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INTELLECTUAL FREEDOM IN THE UNITED STATES: COMPLEXITIES AND VIOLATIONS IN EDUCATION

A Dissertation Submitted to the Department of English in Partial Fulfillment of the Requirements of a Master Degree in Language, Literature and Civilization

Supervised by

Dr. Nassima KAID

Presented by

Saida SADKI

Abdessamed NOUARI

Board of Examiners

Supervisor: Dr. Nassima KAID.

Chairman: Mrs. Assia GUELLIL

Examiner: Mr. Abedraouef NBEG

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Dedication

Saida

This modest work is to be dedicated to my dear parents to whom I owe my success and everything in life. I dedicate my efforts to my sister, Khadra; my brother, Kamel; my friends, Manal, Amel, Sihame, Linda, Karim, Ismail, Hicham and Mehdi. I also want to thank all those people who supported me throughout my study years.

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Abstract

Intellectual Freedom, particularly in education, is one of the most important liberties a nation must preserve in order to achieve development and prosperity. It is largely known that the United States greatly encourages research and knowledge that's why most people assume that Americans enjoy total and absolute freedom to search in any area and to know about whatever topic they want without the least restriction. Yet, reality proves the opposite. The present work attempts to demonstrate how the Intellectual freedom in the United States is being violated since too long despite the protection that the constitution preserves to it. In this research, we focus on the public schools and libraries where intellectual freedom is restricted either by the federal government, Boards of Education, or students' parents. We analyze some of these restrictions vis-à-vis the constitution. This will show that the complexity of the Constitution and the ambiguity of the laws which contradict it lead to the constant violation of intellectual freedom. We also show how the American community fights such violations through several organizations and Associations. The discussion of these points will enlighten the readers' minds and expand their understanding about the real status of the intellectual freedom in the democratic United States.

ملخص

تعتبر الحرية الفكرية و خاصة في مجال التعليم إحدى أهم الحريات التي على أي دولة تسمو للتطور و الازدهار الحفاظ عليها و حمايتها. من المعروف أن الولايات لمتحدة الأمريكية من أكثر الدول تشجيعا للبحث و المعرفة و هذا ما يجعل معظم الناس يتصورون أن المواطن الأمريكي يتمتع باستقلالية تامة و حرية كاملة للغوص في أي مجال و البحث في أي موضوع كان بدون أي تقييد إلا أن الواقع مختلف تماما.تهدف هذه لدراسة لتوضيح قضية انتهاك الحرية الفكرية بالرغم من حمايتها من طرف الدستور الأمريكي. نركز في هذا البحث على المدارس و المكتبات العامة أين نجد أن الحرية الفكرية مقيدة و منتهكة إما من طرف الحكومة الفدرالية, مجالس التعليم, أو أولياء التلاميذ. نحلل خلال هذه الدراسة بعض تلك الانتهاكات بالمقارنة مع ما ينص عليه دستور الدولة مما سيوضح أن تعقيد الدستور و اختلاف تأويلاته وغموض القوانين التي تناقضه يؤدي إلى الانتهاكات المستمرة للحرية الفكرية في مجال التعليم. تتطرق هذه الدراسة إلى مكافحة المجتمع المدني الأمريكي لهذه الانتهاكات من خلال إنشائه للمنظمات و الجمعيات المختلفة و المتعددة. إن مناقشة هذه النقاط سيساعد على تنوير القارئ و مساعدته على توسيع دائرة فهمه لحقيقة مستوى الحرية الفكرية في الولايات المتحدة الأمريكية.

Table of contents

List of Abbreviations

ACLU: American Library Association.

ABFFE: American Booksellers Foundation for Free Expression.

ACU: American Conservative Union.

ALA: American Library Association.

ARL: Association of Research Libraries.

ASP : Association de Secours Palestinien.

CDA: Communications Decency Act.

CIPA: Children's Internet Protection Act.

COPA: Children Online Protection Act.

ECPA: Electronic Communications Privacy Act.

FBI: Federal Bureau of Investigation.

FERPA: Family Educational Rights and Privacy Act.

FTRF: Freedom to Read Foundation.

HUAC: House of Un-American Activities.

IFC: Intellectual Freedom Committee.

LRMA: Little Rock Ministerial Association.

NCAC: National Coalition Against Censorship.

NSL: National Security Letter.

PONYU: Parents Of New York United.

PPRA: Protection of Pupil Right Amendment.

PSI: Permanent Subcommittee Investigation.

TUSD: Tucson Unified School District.

URL: Universal Resource Locator.

USA PATRIOT Act: Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act.

VOA: Voice Of America.

The United States is considered as one of the most democratic nations in the world. The American government and public cooperate to ensure full respect of the national constitution because they are sure that the full application of the law is the best way to preserve peace, discipline, and democracy. In fact, most Americans greatly believe in their constitution because they think that their ancestors succeeded in putting strong pillars needed to found a democratic country.

The American constitution guarantees all necessary civil rights and liberties. Most of those liberties are protected by the Bill of rights and the Fourteenth Amendment. In this vein, the intellectual freedom is indirectly guaranteed through the safeguard of rights to free speech, privacy, and equal protection. The American constitution preserves the intellectual freedom in all fields especially in education due to its significance in achieving development of research and prosperity. However, the American history shows that intellectual freedom, particularly in education, is being violated for a while. State and federal governments enact several laws in violation of the freedom of thought and knowledge acquisition. The present research aims to study the phenomenon of intellectual freedom transgression in education through exploration of the reasons, results, and symptoms of this wonder.

Our interest in civil rights and liberties protection in different countries has been the motivation to conduct a research in this specific area. The choice of the United States stems from our reading of the play of Jerome Lawrence and Robert Lee, *Inherit the Wind* (1960), which depicts a real incident of intellectual freedom violation in the State of Tennessee in the 1920's. The incident evoked our curiosity to know more about the real status of intellectual freedom in the United States especially we have always assumed that Americans enjoy a total and absolute intellectual freedom.

The main questions we try to answer through this study are does the American constitution really safeguard the intellectual freedom? Is intellectual freedom in education really being violated? By extension, how, why, and under which circumstances the intellectual freedom is violated? And what are Americans' reactions towards the transgression of their intellectual freedom?

We assume that the intellectual freedom is really protected yet violated. We suppose that there are some social and political motivations and circumstances behind such violations. The latter, we hypothesize, take place because there is a kind of complexity around constitution's given interpretations and around the issue of intellectual freedom itself. We also expect that the American community reacts through the foundation of organizations to save their intellectual freedom.

In an attempt to understand the case that is depicted in *Inherit the Wind*, *Justia* and other web pages are found to be full of court cases which discuss the issue of intellectual freedom restrictions and violations. A number of books, articles, etc have discussed the status of Intellectual Freedom in the United States. Richard Fitzsimmons' "Censorship, Intellectual Freedom, Librarianship and the Democratic State" (1996) explains the threat of censorship on intellectual freedom and how restricted intellectual freedom doesn't suit democratic states. Gretchen Kolderup's "The First Amendment and Internet Filtering in Public Libraries" (2013) talks about the violation of First Amendment via the installation of filtering software in public libraries. Philip Brey's *Ethical Issues for the Virtual University* (2003) discusses the importance of academic freedom in building strong societies. What makes our work different is that we combine selective ideas from those references and from other resources to ensure an inclusive understanding of the issue we are tackling.

We use the analytical method to conduct this qualitative research. We try to analyze the reasons, results, and circumstances of those violations. The work is divided into three chapters. The first chapter deals with the violation of intellectual freedom in different fields in the period between 1900 and 1960's. The second chapter tackles the violation of intellectual freedom in the field of education from 1970's onward; it discusses the issues of right to privacy in public libraries, censorship of schools' programs, banning of books along with some political and religious reasons behind the break of intellectual freedom. The last chapter talks about some American organizations' efforts in defense of intellectual freedom; it also contains some very recent court cases in which those organizations interfered to ameliorate the level of intellectual freedom in America.

CHAPTER ONE

The Violation of Intellectual Freedom in the United States (1900-1960's)

Introduction

As believed to be one of the most democratic nations on the planet, the United States, through its constitution, protects the different human rights and liberties, including that of intellectuality. The present chapter will first define the concept of intellectual freedom in relation to education then, it will describe how the American constitution protects the intellectual freedom of its citizens. After that, it will discuss how the intellectual freedom was violated in the first half of the Twentieth century either by States' laws contradictory to the United States constitution such as the Butler Act, the Public Nuisance Law, the Simon Act, and Anti-Evolution Statute or by federal laws like the Espionage Act, the Sedition Act, the Loyalty program and McCarran Internal Security Act.

I.1. Definition of Intellectual Freedom

As the concept of Intellectual Freedom may seem clear and simple to some people, it may seem deep and complex to others. It was defined by the American Library Association (See Chapter III) as:

> […] the right of every individual to both seek and receive information from all points of view without restriction. It provides for free access to all expressions of ideas through which any and all sides of a question, case, or movement may be explored. Intellectual freedom is the freedom to hold, receive and disseminate ideas. (Brey 7)

The international definition given to this concept according to the Universal Declaration of Human Rights, Article 19 was not different. Intellectual freedom is the right of every one "to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and

ideas through any media, regardless of frontiers" (Buchanan 2). Intellectual freedom is believed to be a sign of a democratic state.

I.2. The Protection of Intellectual Freedom by the American Constitution

The Constitution with its seven Articles and twenty-seven Amendments was mainly designed to avoid those problems under the Articles of Confederation. It distributes powers between the national and state governments but giving supremacy to the federal government laws and, above all, to the American constitution in case of disagreement as Article VI of the constitution states:

> The constitution, and the lows of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the constitution or Lows of any State to the Contrary notwithstanding. (9)

The constitution united the States and protected all rights. It dedicates many parts to protect and encourage intellectuality directly and indirectly by protecting freedoms of speech, religion, press…etc. Article I, Section 8 which talks mainly about the legislative branch powers states that the Congress has the right to "promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries" (3).

The First Amendment indirectly protects the intellectual freedom:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. (11)

The First Amendment could not protect those rights from the States' governments, but the Due Process clause of the Fourteenth Amendment (1868) was interpreted by the Supreme Court in 1931 to protect those rights from the states' laws too (Morris 13). The clause says:

> All people born and nationalized in the United States and subject to the jurisdiction thereof are citizens of the United States and the States wherein they reside. No State shall make or enforce any Low which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of low; nor deny to any person within its jurisdiction the equal protection of the laws. (13)

Despite the protection the Constitution guarantees to the intellectual freedom, the latter had been violated through time by different laws passed either by local, State, or national governments. As being the responsible institution for interpreting the constitution and deciding the constitutionality of the laws, the Supreme Court dealt with many cases concerning the issue of intellectual freedom violation which means that Americans had to struggle against the States and Federal governments' laws to get a

right already ensured in their highest low. Samples of this struggle are to be mentioned and further discussed next.

