

THANK-OFFERING TO BRITAIN FUND LECTURE

CENSORSHIP AND THE LIMITS OF  
PERMISSION

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OF all the prohibitions which we lay upon ourselves, sexual censorship is perhaps the most peculiar, for it lays a ban not upon *acts* so much as upon *experiences*, or at least upon such acts as acquire their risky significance by becoming experiences for those who witness them. A substantial proportion of these forbidden scenes do not even consist of representations of acts which are in themselves forbidden: there is no embargo upon the representation of murder, theft, or the breaking of contracts upon the stage. A peculiar notion of risk attaches itself therefore to the violation of certain boundaries that society seems to uphold between private and public activity. So deeply ingrained is this sense of risk that much popular anxiety is expressed whenever the lines that express it are blurred or are in danger of being blurred; an anxiety which resembles, in ways which I hope to reveal later, the fervour which was expressed on behalf of the law against unlimited immigration, anxiety about our entry into Europe, and similar too in some ways to the opposition which is somewhere voiced against the introduction of comprehensive education.

We should note in passing that in addition to the call for prohibition against the spectacle and description of the private parts and their various activities, there is a widespread requirement that we also forbear the use of certain special words which mention these activities or features of the human physique, but whilst terms such as 'private parts' and so on are just admissible in this assembly there are terms which I cannot even utter here at the risk of causing a riot or my own arrest—being endowed with a peculiar power to endanger or offend those who might hear them. I will enlarge on this later when I go into the whole question of the origins of our feelings of insult, offence, and abuse.

Let me say in passing that while such words are, or seem to be, endowed with a special power to endanger or corrupt, their endowment varies peculiarly with the social situation in which they are uttered: it is hard for example for me to utter them here. It is hard to utter them in mixed companies of men and

women, and they have a peculiar resonance when used in front of children. I would like to suggest that they acquire part of their risky power in this respect more by the social classes which they thereby outline than by any intrinsic actual capacity to pollute or harm.

Whatever pornography is or isn't, it is quite clear that the public display of nudity, the widespread representation of sexual activity and the free use of 'polluting words' has increased quite markedly in the last few years. But perhaps more important than that there has been a widespread outcry against it all and a feeling that it is getting out of control. There have been a series of requests that the law pay attention to it: prosecutions have been mounted and festivals of light have been convened. And as one might expect in debates over large-scale matters of public concern, both sides refer to principles which each holds to be axiomatic and binding. These axioms, however, are inconsistently applied and each side takes much pleasure in pointing out the way in which their opponents suspend allegiance to their favoured principle when other issues conflict with them. The opponents of censorship, for example, frequently resort to the axiom that it is wrong for any authority to assume that it has a privileged access to the knowledge of the best interests of the community: the exponents of censorship, however, are quick to point out that this axiom against paternalism can be conveniently relaxed in order to allow legislation against racial propaganda. Conversely, those who object to breathalysers, seat belts, and speed limits on the grounds that they thereby infringe personal liberty are open to the accusation that they are being quite inconsistent in their simultaneous appeal for sexual censorship. And in the same way, those who ask for legislation against the indiscriminate architectural assault on the visual environment seem sometimes impervious to the claims of those who rest their appeal for censorship on some of the same broad principles.

Now I am pointing out these inconsistencies not in an effort to discredit either side but simply to show that slogans and axioms enjoy at best a provisional status in the sphere of conflicting moral interests, and that they are referred to partly in proportion to the way in which they seem to sponsor or underwrite these interests. This is not because human beings are incorrigibly hypocritical but because ethical principles are open to the use of discretion. It is not in the nature of moral discourse to expand steadily towards a fixed circumference of axiomatic

certainty. As Professor Emmet has pointed out, 'moral judgements remain problematical and it is indeed possible that skill in making moral judgements can only grow through facing the fact that they *are* problematical. To face them responsibly is to approach them as moral problems where the answer is not always provided by looking up the local book of rules.' This hardly means, however, that principles play no part in our moral negotiations: indeed, it is part of what we mean by a moral decision that reference to general principle is necessary in arriving at it. This doesn't mean, however, that discretion need not apply in the use of a principle, and the fact that in any given instance to which a principle A nominally applies an exception is made merely shows us something further about the way in which we use principles, namely that there may be other principles or policies which conflict; in which case, reference to a higher principle still will be made in deciding which of the conflicting pair should prevail. In fact as Professor Dworkin points out, it is an integral part of the concept of principle that it makes sense to ask how important it is. The inconsistent application of a principle therefore need not imply—though it may of course—that hypocrisy is at work, but simply that the priority of competing principles has been acknowledged. Nor does it invalidate or cancel the future relevance of the overridden principle.

The point is that it is often hard to identify those axioms which assign weight to competing principles, thereby making it *look* as if advertised principles are adhered to only so long as they yield convenient decisions for those who uphold them. When for instance the exponents of the principle of free expression suspend their allegiance to it in order to allow legislation against racial propaganda, it would be foolish to identify this simply as an example of expedient equivocation. All that has happened is that the exception to one favoured principle has been justified, at least in the eyes of those who recognize its authority, by a supposedly higher principle: namely that it is wrong, harmful, or offensive to advertise the racial inequalities of men.

