



Research Paper

## Artistic Boundaries: Freedom of Expression and Censorship

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**ABSTRACT:** This essay addresses censorship's potential limits on freedom of expression in the context of obscenity and the effect this has had on the exhibition of cultural objects. Although this is a matter of vital interest in the contemporary United States, this essay focuses on cultural debates that arose in the U.S. primarily during the nineteen-eighties. Analysis of individual artists and art exhibitions is situated within a legal context of constitutional law, case law, and governing statutes, which still define the parameters of obscenity today. Censorship will continue to be a hot topic in the U.S. for years to come and this review should help readers attain a broader legal perspective.

**KEYWORDS:** Art, First Amendment, Obscenity, Photography, Pornography

Received 29 October, 2020; Accepted 10 November, 2020 © The author(s) 2020.

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### I. INTRODUCTION

What is censorship? Censorship refers to suppression or prohibition of expression considered injurious to an established social system. In recent decades, U.S. society has struggled over the extent of government's censorship authority and the rule of law. Public opinion has become somewhat polarized, with society generally divided into two opposing groups. Censorship's advocates believe it can protect young people from harmful sexual and violent messages, and discourages subversiveness. In the heat of the late nineteen-eighties culture wars, one prominent American politician proposed a blanket prohibition on the use of government funds to support what he considered "obscene or indecent materials, or materials which denigrate the objects or beliefs of a particular religion" [1]. Censorship's opponents, on the other hand, believe it unduly inhibits freedom of expression and individuals should have unrestricted liberty to decide what they can access. The American Civil Liberties Union describes censorship as what "happens whenever some people succeed in imposing their personal, political, or moral values on others" [2].

This essay analyzes several high-profile censorship battles of the nineteen-eighties, a period defined by social division. However, as an aside, it is interesting to recognize the fluctuating attitudes of succeeding generations [see 3]. For example, a recent Pew Research study found that 40% of U.S. *Millennials* (people born between 1981 and 1996) favor government censorship preventing expressions that offend minority groups. Only 28% of the overall population agreed with that opinion [4]. Current culture wars are being fought mainly over certain key issues and concepts, including repressing "hate-speech and oppressive ideologies," and promoting "inclusivity"; but a generation ago culture wars focused on repressing supposed "immoral, anti-family, and anti-American content" [5]. In both eras, certain participants and activists have seemed equally tempted by the allure of censorship [5; see also Area 2018; see also 6 and 7.

### II. RELEVANT LEGAL AUTHORITY AND CATEGORIES

The U.S. Constitution limits the federal government's authority to censor. In 1791, the original states ratified and added ten amendments to the Constitution, known collectively as "The Bill of Rights." The First Amendment guarantees that "Congress shall make no law ... abridging the freedom of speech." Subsequent case law has explained and expanded this freedom. It includes individuals' freedom to express their opinions publically without *undue* censorship, interference, or restraint from federal, state, or local governments. See *Stromberg v. California*, 283 U.S. 359 (1931). The U.S. Supreme Court has clarified, "[A]bove all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Chicago Police Dept. v. Mosley*, 408 U.S. 92 (1972). Specific case law has addressed two categories of expression: *pornography* and *obscenity*.

Pornography refers to material (writings, pictures, etc.) that deals with sex, and is intended primarily to arouse sexual desire. At least when it depicts adults, most pornography receives First Amendment protection. However, the law considers two types of sexual expression *illicit* (or unlawful) and they receive no constitutional protection: child pornography and obscenity. A work is considered obscene if (1) an “average person, applying contemporary community standards,” would find that the work, taken as a whole, appeals to the *prurient interest*, if (2) the work depicts or describes, in a *patently offensive way*, sexual conduct or excretory functions specifically defined by applicable state law, and if (3) the work, taken as a whole, “lacks serious literary, artistic, political, or scientific value” [emphasis added]. *Miller v. California*, 413 U.S. 15 (1973). This definition, of course, is problematic, because determining the characteristics of an “average person,” and what that person considers “patently offensive,” and what constitutes “serious artistic value” involves a high degree of subjectivity and debatable judgments.