I.3. Laws in Violation of the Intellectual Freedom

3.1. States' Laws

3.1.a. The Butler Act (Scopes V. Tennessee)

The Butler act is a three-section law enacted by the State of Tennessee in March 21, 1925 to prohibit the teaching of any theory or doctrine that "denies the story of the divine creation of man as taught in the Bible"[1] especially that which teaches that man is descended from a lower order of animals. The act's breakers would be fined with at least 100 dollars or would lose their positions.[2]

Scopes V. Tennessee is a significant trial in the history of the United States since it led to many other trials in the sake of enhancing the status of the intellectual freedom. It was about John Thomas Scopes, a teacher of biology who was arrested for breaking the Butler Act by teaching his students Darwin's theory of evolution (Man is originally a developed ape). The Scopes trial is still considered as one of the most popular cases in the U.S. history due to the involvement of two famous charismatic orators at the time; William Jennings Bryan, the conservative Christian who was a prosecution member, and Clarence Darrow, Scopes lawyer. The two orators shifted the trial noticeably to be a war between the *Bible*, defended by Bryan who supported Tennessee's law since it has

[1] Monkey Trial Begins, **http://www.history.com/this-day-in-history/monkey-trial-begins** Accessed on 26/10/2016

[2] Ibid

clear biblical background, and Darwin's book *The Origin of Species* defended by Darrow as being more logical.[3]

The court found Scopes guilty and fined him with one hundred dollars. The court decision was dissatisfying for both sides. The case went to the supreme court of Tennessee where a number of lawyers worked to prove the illegality of the Butler Act. Nevertheless, their arguments were dismissed by the court.[4]

Lawyers argued that the theory of evolution was very wide, and the Statute was large and unclear. The court replied that the law meant only the part concerning mankind evolution. It is noticed that even if the prohibition covers only a particular part of a particular theory, this didn't make it constitutional as the Americans' right to know was preserved in the constitution. The lawyers' second argument was that Scopes' right to free speech was violated. Unexpectedly the court said that the state has the right to regulate the speech of its employees.[5] This argument in itself is invalid because it said in a way or another that the state has the authority to deprive its citizens of their constitutional right to free speech just because they work for it.

The lawyers' went to argue that the Butler Act contradicted Article I, Section 8 of the United States constitution and also Tennessee's constitution that stipulates, "It shall be the duty of the General Assembly in all future periods of this government to cherish literature and science." The theory of evolution has its scientific bases, so the prohibition of its teaching impedes the legislative duty to develop knowledge. Surprisingly, the court neglected its authority to identify or determine which theories or

[3] Ibid
[4] Ibid
[5] Ibid

laws are to cherish science.[6] To be logical, it was not the authority but the responsibility of the court to announce the invalidity of any law that opposes the constitution. So, the court had to investigate the scientific bases of the theory or doctrine under question to decide whether or not it enhanced science.[7] The last argument that was given by the lawyers was that the Butler Act contradicted the Establishment Clause of the First Amendment that forbade the establishment of a national or State religion. Lawyers depended on the court's decision in *Everson V. Board of Education* (1947) which explained that "Neither [a] state government nor the federal government can pass laws which aid one religion, aid all religions, or prefer one religion over another."[8]

Lawyers insisted that the Butler Act was unconstitutional because its text contained references to Christianity. Weakly, the Court stated that the decision was not based on religious preferences, but on the opinions of scientific bodies, religious functions, and individuals. The court held that when the Act prohibited the teaching of the theory of evolution, it did not require the teaching of another theory which serves a particular doctrine.[9]

Sadly, Tennessee was not the only American state that deprived her public schools and universities from discussing Darwinism, but other states such as South Carolina, Oklahoma, Kentucky, Mississippi, and Arkansas adopted similar laws.[10] Although the Court sentence did not have a very logical background, the Act was not

[6] Ibid
[7] Ibid
[8] Ibid
[9] Ibid
[10] Ibid

repealed till 1967. The final decision about the teaching of the Darwinian Theory was announced in *Epperson V. Arkansas* (1968).[11]

3.1.b. The Anti-Evolution Statute (Epperson V. Arkansas)

The State of Arkansas enacted a law similar to Tennessee's which prohibited the teaching of human evolution in public schools and universities. Arkansas was encouraged by the Tennessee's Supreme Court decision that the Butler Act was constitutional. Yet, the hot debate in Scopes trial that was broadcasted on radio made Arkansas adopt a more vague law containing no religious reference in its text. The statute prohibited teachers and instructors who work for the State from tackling or using textbooks which include the idea that "mankind ascended or descended from a lower order of animals."[12] Any teacher or instructor who breaks the statute would be a subject to dismissal.[13] This law was challenged in Epperson V Arkansas court case.

Arkansas law violated the freedom to know a scientific theory in a time when the Soviets enjoyed large freedom in science which led some biology teachers and instructors to recommend the inclusion of Darwin's theory of evolution in pubic textbooks. Indeed, evolution was included in textbooks to be taught in the academic year of 1965-1966 (Ibid).

Susan Epperson, who obtained her Master's degree in Zoology from the University of Illinois, was employed as teacher in Little Rock Central high school, Arkansas. She was assumed to teach the new textbook to the 10th grade students.

[11] Ibid
[12] Epperson v. Arkansas 393 U.S. 97 (1968) https://supreme.justia.com/cases/federal/us/393/97/ Accessed on 25/12/2016.
[13] Ibid

Epperson was in a dilemma because using she could lose her job if she used the new textbook.[14]

Backed by the American Civil Liberties Union (ACLU) and Little Rock Ministerial Association (LRMA), Epperson delivered the case to the Chancery court to prove the Arkansas law unconstitutional. The Chancery Court considered the statute unconstitutional, since it violated the fourteenth Amendment of the Constitution which protected citizens from states' interference in the rights and liberties guaranteed by the constitution. The Chancery Court stated that the statute "tends to hinder the quest for knowledge, restrict the freedom to learn, and restrain the freedom to teach."[15] Arkansas Supreme Court reversed the former sentence; it declared that the law was lawful since the state has right to "specify" curricula in its public schools. Bagard, a supporter of the Arkansas law, held that "if our children are taught that they are only developed animals, they will live as animals. The morals of the barnyard will result."[16] However, the Supreme Court ruled in favor of the plaintiffs. The language that Arkansas used was intestinally mysterious after Scopes' trial. If the statute meant to prohibit saying that the Theory of Evolution was wrong, it would be logically considered a violation of free thought. But, if the law meant to prohibit the explanation of Evolution as a whole, it would be classified as State's right to decide curricula.[17] The Supreme Court believed that the statute was established because the theory of evolution conflicted with the book of Genesis. The Court stated that the state's right to decide curricula didn't mean her right to contradict the constitutional principles. Thus, the Arkansas law was declared unconstitutional. This decision ended all similar laws all along the United States. We

[14] Ibid
[15] Epperson V. Arkansas, https://en.wikipedia.org/wiki/Epperson_v._Arkansas Accessed on 25/12/2016.

[16] Teaching of Evolution, http://www.encyclopediaofarkansas.net/encyclopedia/entry-detail.aspx?entryID=5991 Accessed on 25/12/2016
[17] Op.cit

can conclude that the attempt of establishing religion was one of the main obstacles in front of intellectual freedom in the United States.[18]

3.1.c. The Simon Act (Meyer V. Nebraska)

The trauma that America witnessed due to the First World War resulted in a campaign against anything related to Germany with focus on language as a carrier of morals and culture. Many American states banned foreign languages' teaching; others banned German only.[19] The state of Nebraska was no exception. It enacted the Simon Act in April 9th, 1919. The latter forbade any person from teaching any other modern language other than English neither as a separate subject, nor as a medium to teach other subjects in any of Nebraska's private, parochial, or public schools unless the pupil would have a certificate of 8th grade graduation. The Simon Act punished its breakers either by imprisonment for no more than a month or by a fine of no more than 100 dollars for each "offense."[20]

The first offense was by Robert T. Meyer who was caught teaching Raymond Parpart, a 4th grade pupil, reading in German in Zion Parochial School in Hamilton Country, Nebraska. The case witnessed three courts' decisions. The District court of Hamilton Country fined Meyer with 25 dollars. Meyer, then, appealed to Nebraska's Supreme Court which said that the statute was passed for the good of the state. The legislative power thought that foreigners would taught their children in their own native languages what would threaten the nation's safety and identity. So, the lawgivers

[18] Ibid

[19] Meyer v. Nebraska 262 U.S. 390 (1923), https://supreme.justia.com/cases/federal/us/262/390/case.html Accessed on 07/02/2017

[20] Ibid

decided that English had to be the only language taught in childhood in order to be "part" of children's identity and personality.[21]

The statute interfered with the right of all Americans and not only aliens or immigrants to teach their children other languages in earlier age, said Meyer's attorney, Arthur Mullen. The state replied that children's capacities and time for learning had to be limited to protect their health, thus subjects should be taught in one language and the priority had to be reserved to the native language of the land. Mullen described the Simon Act as "hatred, national bigotry and racial prejudice engendered by the World war."[22] He added that the law prohibited the teaching of German in schools only what made it too obvious that the state's aim was not to protect child's health; Moreover, learning a foreign language at early age was not proven to be harmful for health or ethics;[23] Some children have all abilities and capacities to learn more than one language in the early years of their lives especially in the non -Diglossic speech communities.[24] Justice McReynolds declared "[…] mere knowledge of German language cannot be reasonably regarded as harmful" so the Simon act was unconstitutional.[25]

Justice Kennedy (2000) thought the case a 1st Amendment business, whereas 1920's Justices saw it a 14th Amendment issue.[26] The inexact interpretation of the constitution and the complexity of Nebraska's law gave chance to the open violation of intellectual freedom. The constitution gives the States authority to regulate and specify

[21] Ibid
[22] Meyer V. Nebraska,https://en.wikipedia.org/wiki/Meyer_v._Nebraska Accessed on 07/02/20167
[23] Op. cit
[24] Diglossia is a linguistic phenomenon found in speech communities which speak a formal classical language (high variety) beside a dialect (low variety). Children in Diglossic speech communities find it more difficult to learn the classical language in early years of school since there are differences between the two varieties; that is why experts sometimes tend to consider the dialect as L1 (mother tongue) and formal language as L2.the U.S.A. is not a diglossic country. English is the language children of the main stream speak from the infancy (my own definition).
[25] Op.cit
[26] Ibid

curricula in their own educational institutions from one side, and it gives all American citizens, either born or nationalized in the United States, all necessary liberties for the pursuit of happiness from the other side. While the State is practicing its right of deciding and designing syllabi, it can legally interfere in and violate citizens' constitutional liberties. The First Amendment had not been amended or changed since its ratification in December 15th, 1791 neither had the Fourteenth Amendment since its ratification in July 9, 1868. Nonetheless, courts are still unable to give one exact explanation to them. The contradicted courts' opinions show the depth and intricacy of the constitution.

