

CRISIS IN THE CLASSROOM: THE RISE OF BOOK BANS THREATENING AMERICAN YOUTH

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Abstract

Inspired by the experiences of his father as a Polish Jew during the reign of Adolf Hitler, author Art Spiegelman wrote *Maus* to memorialize the lives of Holocaust survivors. However, multiple state governments have attempted to limit American youth's access to *Maus* and other classic literature by pulling books from classroom shelves.¹ According to PEN America, over 5,000 books have been banned in the United States in the last two years, with more than half of these bans targeting young adult literature.² The most commonly objected themes in these books were depictions of violence, the discussion of racism, and the inclusion of LGBTQ+ characters.³ As a result, authors like Art Spiegelman are worried that this rise of book bans is part of an agenda to "other" already marginalized groups, inhibiting American children's ability to navigate an increasingly diverse country.⁴

A Brief History of Book Bans in the United States

¹ Greg Sargent, "Opinion | As more schools target 'Maus,' Art Spiegelman's fears are deepening," *The Washington Post* (2023), <https://www.washingtonpost.com/opinions/2023/06/14/art-spiegelman-maus-book-bans/> (last visited Dec 27, 2023).

² Sabrina Baêta & Kasey Meehan, "Spineless Shelves: Two Years of Book Banning," *PEN America* (2023), <https://pen.org/spineless-shelves/> (last visited Dec 27, 2023).

³ *Ibid.*

⁴ Greg Sargent, "Opinion | As more schools target 'Maus,' Art Spiegelman's fears are deepening," *The Washington Post* (2023), <https://www.washingtonpost.com/opinions/2023/06/14/art-spiegelman-maus-book-bans/> (last visited Dec 27, 2023).

Although they have increased in frequency in the last few years, book bans are not a new occurrence in the United States. Beginning with the Puritans banning Thomas Morton's *New English Canaan* in 1637, the United States has a long history of censoring disruptive literature.⁵ *Canaan* sparked outrage for its criticism of the Puritans' mistreatment of indigenous tribes and disregard for their local ecosystem. Intolerant of disagreement, the Puritans forced *Canaan* out of print and exiled Morton from the Massachusetts Bay Colony.⁶

Furthermore, literature aimed at children specifically has been banned since the 1950s. For example, the Comics Code of 1954 dealt with the fear of obscenity in the increasingly popular genre of "crime and horror" comic books. Because the proliferation of the genre coincided with a perceived increase in juvenile delinquency, the public saw the spread of these comic books and the supposed immorality within them as the root cause of objectionable behavior in adolescents.⁷ As a result, the Comics Magazine Association of America (CMAA) formed its own Code to self-regulate comic book materials and avoid interference from the government.⁸ The rules varied from prohibitions against anti-authoritarian ideals (e.g., "Policemen, judges, government officials and respected institutions shall never be presented in such a way as to create disrespect for established authority,") to more specific demands to promote traditional values (e.g., "Respect for parents, the moral code, and for honorable behavior shall be fostered,")⁹

⁵ Chris Klimek, "A Brief History of Banned Books in America," Smithsonian Magazine (2023), <https://www.smithsonianmag.com/history/a-brief-history-of-banned-books-in-america-180983011/> (last visited Dec 27, 2023).

⁶ Ibid.

⁷ "Crime Comics and the Constitution," 7 Stanford Law Review 237 (1955).

⁸ Code of the Comics Magazine Association of America, Inc. (1954). University of Michigan Libraries.

⁹ Ibid.

Prominent cases regarding children’s access to books in schools include *Island Trees School District v. Pico* and *Counts v. Cedarville School District*.¹⁰ In 1982, the Island Trees School District Board of Education demanded that all books deemed "anti-American, anti-Christian, anti-Semitic, and just plain filthy" be removed from all high school and middle school libraries.¹¹ This objectionable material included the African-American memoir *Black Boy* and the classic anti-war novel *Slaughterhouse-Five*.¹² *Counts v. Cedarville School District* was a case from 2003 in which student Dakota Counts was outraged by the District’s decision to pull the famous *Harry Potter* series from the shelves of their public school library because the series romanticized “witchcraft” and “the occult.”¹³

Is There Legal Precedent for Book Bans?