Controversy arises then largely over the acceptability of such axioms as assign and distribute importance among lower competing principles, and also over the precise wisdom which can be extracted from any given principle with regard to the case in hand.

It is I think a mistake to visualize the system of moral judgements as a series of principles hung from a central axiom, like

a chandelier; as if when confidence was withdrawn from that single source of authority, the whole structure falls with a crash. We construct our moral positions instead rather like the Forth Bridge, out of competing principles which bear against one another in a subtle system of cantilevers which carry the weight of conflicting interests across the span of relevant concern. And it is important to understand that there are concealed structural elements in this bridgework which inconspicuously distribute the weight amongst the various principles along lines which are not strictly speaking rational. I believe for instance that those who insist on the self-evident right of a society to protect itself against moral decay often do so out of a heavy emotional investment in what they imagine to be the *status quo*. Conversely, those who appeal to the self-evident sanctity of free expression frequently do so out of the peculiar irrational emphasis which they put upon the redeeming power of sexual release.

This does not mean that I wish to see personal preference ousted from controversy: indeed it is hard to imagine how it could be. I think, however, that we must try, wherever possible, to visualize the motives which finally distribute weight amongst all the conflicting principles which we bring to bear.

Now broadly speaking, there are three classes of principle from which the exponents of censorship draw their arguments: first and most simply is the *moral* justification, which asserts that pornography, and indulgence in it, is wrong; that it is the task of the law to prosecute it as one of the forms of vice. Secondly, there is the *prudential* principle which claims that pornography is in some way socially *harmful*, and lastly there is the argument which insists that even if pornography were neither immoral nor harmful it is at least *offensive* and that the public has a right to be protected against insult, abuse, and nuisance.

Now I have artificially distinguished and clarified the lines which separate these three classes of justification: they blur off into one another and as one examines the controversy closely one can see that those who wish to see pornography controlled will often change principles in midstream or else justify their adherence to a principle in one class, with concealed reference to the self-evidence of that in another. In the face, for instance, of growing empirical evidence against the notion of *harm* in pornography—exponents of control will revert to principles bearing upon the *immorality* of pornography. For example, when challenged about the reasons why pornography is held to be

*offensive*, reference will then be made to its intrinsic *harmfulness* and vice versa. I tend myself to believe that any argument in favour of control should rest firmly on the principle of freedom from offence simply because I believe that the ambiguities and contradictions which are associated with the other two are so great that no clear principle emerges from them to take self-evident precedence over the advantages associated with free expression.

The distinctions are further blurred by the fact that there is argument over the nature of moral controversy anyway and it is never quite clear how we can identify a truly *moral* dispute when it is taking place. Arguments about social harm, for instance, are not merely controversial on account of the contradictory facts available but because it is hard to agree about the criteria which determine the moral value placed upon these facts. With the exception of certain crude biological consequences, it is hard to agree as to what would count as an instance of harm, and even in the case of physical injury it is often felt that these are outweighed by other harms which arise from measures designed to offset them. Large numbers of Americans for instance agree that ill-health *is* a harm but suspect the risk of greater spiritual and moral harm arising from undue dependence upon socialized medicine. Nevertheless, it is convenient for the sake of discussion to artificially distinguish the three notions respectively of vice, harm, and offence so long as we understand that allegiance to principles drawn from one of any of these three is often cantilevered by concealed reference to the other two.

Vice then to start with. The most stringent expression of this, although not explicitly aimed at pornography, is contained in James Fitzjames Stephen's reply to John Stuart Mill: it was, Stephen claimed, the proper task of the law to persecute the principal forms of vice and to promote virtue wherever possible. Stephen then went on to assert that certain activities—presumably sexual ones—are unquestionably evil and wicked. The problem then arises, as to the criteria by which the unquestionable viciousness of certain conduct is to be recognized. In a uniformly Christian community most of the sexual vices can be identified as the closed series of activities mentioned as such in the Scriptures. And in a different area: for Jews, there is a fixed menu of food prohibitions hereby defining dietary vice by index. So long as the authority of these prescriptions is acknowledged there is no problem about identification of vice. Stephen goes on to assert, however, that these prescriptions must square with

popular intuition and that it would be improper to try and implement prohibitions which did not match public feeling. However, not only does Stephen regard the essence of popular revulsion as a reason for withholding the hand of the law on occasions, it is evident that he thinks that its actual presence will be a positive inspiration as to when and how heavily the law should act. He thereby credits public intuition with a special power for identifying viciousness, on the assumption presumably, though he never openly says so, that this faculty will, even in the absence of explicit allegiance to the Scriptures which list such vices, reproduce the prescriptions embodied in natural law. Now in Stephen's case one is immediately led to inquire why popular opinion on these matters was given such a privileged status, in view of the fact that in his subsequent chapter on equality he demonstrated that he felt no such thing. Stephen acknowledges 'the triumphant progress of popular franchise', for instance, admitting at the same time however that he is 'altogether at a loss to understand how it can rouse enthusiastic admiration in anyone whatsoever'. Now one immediately wants to ask how a man can view the concrete implements of public feeling with such suspicion and at the same time credit that very feeling with a special capacity for identifying vice and rationing its punishment.