3.1.d. The Public Nuisance Law (Near V. Minnesota)

The right to free press is protected by First Amendment, yet the latter was interpreted to protect it (and the other 4 rights) from the federal government only not from the state governments. In this context, the State of Minnesota enacted a law called "Public Nuisance law" which made it a crime to "publish, sell or distribute" "obscene, lewd, lascivious," or "malicious, scandalous, defamatory" materials.[27] In case such materials were published, any citizen could deliver a complaint against the publisher. Then, the publisher had to show "good motives and justifiable ends" for publishing that content.[28] In case the publisher could not provide good reasons for publishing such materials, or he published other "scandalous or defamatory" statements about the same or other people again, he would be, according to the status, either imprisoned for no more than 12 months, or fined with no more than 1000 dollars.[29]

[27] Near V. Minnesota, https://en.wikipedia.org/wiki/Near_v._Minnesota Accessed on 11/02/2017
[28] Ibid
[29] Ibid

Jay M. Near and Howard A. Guilford who owned *The Saturday Press* Newspaper regularly published sensational news about corruption in Minneapolis. The paper described public officials as corrupt, irresponsible, and dishonest. It also considered the legal system of the State incompetent for failing in fighting crime in the city. Floyd B. Olson was one of the public officials who were exhaustively attacked by the paper between September 24th, 1927 and November 19th, 1927. Olson filled a complaint against *The Saturday Press*.[30]

The case was firstly revised by Judge Mathias Baldwin who explained that the statute was put to stop the distribution of ideas that affect the "public morals and general welfare and disturb the peace of the community."[31] According to the law, the publication of scandalous matters was enough to convict the publisher no matter the charges published were right or wrong. What mattered was to convince the court that informing the public about scandals was necessary and for noble results. The Judge also stated that Minnesota Public Nuisance law (also called the Gag Law) was constitutional because its objective was not to punish but to provide an obstacle in front of scandals circulation. The Judge issued a temporary sentence to stop the publication of the newspaper till its owners would be able to justify their scandalous statements (to survive the permanent injunction. The Supreme Court of Minnesota affirmed Judge Baldwin sentence.[32]

Near and his partner did not even try give the Judge the good motives which he asked for because they didn't even believe in the constitutionality of the law, so Jude

[30] Ibid

[31] Near v. Minnesota 283 U.S. 697 (1931),https://supreme.justia.com/cases/federal/us/283/697/case.html Accessed on 26/10/2016.

[32] Ibid

Baldwin stopped them permanently from having or selling or publishing any annoying materials under any newspaper or periodical name. The supreme court of the state allowed the defendants to manage their paper as long as it didn't conflict with the public morals. Later, Near, without his partner, appealed to the U.S Supreme Court (Ibid).

The U.S Supreme Court, for the first time, applied the First Amendment on the state governments equally by interpreting the Due Process clause of the Fourteenth Amendment (It started to be known as the Doctrine of Incorporation). As consequence, the Public Nuisance Law, said the Supreme Court, was unconstitutional regardless to whether the things published were right or wrong because the right to free press is guaranteed by the First Amendment (Morris 13).

The Supreme Court clarified that press could be restricted in very exceptional cases only. For example, if the nation was in war information about the army shouldn't be published, or if the obscene material was expected to cause violence or to harm the communal order. Free press could be a threat to nation's security, yet if the public officials were to decide which stories to be shown or hidden, it would be more dangerous, held the court.[33]

It took too long to apply the first amendment on state governments what led to the restriction intellectual freedom in a legal way for too long. It is obvious that in any democratic state, the press is the free informer who has the right to investigate, report, and publish anything concerning any topic. Then the responsibility will put on public to decide what is worth reading and what is worth neglecting. It was clear that the Gag Law was against the very rooted principles of democracy. If a state wants to cover scandals in order to protect the general welfare, it should follow healthier ways. For, it

[33] Op.cit

seems impossible to reach intellectual society with restricted press. People need to speak, write, read, and share ideas, thoughts, and opinions to build intellectual community.

The doctrine of incorporation was a big step towards a better intellectuality in the United States. Thanks to the landmark *Near V. Minnesota* case, the status of intellectual freedom was enhanced because the civil rights finally started to be protected against state governments. Unfortunately, not all obstacles of intellectual freedom were removed; Censorship remains a thorn in the throat of intellectual freedom till the moment.

3.2. Federal Government's Laws

3.2.a. The Espionage Act of 1917 (Debs V. United States)

Under the Act, which was issued on June 15, 1917, the Congress gave the national government the green light to censor any material and suppress anyone who undermined and sabotaged the government's efforts or policies during war time. Anyone who was caught distributing ideas against the American government would be punished either by a fine of no more than 10,000 dollars, imprisonment from five to twenty years, or both. The act was passed as a reaction to the opposition of America's involvement in the First World War. It aimed to "silence" the protestors who stood against their government's actions.[34]

Eugene Debs**,** a socialist labor leader and anti-war activist, was charged of criticizing the enactment the Espionage Act in a speech he delivered in Canton, Ohio

[34] The Espionage Act and Limitations of the First Amendment,https://ows.edb.utexas.edu/site/espionage-act-and-limitations-first-ammendment/espionage-act Accessed on 11/02/2017.

(1918).[35] He was also accused of interfering in war affairs when he said that the "master classes" were benefiting from war while "subject classes" were suffering and dying.[36] Debs was sentenced to ten years in prison. Even after his conviction, Debs remained persistent about his freedom of speech.

Probably other Americans wanted to express their opposition to government's actions, yet the Espionage act paralyzed them. Intellectual freedom was paralyzed in parallel because the nation's intellectuals, politicians, and individuals were denied their right to get enlightened by sharing and exchanging opinions.

3.2.b. The Sedition Act of 1918 (Schenck V. United States)

The sedition Act which was enacted on May 16, 1918, was no more than reinforcement of the Espionage Act. Both laws were enacted to stop the Socialists' and anti-war activists' interference with the federal government decisions. The Sedition Act made it unlawful to insult or support insulting the government, the flag, the constitution or the military.[37]

Charles Schenck was the general secretary of the Socialist Party of America. He agreed with Debs concerning the American involvement in the world war. His party's officials insisted on workers and poor people to oppose the war. Schenck was imprisoned for "causing and attempting to cause insubordination in the military and naval forces of the United States;" in other words, for breaking the Sedition Act.[38]

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[35] Ibid

[36] Schenck V. United States (1919), https://www.infoplease.com/history-and-government/cases/schenck-v-united-states-1919 Accessed on 26/10/2016

[37] U.S Congress passes Sedition Act, http://www.history.com/this-day-in-history/u-s-congress-passes-sedition-act Accessed on 11/02/2017

[38] Ibid

Schenck considered the Sedition and Espionage acts unconstitutional because they contradicted the First Amendment which protected the right to free speech and "prevent[ed] tyranny of the majority" even in politics.[39] Schenck argued that if Congress had the authority to decide when and where to apply or neglect the amendment, the latter would be worthless. The U.S. Supreme Court replied that congressional laws and governmental decisions during war time should not be questioned but fully respected to ensure the nation's internal stability. Justice Holmes issued that the Espionage Act was an "acceptable limitation on speech in time of war."[40]

During the early years after the First World War, the Espionage and Sedition acts were politically misused by the general attorney, Palmer. The latter used the two acts to restrict the left-wing right to expression.[41]

3.2.c. The Loyalty Program

In fear of communism; the American government established the House of Un-American Activities committee (HUAC). The Committee's job was to investigate Americans who were behaving differently comparing to the main stream. If a person behaved differently, they would be accused of being communist. To be a communist or communism sympathizer was a crime because, for HUAC, communism was a threat to the nation's stability and unity (Stone 1391). Freedom of behavior that the American people enjoyed for about two centuries ago suddenly vanished. It was a nightmare for a person to be accused of being communist because that could let him lose his job or property.

[39] Ibid
[40] Op.cit
[41] U.S. Congress passes Espionage Act, http://www.history.com/this-day-in-history/u-s-congress-passes-espionage-act Accessed on 11/02/2017

When Harry Truman came to office as president of the U.S.A., he was blamed for his softness towards communism. To get the public support, Truman established the Loyalty Program to protect the country "against individuals whose primary loyalty is to governments other than" the United States (Ibid).

Under the Loyalty Program, the Federal Bureau of Investigation (FBI) conducted researches about federal employees. It tried to know about everything about them starting from the books they read, the organizations they joined, the opinions they expressed, and even the feelings they showed about particular topics in order to discover to what extent they were "loyal" to the United States (Stone 1392). The candidates were not loyal if they expressed their aid to the Communist Party, subscribed for the Communist Party newspaper, or criticized government's policies. That's to say, the freedom of thought and expression was violated to the extent that one employee said "If communists like apple pie and I do, I see no reason why I should stop eating it. But I would" (Caute 7 qtd. in Stone 1393).

When the Soviet Union made its first atomic bomb, America's fear of internal betrayal was doubled and the restrictions of the civil liberties were doubled as well. When the United States got involved in the Korean War (1950-1953), even State governments adopted their own similar loyalty programs. Thousands of communist books were removed from schools and libraries (Stone 1397).

3.2.d. McCarran Internal Security Act

It seemed not enough for the government to investigate its employees. Congress further enacted a legislation called McCarran Internal Security Act (1950) which obliged the organizations suspected to support or bare communist ideologies to reveal

the names of their members. Out of fear, most Americans preferred neutrality; they favored to be out of any kind of organizations. The President Truman vetoed the Act saying "[I]nstead of striking blows at communism," the act would "strike blows at our own liberties" (Ibid). Probably the President was right, yet his veto was with no effect in the time of hysterical phobia of communism. Intellectual freedom was crazily restricted; people could not even share their thoughts or read books they like or join organizations that want in fear of the government.

