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# MORAL PROBLEMS RELATED TO CENSORING THE MEDIA OF MASS COMMUNICATION

VERNON J. BOURKE\*

For most people—certainly for me—there is something negative and repellant in the very notion of censoring. Possibly this is why the literature on the subject is meagre in quantity and often inferior in quality. Yet censoring is an important activity within most organized societies and it is probably a good thing for us to take a close look at it.

Since precision in terminology is helpful to the solution of most difficult questions, a start may be made by suggesting working definitions for the key terms in this topic. These statements of meaning are tentative, not intended to predetermine our conclusions, and subject to revision if they are found defective. Three terms seem to require classification: "Censoring"—"media of mass communication"—and "moral."

As to the first, let us start with a standard definition and see what we can do with it. Censorship is described in the *ENCYCLOPEDIA OF THE SOCIAL SCIENCES* as:

"... the policy of restricting the public expression of ideas, opinions, conceptions and impulses which have or are believed to have the capacity to undermine the governing authority or the social and moral order which that authority considers itself bound to protect."<sup>1</sup>

Now, this is a statement subject to some revision, I think. It would be well, first of all, to shift the emphasis from *censorship*, which is a general policy, to censoring as a concrete action. I will propose, then, a definition of censoring, rather than of censorship. Secondly, we can state the conscious subject-matter of human expression more concisely than as "ideas, opinions, conceptions and impulses." Here, it is obvious that differences in one's philosophical or psychological approach make for variations in terminological preference. For myself, I should prefer to speak simply of the expression of "thoughts, feelings or volitions." In any case, I do not mean to place great stress on this change. More important, I think, is a third change to be made. In the last part of the quoted definition, these conscious events are qualified as those, "which have or are believed to have the capacity to undermine the governing authority or the social and moral order." It seems to me that we might better apply the qualification to the *expres-*

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<sup>1</sup>Harold D. Lasswell, *Censorship*, *ENCYCLOPEDIA OF THE SOCIAL SCIENCES* (New York, 1930) III, 290.

sion, rather than to *what* is expressed. My intent is not to close discussion on the subject-matter of public communication; instead, I wish to include not only possibly objectionable items that may be expressed but also possibly objectionable modes of expression. Often, it is not what is said that is potentially harmful but the way in which the communication is made that is harmful. Moreover it seems possible to condense these qualifying phrases, while still retaining the meaning of what is regarded as socially objectionable.

It is proposed, then, to speak of censoring as the act of restricting the public expression of thoughts, feelings or volitions, which expression is considered by the censoring agency to be contrary to public or private good.

Concerning the second phrase, "the media of mass communication," our need is not so much for a formal definition as it is for some itemized analysis of the available means of expression, and for some suggestions as to the relative importance of these means within the ambit of our topic. I should say immediately that I do not intend to attempt an exhaustive description and evaluation of all significant media of communication. It is possible to group these means under four categories. One group employs written and printed words: in this first class will fall newspapers, books, magazines and pamphlets. A second class utilizes oral speech: this would include conversation, public orations, radio, recordings and school-teaching. Visual but non-verbal presentation characterizes a third group of media: here we might place pictures, cartoons, sculpture and comic books. Finally, some media use various combinations of verbal, oral and visual signs; examples of these complex forms are stage plays, movies and television.

Now, there are important diversities among these classes of expressive signs. In law, the original distinction between libel and slander, for instance, depended on the notion that defamatory statements in the form of written words are more permanent than those in oral form. Etymologically, *libel* means a small book or pamphlet, whereas *slander* means any type of scandal that is given. However, this distinction in terms of media has come to take a secondary place in legal practice, having given way to a more practical and utilitarian difference based on the relative permanence of the calculable effects of defamation. Thus, libel is what is deemed permanently defamatory, while slander is considered transiently such.<sup>2</sup> Obviously, the potential for harm to society or person varies from one type of medium to another. There is an observable moral, as well as legal, differences between the possible

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<sup>2</sup> See Z. Chafee, Jr., GOVERNMENT AND MASS COMMUNICATIONS. A REPORT FROM THE COMMISSION ON FREEDOM OF THE PRESS, 2 vols., Chicago (University of Chicago Press) 1947, I, 77-130.

injury of a chance remark made in private conversation and the same statement as printed for large and continued circulation. And when we think of the defamatory potential of a presentation through movies or television, we easily realize the complexity and difficulty of making moral and legal decisions on the harmful uses of these new media.