Quite apart from the inconsistencies in Stephen's own position, a problem arises anyway as to the moral credentials of indignation as such. For if public hatred of an activity is to be a leading criterion for the identification of its viciousness, and if this sense of indignation need only rise to an agreed threshold of vehemence and unanimity, one might be tempted to imagine that it was only necessary to poll a representative sample of opinion, add up the individual quanta, and call upon the law whenever the sum exceeded a certain agreed value. Now quite apart from the practical problems of canvassing opinions on the Clapham omnibus, how can one be sure that the samples of indignation thus obtained represent truly *moral* instances? Revulsion and indignation can arise from many sources, not all of which fulfil the stipulated requirements of *moral* hatred—whatever these may be.

Stephen, however, seems unmoved by such doubts and is content to allow a vehement call for revenge to prompt the law's action. This, however, holds the law to the ransom of any extreme popular sentiment. The law can be recruited on behalf of almost any extreme feeling on the part of the public as long as

this meets the required standards of intensity and unanimity. As Professor Hart has pointed out, though, the spine-chilling principle of emotional populism was almost explicitly recognized by the Nazi morality statutes of 1935. (A society, incidentally, which put peculiar emphasis upon cleanliness and fear of filth, and which applied the notions of filth very widely beyond obscenity to certain racial groups and also to certain categories of modern art. This is a point to which I hope to return later.)

Nevertheless, in a democracy one cannot ride roughshod over public opinion and those who initiate reforming legislation ahead of public sentiment must expect to have the tables turned on them at the next election. Fortunately, on the other hand, it has often been shown that the *fait accompli* of reform is frequently followed by a somewhat more realistic view of the offences which once excited such irrational indignation. In this sense the law may, far from enforcing morals, help to recreate in the public imagination a new conception as to what will henceforth count as morals. Stephen himself once claimed that the crime of murder was held to be heinous partly because men were hanged for it. True enough: since the abolition of this peculiarly interesting ritual, murder has lost its aura of sacred dread (except in the case of the murder of policemen and children) and popular opinion now sees most examples of the crime in a somewhat more realistic light, freed as it is from the melodramatic shadows of the execution shed. In much the same way sexual spectacle loses part of its horror when the prohibitions enshrined in restrictive law are relaxed. Of course the opponents of permission claim that this is precisely the effect which they fear, that the growing indifference of the public to the inherent immorality of spectacles now overlooked by the law is precisely what the retention of a repressive law is meant to avoid. But this argument leads to an absurd circularity; for if popular indignation against certain acts can subside when the law chooses to ignore them, such a sentiment is hardly the most reliable criterion to judge whether or not the law should have authority over them in the first place.

In recent years a more sophisticated version of the morality principle has been formulated, most distinctly by Lord Devlin in his Maccabean lecture in 1954. Now according to this formula, the immorality of certain acts is a necessary but not a sufficient justification for the law's action against it. The threshold requirement is provided by the recognition that the spread of the activity would threaten the shared morality of society at

large. His argument then goes as follows: since society is held together by the restraints of its shared morality, the extensive spread of practices that violate that morality would allow the community to fall apart. In this case, according to Devlin, the state has as much right to use the law against such practices as it does against treason.

Now there is a weak and a strong way to interpret this proposal, both of which are open to objections. In the weak sense the immoral tendency of certain conduct, say the sale of and indulgence in pornography, is purely arithmetical. That is to say, with each successive person who falls prey to its charms, society has lost a quota of its previous virtue. The immorality of the society is then coextensive with the arithmetical sum of those who indulge in pornography. In this weak sense there are no causal consequences imputed to the act of indulgence—to indulge is to *be* immoral; so that in a society of  $X$  members,  $N$  of whose numbers indulge, the simple coefficient of pornographic immorality is  $N$  over  $X$ . Presumably Lord Devlin does not identify the immoral tendency of an act in this weak arithmetical sense, but in a stronger more causal fashion, to the effect that each new recruit to the vice in question thereby renders himself susceptible to further acts which when performed by the majority would have consequences beyond the loss of grace occasioned by the single act of indulgence itself. And in this way the aggregate of immoral consequences might be larger than the sum of the individual indulgences taken separately. Now in both the weak and in the strong sense the immorality of the act in question is at least a necessary condition of its being a subject of legal concern, but this throws us back to the unsettled question of how we recognize the necessary minimum of immorality. As a Christian, Lord Devlin would presumably have no difficulty whatsoever because religious intuition would supply the answer. However, he realistically acknowledges that a large part of the population is no longer Christian, so that like Stephen he is forced to fall back on popular feeling, as if in some way this were an anamnestic residue of the original piety. We have already seen though how unreliable this source of authority is.

Lord Devlin is, however, on firmer ground with the stronger version of his doctrine, since the suggestion that the spread of certain immoralities, so-called, might lead to *harm* is at least open to investigation and takes us some way into the next class of the two mentioned earlier, i.e. the area of *harms*.