Conclusion

The American constitution protects the intellectual freedom through the protection of the right to free speech, press, and religion. America's founders knew that stability and prosperity would not be reached unless individuals could freely express their ideas, share their thoughts and know whatever knowledge. But later, governments started to misinterpret the constitution and exceed the limits it puts. Lots of laws, either passed by the federal or state governments, restricted constitutionally guaranteed liberties. This first chapter gave an idea about the status of the intellectual freedom in different fields. The next chapters will focus on the violations of intellectual freedom in the field of education only.

CHAPTER TWO

Intellectual Freedom in Public Schools and Libraries

Introduction

To have intellectual democratic society, intellectual freedom must be respected in the field of education firstly. Schools and libraries are the educational institutions where people search for knowledge. Therefore, they are the institutions in which intellectual freedom must be fully respected. When schools and libraries are denied the right to freely expose particular kinds of knowledge for unconstitutional reasons, the intellectual freedom will be violated; this is the issue this chapter will tackle. Firstly, aspects like library and censorship will be defined in relation to the notion of democracy to ensure full understanding of the chapter's content. Secondly, the significance of privacy and confidentiality for intellectual freedom will be discussed. Then, some political and religious reasons which stand behind censorship will be put forward.

II.1. The Role of Libraries in a Democracy

Democracy is based on the acceptance and respect of all views. Libraries are the "cornerstone" of any democracy (Kentucky library association 23). In a democratic nation "libraries are a legacy to each generation;" they give their visitors the opportunity to see the past, observe the present, and expect the future from a variety of perspectives (Ibid). Therefore, Libraries are assumed be the place where all viewpoints are fully and freely presented. If they are neutrally filled with a diversity of resources, they are the most appropriate place where a person can find the multiplicity of viewpoints around the different topics they can be interested in. Moreover, People are supposed to enjoy total freedom to use libraries' resources and services without any kind of restriction in democratic nations (Ibid).

II.2. Definition of Censorship

Censorship is an act of preventing people from having access to whatever content seen as unacceptable to the censor group, agency, organization, or authority (Fitzsimmons 1). Motivations of censorship can be summarized down to four reasons. Sometimes a material gets censored because it conflicts with family's values, norms, and customs of the censor. Also, if a material holds politically unacceptable ideas or religiously challenging beliefs, it can be subject to censorship. When materials spread stereotypes about minorities, the latter work to remove or restrict access to those resources (Kentucky Library Association 29). Censorship damages the very sense of democracy, yet it can be accepted if the material promotes obscenity, treason, or heresy (Op. cit).

II.3. Protection of Intellectual Freedom in Libraries via the Library Bill of Rights

The Library Bill of Rights is a statement adopted and enforced by the American Library Association council (ALA) on June 19, 1939. It identifies the library users' rights returning basically to the Constitution's Fourteenth Amendment's equal protection clause and First Amendment's right to free speech and free press clauses (Gretchen 28). The Bill explains that no resource should be refused within or removed from public or school libraries due to origin, background, or views of their authors or due to religious disagreement; libraries must provide readers with different materials which expose alternative opinions. The bill considered it the duty of the library and librarians to fight and cooperate with organizations and associations which fight censorship as the latter prevents libraries from enlightening the public (Ibid). It clarifies that libraries' users should never be neglected their rights to use any library service due

to origin, age, or views (Ibid). The adoption of the Library Bill of Rights was an attempt to stop censorship which violates Americans' right to know. Unfortunately, the bill was not always effective because censorship continued to take place here and there in the democratic United States even after enactment of the Bill.

II.4. Intellectual Freedom and the Right to Privacy in Libraries

Right to privacy and confidentiality is an essential criterion to intellectual freedom. Internet users can not enjoy their right to freely share and exchange thoughts in case they suspect that their words are watched or can even be used against them at any occasion especially in time of conflict. Individuals go to libraries principally to receive information either through reading or through discussing via social media services. So, infringing upon the right to privacy especially in places like libraries is infringing upon other rights guaranteed by the constitution like the right to free speech and intellectuality.[1]

4.1. The Effect of Filtering in Public Libraries on Intellectual Freedom

By 1990's Internet started to take a significant role in the American houses, companies and libraries. People liked Internet but hated unsuitable materials. Voices were raised to contain online content that could be harmful to children and minors in general. The legislative branch tried more than once to control "obscene" and "pornographic" materials on the public libraries Internet network (Sobel 3). In 1996, Congress passed the Communications Decency Act (CDA) for the purpose of suppressing the online indecent content. However, the Act was dismissed the next year by the judicial branch when the court ruled that it was unconstitutional to regulate

[1] Questions and Answers on Privacy and Confidentiality, http://www.ala.org/advocacy/intfreedom/librarybill/interpretations/qa-privacyAccessed on 20/04/2017.

speech on the Internet since speech was protected by the First Amendment. The same argument was given by the court when overruled Child Online Protection Act (COPA), a modified version of the CDA (Gretchen26).

The congress, then, passed the Children's Internet Protection Act (CIPA). According to CIPA, installing filtering software was a condition to receive federal e-Rate funding by the public libraries. That software worked through two approaches. First, they identified a list of URLs (Universal/Uniform Resource Locator) of "inappropriate" websites, and then blocked access to them (Ibid). Many organizations and associations, which were concerned with Librarianship matters, argued that the use of filtering software in public libraries was a violation of patrons' right to access information (Ibid). Librarians and their libraries were between the devil and the deep blue sea. On one side, they had the minors' protection from pornographic content and most importantly the federal e-Rate funding for connectivity. On the other side, they had the patrons' right to receive information privately. Most public libraries chose the federal funding (27).

In 2005, 65% of public libraries installed filtering software on their computers. Organizations and associations challenged the CIPA in the Supreme Court. Although the associations opposed the idea of filtering generally, they were not seriously against preventing children from reaching "harmful" materials (Ibid). But, the problem was that the filtering programs were not developed enough to adequately differentiate between the obscene and non obscene contents. Companies which produce such software identified categories of "objectionable" materials (Ibid); the software could recognize the materials only via key words and phrases.

Beneficial contents were mistakenly removed because they contained the key words that the installed programs attacked websites for (Ibid). A survey conducted by the Censorware Project in 1999 revealed that the SmartFilter used by Utah school system blocked access to more than 500,000 websites including the Declaration of Independence, the Bible, and all Shakespeare's works. In 2008, the San Jose' Public Library conducted another similar study to test four filtering programs. The survey showed that some explicit pornographic materials were not blocked whereas "academic information" mainly about sexuality was blocked (26). This issue was explained by Lori Bowen Ayre in an article published in Library Technology Reports in 2004; she said "[n]o filter, however, actually limits its categories to obscene material and child pornography because the current definition of obscenity doesn't work on the Internet" (Ibid). That was because even with the advancement of technology, companies did not succeed to create filtering software truly able to distinguish between what was harmful and what was beneficial and constitutionally protected (Ibid).

CIPA defenders greatly supported the installation of such filters. They argued saying that adult patrons could simply and easily ask for deactivating the software. The thing that was considered by CIPA supporters as proof that the First Amendment was not violated. The opposite side replied that removing filtering software was not that easy. CIPA opponents exemplified that Washington Supreme Court noticed that among 92 requests to disable filtering software only 8 requests were responded to in the same day while others were delayed to next days. So, patrons' right to "know" was violated (27) when they couldn't have access immediately and when their right to privacy was violated. The adults preferred to obtain some kind of information privately from the internet instead of asking others about them. Yet, when they were obliged to go to the responsible asking him to unblock the website which they wanted to surf, it would be

offensive to their psychology and damaging to their privacy and destroying to their right to know (Ibid).

Libraries who agreed with filtering explained that it did not cause censorship since the "disappointed patrons can access what's available on a computer in a private home or business" (Sobel 9). To some extent that was right; however, there were some communities where public libraries were the only provider of free internet access (Gretchen 26). This meant that patrons' liberty to receive information in these communities was violated in the name of children protection. CIPA contradicted the Library Bill of Rights which stated that even "age" was not a criterion to prevent patrons from the free use of library services (28); whereas, protection of children was the responsibility of the parents (Ibid). The CIPA is still alive and its enemies are still leading wars against it.

II.5. The Impact of Censorship on the Libraries' Role

5.1. Censorship for Political reasons

5.1.a. The Effect of McCarthyism on Libraries

In the 1950's, Americans were afraid of communism and most importantly of the American "traitors" who were loyal to other sides rather than to the United States that's why Senator McCarthy could easily establish his power over their minds (Stone 1395). When he became a senator in 1946, McCarthy delivered a speech that gave him a wide fame in the United States. During that speech, he claimed that he possessed a list of State Department's staff names who were "members of the Communist Party and Spy Ring" (Ibid). Senator McCarthy showed "patriotism" and abused Americans' panic of nuclear war to establish his reputation as America's protector (Ibid).

McCarthy became the head of the Permanent Subcommittee on Investigation (PSI) which searched in every corner in the United States for "Un-American" agencies, groups, organizations, and individuals. According to the PSI, "Un-American" person or entity was the one who acted differently (Stone 1399). The Voice of America (VOA), an agency which was responsible for providing propaganda for the U.S. involvement in WW II, was investigated by PSI. The latter removed lots of communist materials books from VOA's. In the 1950's witnessed large removal of libraries' contents such as the books of J.D. Salinger's *The Catcher in the Rye*, Ray Bradbury's *Fahrenheit 451*, and Ralph Ellison's *The Invisible Man*; music like Billy Holiday's song *Love for Sale*, films like *A Street Car Named Desire* and *African Queen*…etc.[2] Most people were not satisfied with ban acts, yet only few protested against them. People were afraid of being listed as traitors or non-Americans by McCarthy if they criticized his actions (Ibid).

President Truman, during and even after his presidency, kept warning from the serious results of McCarthy's behaviors, he considered them as "attack on civil liberties" (Stone 1400). Indeed McCarthyism seriously violated the right to free thought, speech, and press. In *Near V. Minnesota* (1931) (see chapter I) the Supreme Court said that civil liberties might be restricted to some extent during war time, yet McCarthy exaggerated in abusing the war (Ibid). McCarthyism reached its end in 1954 (when Senator McCarthy accused some army generals of being spies), yet its effects of on intellectual freedom still can be seen till now (1402).