The legal system of the United States is similar to the common law system of English law; therefore, it is beneficial to consider the United Kingdom’s relevant legal authority. A bit later, this essay will examine a U.K. art exhibition that featured controversial photographs of children, so a brief review of U.K. child pornography statutes is in order. Child pornography laws in England, Wales, and Northern Ireland are covered by a series of acts, beginning with the Protection of Children Act of 1978. These acts make it illegal to take, make, distribute, show, or possess an *indecent* photograph of someone under the age of 18. Laws continually adapt to new technology, such as digital media. For example, today when a person saves child pornography on a computer's hard drive that act is considered to be illegally "making" a new pornographic image, because the process causes a new copy to exist. The Criminal Justice and Public Order Act of 1994, covers *indecent pseudo-photographs*: images that appear to be photographs of children. In 2009, the Coroners and Justice Act criminalized all sexual images that depict persons under 18, not just those derived from photographs or pseudo-photographs. Possession of such images is a criminal offence even if there is no intention to show or distribute them to others. In addition to these Acts, the U.K. enforces the common law offence of “Outraging Public Decency,” which criminalizes acts or displays that offends “minimum standards of public decency ... in contemporary society.” Juries make this determination considering recognized standards of propriety. *Hamilton v. Regina* [2007] EWCA Crim 2062.

### **III. PHOTOGRAPHY**

During the nineteen-eighties and nineties, the most significant public debates over censorship of potentially pornographic and/or obscene artwork involved photography. A succession of American photographers pushed the envelope of publically acceptable subject matter and called into question whether the government should place content-based limits on public funding of art. Why did the dispute center on photography? Is there something inherently dangerous or invasive about the photographic medium? Amy Adler, a professor of art law and First Amendment law at the New York University School of Law offered her opinion on why photography is “the medium most vulnerable to prosecution.” According to Adler, “One answer is that there is an exploitation inherent in photographs; they capture your soul; they trick you about the real. ‘[T]o photograph people is to violate them, by seeing them as they never see themselves, by having knowledge of them they can never have; it turns people into objects that can be symbolically possessed’” [8]. Following this reasoning, when an adult takes pictures of a child the adult may seem to be (or may actually be) violating the child’s personal autonomy and exploiting his/her innocence.

### **IV. SALLY MANN**

Sally Mann (born 1951) is an American photographer known for taking pictures of her family and friends. Mann rose to prominence in the art world in 1992, when she published *Immediate Family*, a photo-essay that contained sixty-five black-and-white images of her children: Emmett, Jessie, and Virginia (fig. 1). Thirteen of Mann’s photographs showed her children in various states of nudity and in a few the children had physical injuries (caused presumably by rough play or accidents). In one image, Emmett has a bloody nose (fig. 2); in another Jessie has a swollen eye; in yet another Jessie has a more serious wound that required stitches. Law enforcement officials have noted that pornographic imagery also often combines nudity and [implied] violence [9]. Professor Amy Adler claimed Sally Mann exploited photography’s capacity to objectify and “symbolically possess” people. Perhaps predictably, Mann’s combination of familial intimacy, nudity, and implied violence offended some people, who questioned, “Is she taking advantage of her children's sexuality for her own work? One critic pitied [Mann’s] 'helpless art abused children' [and raised] questions about [her] maternal nature.” According to Professor Adler, “the possibility of exploitation and abuse in Mann's work comment[ed] on the betrayal and violence inherent in photography” [8].



Figure 1.  
Sally Mann. Photograph from  
*Immediate Family*.



Figure 2.  
Sally Mann. *Bloody Nose*, 1991.