There are, however, two fundamental problems which lie

upstream of the empirical issue of whether or not harmful effects flow from the use of pornography. These problems are associated with the way in which we visualize the so-called shared morality of the community. In the first case, as Professor Hart asks, is it actually true to claim that society has a shared morality, a seamless structure, and how do we recognize it? Might we take a census of avowed ideals, or like ethnologists, merely try to infer these ideals from broadly observed consistencies of behaviour? It is my belief that whichever approach we take we will almost certainly discover that society is amazingly plural: social classes vary between one another and even within classes you will find an astounding scatter of practices and ideals. This I think is what Professor Hart means when he accuses Lord Devlin of hovering above the terra firma of contemporary social reality.

There is, however, a slightly more awkward problem associated with Lord Devlin's claim that morality is what holds society together, for expressed in this way it visualizes morality as an independent system of restrictions which holds in place a structure that would otherwise disintegrate. Such a view springs I believe from a Hobbesian fiction of the state of nature wherein human beings, unrestrained, fall upon one another and consume themselves in lust and greed. As far as I can see we have no more reason for accepting this view of man than that of Rousseau, who conceived the state of nature to be a sublime harmony of good humour. The rules, principles, policies, and ideals by which we live are as much *constitutive* as they are *regulative*, that is to say they exist not simply to prevent a ferocity which we otherwise dread, but partly to define the identity of the community which might otherwise be unrecognizable both to itself and to outsiders who look at it. The laws of cricket, for instance, largely exist in order to render the game visibly distinct from any other game which might be played with ball and stumps: if we alter the rules about 'overs' for instance, and allow sixty balls to be delivered from each end there is a trivial sense in which one might say that the game of cricket has disappeared. It is more accurate, however, to say that it has altered its constitution. When the rules of football were relaxed in order to allow players to handle the ball, there was not an outcry against the possibility that a Hobbesian version of the familiar sport would now ensue, but simply a slow formal recognition that an alternative constitution had created a new game. It would be foolish of course to pretend that all rules are of this constitutive sort—there are well-known *restrictive* rules, against fouling for instance,

which were introduced in order to restrain strong tendencies amongst the players to have their way in spite of the constitution. No doubt some of our so-called moral principles are of this type, but I would claim that in this stage of our sociological knowledge we have not successfully distinguished amongst them all. And I would maintain, if only for the sake of heuristic argument here tonight, that the rules about pornography fall very largely within the constitutive class and that by relaxing them we will simply change the constitution of public life. Whether this will be for the worse or not is hard to predict—I'm not even certain of the criteria by which we would tell. There is no clear agreement as to what would count one way or the other. Meanwhile it seems unwise, improper, and unjust to use the law to enforce the maintenance of a constitution on the much disputed assumption that we now have the best of all possible worlds.

It is fair to admit, however, that causal consequences generally agreed to be *harmful* might issue from the widespread use of pornography.

We have passed therefore into the area of *harm* and before trying to sketch a plan of the harms which we envisage we should I think remind ourselves at least of three considerations which decide how or when action should be taken to offset them. First there is the question of the *probability* that harm will arise from the use of pornography. Secondly, we must estimate the *gravity* of the harm produced, and finally we must know and accept the *price* of such measures that we take to offset it. With these three variables in the back of our mind let us draw a map of possible harms that might arise from the uncontrolled supply and consumption of sexual spectacle.

The crudest hypothesis asserts that pornography somehow raises the level of sexual excitement in the consumer and that to some extent he finds this pleasurable. Under the heading of vice this in itself would be enough, but under the heading of *harm* we must take the issue several stages further. In other words what possible harms might result from increased sexual excitement? (a) It might lead the excited consumer to perform acts that were unacceptably harmful to himself, (b) it might lead him to perform acts that were unacceptably harmful to others, (c) it might produce excitement that leads him either to the unsuccessful pursuit of satisfaction or else to no activity at all, but in either case leaving him in a condition of frustrated excitement which might in turn be (a) unacceptably harmful to himself, (b) lead

him to *indirect* satisfactions that were unacceptably harmful to others, i.e. which made him dangerously aggressive or socially unreliable in other ways.

It's very hard to obtain reliable figures on all these variables, but from the investigations published in the President's Report in the United States it seems that the excitement produced by pornography is short-lived anyhow, and whatever satisfactions are sought in that short term are either acceptable to the law as it now stands or else so subtle in their long-term effects that we simply cannot make them out. The most immediate consequence is either an increase in masturbation, or an increased resort to satisfaction through the co-operation of available partners. Now while it is true to say that the law does not, nor do most people wish it to, exert sanctions against either self-abuse or fornication, one could only make a case for the aggregate harm arising from widespread fornication on the grounds that the extensive and intensive negotiations necessary for obtaining lawful satisfaction will be more harmful than the sum of any supposed harm arising from any individual acts between consenting adults. This sort of view of harm is close to the public-lawn argument so beloved of moral philosophers, namely that the deterioration of an important public commodity, like a lawn, increases with each successive violation which in and of itself produces only a subliminal effect.