5.1.b. The Effect of the PATRIOT Act on Privacy in Libraries

From the fear of communism to the fear of terrorism, the American citizens' intellectual freedom was restricted. Following the 9/11 terrorist attacks on the United

[2] Forms of Censorship during the 1950's, http://classroom.synonym.com/forms-censorship-during-1950s-8608.html Accessed on 20/04/2017.

States, George W. Bush adopted the Bush Doctrine which allowed American government to use all means, exceed all lines, and go beyond all limits if necessary to protect the nation from other terrorist attacks. Nationally speaking, Bush Doctrine was embodied in Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act). The PATRIOT Act expanded the FBI authority; for example, the National Security Letter (NSL) section of the Act allowed the FBI to obtain any information it wanted without the knowledge of the persons concerned; and the 215 provision allowed it to have access to individuals' records including library recordings.[3]

In specific cases, libraries could provide some information or spread records of their patrons if received a "lawful order," yet the USA PATRIOT Act, the ALA expressed, went even beyond "the traditional methods of seeking information from libraries."[4] It violated the right to privacy and the intellectual freedom as well; Americans couldn't fully benefit from libraries services if government might use their recordings against them.

Violation of intellectual freedom in Education was not exclusive to political reasons; even religion had its bad effects on it. Lots of references were and are being removed from libraries' shelves and schools programs for religious reasons till the present day.

5.2. Censorship for Religious Motives

After *Epperson V. Arkansas* (1968), the American governments stopped violating the constitutional liberties for religious reasons (see chapter I). Only Boards of

[3]The USA PATRIOT Act, http://www.ala.org/advocacy/advleg/federallegislation/theusapatriotact Accessed on 13/03/2017.
[4] Ibid

Education and Students' parents were involved in such violations. The courts of the United States dealt with many cases in this context (Samples are chosen from different states).

5.2. a. Minarcini V. Strongsville City School District (Ohio, 1976)

In 1972, the Strongsville City School District of Ohio asked its teachers to propose books for reading classes, yet when Joseph Heller's *Catch-22* and Kurt Vonnegut's *God Bless You, Mr. Rosewater* were recommended, the board refused to include them as textbooks. The board further removed Vonnegut's *Cat's Cradle* and Heller's *Catch-22* from the School library. Five high-school students including Susan Minarcini, supported by their parents and backed by the American Civil Liberties Union (ACLU), represented their colleagues when they signed a lawsuit against their board. They asked the court to deliver a clear sentence concerning the board's unsatisfying two actions (Koletsky 1036). The plaintiffs considered the refusal of *Catch-22* and G*od Bless You, Mr. Rosewater* as textbooks violation of their First and Fourteenth Amendments. They also believed the removal of *Catch-22* and *Cat's Cradle* from the school library a violation of their academic freedom, freedom of speech, due process and equal protection of the laws (1037-1038).

According to the Ohio law, Boards could choose appropriate textbooks among many alternatives recommended by the faculty, but the final decision should be the boards' not anyone else's .Consequently, The District court ruled that the board of education was doing its job of selecting suitable curricula and textbooks. That's to say, students' rights were not violated when the board refused the suggested textbooks. The Sixth Circuit Court affirmed the decision (1037).

Concerning the issue of books removal, the District and Sixth Circuit courts disagreed. The District court argued that boards also had authority to select content for their libraries. It ruled that since the Strongsville City board did not forbid teachers or students from talking about or using the banned books as examples for illustration or explanation and since students had the opportunity to read or obtain those books from outside the school, there was no violation of Student's academic freedom (Ibid). However, the Court of appeals reversed the decision of the District court. It issued that banning books from a schools' libraries was a violation of students' First and Fourteenth Amendments even if students could reach those books outside the school. The court further said that school libraries were the free "storehouse of knowledge;" therefore, they had to remain neutral and objective while selecting their resources (Ibid).

According to the court, only if the challenged materials contained obscenity, they could be legally censored. However, obscenity couldn't be found in either book removed by Strongsville board of education. *Catch-22* (1961) by Joseph Heller is devoted to criticize, in a way or another, the bureaucracy and war. It was mostly removed from school library and refused as textbook due to its anti-war attitudes, the cynical representation of "nationalism, patriotism, discipline […] religion, mankind, and God,"[5] and the "use of profanity and objectionable language" (Ibid). Similarly, *Cat's Cradle* (1963) of Kurt Vonnegut was not found obscene either. It contains neither violence nor anti-American views; it deals with themes of society, religion, and

[5] Minarcini v. Strongsville City School District, 384 F. Supp. 698 (N.D. Ohio 1974)http://law.justia.com/cases/federal/district-courts/FSupp/384/698/1370485/ Accessed on 25/02/2017.

economy in relation to technological advance and arms development with small indirect references to sex.[6]

In *Minarcini V. Strongsville City School Board*, the plaintiffs did not succeed in convincing the court of students' and teachers' right to choose any book as textbook, but they succeeded to achieve a victory for the intellectual freedom when let the Court decide the unconstitutionality of the banning of books from schools libraries (Koletsky 1038-1039).

In democratic nations, people have the right to express their thoughts freely; discussion of controversial ideas is not supposed to be suppressed but rather encouraged. Boards which want to generate open-minded individuals and aware citizens should promote the talk of all topics from all perspectives considering all points of view. By doing so, they give students the chance to use their reason to decide which views to adopt. In the American Declaration of Independence (1776), it was admitted that human beings are created equal; that's to say, all people have the ability to think, intelligence to decide, and thus right to choose. Censorship disrupts those abilities and capacities.

Minarcini was not the last case in which books were censored; the United States will witness other similar acts in violation of the right to know during the next decades of the twentieth and twenty-first centuries.

5.2.b. Board of Education V. Pico (New York, 1982)

In 1975, Parents of New York United (PONYU) gave Island Trees School Board a list of objectionable books to be removed from its schools. The books in question

[6] Ibid

were Kurt Vonnegut's *Slaughter House Five* (1969); Desmond Morris' *The Naked Ape* (1967); Piri Thomas' *Down These Mean Streets* (1967); Oliver LaFarge's *Laughing Boy* (1929); Richard Wright's *Black Boy* (1945); Alice Childress' *A Hero Ain't Nothin' But A Sandwich* (1973); Eldridge Cleaver's *Soul On Ice* (1965); Bernard Malamud's *The Fixer* (1966); *Best Short Stories by Negro Writers* (1899), edited by Langston Hughes; *Go Ask Alice* (1971), *of* anonymous authorship; and *A Reader for Writers*, edited by Jerome Archer (1981).[7]

The school board had a policy according to which if the board received an objection to particular materials, it would appoint a committee called the Book Review Committee to investigate those materials and give recommendations. The board would depend on those recommendations to decide whether or not the challenged resources would be banned.[8]

When the Island Trees School Board of Education received the list, it delivered the task to the committee. The Latter issued that *The Fixer, Laughing Boy, Black Boy, Go Ask Alice, Best Short Stories of Negro Writers, and Slaughter House Five* should be kept in the library; *The Naked Ape, Down these Mean Trees*, and *A Reader for Writers* should be removed; whereas, the fate of the remaining *Soul on Ice* and *A Hero Ain't Nothin' But A Sandwich* depended on the permission of the parents. The board of education ignored the committee's opinion and removed all the books mentioned from the libraries of High School and Junior High School. The board considered all those books "anti-American, anti-Christian, anti-Semitic, and plain filthy."[9] Thus, Steven Pico

[7] Board of Educ. V. Pico,https://www.law.cornell.edu/supremecourt/text/457/853 Accessed 07/03/2017.
[8] Ibid
[9] Ibid

and other students took the step to stop the board from violating their right to receive information for religious drives.[10]

The District Court said it was among the board powers to choose books for its schools' libraries. It claimed that as teachers and students were not prohibited from discussing the removed books, the First Amendment was not violated. Especially the removal was just an attempt to apply the board's "conservative educational philosophy," for books listed contained "irrelevant, vulgar, and immoral" ideas, the court explained.[11]

The Court of Appeals and the United States Supreme Court reversed the former opinion. They admitted the right of the board to choose books which serve and transmit the community values; however, the selection must never be grounded on violation of the nation's constitution (Establishment Clause). When the Board's representatives were asked to give examples of "anti-Americanism," they referred to *A Hero Ain't Nothin but a Sandwich* and explained that the author negatively described George Washington, the American War of Independence hero and America's first president, as "slaveholder."[12] Such example was not enough for the Supreme Court to ban the book. Despite the Victory was the students', intellectual freedom still could be violated legally since boards could choose not to buy whatever material they dislike. It meant that students' right to access variable knowledge could be violated in a legal way.

[10] Ibid
[11] Ibid
[12] Ibid

5.2.c. Mozert V. Hawkins County Board of Education (Tennessee, 1987)

Pupils' parents asked Hawkins County board of education to remove or change the Holt Basic Readings, a collection of books used by the board as textbooks from the first to the eightieth grade.[13] Parents claimed that if children would study the same ideas for such a long period of time, they would be denied the right to free religious exercise and similarly parents would be denied right to control and shape their children's religious beliefs. The court said that parents could shape and control the religious thinking of their kids outside the school. The court, then, ordered the collection to be tested; the suit would be valid only if the books encouraged or suppressed particular religion(s) or expressed anti-religion views. Likewise, if the books were neutral, the lawsuit would be invalid.[14]

The collection aimed to generate citizens prepared to accept the cultural and religious diversities. It put in front of them different beliefs and dogmas without showing preference to one doctrine over the other or neglecting the value and truthfulness of any doctrine. The board chose two examples from the collection to show its neutrality. The first example was taken from a poem entitled: *The Blind Men and the Elephant* (1973) which tells how each of the six blind men feels only a part of the elephant's body and guesses how the elephant looks like, then they quarrel because each believes he is right and others are wrong. The board explained that each religion gave its own interpretation, imagination, and understanding of God and God's revelation from its own limited angle; whereas, each is "partly right and partly

[13] Mozert v. Hawkins County Public Schools, 582 F. Supp. 201 (E.D. Tenn. 1984), https://www.courtlistener.com/opinion/1760127/mozert-v-hawkins-county-public-schools/ Accessed on 08/03/2017

[14] Ibid

wrong."[15] This taught children how to be opened to others ("world citizenry").[16] The second example was a passage taken from a story entitled *The Diary of a Young Girl* by Anne Frank (1947); (Ann is talking to Peter Van Daan):

> Anne: (Softly.) I wish you had a religion, Peter.
>
> Peter: No, thanks! Not me!
>
> Anne: Oh, I don't mean you have to be Orthodox ... or believe in heaven and hell and purgatory and things ... I just mean some religion ... it doesn't matter what. Just to believe in something! When I think of all that's out there ... the trees ... and flowers ... and sea-gulls ... when I think of the dearness of you, Peter ... and the goodness of the people we know ... Mr. Kraler, Miep, Dirk, the vegetable man, all risking their lives for us every day ... When I think of these good things, I'm not afraid anymore ... I find myself, and God, and I...
>
> (PETER interrupts, getting up and walking away.)[17]

The passage expressed religious tolerance as the orthodox protagonist welcomed any religion. Although the passage expressed dislike towards non-religion, this idea did not appear as criticism.