To the moralist, these diversities of media constitute circumstantial conditions of the act of expression or communication. Circumstances are of the utmost importance in determining the moral quality of an action. Yet, I think it advisable to forego lengthy discussion of the many variations which might be introduced by a detailed consideration of these many means of communication. The reason for my renunciation is not disinterest but the realization that it would take many days of discussion adequately to cover our topic in this way.

I propose to consider all means of communication as basically similar uses of signs to convey thoughts and attitudes. Indeed, in what follows I shall keep primarily in mind that medium which is most typical: the printed word. Censoring of the press will be the focal point of my discussion. Other media are not excluded but are peripheral.

The third and last term requiring precision is "moral." Within the context of the over-all title of this conference, it is indeed hard to say what this word means. A pluralistic society, such as that in which we live, admits of plural and divergent ethical views. Yet I, as a student of ethical theory, cannot grant equal validity to all these varied approaches to morality. My problem at this moment, then, is whether to speak from the point of view of what I consider right and wrong in human conduct—or from the point of view of the plural and divergent moralities to which significant persons and groups within our are actually committed. If I do the former, I shall doubtless appear narrow and unduly prejudiced in my approach to these problems of censoring: in fact, I could be guilty of an overt act of censoring, without apparent justification, the expression of competing moral positions. If I do the latter, endeavoring to speak for a variety of ethical positions, I shall find myself using several different meanings for morality and supporting views which are inconsistent with each other, even mutually contradictory.

To this theoretical dilemma, there is a practical solution, I take it. After all, our courts and legislative bodies are continually faced with the necessity of taking a stand on moral issues. I recognize the importance of constitutional guidance and precedent in legal thinking but I am also convinced that moral reasoning and judgment play an important role in making the law of the land, and in interpreting it. However this may be, I submit that there is a common denominator of moral conviction underlying our superficially pluralistic society. It is

from the viewpoint of this fundamental morality of our democratic way of life that I propose to work. This is not a question of concealing my personal commitment to the ethics of modern Thomism (of which you are all fully aware) but it is rather a practical effort to discover a point of departure acceptable to most thinking persons in our pluralistic society.

Perhaps it is a mistake to use mathematical terms on this matter. I do not aim to combine all known systems of morality into a grand synthesis. Were this to be done, these divergent theoretical positions would cancel each other on many points of principle and application. The result would be a gray neutralism in morality, from which no definite decisions could be taken. Instead, I would seek to find those commitments in the moral area which seem to represent the very roots and ideals on which our democratic society has waxed strong, and to which our most thoughtful citizens might give assent .

Fully to treat this ethics of American democracy would be a lengthy matter. From correspondence with Professor Voegelin, I know that we share the conviction that utter diversity and relativism in the moral consciousness of our society is an empty thing. So, in order to avoid prolixity, I have looked about for a statement of such a basic moral position by a writer with a religious, educational and philosophic background different from my own. I have found such a statement in a book written by W. E. Hocking, formerly of Harvard University.<sup>3</sup> It is not that Hocking says all that could be said, or that I agree with him entirely—but his book is one to which I can point and say: "Here is what the ethics of democracy is, in great part." Naturally, I cannot summarize this work of two hundred and fifty pages but I can indicate my general agreement with his framework of principles.

To further show what this morality means, I shall attempt to state its chief contentions in a few brief points. Of course, the formulation and extent of each of these statements are matters for debate. My purpose in the following nine items is simply to sketch some of the accepted standards of morality in our society. These statements are necessarily brief and unsupported by scholarly or philosophical justifications. It is my hope that you will, at the very least, take these statements as what some American moralists regard as the touchstone of our social mores.

I. Each human person is the equal of every other person in his basic rights.

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<sup>3</sup> FREEDOM OF THE PRESS: A FRAMEWORK OF PRINCIPLE, Chicago (University of Chicago Press) 1947. Another excellent work, somewhat less definite on matters of principle but honestly thought out and generally acceptable is: *Marten Ten Hoor*, FREEDOM LIMITED, AN ESSAY ON DEMOCRACY, Tuscaloosa (University of Alabama Press) 1954.

II. These rights are claims to some degree of self-fulfillment.

III. These rights are not mere privileges conferred by the state; to some thinkers who remember the Constitution, they are conferred by the Creator; to others, they appear to stem from man's higher nature, or from his conscience.

IV. It is morally good and right for each person to seek and work for his own perfection and happiness, provided he recognize and do no direct injury to the similar rights of other persons and of his community.

