The real heroes are the ones who pay the price for the freedoms I enjoy.

Chilling Effect takes a subtle stance in a hot, polarized issue, with the central character determined to preserve freedom of speech while she simultaneously fights to hold makers of child porn accountable for the death of a girl. Why did you choose this subtle stance instead of writing a polemical or gratuitous thriller that might have had more immediate popular appeal?

- I wasn't trying to be subtle, really, just trying to be true to material that seemed, to me, full of complexities both legal and human.

You've created a riveting legal drama at the intersection of two of the most provocative issues of our time—the vital protection of First Amendment rights and the terrible damage caused by child pornography. Do you feel that Tort law could really curtail damaging expressions such as child pornography without impinging on freedom of speech, as the book suggests?

- Yes, I do. I know that personal injury law and “trial lawyers” have come to be regarded as social evils of late—all the talk about the “nanny state” and the like.

It's such a misunderstanding of the role of tort law. Go trekking in Central Asia or travel around in the bush in Africa if you want to see what a society looks like when there is no mechanism for the private enforcement of social safety norms. Our machines, our vehicles, and our food and medicine and countless other amenities of life are as safe as they are because of "trial lawyers" and tort law. We don't have to worry every time we swallow an aspirin, eat a cookie, ride a bicycle or turn on an oven that we may endangering our lives, a happy situation that has become invisible to us because it is so familiar. *Pornography is a huge and hugely profitable industry; in 2001, nine of ten films released in the United States were pornographic. This industry can and should live by the same rules of responsibility as those that create bicycles and aspirin.*

Publishers Weekly praised your fearlessness, insight and wit when it comes to exploring dark, ambiguous terrain. Do you enjoy writing about tough subjects, or do you just feel that someone has to get people thinking and talking about them?

- Well, sure, tough subjects are the most rewarding. Climbers always want to get to the top of the highest peaks for the same reason. But the fearlessness writing requires is much less exacting. You can rewrite, for one thing, if you don't get it right the first time. And if you fail, it's embarrassing of course, but you will not die on a distant snowy mountainside, and you probably will not even lose any of your fingers or toes. I was very honored to be described as fearless, but it seems a bit unearned.

You're a professor and an experienced trial lawyer; what opportunities did writing a legal thriller give you that a classroom or a courtroom couldn't?

- Every novelist is a control freak, and writing a novel seems at first like an opportunity to make things happen exactly the way you want them to. This never happens in the classroom or in the courtroom, nor would I want it to. I will also say that sometimes when I am writing it does feel as though I am in a dire struggle with some character or other over who is going to control the narrative. As author you are free to write what you want, but once you go a little distance into the narrative and the creation of characters, certain paths are thereafter closed to you. If I try to make a character do or say something that isn't, shall we say, in character, she or her will let me know. So control freaks can be humbled, in unexpected ways, by writing.

The characters in *Chilling Effect* jump off the page—they seem as complex, idiosyncratic, and loveable as everyday people—how did you keep from creating black-and-white heroes and villains in such an issue-driven book?

- Character is really what interests me as a writer, and as an observer of the world. Plot is great and I love a good story with twists and turns, but for me the most fun and greatest challenge is trying to plumb the insoluble mystery of someone else, trying to know someone else as well as you know yourself. It's impossible, by

definition, but it's thrilling sport. In my opinion all of the best representational art, whether its novels or paintings or movies or plays, is about character. The law and its processes tend to flatten out the individuality of the people who populate its stories, to make them into cartoonish characters, and I like restoring their eccentricities and hidden qualities. If the characters come to as much life as you hope, they will tell you the story.

Did you have any personal experiences that inspired *Chilling Effect*?

- I'm sure so, but it's hard to say which ones and how. I do not have a lot of personal experience with pornography, so I had to make myself research that world before beginning to write. I think some of the scenes in which Charley is trying to learn information by hanging out in X-rated establishments, and his reaction to the things he sees, may have grown out of my research enterprise.

You seem to have ten times the energy of the rest of us—working as a professor, a lawyer, and an author, appearing on news programs, and running a llama ranch in your spare time—how do you find the time it takes to dream up a book? Do you have any suggestions for other busy, would-be writers? Do you have a favorite writing routine?

- I'm really pretty lazy, and capable of great indolence and procrastination. I will say I don't seem to be able to stop reading any more than I can stop breathing. So I am not at all averse to lying in a hammock with a cold drink, but I will always have a book there with me. I'm lucky that the work I do—teaching, writing, occasional lawyering and commentating—is all a lot of fun. I'm hopeless at making myself do stuff that I hate. I have no routine, and all my efforts to impose one on myself have failed. I would never try to give time-management advice to anyone else. Oh, and my husband really does almost all of the work at the llama ranch; the times I help are much more like pleasure than like work.