The Christian parents rejected this neutrality because it contradicted the belief of "Christ's only salvation."[18] The court ruled that there was no violation of any right because the books under discussion were neutral and the constitution always sought neutrality even if that neutrality annoyed particular religion. "The First Amendment," held the court, "does not guarantee that nothing offensive to any religion will be taught in schools."[19] Parents' attempt to censor the collection was finally dismissed.[20]

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[15] Ibid
[16] Ibid
[17] Ibid
[18] Ibid
[19] Ibid
[20] Ibid

5.2.d. Counts V. Cedarville County School District: (Arkansas, 2003)

Cedarville County Board voted to restrict access to the Harry Potter series. The books were put in a separate place, and student needed a permission signed by one of their parents to allow them to get Harry Potter books from the school library. The board explained that the series could encourage disobedience and drive students to witchcraft. Billy Ray Counts was one of the fathers who filled a lawsuit protesting the new law which he thought unnecessary and unconstitutional.[21]

The Protection of Pupil Right Amendment (PPRA) (1978) gave parents right to check the materials used in schools or to recommend the reconsideration of particular materials. However, it didn't give them power to give permission for covering particular topics or using particular books.[22] In *Minarcini V. Strongsville, Mozert V. Hawkins, and Board of Education V. Pico,* courts agreed that neither boards nor parents had anything to do with materials that already exist in school libraries unless there were strong reasons which made it constitutionally necessary to remove them from libraries. The court asked the board to provide those reasons to convince it of the wisdom of such a procedure.[23]

The board argued that it did not remove Harry Potter books or prohibit reading them; it just required a signed permission, parents could simply sign the permission to allow their children reading the books. The plaintiffs answered that if some parents had no idea about the series' content, they might refuse signing the permission thinking that keeping the books away was for a good reason. Moreover, Counts and his partners

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[21] 5 Notable Banned-Book Cases for Banned Books Week,https://nwsidebar.wsba.org/2014/09/26/banned-books-week/ Accessed on 12/12/2017.

[22] Op.cit

[23] Ibid

insisted that the board restricted access to Harry Potter series because the latter contradicted the Biblical views about witchcraft. Defendants' arguments seemed weaker when Billy Ray Counts and his daughter, Dekota; lawyer, Susan Dawlis; behavioral counselor, Harriet Potts; and the series' author, JK Rowling agreed that Harry Potter couldn't lead to disobedience or witchcraft. As a result, the court overturned the law and ordered the books to be put with other books in libraries where all students could read them whenever they wanted.

The American constitution established, about two centuries ago, a secular nation where people are assumed to freely choose what doctrine to follow and authorities are prohibited to impose their beliefs on others. However, in *Scopes*, *Epperson*, *Minarcini Counts* and *Mozert* court cases, religious motivations were behind the violation of American students' intellectual freedom.

Conclusion

In the twenty-first century, intellectual freedom in the United States is still being violated in education. Sometimes the political atmosphere stands behind such violation. The federal government, during critical times, tends to pass laws exceeding the First and Fourteenth Amendments' principles. In other times, boards of education and students' parents violate intellectual freedom when they work to remove the materials that oppose their own religious doctrines. Governments, boards, and parents think they are acting for the good of the nation and its citizens without being aware that the good of the nation is to objectively interpret and totally respect its constitution in all times and under all conditions.

CHAPTER THREE

The Reaction of the American Community towards the Violation of Intellectual Freedom

Introduction

In the early twentieth century, the American community's reaction towards the violation of intellectual freedom was decent, yet from 1950's onward Americans realized the necessity of defending their constitutional rights even against the state and federal governments' laws. America's awareness was the result of American associations' and organizations' endeavors which pushed people to fight for their civil liberties including intellectual freedom. This chapter will firstly define some of the most famous organizations; then, it will put forward their main achievements especially during political instability. There will be also some examples of court cases in which those entities were involved.

III.1. Protection of Intellectual Freedom by the American Civil Liberties Union

The American Civil Liberties Union (ACLU) is a non-profit organization founded in 1920 by Roger Baldwin. Its main role is to protect the citizens' civil liberties in the United States; it uses the motto "Because Freedom Can't Protect Itself."[1] In 2017, the organization's members are estimated to 1.2 million including more than 300 attorneys;[2] it owns offices in every state to facilitate for the people approaching it. The organization provides free advocacy in court cases which involve the civil liberties protected by the constitution; it also provides legal advice and distributes documents to educate individuals and institutions on how to behave in case their civil liberties are challenged. The American Civil Liberties Union's staff has its legal, legislative and communicative relations what gives the organization influence. ACLU stresses the

[1] American Civil Liberties Union, https://en.wikipedia.org/wiki/American_Civil_Liberties_Union Accessed on 10/03/2017.
[2] Ibid

importance of the absolute respect of civil rights and freedoms in achieving democracy.[3] Roger Baldwin once said, "So long as we have enough people in this country willing to fight for their rights, we'll be called a democracy."[4]

The American Civil Liberties Union refuses the idea that Americans give up on their constitutional rights and liberties in the name of the national security protection or community values preservation. That is why it defends different persons and groups in court no matter to what ethnic, religious or political group they belong. For example, when it supported the Ku Klux Klan, the Nation of Islam, and the National Socialist Party to get their right to assembly and expression, ACLU stated that its job was protecting the civil liberties to all American persons and groups even if it disagreed with their ideologies.[5]

1.1. American Civil Liberties Union against McCarthyism

The American Civil Liberties Union believed that Americans did not need the permission of their government to sympathize with communism or even to adopt communist ideologies since their right to free thought was constitutionally guaranteed.[6] During the era of McCarthyism, ACLU supported everyone who was a target to Senator McCarthy's unproven accusations. Dorothy Kenyon, New York Liberal activist and National Board member, was once blacklisted by Senator McCarthy as a member of a communist organization. ACLU succeeded in proving that McCarthy's indictment against Kenyon was "reckless" since he possessed no evidence against her. The ACLU

[3] Ibid
[4] About the ACLU https://www.aclu.org/about-aclu Accessed on 10/03/2017

[5] Ibid
[6] The ACLU's Communist Origins,http://www.redstate.com/paul_j_cella/2011/01/04/the-aclus communist-origins/ Accessed on 12/03/2017.

disapproved what Senator McCarthy did with the library of Voice of America agency when he decided to empty it from "communist" contents (Stone 1399).

1.2. American Civil Liberties Union against the PATRIOT Act

The ACLU attempted to make Americans aware of the danger of the PATRIOT Act, namely 215 and NSL sections, on the civil liberties claiming that "[…] freedoms [of Americans] are the very foundation of [America's] strength and security."[7] ACLU put forward the point that some of the Act could lead to unfairness and corruption in the sense that if a person with high status in the federal government personally disliked an individual, a group, or an organization, he might easily abuse the Act to legally and unjustly search them, seize their property, or at least violate their right to privacy.[8]

Some of ACLU's activists interpreted the Act insisting on the violation of the right to privacy. In his speech in December 6, 2005, Bob Bar, an American Civil Liberties Union activist and a former United States Congressman, admitted that not the whole act was negative to the nation; rather it had good influence in fighting terrorism.[9] Nevertheless, some of its provisions directly attack the civil rights especially the right to privacy since it breaks the Fourteenth Amendment by granting the federal government the authority to gather, without suspicion, any kind of information about people.[10] In October 2001, ACLU's Washington office director, Laura Murphy, and the associate director, Gregory T. Nojeim, also condemned the Patriot Act in a letter they sent to the Senate; in which they stated that the Act "[...] gives the Attorney General and the

[7] American Civil Liberties Union, https://en.wikipedia.org/wiki/American_Civil_Liberties_Union Accessed on 23/03/2017
[8] ACLU Fact Sheet on PATRIOT Act II, https://www.aclu.org/other/aclu-fact-sheet-patriot-act-ii Accessed on 25/03/2017.
[9] Does the USA PETRIOT Act Diminishes Civil Liberties?, http://aclu.procon.org/view.answers.php?questionID=000716 Accessed on 23/03/2017
[10] Ibid

federal law enforcement unnecessary and permanent new powers to violate civil liberties that go far beyond the stated goal of fighting international terrorism."[11]

The ACLU drew Americans attention toward the fact that the government was just a means to keep order by submitting to the system; it stated "[…] government powers are subject to limits by the courts, the Congress and the people."[12] That is why they had to fights laws such as the PATRIOT Act. The organization is doing its best to persuade Americans of the necessity of challenging any law that contradicts the democratic principles.[13]

1.3. The National Security Project of American Civil Liberties Union

The National Security Project of ACLU was formed after the 9/11 to defend the civil liberties which were violated by the government in the name of fighting terrorism. It calls for the fight of terrorism without breaking the constitutional rules. The National Security Project gets involved in any case in which individuals, groups, or corporations are denied their civil rights and liberties under the pretext of fighting terrorism.[14]

1.4. American Civil Liberties Union's Advocacy and Participation in Courts

The ACLU dedicates its efforts to defend all civil Liberties; some efforts are directed to intellectual liberty defense especially Americans give big consideration to Knowledge. The ACLU was present to support the Intellectual freedom in *Scopes V.*

[11] Ibid
[12] Ibid
[13] Ibid
[14] About the ACLU's National Security Project, https://www.aclu.org/other/about-aclus-national-security-project accessed on 24/03/2017.

Tennessee, Minarcini V. Strongsville, Mozert V. Hawkins and many other cases. It was directly involved in court cases such as *Reno V. ACLU* and *Ashcroft V. ACLU.*

1.4.a. Reno V. American Civil Liberties (1997)

In defending the First Amendment's Free Speech Clause, the American Civil Liberties Union stood against the Attorney General in *Reno V. ACLU* court case (1997). The Union challenged the Communications Decency Act enacted by the former in an attempt to protect children from obscenity on Internet. ACLU won the battle when the court ended the Act.[15]

1.4.b. Ashcorft V. American Civil Liberties Union (2002)

The organization won another battle in *Ashcroft V. ACLU* against the Child Online Protection Act (COPA) which was another attempt to secure children from online abuse and pornography. The court canceled the COPA because it depended on the "community standards" to determine whether or not the online content was appropriate to minors the method that seemed "vague" to the court.[16]

The organization still exists, and its pains are continuing. What have been mentioned so far were just some samples of its efforts to advocate the intellectual freedom in the United States.