Sally Mann took her *Immediate Family* photos over a seven-year period, when her family lived in a, relatively isolated, bucolic area of the U.S. state of Virginia, near Lexington. Mann sensed her pictures might appear exploitative, so she initially planned to wait until her children had grown up a bit before exhibiting *Immediate Family*, so she could explain why she wanted the public to see the images. In the U.S., the typical age at which a person can give legal consent is eighteen. In 1992, however, Emmett was only twelve; Jessie was ten; and Virginia was seven. In spite of their youthfulness, according to Mann, her children had no objection to the photographs being shown at New York's Houk Friedman Gallery in the spring of 1992. Virginia did draw the line at a photo of her urinating, and she demanded it not be displayed. In spite of such complaints, Mann commented that her children seemed more concerned that their mother portrayed them as "geeks," rather than that she portrayed them in the nude [10].

*Immediate Family* caused an immediate stir. A few journalists and art critics praised the imagery's "timelessness" and its intimate views of childhood innocence [11]. Others described Mann as manipulative and noted the similarities a few of Mann's photographs shared with child pornography, suggesting consumers of pornography and pedophiles might look at the images of nude, injured children in just such a way. The art critic of *The New York Times*, Robert B. Woodward wrote a cover story, entitled "The Disturbing Photography of Sally Mann," which described the photographer's children as "sexualized" and speculated that *Immediate Family* "raised ideas about child abuse and incest that seemed deliberately designed to spark controversy" [12]. Influential feminist author, Mary Gordon also condemned Mann: "The photography of Sally Mann shows her prepubescent children in blatantly sexual poses and expressions in an attempt to force adults to realize the inherent sexuality of children. ... [T]he photographs themselves are a moral violation of the responsibility of the powerful to the powerless, the mother to her children, in that Mann is posing her children to make them sexual in the eyes of strangers rather than the children choosing to portray themselves this way" [13]. When questioned about such objections, Mann responded, "There was no Internet in those days. I'd never seen child pornography. It wasn't in people's consciousness. Showing my children's bodies didn't seem unusual to me. Exploitation was the farthest thing from my mind" [10].

Interestingly, before publishing *Immediate Family*, Sally sought advice from a Virginia criminal prosecutor, who warned Mann that some of the images might be deemed pornographic or obscene and potentially she could face prosecution. Although adult pornography is generally constitutionally protected speech if it demonstrates "serious artistic value," *Miller v. California*, child pornography is not protected, regardless of its value. Child pornography is unprotected and suppressed because of the harm it can cause to the children involved. The U.S. Supreme Court reasoned in a 1982 child pornography case, "It is [simply] irrelevant to the [photographed] child whether or not the material...has [artistic] value." *New York v. Ferber*, 458 U.S. 747 (1982). The government never took action against Sally Mann, but she faced a degree of social reprobation and calls for *self-censorship*. Self-censorship is "controlling what you say or do in order to avoid annoying or offending others, but without being told officially that such control is necessary" (Cambridge Dictionary) After all of the positive and negative publicity, Mann's *Immediate Family* publication earned well over half a million dollars, an unusually high financial return for an artistic photo-essay.

## V. TIERNEY GEARON

In March 2001, London's Saatchi Gallery held an exhibition entitled *I Am a Camera*. It featured fifteen color photographs taken by the American artist Tierney Gearon (born 1963) (figs. 3, 4). Gearon and Sally Mann have striking similarities. Both are from the American South (Gearon is from Georgia) and both rose to prominence due in large measure to divisive exhibitions that included images of their youthful children. Gearon described her *oeuvre* as "the diary of [her] soul"; she uses her art to process crises in her life. She told a reporter about her motivation for the photographs she showed in *I Am a Camera*: "Around the time of my divorce, I was

very confused, and someone encouraged me to start documenting my family. I started photographing everyone related to me or my children ... My images became ... a way for me to work things out” [14]. To promote *I Am a Camera*, the Saatchi Gallery displayed two large blow-up reproduction advertisements of Gearon’s photos showing her two children (a daughter aged seven and a son aged four). In one image, the children are nude on a beach and wear menacing masks; in another, Gearon’s son urinates in the snow.