Two points arise here, one empirical and one normative. Is there any evidence to show that pornography leads to increased fornication on a long-lasting and widespread scale? Secondly, are the secondary effects of this over-all change in conduct sufficiently harmful to merit the task of imposing restrictions upon such stimuli as supposedly give rise to them? Once again it's extremely hard to answer these questions. Let's take the empirical one first. There is I think no clear-cut evidence to the effect that fornication has increased very markedly since the introduction of freely available pornography. Of course to be fair it's hard to know how one would ever know since, unlike rape, fornication is not a reportable incident. Indirect evidence from the rise of venereal disease may or may not indicate a rise of such activity. I imagine it does, but there is no evidence to show that pornography has played a significant part: rather it shows that sexual conduct all round is now much freer and that public indulgence in pornography is part and parcel of a large-scale trend that has its origins elsewhere. Anyway, from what we know about the mind it seems very unlikely that mere spectacle

or description can excite to the point where long-lasting changes of social conduct ensue. The mind is not a passive receptacle that can be tuned like an electric accumulator. Such a crude physical model assumes a view of human nature that ought to shame its exponent. Sexual satisfaction is sought for a thousand different reasons, and our motives both for seeking it and abstaining from it are too complex for pornography to play anything more than a marginal role in shaping its over-all expression in society.

So that the second question of what it would be like if we became a nation of fornicators is almost meaningless. You have to interfere with the physical substance of the brain before sexual activity becomes noticeably out of control. Pornography is a complex experience, one that encounters a personality elaborately structured with tastes, scruples, compunctions, affections, loyalties, and ambitions.

Are there, on the other hand, any classes of person at special risk from the exciting effects of sexual literature or spectacle? Common sense suggests that there might be, especially the immature and the unhealthy. Take the unhealthy first: one might expect that those whose sense of other people's presence was deficient in some way might be more than usually susceptible to sexual stimulation. The facts on the other hand are equivocal. Sexual criminals are sometimes found in possession of pornographic literature but it is hard to say whether this is even a contributing cause of their crime. It could represent—and I believe it does—a futile effort to obtain harmless satisfaction. Conversely in a large series of sexual criminals investigated in America it was shown that they had if anything been under-exposed to pornographic material. One way or the other, the group at risk is so small and the probability of harmful influence so minute that it seems hardly worth the complex administrative and social costs of protecting the community from them by prohibiting the over-all sale of pornography.

What about the immature? It seems improbable that children can be swayed one way or the other by witnessing or reading about the varieties of sexual activity. There may of course be other effects and these we shall come to in a moment, but in terms of *excitement* I believe that the sources of erratic behaviour in children are notably those which involve personal relationships between peers and parents and that these exert an overriding effect which makes obscenity and pornography a relatively small influence. This doesn't mean, however, that I believe that

there are no artificial sexual excitements for young people, but simply that they do not coincide with the pornography which we dread. A profound sexual excitement is clearly associated in young people with the performance of popular music and not simply with those performances which fall within the category of the obscene. Pop idols, notably the Beatles in the early sixties, whose performances were models of propriety, can become the subjects of sexual hysteria. It would, however, be extremely hard to set up criteria for censoring them. Our willingness to prohibit spectacles that are overtly obscene, it seems to me, reverts to justifications based on our belief that the spectacles are *vicious*, over and above any *harms* which we might impute to them.

Finally, in regard to the stimulating effects of pornography, one might add that whatever capacity pornography might or might not have in this direction partly arises from the fact that it is prohibited and that once we have become habituated to it, the sexual activity excited will revert to a normal level anyway. This is evident from the fall-off in the commercial success of blue films in America.

What other effects then apart from increases in the sheer quantity of sexual excitement could ensue from the unrestricted consumption of pornography? I can conceive three further classes of possible influence. The first is what I call the *imprinting* effect, the next the *exemplary*, and finally the *impoverishment* effect. The *imprinting* effect might work as follows: it is theoretically possible that by offering a variety of sexual representations to the public at large one might thereby pervert the normal sexual appetites and crystallize desire around inappropriate and therefore harmful objects. I call this the imprinting effect by analogy with the phenomenon reported by the ethnologists who show that animals can, if exposed at susceptible moments in their life, be fixated upon inappropriate sexual objects. If this became widespread one might have reasons for feeling anxiety, if only for the future existence of the race. However, the origin of human sexual preference is much more obscure than this anxiety suggests. To start with, the factors which determine preference are actual rather than representational, that is to say they have to do with concrete life situations in which the subject is a protagonist as opposed to a spectator of scenes; and it is hard anyway to know which particular situations exert the prime effect in this regard. Apart from which the main lines of preference are almost certainly set up by the time exposure to pornography is even

likely; and whatever exposure is provided during this phase will almost certainly pass unnoticed except by adults who are aghast for other reasons altogether at the thought of a child witnessing representations of the sexual act in all its variety. However, it is possible that whilst the main lines of sexual preference are established in the first seven years of life, there could be a latent leeway for subsequent modification and that pornography might exert its effects on this point, say in early adolescence. The evidence here, however, is quite equivocal and although there are some figures to show that exposure to pornography at an early stage is associated with a high incidence of promiscuity and perversion, it is hard to say that one is the cause of the other. Addiction to pornography at an early age might be a concomitant feature of personalities that were inclined to promiscuity and deviation anyway. Anyway, the harms arising from these consequences are both ambiguous in nature and marginal in frequency, as compared say to the well-established risks of smoking, which are both larger in quantity and in my view at least, socially and morally destructive—much more so than either promiscuity or perversion. The loss of man hours, the injury to families, the loss of heads of families and of mothers and the personal hardship that arises from smoking in the shape of chronic bronchitis and narrowed heart arteries are now so clearly established that if prophylactic legislation against harm really were a serious intention of the law one might expect to see something more than a statutory warning on the side—on the side mind you!—of the packet.