[15]Significance: Reno V. ACLU, file:///C:/Users/tarak/Documents/the%20third/the%20ACLU/Reno%20v.%20ACLU.htm Accessed on 29/03/2017
[16] Ibid

III.2. Advocacy of Intellectual Freedom by the American Library Association

In the field of education, library is the main interest of the intellectual freedom defenders. It has been mentioned in the previous chapter that public and school libraries were being attacked since too long either through removing their resources or restricting access to materials they provide for their patrons. The American Library Association is one of the organizations that try to defend the intellectual freedom of Americans by attacking those violations.

The American Library Association (ALA), that was created in October 6, 1976, is the oldest non-profit organization whose job is to protect libraries' principles. It provides leadership and advice to private, public, and school libraries in order to ameliorate learning and ensure free access to all kinds of information to every individual in the United States.[17]

The ALA makes pressure on Congress and gets involved in political issues if necessary to defend libraries' principles and intellectual freedom. It distributes documents and holds Week events in order to educate Americans how to behave in case their rights are challenged in libraries.[18] It also gives legal representation to citizens whose right to receive information or right to privacy is violated. It enforced the Library Bill of Rights and Freedom to Read Statement that are of great support to librarians when they face any challenge.

[17] American Library Association,https://en.wikipedia.org/wiki/American_Library_Association Accessed on 29/03/2017.
[18] Ibid

2.1. Enforcement of the Library Bill of Rights by the American Library Association

The Library Bill of rights was firstly written by Forrest Spaulding then adopted by the American Library Association in a reaction against "growing intolerance, suppression of free speech and censorship affecting the rights of minorities and individuals."[19] The Bill condemns censorship of libraries' contents and calls librarians for urgent reaction against it:

> Censorship of books, urged or practiced by volunteer arbiters of morals or political opinion or organizations that would establish a coercive concept of Americanism, must be challenged by libraries in maintenance of their responsibility to provide public enlightenment through the printed word. (Fitzsimmons 3)

That is to say that libraries must fully play their role of educating people by exposing all kinds of books and opposing all kinds of censorship, and the notion of "Americanism" should not be used to destroy libraries principles.

2.2. The American Library Association's Code of Ethics (1939)

The ALA's Code of Ethics summarizes the rights and duties of libraries and librarians to avoid problems and misunderstandings. The main points that are tackled by the Code are the provision of high quality of library' services, the resistance of censorship attempts, the protection of patrons' right to privacy, and the exclusion of personal faith that opposes the duty of being neutral while selecting content for

[19] Library Bill of Rights and Freedom to Read Statement Pamphlet, http://www.ala.org/offices/oif/LBOR-FTR-statement-pamphlet Accessed on 01/04/2017

libraries. The Code plays the role of a guide when librarians face challenge with individuals, organizations or even governments (Magi 59).

2.3. The Freedom to Read Statement of the American Library Association (1953)

For the same objective of protecting intellectual freedom, the ALA issued the Freedom to Read Statement that suppresses any attempt to prevent people from reaching any type of library material because the right to read is safeguarded by the constitution of the nation. The Statement considers censorship as a real threat to the safety of America stating that "every silencing or heresy, every enforcement of orthodoxy, diminishes the toughness and resilience of our society and leaves it less able to deal with stress" (Fitzsimmons 3).

The Statement emphasizes three main points. First of all, it is not necessary that librarians or publishers do permit or agree with what is contained in the materials they provide; secondly, no society can achieve development when it blacklists writers or blocks access to their published works just because their opinions are not supported by "the majority" (Ibid); thirdly, publishers and librarians are responsible in front of the public to put forward diversity of views and opinions especially concerning important, controversial, and sensitive issues, and to fight against anyone who tries to stop them from doing so (Ibid).

2.4. American Library Association against the PATRIOT Act

Working hand in hand with the American Civil Liberties Union and other organizations, the ALA expressed its opposition to the PATRIOT Act sections that directly damage citizens' right of privacy and knowledge acquisition. The ALA

produced a paper entitled: *Resolution on the USA PATRIOT Act and Libraries* in which it explained, in a sequential manner, how and why the Act was unacceptable for libraries (ALA, 2005 ALA Annual Conference).

House Judiciary Committee chairman, John Conyers, and the Representatives, Jerrold R. Nadler and Bobby Scott, supported by the American Library Association and the Association of Research Libraries (ARL) chose December 31, 2009, the expiration date of the PATRIOT Act, to propose the USA PATRIOT Act Amendments Act of 2009. Through which they attempted to change the two challenging clauses in a way that would enable the government to secure the nation against terrorism and at the same time preserve the civil liberties of the citizens.[20] The most important points the Bill suggested were the prohibition of the 215 section, revision the NSL clause, and immediate destruction of the information gained when the government would be done with them.[21] The Bill was not really considered, yet the pressure, that the ALA caused, let the government to enact the USA Freedom Act (2015) which was a realization of some of the Amendments Act of 2009.[22]

2.5. American Library Association against Children's Internet Protection Act (U.S V. ALA (2003))

The ALA sued the U.S Congress for passing the Children's Internet Protection Act (CIPA) because it challenged the constitution's First Amendment by infringing upon the right free speech and privacy in public libraries. In *USA V. ALA*, the U.S Supreme Court ruled that CIPA, that requires installation of filtering software in public

[20] H.R. 3845 (111th): USA PATRIOT Amendments Act of 2009, https://www.govtrack.us/congress/bills/111/hr3845/text Accessed on 04/04/2017.
[21] Ibid
[22] Ibid

libraries' computers to obtain federal funding, did not violate the First Amendment because adult patrons could ask for the removal of such software .Yet, The ALA is still struggling to remove the CIPA.[23]

III.3. The Contribution of the American Booksellers Foundation for Free Expression in Intellectual Freedom Protection

The American Booksellers Foundation for Free Expression (ABFFE) is a non-profit organization created in 1990 to promote and protect the freedom of speech in the United State by providing advice and support for those who oppose censorship and books ban. The organization works to regain the right to privacy to American readers which is damaged under the USA PATRIOT Act by standing against seizing bookstore records. The ABFFE annually sponsors Banned books Week[24]events with the companionship of other organizations, like the American Library Association and the American Booksellers Association, whose concerns and goals are similar to its. In its opposition to censorship and support to the exchange of ideas, the Organization participates in court cases in favor of the right to read and express.[25]

3.1. Ramadan V. Chertoff (2006)

Tariq Ramadan is a Swiss professor and Muslim scholar who published about 20 books and 700 articles about Islam and its relation to identity, democracy and human

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[23] United States v. American Library Assn., Inc. 539 U.S. 194 (2003), https://supreme.justia.com/cases/federal/us/539/194/case.html Accessed on 03/04/2017

[24] Banned Books Week is a coalition of a number of organizations who work who meet annually to rave the freedom to read and condemn censorship. The organizations try to involve the maximum of individuals, companies, organizations…etc in order to spread awareness among of the importance of reading freely among society members. http://www.bannedbooksweek.org/about accessed on 12/05/2017.

[25] American Booksellers Association, http://www.bookweb.org/abfe Accessed on 05/04/2017.

rights. He was offered a teaching position from the American University of Notre Dame wanted to benefit from his knowledge. In January 2004 Ramadan accepted the proposition. Yet, the Embassy in Bern refused giving him the visa because the American government invoked the "ideological exclusion" provision of the PATRIOT Act that allowed the government not to accept the entry of people who "endorse or espouse terrorism" to the U.S.A.[26]

Earlier, Ramadan provided a material in support to The Association de Secours Palestinien (ASP) in Switzerland which was classified, by the Treasury Department in August 2003, as a terrorist entity for aiding Hamas financially. In January 25, 2006, ABFFE and other organizations filled a lawsuit in the District Court challenging the constant refusal of Tariq Ramadan's application for visa.[27]

The District Court ruled against the organizations, while the Court of Appeals for the Second Circuit found that the organizations' and public's Free Speech Clause of the First Amendment was violated. For, when intellectual figures and great scholars, like Mr. Ramadan, are denied getting visa, without even an evidence that they are a menace to the nation, the court ruled, Americans, likewise, are denied the "right to know" and learn from them. As a result to that, Americans' right to intellectual freedom is challenged.[28]

3.2. Trump V. O'Brien (2011)

The ABFFE achieved another victory in *Donald Trump V Timothy O'Brien*. For many years O'Brien wrote or assisted in writing about Donald Trump's life

[26] Ramadan V. Chertoff, http://caselaw.findlaw.com/us-2nd-circuit/1128613.html Accessed on 05/04/2017.
[27] Ibid
[28] Ibid

concentrating on his wealth. Despite the sensitivity between O'Brien and Trump due to the former's writings, the latter cooperated when O'Brien decided to write a book entitled *TrumpNation: the Art of Being the Donald* (2005). O'Brien used information obtained from the interviews he had with Trump himself and his financial staff beside the information he got from three anonymous resources. In the sixth chapter of the book, the author accused Trump of lying about the value of his net worth. Trump filled a suit of defamation against O'Brien and tried to prove that the author aimed to "slime" him.[29] Judge Michele M. Fox dismissed the case when Trump attorneys failed to prove that O'Brien faked the annoying information he included in his book. The Judge stated that the right to free expression and publishing was guaranteed by the Constitution.