Figure 3.  
Tierney Gearon.  
Photograph shown in *I Am a Camera*.



Figure 4.  
Tierney Gearon.  
Photograph shown in *I Am a Camera*.

Journalists and people passing by the gallery began complaining to the police that Gearon’s photographs were indecent. After *I Am a Camera* had run for several weeks, London police officers came to the gallery. The officers told the gallery owners that pursuant to the Protection of Children Act of 1978 they were considering removing the blow-up advertisements and a few related photographs from the gallery walls. The following day, the weekly tabloid *News of the World* published an edited version of one of Gearon’s offending photographs and an article with the headline “Child Porn They Call Art” and labelled the show “perversion under the guise of art.” This set off a fierce argument in the press, academia, and the art world concerning the parameters of both art and [child] pornography [see 15], which continues in various forms today. Ultimately, the police took no action against the photographer or the gallery. During the height of the uproar, the British daily *The Guardian* interviewed Gearon about the commotion her photographs had caused.

She said, “I looked at my pictures today and tried to see the bad things in them that other people have seen. But I can't. ... I don't understand how you can see anything but the purity of childhood.... I don't see sex in any of those prints, and if someone else reads that into them, then surely that is their issue, not mine. ... I think that the pictures are incredibly innocent and totally unsexual. ... As for the suggestion that these photographs represent an invasion of my children's privacy, I would counter that I've done it to myself, and to my entire family, too. And if I had had any doubts, then my kids' pride in the exhibition immediately dispelled them. ... I would never exploit my children. They are such a huge part of my life, and I am always very honest with them. I would never take their photograph unless they felt OK with it. Some would argue: ‘How do you know that they really feel OK? Don't they just want to please you?’ Of course, I am aware of those issues. For example, when I took the photograph of my son peeing in the snow, he registered that this was something that pleased me and made me laugh. He started posing and peeing at every opportunity: ‘Hey, mom, I'm peeing, take a picture!’ Of course I didn't, because I'm aware that there is a danger of your child doing things to please you rather than because they feel comfortable doing it. Similarly, my daughter is an incredibly sensuous little girl, and will sometimes strike poses that are rather erotic, as most little girls do. ... This is art. ... I find it hard to fathom why the police have picked on these particular shots in this particular exhibition. Sally Mann's portraits of her daughter, for example, are far more sexualized than mine” [16].

When reading Gearon’s statement, it is important to remember — in both the U.S. and the U.K. — indecency is not interpreted by the alleged perpetrator, but, rather, by a jury applying “contemporary community standards” (U.S.) or “recognised standards of propriety” (U.K.). Regardless of Tierney Gearon’s apparently innocent intentions, in the legal system a jury of community representatives determines what society tolerates. Each jury, however, is composed of distinct individuals and reconciling and balancing community standards with individual creativity and personal expression is a difficult task.

## VI. ROBERT MAPPLETHORPE

Sally Mann’s *Immediate Family* series and (to a slightly lesser degree) Tierney Gearon’s later *I Am a Camera* photos first appeared within socio-cultural contexts in which spectators were already questioning the relationship of art photography and pornography. Although Mann and Gearon may have genuinely been surprised when the public reacted negatively to their works, they surely realized that previous, well-known American photographers had already set the stage for public outcry against provocative subject matter. Perhaps

the greatest U.S. scandal concerning art, pornography, and obscenity involved the late photographer Robert Mapplethorpe (1946-1989) (fig. 6), and his series entitled *The Perfect Moment*. Mapplethorpe produced distinguished celebrity portraits and a celebrated series of self-portraits, but throughout his career, he continually returned to more challenging topics. Indeed, Mapplethorpe's fame (or to his critics, his notoriety) was based upon his finely crafted, erotic photographic depictions of New York City's underground LGBT subcultures. Mapplethorpe once described these photographs as pornography, which a person could interpret as fine art [17: 326].