V. Governmental authority is exercised primarily for the common good of all persons subject to such authority, and secondarily for the private good of individual persons within the same group.

VI. It is possible to determine from experience, and from reflection thereon, certain standards of moral judgment whereby distinction may be made between what is good and what is bad for the community, and for the individual person.

VII. There are some actions, and some omissions of activity, which, under given circumstances and stemming from conscious intention or culpable negligence, are bad and deserve restraint or punishment.

VIII. A morally valid law is the general and overt expression of a regulation calculated to promote the common good of those persons subject to the legislating authority.

IX. Applications of such laws, in a morally approvable way, require further reflection on the character and dispositions of the individual person subject to the laws, and on the pertinent circumstances in which he may act.

Now, if we take the foregoing definitions and statements of principle as preliminary to our consideration of the moral problems of censoring, we may next proceed to an examination of the situation in which such problems arise.

### Man's Right to Know

That every man possesses a basic moral right to acquire some knowledge, can hardly be questioned. This general right to know may, on occasion, require restriction; but, on the whole, it appears to be as primary and self-evident as any right ever claimed by mankind. Indeed, since the act of knowing is directly related to the exercise of reason, traditionally regarded as the specific characteristic of man, it could well be argued that man has a greater moral claim to knowledge than to any other value.

Furthermore, it seems especially important for a democratic society to recognize the validity of this right. First of all, the contention that all human beings are of equal worth as persons leads to the conviction that all men share in the claim to some knowledge. Secondly, for the proper functioning of democratic institutions, all citizens of a democ-

racy must be enabled to know the things needed for active participation in the civic and social life of their community. A society of intellectual zombies cannot function as a democracy.

So much has been written of recent years on the character of this right to knowledge and the freedoms associated with it, that it is probably unnecessary to re-emphasize it here. In particular, the studies and statements stimulated by President Eisenhower and his associates at Columbia University have served to concentrate attention on the point.<sup>4</sup>

Intimately associated with the right to know is the communication of knowledge to other persons. Indeed, where person A has some potentially useful knowledge and person B needs that knowledge, a situation is set up such that, if B appears to have a right to this knowledge, then A acquires a definite obligation to consider whether or not to communicate his knowledge to B. (Suppose, for instance, that A and B are driving their automobiles along a country road. A comes first to a washed-out bridge and manages to stop on the brink of disaster. He makes a U-turn and meets B driving at high speed toward the site of a possible accident. In this situation, it is clear that A is morally obliged to use all ordinary means to convey his knowledge of the danger to B.) Not all exercises of the right to know entail an accompanying obligation to communicate knowledge to others; it is enough for us to note the possibility of such entailment in certain cases. From this we may recognize the possible moral connection between one man's right to know and his being obliged to communicate his knowledge to another.

Here is where our first moral problem arises. Is the right to know absolute and unconditioned? And as a consequence, is the right to communicate information and attitudes quite unlimited? To find a moral answer to this general problem, it is necessary to consider the nature of freedom. It is noteworthy that in most of the literature concerned with the free use of the right to know, and in most works on press and academic freedom, one basic assumption is made by American discussants. This assumption is that *freedom* is an *absolute* value.<sup>5</sup> Nearly all suppose that freedom is quite generally understood and that it is independent of all other values.

However, I think that freedom is not universally understood. My reason for this judgment is that one finds underlying these essays on

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<sup>4</sup> *Mark Van Doren, MAN'S RIGHT TO KNOWLEDGE AND THE FREE USE THEREOF*. Introduction by Richard R. Powell, New York (Columbia University Press) 1954. For a comparable statement by a European Catholic group, see *Louis de Raeymaeker et al., LIBERTE ET VERITE, Louvain* (Nauwelaerts) 1954; also printed in English as: *TRUTH AND FREEDOM*, Pittsburgh (Duchesne University Press) 1955.

<sup>5</sup> One strong exception is Dean Ten Hoor, whose book, cited above in note 3, is very pertinent to the point I wish to make.

free thought, free research, and free speech, the tacit and almost invariable assumption that to be free means simply to be unrestrained by external impediments. Now, this meaning of freedom is neither primary nor most important. To me, freedom has another and more important aspect: this is the positive meaning of freedom, consisting in the concrete possession and use of the ability to do something. What I mean is this: you are all *negatively* free (in the sense of being unrestrained by other persons or institutions) to play Bach on the piano, to study quantum physics, and to do any number of other excellent things. No one is stopping you. Yet, in point of concrete fact, most of us are not free to do these things. We know full well that negative freedom in regard to such actions is an empty freedom, even though many people continue to speak as if it were all-important. On the contrary, if we lack the ability or skill to do something, it is idle to assert our freedom in the matter. For negative freedom to have actual applicability, *positive* freedom must be present.