The same goes for the immoderate intake of fats and sweets and confections, most of which have an indifferent utility, all of which, however, shorten life and impair the quality of that part which precedes death. I point this out simply to indicate that our peculiar immediate interest at this moment in the harmful effects of pornography must on the evidence of our comparative indifference to more clearly established sources of harm spring from other, less prudential reasons, and that we pile up whatever empirical evidence we can in order to provide a utilitarian justification for a standpoint that actually has its origins elsewhere. For want of a better term I would call this an example of moral materialism, parallel to what William James recognized as medical materialism in the matter of food taboos. I will enlarge on this later.

Meanwhile let us move to the supposed *exemplary* effects of pornography. What I mean by this is that the representation of

sexual activity on well-accredited channels of public communication might seem to lend official approval to conduct whose effects were socially harmful. This assumes, however, (*a*) that there is a widespread state of sexual readiness, only requiring an authoritative example in its favour to produce a concerted output of such behaviour, (*b*) that the authority of such an example was uniformly recognized, enough to override all the other various and widely distributed scruples which bear upon the matter, (*c*) that the conduct thus released is socially harmful enough to require the attention of the law. Now while I admit that sex is an urgent appetite it is not by any means uniformly pressing. The assumption that morality and law are laid over an ancient state of primeval promiscuity is a fiction long since abandoned by serious anthropologists. Whatever permissive example is offered by the authorized publication of sexual spectacle works upon a plural population of sexual motives, which are in turn heavily modulated by the individual personal contexts wherein sex has its place. We are not spring-guns of lust, ready to fire at the first blundering footstep of unwary example. Secondly, not everyone recognizes the authority of those who promulgate such examples; and it is my firm conviction anyway that society can readily accommodate itself to such conduct as might be released by the threshold stimulus of such accredited example.

There is, however, another more subtle exemplary effect of sexual spectacle which one might reasonably deplore without necessarily wishing to see the law invoked to prevent it. This effect I think is associated more with art and with advertising than with hard pornography. It involves the idea that a peculiarly valuable form of personal fulfilment can actually be obtained through sex. Promoted through well-accredited channels and expounded by admired public figures, this dogma—which has some of its origin in writers like D. H. Lawrence—suggests a peculiar sexual route for obtaining personal satisfaction and fulfilment. Now, human variety being what it is, large numbers of people thus encouraged will fall short of the advertised satisfaction and may henceforth feel ashamed of having failed to realize an ideal that is currently held in high, and I think unrealistic, esteem by some well-recognized authorities in the community. Offered the lure of self-fulfilment through sex, many people, the young in particular, might be induced to experiment before they were emotionally prepared for it and, in the face of the almost inevitable disappointment, not forswear

sex for ever exactly, but fall into a premature pessimism about human relationships in general which might obstruct subsequent sexual adjustment. On the other hand, the sexual ignorance of the young has to be set against this and it is useful to bear in mind that pornography undoubtedly provides the first useful introduction to the possible varieties of sexual experience—not altogether a bad thing. Anyway, there are many other forms of misleading literature and spectacle which might do harm perhaps by virtue of authoritative example—films, plays, and books which advertise an ill-founded social optimism could equally lead to the harm of sharp awakening, yet no one calls for censorship of *The Sound of Music* for instance or for restrictions upon works that advertise the pleasures of wealth and fame.

Finally, we come to the well-established theory that pornography offers an impoverished version of human life. The David Holbrook theory. Certainly an exclusive diet of pornography is thin fare and as an exclusive image of human fulfilment it presents a dismal spectacle. But then so is a diet of cookery books and reports of wine-tasting. There is a very sound reason for this: one which was first elucidated by the neurologist Sherrington when he divided animal activity—and human activity too—into two compartments, the appetitive and the consummatory. Briefly, consummatory behaviour comprises all those elementary reactions which bring certain chains of pursuit to a conclusion—food entering the mouth reaches a certain point at which a highly stereotyped irreversible event takes over, and the food is swallowed. Immediately before that the food may be chewed and savoured and as one moves back from the act of eating itself, behaviour becomes progressively more varied and optional, intelligent and interesting with regard to the food pursued. We feel hungry, assess the priority of this feeling in the context of all our other desires and obligations, and then if the time is ripe choose a restaurant, then look at a menu: finally we converge upon the stereotyped consummatory act of swallowing. All that is most characteristically human, though, occurs during the long preliminary appetitive phase. The nearer we approach consummation the more stereotyped we become and the less we can be distinguished from one another. So also with sex—our humanity expresses itself in those infinitely various ways wherein we negotiate with one another for eventual satisfaction. Gwendolen Harleth and Cleopatra differ from one another not by virtue of their performances in bed but in the subtle programmes of

encouragement and procrastination that lead to the final relatively monotonous conclusion.