Just after his death in 1989, Mapplethorpe's retrospective exhibition, entitled *The Perfect Moment*, went on a national tour of the U.S. Mapplethorpe's erotic photographs set off a heated debate over what constitutes obscenity and whether public funds should be used to promote controversial artwork. *The Perfect Moment* included graphic images of sadomasochistic bondage and torture and pictures of nude children. The Corcoran Gallery of Art, in Washington, D.C., agreed to host the exhibition in the nation's capital. The show's curator was Janet Kardon of the Institute of Contemporary Art. The Institute of Contemporary Art had received a grant from the National Endowment for the Arts to finance the Mapplethorpe exhibit at the Corcoran Gallery. The National Endowment for the Arts is an independent federal agency that funds arts and cultural events using federal taxpayer money.



Figure 5  
From *The Perfect Moment*, 1989.



Figure 6  
Mapplethorpe. Self-portrait.



Figure 7.  
Protests following the cancellation of  
*The Perfect Moment*, June 1989.

When certain influential trustees of the Corcoran Gallery saw the show, they objected to Mapplethorpe's works and to the use of federal funds. U.S. Senators and other politicians, as well as the leaders of various religious organizations, complained that taxpayer money was being allocated to support what was described as "nothing more than a sensational presentation of obscene material" [18]. Subsequently, the Corcoran cancelled its exhibition and Mapplethorpe's photographs were displayed in another space, without the need for public funds. Protestors demonstrated outside the Corcoran and in other cities against what they considered unconstitutional federal censorship of individual expression (fig. 7). The National Endowment for the Arts appropriations bill for the following year incorporated anti-obscenity restrictions adopted amid the Mapplethorpe protests and similar disagreements over government funding of works by Andres Serrano (born 1950).

It is worth restating the U.S. legal system's definition of obscenity. An artwork is obscene if an average person applying contemporary standards would find it appeals to prurient interest; and it depicts, in an offensive way, sexual content; and it lacks serious artistic value. *Miller v. California*, 413 U.S. 15 (1973). Merriam-Webster dictionary defines *prurient* as "marked by or arousing an immoderate or unwholesome interest or desire' in sex." The public debate over Mapplethorpe's photos centered largely on whether or not they displayed "serious artistic value." Because of the specific erotic nature of the imagery, opinions tended to be passionate

and polarized. One conservative spokesperson described Mapplethorpe's pictures as "immoral trash"; the artist's supporters described his pictures as groundbreaking and "courageous" [1; 19]. However, the most outspoken opinions came from individuals who seemingly were not trained in the law, and who failed to base their arguments on applicable constitutional standards and case law. In the social arena, determining what is considered obscene (and is therefore subject to censorship) often involves purely subjective evaluations of whether or not something is unacceptably offensive and shocking. This frequently turns censorship into both a religious and a political issue.

A jury never decided whether Mapplethorpe's photographs were obscene. If they had been found to be obscene though, there could have been serious legal repercussions. In general, U.S. federal law prohibits the possession with intent to sell or distribute obscenity and prohibits sending, shipping, or receiving obscenity through use of the U.S. mails (See 18 U.S.C. § 1460; 18 U.S.C. § 1461; 18 U.S.C. § 1462; 18 U.S.C. § 1463). Additionally, federal law prohibits both the production of obscene matter with intent to sell or distribute, including through interactive computer services, or online sales (See 18 U.S.C. § 1465; 18 U.S.C. § 1466). For example, it is illegal to sell and distribute obscene material on the Internet. If Mapplethorpe's works had been found to be obscene, it would have created major problems for curators and many gallery administrators.

## VII. JEFF KOONS

In 1989, as U.S. society pondered the propriety of funding Mapplethorpe's exhibition, the Whitney Museum of American Art, in New York, put on another show that directly questioned whether there was any significant distinction between pornography and art. It was Jeff Koon's *Made in Heaven*, an ambitious mélange of photographs, paintings, and sculptures. For decades, critics have been divided over the aesthetic merit and art historical standing of Koon's (born 1955) work. Some dismiss his oeuvre as tacky, kitschy self-promotion; others sense enduring relevance (Swanson 2013). The *Made in Heaven* series is characteristically ambiguous.