Although one may argue that the numerous occurrences of book bans in the United States present a *historical* precedent for censorship, many defenders of book bans take their argument a step further by claiming that there is also a *legal* precedent for censorship. There are three main arguments used by book ban advocates to justify their position: 1. The

¹⁰ “Cases and Legislation - Banned Books - Research Guides,” University of Connecticut School of Law: Thomas J. Meskill Law Library, <https://libguides.law.uconn.edu/c.php?g=345484&p=2327922> (last visited Dec 28, 2023).

¹¹ “Island Trees Sch. Dist. v. Pico by Pico, 457 U.S. 853 (1982),” Justia Law, <https://supreme.justia.com/cases/federal/us/457/853/> (last visited Dec 28, 2023).

¹² *Ibid.*

¹³ “Counts v. Cedarville School District, 295 F. Supp. 2d 996 (W.D. Ark. 2003),” Justia Law, <https://law.justia.com/cases/federal/district-courts/FSupp2/295/996/2307891/> (last visited Dec 28, 2023).

books these advocates want to ban contain obscene material that is not protected by the First Amendment, 2. These advocates have the parental right to protect their children from the aforementioned obscene material, and 3. These advocates claim that the discussion of sexuality, gender identity, or racism in public school classes is not a valid example of academic freedom. This paper will dissect each of these arguments individually.

Obscenity

In 1957, *Roth v. United States* affirmed the constitutionality of 18 U.S.C. § 1461, a law prohibiting the mailing of obscene material.¹⁴ *Roth* would also provide legal precedent for future cases like *Miller v California*. However, the legal definition of “obscene” is actually quite difficult to apply. In the 1970s, the Supreme Court had established the Miller test as the measuring stick for obscenity, but it required three separate standards to be met: 1. The material in question must appeal to “prurient interests,” 2. The material must describe sexual activities in a “patently offensive way,” and 3. The material must be devoid of any “serious literary, artistic, political, or scientific value.”¹⁵ Because the social value of a literary work is largely subjective, it is difficult to confidently assess any work as obscene. For example, in 1930, James Joyce’s *Ulysses* came into conflict with U.S. law because of the Smoot-Hawley Tariff Act, which, similar to 18 U.S.C. § 1461 prevented the importation of obscene goods.¹⁶ However, the Supreme

¹⁴ “*Roth v. United States*, 354 U.S. 476 (1957),” Justia Law, <https://supreme.justia.com/cases/federal/us/354/476/> (last visited Feb 19, 2024).

¹⁵ *Miller v. California*, 413 U.S. 15 (1973)” Justia Law, <https://supreme.justia.com/cases/federal/us/413/15/> (last visited Feb 11, 2024).

¹⁶ “*United States v. One Book Called ‘Ulysses,’* 5 F. supp. 182 (S.D.N.Y. 1933),” Justia Law,

Court ruled that *Ulysses* was not obscene because of its “very powerful commentary on the inner lives of men and women.” As a result, the charge of “obscenity” is not a reliable one.¹⁷ In regard to book bans today, the charge of obscenity made against the discussion of race, gender, and sexuality in youth literature is difficult to support with intellectual honesty.

Parental Rights

Many parents who support book bans in schools say that they have the parental right to make decisions about their child’s schooling. Although this is true, the way in which the subject of parental rights is discussed is often not accurate to how the law actually defines it. The most significant court cases that paved the way for parental rights in the United States, at least as they are related to education, include *Meyer v. Nebraska*, *Pierce v. Society of Sisters*, and *Wisconsin v. Yoder*.¹⁸ However, none of these cases affirmed the parental right to control a child’s access to information in a public school setting. Rather, *Meyer v. Nebraska* ruled that parents have the right to allow their child to learn a foreign language despite the overwhelmingly nationalist sentiment of the 1920s and existing statutes requiring otherwise.¹⁹ *Pierce v. Society of Sisters* affirmed a parent’s right to choose whether their child would

<https://law.justia.com/cases/federal/district-courts/FSupp/5/182/2250768/> (last visited Dec 28, 2023).

¹⁷ Ibid.

¹⁸ “Parental Rights Cases to Know,” American Bar Association (2016), https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-35/february-2016/parental-rights-cases-to-know/ (last visited Dec 29, 2023).

¹⁹ “*Meyer v. Nebraska*, 262 U.S. 390 (1923),” Justia Law, <https://supreme.justia.com/cases/federal/us/262/390/> (last visited Dec 29, 2023).

go to a public, private, or parochial school.²⁰ Finally, *Wisconsin v. Yoder* defended a parent's right to take his child out of school in eighth grade in order to train him in Amish life.²¹ Ultimately, these cases affirmed a parent's right to exempt their child from *mandatory* methods of education, not mere access to a library's materials, which is what the majority of book bans are about.