The objection may be offered, that the foregoing instances are loaded, that they are cases of highly specialized skills, that in regard to most actions we may presume positive freedom, whereas we often have to fight for negative freedom. This objection is partly valid. I do not deny the importance of the negative meaning. What I do claim is that the positive aspect must not be ignored. Consider a situation in which artistic or scientific skills are not involved. Say we find a little country in which the citizens have been ruled by dictators for generations. Say we decide to liberate these unfortunate people. We drive their present dictator into exile and say to the people: "Democracy is obviously the best form of government. No one is holding you back. Go ahead and rule yourselves democratically." Now, it is quite possible that such a people cannot do this. In such a situation, negative freedom is inoperative because there is little or no positive freedom. If people do not know how to rule themselves, it is useless to tell them to do it.

This stress on the positive side of liberty is today almost forgotten, though it was an obvious thing to men in the past. The contrast is clearly evident in two books published by the University of Chicago Press for the COMMISSION ON FREEDOM OF THE PRESS.<sup>6</sup> Speaking of the approach to press freedom, Professor Chafee (Harvard Law School) says (*Introd.*, p. VIII): "Another departure from the traditional conception was the recognition that freedom *from* something is not enough. It should also be freedom *for* something." (Emphasis by way of italics is in the original; actually, this is not a "departure from the traditional" but a return to a commonplace notion in ancient

<sup>6</sup> Both the two volumes by Z. Chafee, Jr., and the book by W. E. Hocking have been cited previously.



and mediaeval philosophy.) Likewise, Hocking argues for the positive as well as the negative notions of freedom (pp. 54-56):

“To be free is to have the use of one’s powers of action, (i) without restraint or control from outside and (ii) with whatever means or equipment the action requires.”

In his two following paragraphs, Hocking then distinguishes freedom *from* something and freedom *for* something, as does Chafee, and as I would. However, some other members of this COMMISSION ON FREEDOM OF THE PRESS, whose objections are recorded in footnotes, show that they are quite incapable of understanding the point. They (particularly Professor John M. Clark of the economics department at Columbia University) insist that the absence of restraint is the essential meaning of liberty. Hocking is eventually forced to say that, “the negative meaning of freedom remains the chief element of the conception.” This, I would not admit; freedom, to me, is essentially the power to do something, and only secondarily the absence of restraint on the exercise of such power.

Man grows up with the equipment for knowing, and he is supplied by the world about him with objects of knowledge. He also acquires when young the ability to communicate his knowledge to other men. This is all that it means to say that man has natural rights to know and to communicate his knowledge to others. These rights are not granted him by the state, or by any other institution. They are moral rights, not merely legal rights. Man would possess them outside and apart from organized society. Legal recognition of such rights adds nothing to their basic character. To say the contrary is to support one of the chief contentions of totalitarianism: that the individual person is utterly dependent on the state for all his powers.<sup>7</sup>

### Limitations of the Right to Communicate Knowledge

If freedom to know is conditioned by its relation to the kind of knowledge *to which* the right is asserted, and by the capacity of the person asserting his right (and that is what the foregoing implies), this does not mean that man has only the right to know what is right or true. It is sometimes necessary to know what is false and wrong. It is sometimes necessary to admit that a man has a right even to err, provided he does not deliberately seek out error. Otherwise, the free quest of knowledge becomes impossible. What limit’s man’s use of his powers of knowledge is twofold: his own limited capacity and his obligation to respect the rights of other persons. If this is so, we may turn to the related question: is man’s right to communicate knowledge

<sup>7</sup>“To identify rights with legally recognized rights is to render one’s self helpless before the authoritarian state . . . One this issue we are with the Declaration of Independence.” HOCKING, *op. cit.*, p. 59.

to others unconditioned? I think it is obvious that this is not an absolute right.

The state, and quite possibly other organized societies, are morally entitled to see to it that this right of communication, like any other moral right, is properly exercised. Some reasonable limitations must be imposed on the use of all moral rights; otherwise it becomes impossible for all persons to enjoy the use of their rights in society. Primarily, the individual person should recognize the need for restraint and should impose some degree of self-control on his own utterances. If all persons were prudent and just, no other form of limitation would be necessary. But many persons are not morally adult, and so it is sometimes necessary for external force to intervene and set limits to the use of the right to convey information to others. This is the general moral justification for censoring.