One of the reasons I am sure why pornography tries so hard to multiply the varieties of performance is that it knows implicitly that it is dealing with a phase of behaviour penultimate to a stereotyped outcome. No novel, for example, ever finds it necessary to advertise the 180 postures of friendship. Pornography achieves its characteristic poverty because it is set aside from an area where variety and individuality can be expressed. I've always felt that the most convincing image of hell is that of Dante in which one would be condemned to repeat the stereotyped manoeuvres of sexual pleasures for ever; one in which the punishment comprises no more and no less than the need to perform, in eternity, the very sin for which the punishment was inflicted in the first place. For this reason alone I cannot fear the harmful effects of pornography, since anyone normal who has been exposed to pornography, hard or soft, far from falling under the sway of its pornotopian spell loses interest after a while and returns with pleasure and gusto to the varieties of experience of the world at large. Those who become addicted to its characteristic impoverishments are in a mental state close to that of an obsessional neurotic who will actually seek its stereotype in order to enact a symbolic representation of their personal mastery over life. We know for instance that patients with organic brain damage will actually seek an environment whose ritualized monotony falls within their capacity to control it; so with pornography. Far from impoverishing people it offers for those who for some reason or other *are* impoverished a secure annex of controllable fantasy within which their limited emotional versatility will not show up. For the rest it is a holiday where they are free for a moment to indulge their fantasies and furnish themselves with new images; for fantasy after all plays a vital and nourishing part in maintaining the health and versatility of the imagination. Like dreams, we need fantasies in order to play with emotional conjectures; and a mind unstocked with the variety of alternative conjectures is not equipped to meet the challenges of reality.

Another objection to pornography runs as follows: that it advertises a view of the world where people use each other as objects. The answer is, it may or it may not. He who extracts from pornography an endorsement of his tendency to exploit another as if he had no feelings is already crippled by some early failure in psychological manufacture and he will exploit his

sexual partners just as he does his family or his colleagues in business. At a time in history when our institutions make promiscuous objective use of human beings anyway it seems inappropriate to focus on pornography as a special source of this tendency.

Anyway, I am convinced that the asphyxiated poverty of much pornography arises from the fact that sex and its representation have been quarantined for so long that pornography has fallen into an invalid condition, thereby acquiring the contagious features which we dread. Re-established as part of all the other things which we consume, it will revert to its normal complexion and proportion.

Meanwhile, however, it continues to give *offence* and there seems to be no good reason for inflicting mental distress upon those who fear its appearance. I feel that plays and films should advertise their sexual content so that those who wish to enter can do so and those who are likely to be offended can abstain. Shops which sell hard-core pornography should conceal their wares from the street. TV is a harder problem since the instrument invades the home and people should feel as free from insult arising from this source as they rightly expect from the general post. Nevertheless people are free to turn off the instrument and although this may seem to infringe their right to use the full resources of a public commodity, they can freely switch channels and often do so to avoid subjects which merely bore them without asserting that they are thereby deprived of a quota of their licence's worth.

But let me for a moment subtract insult from injury and ask why certain spectacles and words *should* be offensive. Is it because those who fear them suspect its capacity to injure? If so, they must infer it by intuition since, as we have already shown, the evidence one way or the other is hard to obtain and not even available to the people who hold such vehement opinions on the matter. Or do they find it offensive because it is inherently vicious? In which case by what criteria, apart from the fact that it is felt to be offensive, do we tell whether it is vicious or not? I believe myself that no empirical evidence against the supposed harm of pornography will ever convince those who are opposed to it. It is hard to imagine a more exhaustive report than the President's Commission and yet when confronted by it the President himself rejected its conclusions out of hand. What I believe is going on is as follows: sexual acts and their representation in public are deemed to be both immoral

and offensive for reasons which are undisclosed, and that prudential justifications for this opinion are then imported to satisfy the demands of a society which is widely committed to utilitarian principles. This I have already called moral materialism and as an illustration of what I mean I'd like to refer to a parallel form of materialism which is used to underwrite the value of the kosher food laws. For this analysis I am indebted to Mary Douglas and her book *Purity and Danger*.

For orthodox Jews it is immoral to consume certain foods and offensive to witness such consumption. Certain prudential reasons have been imported to justify these practices, to the effect for example that shellfish and pork are unhygienic. Now it seems unlikely that either pork or shellfish *are* intrinsically more harmful than mutton or trout, and whatever risks *are* associated with them could hardly have been inferred by the authorities who first prohibited them. Besides if you examine all the other abominations of Leviticus you will find that they include prohibitions that could not be explained by any stretch of the medical imagination. Professor Douglas suggests that such a system of prohibitions can only be understood *as a system* and that the community, by observing it, actually registers its recognizable apartness from races all round. In other words, very briefly, systems of prohibition frequently exist in order to enshrine a symbolic model of the social order and indeed of orderliness in general. Lines are then drawn not so much to fence off an otherwise prevailing savagery but to represent the valuable assurances of pattern and predictability.

The notion of pollution and filth then attaches itself not so much to any intrinsic property of what is feared, but to the fact that what is feared violates some boundary which has been established for symbolic reasons.

We tend, therefore, to abhor objects, persons, or incidents which somehow violate reassuringly distinct classifications of the world. Not because any of these things display properties that are intrinsically dangerous, but because they have features which upset our notion of what is what. The notion of filth, horror, and pollution becomes associated therefore with whatever defies the common categories of classification. Broadly speaking, they fall into the following groups:

#### *A. Dubious Animals*

Those mentioned in Leviticus, for example. Also spiders and insects which display anomalous forms of locomotion.