In 1988, Koons (born 1955) met Ilona Staller (born 1951), a Hungarian-born model, pornographic film performer, and a member of the Italian Parliament. In her film career, Staller worked under the pseudonym *Cicciolina*, which translates roughly into English as "little Sweetie." Koons and Staller formed a quick bond and they were eventually married (1991-1994). In 1989, the Whitney Museum of American Art commissioned Koons to make artwork for a large billboard to promote the Whitney's upcoming show *Image World: Art and Media Culture*. Koons proposed that he and Staller devise a fictitious film, entitled *Made in Heaven*, and that he photograph the two of them in simulated intimate acts. Koons turned these photos into a series of glass paintings and sculptures, with suitably raunchy titles (fig. 8). One of Koon's supportive critics described the series as "shocking: horrifyingly unguarded, emotionally raw, and sexually explicit" [20]. As has been the case throughout his career, in *Made in Heaven* Koons referenced illustrious (though somewhat more delicate) art historical precursors, such as the French Rococo painters François Boucher (1703-1770) and Jean-Honoré Fragonard (1732-1806) (see, for example, 21).



Figure 8.  
Advertisement for Jeff Koons' *Made in Heaven*.

In a review of Koons' work, American art critic Arthur C. Danto commented that Koons had revived a question that Danto had thought long dead in the art world: "Is it art?" [22: 788-789]. Danto's question led art historian Kristen Strom to ask another question: What is the difference between art and pornography? "Typically, questions about whether a work is or is not a work of art have been based on the physical nature of the work: ... [T]here tends to be little doubt over whether objects that fall comfortably within the parameters of painting and sculpture are art, particularly when they are representational and especially when they are placed within the context of a museum or gallery, as [were Koon's] *Made in Heaven* objects. ... [T]he controversial nature of [Koons'] works was based not on their form, but on their content: the unabashed performance of sexual acts. ... In response to the primary question: Is it art? Most critics commenting on the show have asserted that it is. Indeed, they provide a fairly diverse and somewhat telling array of theoretical explanations as to why the show does not constitute pornography. [For example, novelist and art critic Jim Lewis argued Koons' works

are not pornographic] because ‘an art work becomes prurient only when it ceases to be a representation of desire and instead become the impetus for it.’ [None of the writers] seemed willing to entertain the possibility that a work could be a work of art and a work of pornography simultaneously”[23].

It may sound like Strom is discussing a purely academic topic, or a matter solely for the art world to contemplate. However, at least in the U.S., if Koons’*Made in Heaven* works were deemed to be merely (artistic) pornographic, they would enjoy constitutional protections; but if a jury found they were legally obscene, they would not receive constitutional protection (regardless of their status as art); and, as already mentioned, the different labels have important legal and financial consequences.

### VIII. SENSATION AND RELIGIOUS CENSORSHIP

In conclusion, recall a point made in the Robert Mapplethorpe discussion, namely that contentions over art are often played out on religious and political stages. In 1999, at the very end of the last century, a court case pitted the administrators and curatorial staff of a major public art museum against the mayor of New York City. The name of the case was *Brooklyn Institute of Arts and Sciences v. City of New York and Rudolph Giuliani*, 64 F.Supp.2d 184 (F.D.N.Y. 1999). The primary issues were the government’s authority to censor works considered religiously blasphemous (or government support of religion) and the allowable uses of public property.



Figure 9.

The Brooklyn Institute of Arts, 1999.



Figure 10.

Marcus Harvey’s portrait of Myra Hindley on the right.



Figure 11.

Chris Ofili. *The Holy Virgin Mary*.

