

censorship

The act of limiting the free flow of knowledge in the United States, censorship by the federal government and other entities frequently clashes with Americans' liberties as guaranteed by the Bill of Rights. Throughout the 20th century, censorship has ebbed and flowed in all aspects of American life, from the federal government to the courts to the entertainment industry. Balancing the right to free speech and free expression with the perceived good of the community remains one of the most controversial issues in American society.

Political censorship entails the power of the federal government to stifle dissent in such areas as speech, press, and national security. During times of national crisis, when wars or other major calamities grip the nation, Congress and the president have often suspended the constitutional rights of Americans, particularly the First Amendment's guarantee of freedom of expression. In 1798, when war with France appeared eminent, Congress passed the infamous Sedition Act. The act had a three-year time span and was billed as "An Act for the punishment of certain crimes against the United States." For "opposing any measure or measures of the government," violators were fined \$5,000 dollars (an enormous sum at that time) and sentenced to five years in prison. In particular, dissenters were punished for "publishing any false, scandalous and malicious writing" that criticized the president, brought the government into "contempt or disrepute," or excited the "hatred of the good people" against the government or president.

Blatantly unconstitutional, the act grew from the desires of Federalist president John Adams to stem the heated criticisms of his administration by Democratic-Republicans. Congress at the time was also dominated by Federalists and wanted to stifle public criticism of its policies. Federalists, united by their reverence for law and order, also feared the revolutionary fervor of France spreading to the United States, where it could upset the social order of the newly founded country. Over time, 25 people, mostly journalists and newspaper editors, were arrested under the act, and 10 were ultimately convicted. Adams himself signed some of the arrest warrants. Though the state of Virginia granted protection to any fugitives evading this law, Vermont journalist Mathew Lyon was convicted for writing that Congress should "commit President Adams to the madhouse." Once Democratic-Republican president Thomas Jefferson took office, he pardoned those still serving jail terms and used public monies to reimburse those who had paid their fine.

During the Civil War, President Abraham Lincoln engaged in political censorship when he established special courts to try alleged Confederate traitors. In another legally questionable maneuver, Lincoln frequently suspended the writ of habeas corpus (the need to charge a person with a crime if they are jailed) in the interest of promoting national security. Although these wartime measures met with considerable criticism both within the United States and abroad, censorship during the Civil War remained at a low level for the most part.

It was the development of alternative political ideologies and parties in the early 20th century that gave rise to the modern form of censorship currently waged in the United States, particularly the emergence of communism, socialism, and anarchism as mass movements throughout the world. The U.S. entry into World War I in 1917 ushered in a period of intense scrutiny of the flow of information in the press and public. Never before had the entire nation needed to mobilize for war. Accordingly, the federal government assumed a firm control over the economy and deemed any politically dissenting voice as a threat to national security. The passage of the Espionage Act of 1917 targeted political dissent in any form that "promote[d] the success of [our] enemies." Many people who advocated peace were sent to prison, some serving sentences of 20 years, because their pamphlets or articles were judged as potentially motivating soldiers to avoid war. Pacifists or anyone who questioned the government's wartime policies were widely viewed by the public with suspicion and sometimes suffered prosecution for their views.

The most famous case of censorship in the United States during World War I were the Palmer raids, led by Attorney General A. Mitchell Palmer, who systematically rounded up suspected communists and political agitators for imprisonment or deportation. Two of the most notorious deportees were anarchist Emma Goldman and Alexander Berkman. They were placed on a leaky ship bound for Russia by J. Edgar Hoover, the ambitious and tireless director of the Federal Bureau of Investigation (FBI). Hoover's establishment of the FBI in the late 1910s institutionalized the idea that the suppression of dissent was a major task of the federal government, and the FBI played a major role in the red scare of 1919–1920, of which the Palmer raids were the most infamous example of government suppression of political dissenters.

Although the red scare eventually subsided, several departments of the federal government remained extremely concerned with political dissent and the possibility that agitators were working to undermine or even overthrow the U.S. government. As war appeared to loom on the horizon again throughout the 1930s, the FBI honed its skills in tracking political dissidents, although the absence of an immediate international crisis prevented them from doing much to suppress dissent during this period. Once the United States entered into World War II, however, both the military and the federal government stepped

up their efforts to suppress criticism of the government and its policies.

One entirely new and interesting development in the area of censorship during this period revolved around the establishment of the Manhattan Project, a massive government effort to develop nuclear weapons. Before the war, the sharing of scientific information had been fairly open between both countries and scientists themselves. With the development of nuclear weapons, however, everyone recognized the military importance of such information, and the government took immediate steps to impose heavy security measures on the scientific community to prevent nuclear and chemical information from reaching the country's enemies.

Although the United States and its allies triumphed in World War II, the onset of the Cold War immediately after prompted renewed fears regarding political dissent, particularly the spread of communism. In the early 1950s, Senator Joseph McCarthy conducted a series of hearings into the pervasiveness of communism in American society, focusing on both communism within the federal government and, oddly enough, communism in the entertainment industry. Moving pictures had long sparked controversy regarding the bounds of propriety, but the McCarthy hearings emphasized the growing power of the entertainment industry to influence the opinions of Americans and raised serious questions regarding censorship in American society.

Throughout the Cold War, the federal government made its operations more and more secret, although Americans themselves secured their First Amendment rights to freedom of speech and freedom of expression through a series of U.S. Supreme Court decisions. During this period, Americans also became fearful that the federal government had grown to such a massive size, with so many of its operations cloaked in secrecy, that it threatened the free exercise of democracy. With the public bringing pressure to bear on its representatives, Congress passed the Freedom of Information Act in 1966, ordering that the federal government had to share much of its information with the public and narrowing the bounds of national security. In the 1990s, with the Cold War at an end, the public has demanded even greater access to government information, arguing that overriding concerns for national security are no longer so powerful.