The kind of utterances or expressions which require limitation must be carefully considered. In general, objectionable communications are such that they unnecessarily injure the common good of a group of persons, or the private good of one or more persons.

Let us first think of the unjustifiable communication of knowledge or attitudes injurious to the common good. Now, it is widely granted that, under certain special circumstances, the use of the media of public communication requires state restriction, or censoring. In time of war, for instance, to permit open publication of the news of troop movements, plans for attack, disposition of material and such things, is self-injurious to a state. Few men will deny the need for some censoring under such circumstances. Disagreement on this sort of censoring arises mostly in connection with its extent and the manner of its application.<sup>8</sup> Moral justification for wartime censoring is found in the axiom that the state must have authority to use all means necessary to maintain its existence. There is no point in having states, unless we grant them this authority. So, it is reasonable enough to admit some state control of communications channels in the circumstances of war.

Difficulties appear when we consider whether such restrictions are justifiable under circumstances of peace. Many indications would point to the undesirability of censoring the media of international communication in time of peace. Unfortunately, there are periods of unstable peace, times in which war may be just around the corner. In such times, which we have come to call the intervals of "cold war," it is quite possible that some forms of state censoring of otherwise quite useful knowledge is morally permitted. After all, it may be just as

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<sup>8</sup> For a brief survey of this type of censoring in the U.S.A. during World War II, see *R. E. Summers, WARTIME CENSORSHIP OF PRESS AND RADIO*, New York (Wilson) 1942, with the extensive bibliography, pp. 287-297.

self-injurious to give information of martial value to a potential enemy, before he makes war, as to give it to him after he has attacked. I think we may take it, however, that in time of genuine peace, the free and open communication between all peoples is a most desirable thing from a moral point of view. Indeed, one might suggest that undue limitations of such international communication are the main instruments of misunderstanding and ill-feeling among nations.

The name, "national security," is used for the foregoing value which state censoring is intended to protect. If that is its proper use, then we frequently misuse the term today. For, there is another situation to which censoring may be applied—whether with moral justification or not—and that is to the communication of information concerning governmental activities to the citizens under that government. Too often, national security may be used to justify restraint of the free communication of such information. Censoring of news regarding official plans and activities is easily extended beyond what is necessary to protect a country against its enemies. The motives for such unwarranted extension may vary; often they reduce to a desire on the part of government workers to avoid public criticism. This is only to suggest that state censoring, like any other use of public authority, can easily be abused.

Let us consider a hypothetical case. Suppose some officials in a country learn, or suspect, that their country is in danger of invasion and injury on the part of intelligent beings able to fly to this earth from another planet.<sup>9</sup> Let us suppose, further, that these government officials decide to suppress all news concerning this possible danger—with the purpose of avoiding public hysteria. Granting the sincerity of these officials in this hypothetical case, it is debatable whether their position is morally justified. It is moreover questionable whether the notion of national security covers the situation. One of the reasons for questioning such censoring lies in its impracticality. A means is not a good means if it fails to work in most cases. If there were some actual danger to the public, it could be very ill-advised to keep all knowledge of it from the people, for the sake of avoiding panic. In the due course of affairs, the public would have to learn something of the situation eventually. Secrecy on such matters would postpone but not remove the actuality of general hysteria. The effect of improper censoring is to break down confidence in the government which uses it.

Another undue extension of the concept of security is found in the tendency of one branch or division of government to keep material secret from other branches of government. Here again, I would sug-

<sup>9</sup> For a concrete accusation of such censoring, see *D. E. Keyhoe, THE FLYING SAUCER CONSPIRACY*, New York (Holt), 1955.

gest for your consideration a hypothetical case.<sup>10</sup> Say a country has a secret defensive weapon, such as radar; say this weapon exists and can be used by certain technical experts; say this news has been kept so secret that even the commanding general in the area supplied with the weapon does not know of its potentialities.<sup>11</sup> This seems ridiculous and clearly an over-extension of the policy of military security. Properly to discuss such a situation, one would need full knowledge of it. This is precisely what secrecy prevents. What I am suggesting is that some reasonable limits must be placed on censoring by various branches of government. If this is not done, the very principle of the division of powers breaks down. In particular, the censoring of information about censoring activities must be carefully limited in a democracy. Granted that the people need not know all sorts of technical details, it still remains true that the people should know, be able to evaluate, and be able to influence the determination of general policy. This cannot be accomplished, if government agencies adopt the policy that what the people do not know will not harm them.