Brooklyn is New York City's most populous borough and The Brooklyn Institute of Arts and Sciences (founded in 1843) is among the borough’s most venerable cultural institutions. Between October 1999 and January 2000, The Brooklyn Institute staged the *SENSATION* exhibition (fig. 9), which featured contemporary works from the collection of Charles Saatchi, of London’s Saatchi Gallery. *SENSATION* included Marcus Harvey’s (born 1963) portrait of notorious British mass-murderer Myra Hindley (fig. 10) and Chris Ofili’s (born 1968) work entitled *The Holy Virgin Mary* (fig. 11). Ofili used animal waste (elephant dung) and collaged copies of pornographic images in his mixed-media portrait. Rudolph Giuliani was the mayor of New York at the time; more recently, he served as Donald Trump’s personal attorney. Giuliani, a practicing Roman Catholic, was personally offended by Chris Ofili’s portrayal of the Virgin Mary, which Giuliani interpreted as an attack on Christianity generally and Catholicism specifically. Giuliani stated, “Taxpayer dollars should not be used to support the desecration of important national or religious symbols of any religion.” *Brooklyn Institute of Arts*, 64 F.Supp.2d at 191.

Mayor Giuliani threatened to terminate the museum’s lease and he directed his staff to find ways to withhold funds designated for The Brooklyn Institute’s general operations. In response, The Brooklyn Institute filed a civil case in a U.S. District Court seeking an injunction preventing Giuliani from withholding funds or in any way retaliating against the museum for the exhibit. The Brooklyn Institute based its case on the First

Amendment to the U.S. Constitution, which prohibits the government from making laws “respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech.” The District Court granted a preliminary injunction and indicated the Institute, in all probability, would ultimately prevail on its First Amendment claims. The District Court attempted to balance the interests of the opposing parties. It ruled that although “the government cannot suppress works said to be ‘offensive, sacrilegious, morally improper or dangerous,’ the government may selectively fund projects promoting a particular viewpoint on a matter of public concern.” The *SENSATION* exhibition, in its entirety, was allowed to continue. The *Brooklyn Institute of Arts* case suggests the use of censorial authority based upon perceived community values must often yield to the government’s interest in encouraging a diversity of views (see 24).

## IX. CONCLUSION

In the legal world, censorship involves suppression of forms of speech or expression because they convey unpopular ideas or represent undesirable subjects. A classic stereotype imagines a narrow-minded government bureaucrat or politician rejecting the publication of a progressive political pamphlet or sneering at a sensual painting by a libertine modern artist. One nineteenth century French caricature symbolized a government censor as a traditionalist “old maid” wielding an enormous set of scissors, ready to excise from society any offending materials (fig. 12). In general, the First Amendment to the U.S. Constitution protects against this form of government censorship. However, private institutions (like art museums or galleries) also censor content, as do individuals. Self-censorship is a major area of concern today, particularly on social media, where many people feel compelled to silence their own potentially unpopular points of view out of deference to social sensibilities and preferences.



Figure 12.  
Nineteenth-century French caricature of censorship.

A generation ago, various arguments and opinions were put forward to justify suppression of contentious artworks. Some appealed to the applicable legal standards: We must be sensitive to “contemporary community standards” and uphold the “minimum standards of decency.” Others appealed to the welfare and feelings of social subsets: We must protect the children; we must guard against offending religious beliefs or cultural sensitivities. Each of these arguments, raised decades ago, echo through similar debates over censorship and self-censorship today. Historians usually credit the Enlightenment philosopher, Voltaire (1724-1778) with a familiar maxim: “I disapprove of what you say, but I will defend to the death your right to say it” [25: 199]. Those concerned by censorship and its ability to constrict the free flow of ideas and artistic expression would perhaps do well to consider the merits of Voltaire’s sentiment.

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JAMES W. ELLIS. "Artistic Boundaries: Freedom of Expression and Censorship." *Quest Journals Journal of Research in Humanities and Social Science*, vol. 08(11), 2020, pp. 13-21.