These two ABFFE's victories were very essential to Americans' intellectual freedom. In the first case, it was clarified that scholars' right to enter the U.S was not related to them only but to American people's freedom to know and exchange knowledge with others. In the second case, the court supported, in a way or another, journalists to investigate and reveal truths to the public.[30]

III.4. Support of Intellectual Freedom by the Freedom to Read Foundation

The Freedom to Read Foundation (FTRF) is a non-profit legal organization which generated from the American Library Association in 1969 as an independent organization. Its concern is to defend Americans' right to read, share, and access any kind of information especially in the public educational institutions like schools and

[29] Donald Trump V. Timothy L. O'Brien, http://law.justia.com/cases/new-jersey/appellate-division-published/2011/a6141-08-opn.html Accessed on 05/04/2017.
[30] The Litigious- and Bullying-Mr. Trump, http://www.nationalreview.com/article/431575/donald-trump-tim-obrien-courtroom-story Accessed on 05/04/2017

libraries. It supports libraries in protecting and promoting the right to privacy and freedom to neutrally select materials for their shelves. Its activities turn around the protection of speech, press, free access to library online content, and privacy. This organization works to educate Americans and make them aware of the significance of the 1st Amendment and the right to intellectual freedom.[31] Freedom to read needs freedom to write and share ideas without disturbance especially from government. In this context, the FTRF adopts the statement of the Supreme Court Justice, Hugo Black:

> In the First Amendment the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors. The Government's power to censor the press was abolished so that the press would remain forever free to censure the government.[32]

The Freedom to Read Foundation constantly participates in Banned Books Week events during which the organizations drive the people's attention towards the "dangers of censorship."[33] The organization provides advocacy in courts to teachers, publishers, internet providers and librarians who face troubles with censorship.[34] It provides advocacy in courts. It got involved in several court cases such as *Antigone Books V Horne* and *Susan B. Anthony V. Diehaus.*

[31]Freedom to Read Foundation, http://www.ftrf.org/?page=about Accessed on 05/04/2017

[32]Freedom to Read Foundation, http://www.ftrf.org/ Accessed on 05/04/2017.
[33] Ibid
[34] Ibid

4.1. Freedom to Read Foundation and the Nude Image Statute of Arizona

Arizona's "nude image" statute prohibited sharing any nude images including those in artistic or educational works.[35] It prevented libraries, bookstores, journalists and professors from sharing, publishing or exposing any kind of images containing naked bodies even if for informing or artistic purposes. The law, that meant to imprison its breakers for at least three years, was passed, said its legislators, to protect people from defamation and malice. Yet, because the statute looked vague to them, many organizations, including FTRF, challenged it in court for being restrictive to Americans' intellectual freedom. The court found the statute constitutional. But, after a long struggle, Arizona House Bill 2561 could finally reach an agreement with the plaintiffs by forbidding the circulation of "identifiable" people's photos which were shown to harm and harass them.[36]

4.2. Arce V. Huppenthal (2013)

The FTRF supported the lawsuit signed by the teachers and students of the Tucson Unified School District (TUSD) who were obliged to give up on their Mexican-American studies program. Arizona government believed that the program used by the TUSD encouraged solidarity only among the ethnic Mexican-American group members and promoted the overthrow of the government. Arizona criminalized such a policy. The School District replied that the program was available to all students not only to the Mexican-American ones. Besides, it did not aim at promoting such negative thoughts; it

[35] Ibid
[36] Antigone Books V. Brnovich, *http://mediacoalition.org/antigone-books-v-brnovich/* Accessed on 06/04/2017.

was just a normal program that aimed to "help students to graduate."[37] It was until 2015 when the Ninth Circuit Court of Appeals considered the plaintiffs' arguments. The FTRF struggled all along the two years (2013-2015) to achieve that victory because censoring programs and removing books from schools for unproven accusations contradicted its beliefs.[38]

4.3. Susan V Driehaus (2015)

In this case, FTRF accomplished another success to intellectual freedom when, with the help of other organizations, it overturned the Ohio's False Campaign Speech law. The Law prohibited uttering "false statement" during political campaign.[39] The FTRF signed an amicus to challenge any law found "unconstitutional" before it is implemented on the ground; the amicus was affirmed by the United States Supreme Court. The Freedom to Read Foundation's efforts to improve the status of America's freedom to speak, read and to know are continuing.[40]

III.5. The Defense of Intellectual Freedom by the National Coalition Against Censorship

The National Coalition Against Censorship (NCAC), created in 1974, is an alliance of more than 50 American non-profit organizations and groups in the fields of education, religion, art, literacy, and civil liberties whose mission is to protect the First Amendment rights and principles. The Coalition fights for the freedom of "thought,

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[37] Maya Arce, et al. v. John Huppenthal, et al., http://www.ftrf.org/page/Arce_v_Huppenthal Accessed on 07/04/2017

[38] Ibid

[39] The Freedom to read Foundation: Recent Accomplishments, http://www.ftrf.org/?page=Accomplishments. Accessed on 06/04/2017.

[40] Ibid

inquiry and expression" and strongly resists any kind of censorship.[41] NCAC assists artists, teachers, students, parents, librarians and schools staff in challenging censorship. Moreover, it provides interpretation to the First Amendment, informs the public about its importance, and advocates polities and laws respecting it.[42]

5.1. The National Coalition Against Censorship and Chicago Review of Books

In 2016, the Chicago Review of Books refused to review any book published by Simon & Schuster. The refusal was not due to the content published, but to the fact that one of its client authors, Milo Yiannopoulos, uttered a statement which was considered by the critics as a "hate speech."[43] The NCAC condemned this act and considered it a violation of right to free speech and thought. It argued that anybody could criticize any book or decide not to read it if they found its content unsuitable, yet nobody could decide on behalf of the others. Likewise, any writer in the democratic America enjoyed the freedom to express his ideas even if those ideas were "offensive or controversial" to others.[44] Without forgetting that sometimes the writer objectively expressed some thoughts without even being convinced in them. Even if Yiannopoulos' works were "objectionable," added the NCAC, the decision was unfair for the other writers of Simon & Schuster.[45]

The National Coalition Against Censorship bitterly fights censorship, it works to realize the First Amendment principles on the ground. The Coalition is still fighting the

[41] About ACLU: Mission and History, http://ncac.org/about-us Accessed on 08/04/2017.
[42] Ibid
[43] National Coalition Against Censorship Gets it Right with Milo Book Comment http://hotair.com/archives/2017/01/08/national-coalition-against-censorship-gets-it-right-with-milo-book-comment/ Accessed on 09/04/2017.
[44] Ibid
[45] Ibid

battle because it is fully aware of the dangerous effects of censorship on the free speech and intellectuality rights that American citizens are supposed to totally enjoy.[46]

5.2. The NCAC response to *The Kite Runner*'s Removal (2008)

In 2008, Khaled Hosseini's *The Kite Runner* (2003)[47] was suddenly removed from the English curriculum in Arizona schools after being taught for 5 years to 10th grade students. The book was replaced by John Steinbeck's *Of Mice and Men* which was once listed by the ALA among the mostly challenged books on the themes of "racism" and "violence"[48] The District said that the removal was not an act of censorship. It explained that parents and school staff had met to choose workable references for each level. They claimed that *The Kite Runner* was not approved as workable any more especially for containing sexual references. The NCAC believed the book was censored due to purely religious reasons. The NCAC is calling for the restoration of the book by showing its "educational value."[49]

5.3. The National Coalition Against Censorship and the Children's Internet Protection Act

The NCAC joined other American organizations in opposition to the CIPA as they believed that preventing access to any type of information was damageable to intellectual freedom no matter what the censored material contained (Heins and Cho

[46] Ibid
[47] *The Kite Runner* is a drama written by Khaled Hosseini, an Afghan-American writer. It tells the story of a young boy who rose during the dissolution of Afghanistan's monarchy. The novel insists on the themes of guilt and sacrifice. https://en.wikipedia.org/wiki/The_Kite_Runner Accessed on 12/04/2017.
[48] Without Explanation, AZ School District Removes The Kite Runner From English Curriculum http://ncac.org/blog/without-explanation-az-school-district-removes-the-kite-runner-from-english-curriculum Accessed on 096/04/2017
[49] Ibid

69). The National Coalition Against Censorship efforts in targeting the censorship of school syllabi, internet content, and libraries' materials are countless.

5.4. The NCAC's Condemnation of *Jacobo's New Dress* Removal

On March 24, 2017, the NCAC signed a letter condemning the removal of Sarah Hoffman's *Jacob's New Dress* (2014)[50] taught to the first grade in North California School District. The Coalition believed that the lawmakers practiced a pressure on the school to remove the book from an "anti-bullying" lesson plan due to political and ideological disagreement.[51] In its letter, the NCAC asked the school district to return *Jacobo's New Dress* to the lesson plan or at least to give logical reasons for the removal of the book. The Coalition saw that since the book taught students how to react to "harassment," it suited the "district's educational" purposes, and for that reason it was chosen by the "professional educators" responsible for books selection;[52] as a result, politicians could not remove the book just because they suspected it to encourage students to be "transgender."[53] The NCAC is still struggling to bring the book back to classrooms.[54]

[50] *Jacobo's New Dress* tells the story of a boy who wore a dress for school. When his colleagues made fun of him, the teacher ordered his mates to respect his choice. NCAC Criticizes Politically Motivated Removal of ' Jacobo's New Dress'From North Carolina Lesson Plan, http://ncac.org/blog/ncac-criticizes-politically-motivated-removal-of-jacobs-new-dress-from-north-carolina-lesson-plan Accessed on 08/04/2017.
[51] Ibid
[52] Ibid
[53] Ibid
[54] Ibid

Conclusion

Gradually, Americans opened their eyes on the sad reality that the right to intellectual freedom, which is clearly protected by the Constitution, is constantly violated. American people found themselves obliged to fight in order to get complete intellectual freedom and realize democracy in their nation, thus they appealed to organizations and associations. Unfortunately, not all efforts made by those organizations culminated in success because some laws seemed to be even stronger than the highest law of the country. But, reacting against the transgressions was, in itself, a success because fighting the restrictions reflected the citizens' awareness of their own rights, the thing that was almost absent in the early decades of the twentieth century.

This study began with presenting how the constitution of the United States ensures the protection of intellectual freedom through the protection of the rights to free press, thought, speech, religion, and privacy. It showed how these rights are constantly violated by the federal and state governments. The latter exploit the loophole between the powers given to them and rights guaranteed to citizens by the constitution in order to pass legislations in violation of the intellectual freedom. In the field of education, this research explained, schools in the United States are still suffering from the restriction of their syllabi and censorship of their libraries' contents. Public libraries survive violations neither; their materials are censored and their patrons' privacy is violated mostly in the name of national security protection or community values preservation. The lawgivers justify those actions as being done for the good of the nation; whereas, their personal, political, and religious motives are often the true reason behind the enactment of such laws.

The present work shed the light on the fact that through time, Americans learnt to resist the violations of their intellectual freedom. They founded organizations and associations to fight against the intellectual freedom breakers. Fortunately, it seems that the status of intellectual freedom in the field of education is gradually improving.

The present research has not covered everything; neither has it seen the subject from all perspectives. The topic can be discussed in alternative ways, and it can be seen from other different perspectives. We hope that our study has contributed to the field of civil liberties protection and that it will open the door for other future researches.

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