That some limited censoring of the media of public communication by governmental agencies, for the common good, may be morally justified, is apparent. Note that we are not directly concerned with the truth or falsity of what is censored in this sort of material. The true may be even more dangerous to public security than the false. Moreover, the text of what should be censored in this way is not simply whether the information is harmful to the public welfare. There will be news which will immediately hurt the public morale (say the loss of an important battle in time of war) but it may be advisable in the long view not to censor such news, for the sake of maintaining democratic processes and popular faith in the trustworthiness of officialdom. In each major case, where censoring is contemplated by government, careful thought should be given to all the foreseeable effects of censoring. No moralist would demand the gift of prophecy in government agents but it is expected that especial prudence be used in connection with the restraint of basic rights by censors. One of the chief aspects of such prudence is foresight. The long view of most probable results of censoring is the good view. Indeed, instead of following the maxim: "when in doubt, censor," it is better to adopt the rule: "the least censoring is the best censoring."

Turning now to a second type of problem, let us consider the censoring of material potentially harmful to the common good of social groups smaller than the "great" state. (By this term, I mean to desig-

<sup>10</sup> See *Thomas R. Phillips*, *SECRECY KEEPS MILITARY DATA FROM PLANNERS*, *St. Louis Post-Dispatch*, (February 16, 1956.)

<sup>11</sup> *Phillips* reports (*art. cit.*) that such was the case with radar at Pearl Harbor in 1941. No contradiction or retraction of this accusation has appeared in the papers which I have seen.

nate the whole body of people subject to the government of a given country; thus, the U.S. is a "great" state, Illinois is not.) Here we have something difficult to express as a question, and even harder to answer. There are minority groups within a country, which constitute actually or potentially organized societies. I am thinking of social groups such as the citizens of a city, the members of a labor union or an industrial association, such things as associations of professional people, Churches such as the society of all American Lutherans, or Catholics. These and other such groups have each their respective common goods, which are entitled to reasonable protection at the hands of civil government.<sup>12</sup> Our question is: are such minority groups morally justified in endeavoring to limit the dissemination of information which in their best judgment is harmful to their respective common goods?

To make the question more concrete, let us face one typical instance. Are Catholics, living as citizens of a democratic country, justified in seeking government restraint of the dissemination of information on birth-control practices? Before examining this, let us remember that we are talking about a pluralistic society, a society in which there are diverse views on the moral value of birth-control data. Here we come to the heart of one of the issues of censoring. It is clear that censoring implies general acceptance of some standards of judgment of what is objectionable or harmful. Where there is no common standard of judgment, it is impossible to avoid conflicting assertions of presumed rights. On the present question, Catholics may assert their right to remain free from solicitation to what they consider moral evil—but others may with equal subjective conviction assert their right to free publication of material which they judge to be socially and morally beneficial. Now it is not possible for the moralist to avoid facing such conflicts of asserted rights.

Remembering that these conflicts arise because of varying notions of what is morally acceptable, I think we may say three things about them. First, each minority group has a right, even within a larger pluralistic society, to censor *for its own members* the use of media seriously considered harmful for that group. Secondly, one minority group in a pluralistic society does not have a moral right to demand government censoring of the expression of the foregoing sort of information *for members of other groups*, who do not share the same standards. Finally, any minority group has the moral right to attempt to raise and improve the moral standards of its "great" society, by

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<sup>12</sup> On the importance of such smaller societies within the larger society of the state, and the function of the great state as protector of the rights of smaller groups, see *J. Messner, FREEDOM AS A PRINCIPLE OF SOCIAL ORDER, THE MODERN SCHOOLMAN XXVIII (1951) 97-110.*

arguments and persuasions conducted within the law and on a factual and reasonable basis. It does not, however, have the right to impose its own moral views, by any form of violence, on other smaller groups within a pluralistic society. This opens for discussion, for instance, the propriety of certain pressure groups aiming to improve the moral tone of media, such as magazines or movies, by group boycott.

It must be admitted that the moralist has no ready-made solutions for certain conflicts of interest among minority groups. Where the matter of censoring is involved, there are situations in which one cannot know in advance what is the best thing to do. Practical thinking often requires a willingness to compromise—not on ideal principles but on the actual experience of presumed rights. This would be particularly so in a society constituted from groups with diverse moral attitudes.<sup>13</sup> If we wish to maintain the general value of freedom of action, we must refrain from attempts to coerce others in their exercise of what they honestly regard as their rights.