B. *Marginal Elements of the Human Body*

Excreta, nail clippings, hair, saliva, and semen.

Substances which are not quite part of the body, but which are not truly constituents of the outside world either. In this category one can include the abhorrence of certain misuses of bodily parts—the wrong thing in the wrong place, e.g. buggery, fellatio, and cunnilingus. In other words, practices which violate the accepted classification of the human sphincters and their function.

C. *Persons Who Don't Fit Any of the Convenient Social Slots*

Ghosts, vampires, and werewolves.

Tramps, hippies, and homosexuals.

Jews, gypsies, and bastards.

D. *Certain Unclassifiable Substances*

Substances that present anomalous physical properties such as stickiness or sliminess.

Substances that cause alterations of consciousness half-way between co-operative alertness and complete unconciousness.

E. *Unfamiliar Artifices which Defy Familiar Classifications*

Modern art and modern music.

The commonest form of abuse levelled at these manifestations at their first appearance is filth, mess, and noise. Immediately the audience understands, however, the new classification into which these forms fall, indignation tends to disappear altogether.

F. *Deviations from Accepted Social Practices*

Bad table manners, breaches of courtesy, and all those forms of conduct which fall outside the ordinary rules or standards.

G. *Obscenity and Pornography*

Strictly speaking, these do not belong in a class on their own and the horror which they arouse is caused by the various ways in which they coincide with one or another of the groups mentioned above.

Clearly it would be foolish to try and explain our horror of public obscenity on the basis of this explanation alone. The origin of sexual modesty is very complicated and varies in form from culture to culture. Nevertheless, I think it is possible to explain *some* of the rules, and the horror which is aroused by breaking them, on a purely constitutive basis. For instance, we

are anxious about children witnessing the sexual act, not necessarily because there is a substantial danger in their doing so, but because the rule *preventing* them from doing so helps to define what we mean by a child. In an advanced technological society it becomes more and more important to segregate the immature so that they can be trained in the elaborate skills which will allow them to prosper and be useful. In order to train someone like this, however, they must be labelled and marked off as socially distinct from all those that we exempt from pedagogical pressure. In other words, we impose or manufacture the innocence of children, thereby creating a class of individuals who are recognizably 'in statu pupillari'; or as Ivan Illich says, 'Defining children as full-time pupils permits the teacher to exercise a kind of power over their persons.'

The same principle applies to women and to the way in which we carefully protect them from obscene spectacle or foul language. Our culture requires a class of person to raise children, and in order to visualize this regiment of nursemaids we confer upon them the privilege of chastity and thereby render them socially visible and politically manageable.

But why should the present outcry be so shrill? The obvious answer would be that there is more obscenity than hitherto, and that anyone in his right mind would be disturbed. Now, although there is some truth in this reply, it oversimplifies the case by isolating one anxiety and ignoring related worries about pollution in general. Just as it's hard to account for the dietary abominations of Leviticus by a piecemeal material analysis of the individual abominations concerned, it is futile to try and explain the growing anxiety about moral corruption without taking into consideration the concurrent fuss over other forms of pollution—racial, social, and chemical.

What I believe is happening is this. Our collective picture of both the physical and social world is undergoing one of the largest upheavals in history. Atomic physics has disturbed the familiar distinction between matter and energy. Biology has dissolved the boundaries between animals and men; psychology has helped to blur the line between responsibility and determination and all around the social scene has become distressingly fluid. Individuals can be reconstructed from their separate organs. Living cells can be assembled from their living molecules. Social classes are no longer separated from one another and yet, whilst merit is subsidized in order to allow a rapid upward mobility, countervailing moves are afoot to mitigate the un-

precedented inequalities to which these initiatives give rise. Everything is in a state of flux. Small wonder then that symbolic representations of order and stability, such as are reflected for example in the various systems of etiquette and decorum, are reasserted with fresh enthusiasm, and their violation condemned with a shrillness which is quite out of proportion to the danger involved. Of course there *are* dangers associated with the physical pollution of the environment. Poisoned air and foul rivers represent a genuine hazard for human survival. Similarly, incoherent sexual misconduct on a wide scale could seriously endanger the integrity of the social fabric; but the anxiety is disproportionate to the risk and represents an irrational response to the alteration of order in general. We have seen such manifestations several times in recent history. During the political confusion of Weimar, people became unreasonably anxious about moral and artistic corruption and also about racial pollution. Not because there were any substantial hazards involved, but because these symbols of pollution represented a vivid symbol image of an order in jeopardy. The American historian Richard Hofstadter has strikingly christened this response as a 'paranoid style' and, along with sociologists like Daniel Bell, has shown how it constitutes an irrational and finally destructive answer to the threats posed by modern life. In fact, modern life *is* dangerous and uncertain; our collective destiny unprecedentedly confused. It behoves us therefore to discriminate all the more carefully amongst various hazards involved. We must identify the *genuine* risks and exorcize the phantoms. Our current concern with obscenity and pornography merely delays constructive social action and presents a spectator from another planet with an image as absurd as that of someone trying to adjust his dress before jumping from a burning building.