Academic Freedom

Finally, with the issues of obscenity and parental rights out of the way, there is only one issue left that could justify book bans: constitutional limits on academic freedom. Some parents have complained about mandatory readings in school curriculums that they see as inappropriate, whether that be a sexually suggestive Shakespearean play or a picture book about gay penguins.²² However, a parent's dislike or religious opposition to a subject, such as education on LGBTQ+ identities, is not enough to warrant a "parental rights" issue. After all, the same discomfort and opposition occurred when evolution was first introduced to American classrooms, yet *Epperson v. Arkansas* ruled that any statute prohibiting the teaching of evolution in favor of the Christian creationist narrative violated the First Amendment's requirement that no state law give preference to

²⁰ "Pierce v. Society of Sisters, 268 U.S. 510 (1925)," Justia Law, <https://supreme.justia.com/cases/federal/us/268/510/> (last visited Dec 29, 2023).

²¹ "Wisconsin v. Yoder, 406 U.S. 205 (1972)," Justia Law, <https://supreme.justia.com/cases/federal/us/406/205/> (last visited Dec 29, 2023).

²² Mike Schneider, "Shakespeare and Penguin Book Get Caught in Florida's 'Don't Say Gay' Laws," AP News (2023), <https://apnews.com/article/lgbtq-florida-book-ban-tango-b5e985c99c189f406baa0f1cee8ad7fb> (last visited Dec 29, 2023).

any religious establishment or its doctrines.²³ Likewise, simply because the inclusion of LGBTQ+ characters in educational materials does not fit the conservative Christian narrative does not mean that said inclusion exceeds the limits of academic freedom. In his famous opinion for the 1967 case *Keyishian v. Board of Regents*, Justice Brennan declared that academic freedom “is a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.”²⁴ In the end, there is no foundation upon which book ban advocates can stand.

A Child’s Right to Read

If the objections against banned books are invalid, what are we to do? The answer must be to cultivate the intellect of American youth and prepare them to engage with the diverse and challenging ideas they will face for the rest of their lives. PEN America reports that in the 2022-2023 school year, Laurie Halse Anderson's *Speak* was banned a total of fourteen times because of its discussion of sexual assault.²⁵ However, the inevitable discomfort that comes with reading these challenging texts is necessary because it prepares children for facing these harsh realities in their daily lives. In response to her book being banned, Anderson says that

What [book bans reveal] is we don’t know how to talk to our kids. This is what I see, not only in the censorship of my books, but the censorship of my books that are written by friends who

²³ “*Epperson v. Arkansas*, 393 U.S. 97 (1968),” Justia Law, <https://supreme.justia.com/cases/federal/us/393/97/> (last visited Dec 29, 2023).

²⁴ “*Keyishian v. Board of Regents*, 385 U.S. 589 (1967),” Justia Law, <https://supreme.justia.com/cases/federal/us/385/589/> (last visited Dec 30, 2023).

²⁵ “Banned Book List: 3,362 Books Banned in 2022-2023,” PEN America (2023), <https://pen.org/2023-banned-book-list/> (last visited Dec 30, 2023).

are black or brown or books about the history of race in the United States, books who are written by and about people who are gay or trans or outside that very narrow identity group that wants to control the entire country. They think they're shielding their children; what they're actually doing is they're making their children more vulnerable.²⁶

In other words, prohibiting children's access to difficult but unavoidable parts of reality through a safe medium like literature only leaves them vulnerable to facing those realities without the guiding hands of teachers, parents, and storytellers.

Conclusion

Although book bans may seem like a comfortable solution to an uncomfortable problem, the reality is that they harm more than they help by depriving children and society at large of the opportunity to grapple with difficult topics. Furthermore, book bans strip children of their First Amendment right to freedom of speech and expression. If Americans are not careful, they may fall victim to the appeal of authoritarianism and find themselves in a new era of dictatorship, as Art Spiegelman and his novel *Maus* has warned. Ultimately, just like the book burnings of Nazi Germany, book bans throughout United States history have been attempts at censoring history and stifling social discourse. They must be opposed for the sake of our youth's education.

²⁶ Lisa Colin, "Laurie Halse Anderson: Speaking for the Voiceless," PEN America (2023), <https://pen.org/laurie-halse-anderson-speaking-for-the-voiceless/> (last visited Dec 30, 2023).