The point here, as in most other problems, is that a minimum of censoring is far more likely to prove beneficial, rather than an attempted maximum. We would do well to recall that censoring is often, if not always, a plural effect action. It may achieve bad results along with the good consequences. These bad results, such as general restriction of freedom of expression, excessive use of authority, and violent achievement of conformity, may on occasion outweigh the good ones.

Zealous Catholics should remember that their Church functioned up to the twentieth century without any formal censoring of books, for instance. They should also take note of the quite minimal requirements of the Catholic INDEX OF PROHIBITED BOOKS.<sup>14</sup> The intent of such ecclesiastical censoring is not to close a part of the world of literature from all Catholic readers (for permission to read most any work may be secured by those who have a good reason for reading it) but to protect the moral and intellectual integrity of those who could easily be harmed by promiscuous reading. Of course, ecclesiastical censoring is not under discussion here, for a Church is not a pluralistic society in our meaning of the term.

Another typical instance of censoring in the name of the common good of a smaller society is found in certain restrictions imposed by educational institutions on faculty members. A good deal has been said and written about academic freedom from the side of the teaching profession. Often, academic freedom for the teacher is presented as an

<sup>13</sup> Cf. *G. B. Flahiff, C.S.B., THE ECCLESIASTICAL CENSORSHIP OF BOOKS IN THE TWELFTH CENTURY, MEDIAEVAL STUDIES, IV (1942) 1-22.*

<sup>14</sup> See *R. A. Burke, C.S.V., WHAT IS THE INDEX?, Milwaukee (Bruce), 1952, with the Bibliography, p. 117.*

absolute and quite unconditioned freedom.<sup>15</sup> Now, though I have spent my mature life as a teacher and am as jealous of my prerogatives as any, I cannot accept this notion. It appears to me that any man, whatever his work, must recognize certain prudent limitations on his utterances. A person who teaches or does research in an educational institution is not thereby raised above all law. He is not a demi-god, transcending all restraint. He should be granted freedom to teach as he thinks best and to inquire after new knowledge and new ways of interpreting his data. He should even be accorded a certain freedom to make mistakes—otherwise his task would demand superhuman abilities. Yet, his freedom should also be limited by concern for the rights of other persons, for the good of his country and of his institution of learning. He should be limited by all applicable civil laws and by the standards of his profession. As Hocking (a man of liberal mind and long experience in teaching) has said of the teacher: "The right to be in error in the pursuit of truth does not include a moral right to be deliberately in error."<sup>16</sup>

A third area of censoring problems embraces restraint of communication in regard to items that are calculated to injure the private good. Here, we must briefly consider the protection of private goods, such as personal reputations, by public agencies, because these private goods constitute important parts of the common good. We may ask, for instance, for the moral justification of commonly applied laws of slander and libel. These laws do function as a type of censoring. To see this, we may review the generally made distinction between preventive and punitive censoring. Since the time of Milton in our tradition, preventive censoring has been regarded as more opposed to freedom than the punitive form. I should like to question both the distinction and the conclusion.

In point of fact, punitive censorship becomes preventive after its initial usage. If A publishes a libelous book or article and is punished at law for this act, then, when B contemplates a similar publication, he is usually deterred from publication by his knowledge of A's punishment. In effect, punitive control of communication turns into preventive restraint. All major publishers, for instance, retain legal counsel to determine in advance of publication whether their proposed material is subject to legal objections. In most cases they prefer not to publish matter of a possibly objectionable character. I do not say

<sup>15</sup> For a rather extreme example of this attitude, see *R. Hofstadter and W. P. Metzger, THE DEVELOPMENT OF ACADEMIC FREEDOM IN THE UNITED STATES*, New York (Columbia U. Press) 1955. The authors make it quite clear that they are concerned only with the removal of restraints on the teacher. (Intro., p. ix.)

<sup>16</sup> *Op. cit.*, p. 109.

that there is no difference between preventive and punitive censoring; I do maintain that, from the point of view of positive freedom of utterance, the practical difference is small. In other words, laws of libel are forms of censorship—though they do not always completely restrain the dissemination of possibly objectionable matter.

The moral basis for such laws is sound enough. It centers on the actual harm done to a person, and indirectly to his community, by certain utterances. Injury to a man's reputation resulting in the loss of a job and rather permanent unemployability is calculable in terms of dollars and cents. When accomplished with malice, or culpable negligence, this is obviously immoral. If sometimes the laws of libel, mechanically applied, lead to the punishment of persons innocently involved,<sup>17</sup> and if, on the other hand, moralists emphasize the importance of an agent having some knowledge and voluntariness in regard to the possible effects of his utterance,—it is still true that in most cases such laws operate in a morally justified manner.