Community censorship embodies a second form of the suppression of individual freedom. This form entails restricting First Amendment rights in order to maintain public safety and public order. For instance, a person does not have the freedom of expression to yell "Fire!" in a crowded theater because other people might become injured in the ensuing rush to leave the building (unless, of course, there really is a fire). The community has the power to limit freedom of expression in particular places in order to promote public safety, a development that has been consistently supported by the courts. For example, if a protest group wants to hold a rally in the park, the city has the right to dictate the time that the event can take place in order to respect the rights of people who may live close to the park or use it on a daily basis.

In times of crisis, however, community censorship has been expanded to unprecedented heights. Following the assassination of Martin Luther King Jr. in 1968, Philadelphia mayor James Tate declared a state of emergency that prohibited, among other things, the gathering of more than 12 people in any public place. Several people were subsequently arrested as they peacefully picketed and exercised other First Amendment rights. Both state courts and the U.S. Supreme Court upheld these convictions. In another important case establishing the legality of this form of censorship, a man was convicted of giving a speech inciting people to disobey a court order mandating desegregation, an act that might have caused a riot. The need to protect society against the threat of violence thus takes precedence over an individual's constitutional rights when the courts perceive that disorder might prevail if these rights are observed.

In the case of constitutional censorship, the courts have indicated that First Amendment rights are in a "preferred position" but are not absolutes. Whenever a person's right to speech or press, for example, comes into conflict with the constitutional rights of others, the courts have the legal authority to attempt to balance these rights. This scenario has been faced by the courts several times because the American political system guarantees so many rights to its citizens that people frequently trample on the rights of others when exercising their own freedom. For example, the rights of minors and the duty of the state to protect them often take precedence over the right to the freedom of speech and freedom of the press exercised by an individual.

In the case of *Prince v. Massachusetts* (1944), the state of Massachusetts convicted a person under a state law that declared it illegal for minors to sell or distribute literature on the public street and for any adult to permit a minor to sell or distribute the publications. Prince was a Jehovah's Witness who was convicted for allowing a minor to distribute religious publications. The decision was later upheld by the Supreme Court, which ruled that the interests of children take precedence over the exercise of First Amendment rights. In another landmark case involving children and censorship, a radio station in 1978 broadcast George Carlin's "Filthy Words" monologue at two o'clock in the afternoon when children could potentially hear the show. After a listener complained that his young son heard the remarks, the radio station was

taken to court and convicted under a law upholding the "rightful boundary" of the state to protect children and minors. The Supreme Court later upheld the conviction.

Moral censorship is perhaps the most pervasive form of censorship in the United States because cultural values are at stake. This form of limiting information is unique in that moral censorship does not entail any claim that the thought, word, or deed will harm national security, disturb public order, or incite violence and anarchy. Rather, moral censorship continues because groups of people feel that some forms of speech offend others. While more conservative Americans bristle at the supposed indecency of pornography, music lyrics, and birth control literature, liberal groups despise the use of Indian images as mascots and the prevalence of sexually demeaning images on the Internet. Thus, moral censorship cuts across cultural and political boundaries in complex ways.

The most prevalent example of the declining power of moral censorship has occurred in the area of entertainment. The advent of moving pictures at the beginning of the 20th century seemed to spark an immediate debate regarding moral censorship and the bounds of propriety. In the 1920s, the federal government told Hollywood moguls to either start censoring their films for sexuality or the government would do it for them. In response, the Hollywood moguls created the Hayes Commission, which adopted and enforced strict standards of decency on motion pictures. Much hated by the Hollywood establishment, the Hayes Commission eventually disbanded to be replaced by a system of movie ratings. Nevertheless, over the years, the entertainment industry has consistently stretched the limits of decency, maintaining that limits regarding sexuality infringe on creativity and originality. In the 1990s, the public has engaged in heated debates regarding the prevalence of sexuality and violence in films and television, with numerous standards or checks suggested. Among the most popular of these checks are the V-chip, which would allow parents to block certain programs from their television sets, and the introduction of a rating system for television shows.

Ironically, people can avoid offensive speech by not listening to the source, a reality that has kept moral censorship in the judicial background. Yet the make-up of Congress, the courts, and the presidency can have profound effects on the extent of moral censorship occurring at any one time. Individuals who are able to avoid the content of a particular message feel that others may not be able to do so and take action to censor the activity.

Some of the more sensational and landmark cases of moral censorship concern the development of the antivice crusades by Anthony Comstock in the 1870s. Comstock helped pass a law in his name making it a felony for people to disseminate birth control literature through the federal mails because it encouraged potentially sinful behavior. Similarly, religious controversies over prayer in school, condom machines on high school campuses, and the teaching of biblical creation as a science have prompted outcries against moral censorship. The debate over the influence of pornography has led to protracted and inconclusive legal skirmishes that witness radical feminist groups teaming up with devout religious conservatives to ban particular magazines, like *Hustler*.

The foundation of American liberties, the Bill of Rights guarantees many freedoms for American people, yet government often assumes the authority to censor these rights to protect the nation and individuals from potential harm. The role of the courts has become crucial in defining whether or not political, community, constitutional, and moral censorship has a rightful place in the United States. If past court challenges are any indication, the development of censorship in the future will remain a complex and tangled affair in the years to come.

Further Reading

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