A notorious problem in the field of censoring arises in connection with presumably obscene and pornographic material. I put the problem here because it has to do with potential harm to the private goods of individuals, and again, indirectly with the public good. It should be possible to include in this category, also, communications calculated to incite to crime and delinquency. The name, "moral censorship," is frequently used to cover restraint of this sort of thing.<sup>18</sup> Actually, this is no more the province of morals than are other types of objectionable expression. But sexual conduct is difficult to regulate by public law and it has become customary to consider it the special domain of conscience and private morality.

To my mind, there is little doubt that public restraint on the communication of obscene and similar material is demanded under some circumstances. The effects of such material may consist in the lowering of the moral tone of a community, with consequent overt forms of vice and public disorder. Even the most liberal-minded person sees that, when press or art media are employed as public solicitations to community disorder, such use becomes open aggression against the public welfare.<sup>19</sup> This is generally recognized, for instance, in situations where children are the objects of vicious communications. It is for this reason that many people think that there is some need for the

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<sup>17</sup> Instances are discussed by *Chafee, op. cit.*, pp. 77-130, and *W. M. Daniels, THE CENSORSHIP OF BOOKS*, New York (Wilson) 1954, pp. 51-106, and throughout *Summers, op. cit.*

<sup>18</sup> *Daniels, op. cit.*, devotes a whole chapter (pp. 51-81) to MORAL CENSORSHIP; it is entirely concerned with the problems of obscene printed matter.

<sup>19</sup> See *Hocking, op. cit.*, pp. 118-126, for a full statement of the point in ethical language.



censoring of media, such as comic books, which appeal to the child—in years or in mental capacity.

In the United States practically no effort is made by the Federal government to censor obscene materials. At times, the postal department engages in a sort of *ad hoc* censoring, by refusing special mailing privileges to senders of printed material deemed obscene or similarly objectionable. No definite standards for such censoring are published; it may be difficult to set up such general rules. Rigidly applied regulations can limit the circulation of works of literary genius, or high religious tone, of classical reputation in art and literature. Moreover, it is quite clear morally that what is possibly obscene under certain circumstances is not objectionable in different conditions.

What is more often practiced, is local censoring of presumably obscene or vicious matter. It is part of the irony of the situation that decisions on such material are made by police and minor municipal officials. Restrictions are effected by application of licensing and similar ordinances. Local control in this area is strongly imbedded in our democratic traditions. It is morally odd, however, for a community to rely on the personal judgment of a policeman in situations where no clear general directive seems possible. With all due regard for the sincerity and high calibre of the average officer of the law, it must be confessed that there is little in the training or background of such an official to fit him for this delicate task.

The problem of who should censor is immediately connected with the foregoing. On this point, we may note a strong tendency in legal thought to avoid Federal censoring, where possible. A moralist might suggest that differences in media are paramount in settling such problems. Local censoring of media which ordinarily reach only a local audience seems reasonable enough. Thus, restrictions on the performance of a stage play may be the direct concern of local government. On the other hand, a medium of wide geographical appeal, such as television or radio, is hardly a subject for local censoring. Indeed, variations in local standards make it very difficult for managers of such media to broadcast materials of new and striking character. The result is a mediocrity far from golden. I would suggest that media appealing to a country-wide audience might best be controlled by a minimum degree of country-wide censoring. But this is a question on which expert legal opinion is very important.

Voluntary censoring by trade organizations, such as the movie producers' code, is only a partial answer to these problems. In fact, such censoring is not wholly voluntary. It is usually motivated in part by the fear of outside restraint, to be applied unless the entertainment or publishing industries regulate themselves. Such self-restraint only con-

tinues to function as long as public opinion is firm enough to occasion such fear.

This points up the main conclusion to be drawn from this survey of the moral aspects of censoring. The ideal community would be a society of persons sharing such high standards of morality, loyalty and seemliness that censoring would be unnecessary. In point of fact, censoring is only called for when people fail to exercise due restraint over their personal inclinations to endanger the good order of their community in various types of communications. Censoring, then, is the mark of some degree of moral failure in a society. Those who resent and criticize it are partly right. But the thing to do is not passively to suffer the evils which censoring is designed to avoid but actively to work for standards of public conviction which would remove the very reasons for censoring.