

# Offence and free speech

## Victòria Camps

- *Offence has become one of the fundamental causes of concern and discontentment regarding the content on radio, television and the media in general. In this article we discuss the difficulties of evaluating offence ethically, deriving both from the fact that it depends on the subjectivity of each person and also from the conflict arising when criticism and limitations to offence are perceived as censorship and a violation of the right to freedom of expression or free speech. The author believes that defending free speech cannot be separated from the demand for responsibility. Especially those who enjoy the right to express themselves freely more directly because they are media professionals are obliged to ensure that what they are saying also preserves the fundamental values of community life and public spirit.*

### Keywords

Ethics, political philosophy, free speech, responsibility.

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## 1. The meaning of offence

Protests and complaints are increasingly more frequent from people and political or social groups due to expressions or images they consider to be offensive. The most notable number of complaints received by the Catalonia Broadcasting Council is categorised under the title of "Offensive content". Of note within this category, which is fundamentally not very precise, are those programmes, language and images perceived as discriminatory, generally for gender or ethnic reasons, inappropriate references to religions and anything that seems opposed to the principle of protecting children. Not only the Catalonia Broadcasting Council receives complaints from people and groups who feel offended for these reasons, but sections of the press that are open to citizen participation, such as letters to the editor or defence of the reader, also publicise constant reprimands of how people have expressed themselves when this is perceived to be lacking in respect and, in short, incorrect. It doesn't matter if the context is a news or chat programme, a debate or entertainment show, it doesn't matter whether the content is serious or fun... Whatever its nature, people are becoming increasingly intolerant of criticism, sarcasm or a sense of humour when they feel they are being directly or indirectly referred to and it touches their most sensitive spot. Or perhaps it's not a question of intolerance, perhaps it's that not even criticism, nor satire, nor witticisms are what they used to be and have become pure insult, lacking in the respect that anyone deserves.

Offence is an act that is almost impossible to objectify. In fact, we can only say that offence has occurred when someone feels offended. The dictionary does not define offence independently of the offended person: offending someone is to injure their feelings, their dignity. We know that feelings have always opposed reason and that they assign a per-

son's less controllable attitudes and reactions. We can have or no longer have feelings, but we cannot always master, control or prevent them. It's difficult, if not impossible, to convince a person who feels injured that they are wrong. We may adduce that there was no intention or will to offend, but we cannot deny that offence has occurred. Feelings are personal and non-transferable. With regard to dignity, which is also considered liable to be offended, we're talking about a value that is assumed for any person merely due to the fact of being a person, which does not mean that dignity is an objectifiable trait that can be summarised into a list of specific notes that define it. Values are not facts; they are ideals that are never completely realised. And dignity is one of a person's fundamental values. No matter how hard we try, it would be difficult for us to satisfactorily determine what human dignity consists of. Kant, who focuses his moral theory on the ideal of dignity, says that this lies in the fact that no person can use another as if he or she were only an instrument and not an end in his or herself. Put more simply, treating another like an object of my interests, using him or her, manipulating him or her is not taking into account his or her dignity. Whoever insults, reviles or offends is undervaluing the dignity of the other.

Whatever the case, the basic problem is that offence is subjective. The Anglo Saxons say that the concept of offence has ended up replacing that of taste and decency.<sup>1</sup> Regarding the first, scholastic thinkers used to say that *non disputanda est* - "there's no possible discussion" concerning taste. With regard to decency, the disuse of the word, especially referring to the sexual connotations it has always had among us, indicates that it is no longer the right word to describe the correct way either to behave or to relate to others. In fact, Anglo Saxon cultures have been characterised by their eagerness to pursue anything that attacks taste and decency. They have been able to do so while there are clear objective references of the general feeling about what is considered to be nice or ugly and with regard to how people should behave. Once these references have been lost, only personal or collective feeling remains that an offence has occurred. A sense of honour, to give an

example closer to our own traditions, had a clear and precise meaning four or five centuries ago. Today, perhaps, it only has meaning in the Sicilian Cosa Nostra. Outside closed and highly specific spheres, it would be very difficult for us to determine which facts or events make someone lose honour. In short, then, we may say that a series of circumstances have led to offence becoming more subjective, among others: social heterogeneity, pluralism of points of view, lack of stable references, lack of canonical criteria to distinguish between what is right and wrong and what injures and what doesn't. We no longer say that something is in bad taste or indecent, expressions that would only work if they were supported by a generalised feeling. We only say that this or that has offended.

Is this really the case? Is it legitimate to conclude that what might have been objectified in times when there were more established and indisputable norms of conduct and values has become subjective? I am not saying that the criteria of good taste and decency before were reasonable and that now they are no longer so. What I am saying is that they are a response to an increasingly inexistent social homogeneity. A lack of criteria that are accepted by the majority places us in a situation where everything is relative and disputable. Only fifty years ago, in our society, a woman who showed her thighs was indecent; blasphemy and *uncouth language* were a sign of little education and were banned in public places. Many people were victims of exclusion and social marginalisation, national Catholicism was an officially accepted reality and it set patterns that were taken on by the whole of society, if only in appearance. Now, however, everyone, men and women, enjoy much more freedom, there is a much wider range to choose from in terms of how to dress, how to live, how to have fun and how to express yourself. There are no clear parameters of what is permissible or censurable; it is said that everyone deserves to be treated equally, and religious beliefs, in western democracies, have become a private affair. The guarantee of individual freedoms has led to the elimination of many of the distinctions between good and bad that had seemed inalterable. So one of the few criteria remaining, beyond what is

1 See the study by Andrea Millwood Hargrave and Sonia Livingstone, *Harm and Offence in Media Content. A review of the evidence*. Bristol: Intellect, 2006.

specifically prohibited by the penal code, is that of personal offence. What we should ask ourselves is whether offence is a sufficient criterion to distinguish what should not be done. Is saying that someone "has offended us" a good enough reason to consider the motive for the offence ethically reproachable?

## 2. Offensive content or offended people?

Perhaps it's a mistake, straight off, to talk about offensive content. If offence is characterised by being subjective, then it's logical that there is no content that is offensive per se but rather people or groups of people who feel offended. Expressions that discriminate or exclude people offend those who are discriminated against or excluded. Immigrants are not happy when a delinquent is identified as Moroccan or Ecuadorian, nor when immigration, in general, is talked about as if all immigrants were identical. It was a few Muslims who felt attacked by the jokes about Mohammed that appeared in a Danish newspaper, not Christians or agnostics, nor even all those who believe in Mohammed. Gross language and too explicit sex bothers and offends older people but not the young. If television uses the image of a farmer, a taxi driver or a grandmother, it's easy for those referred to not to recognise themselves and to protest because their representation is stereotypical; but others don't perceive the allusion. Sexist language is rejected by women, not by men. Not to mention nationalism and its symbols. Any attempt to ridicule these will be understood by adamant nationalists as an insult and an unacceptable lack of consideration.

There is no such thing, therefore, as offensive content but rather offended people. People who, generally, belong to specific sectors, the weakest and most vulnerable sectors, the ones most susceptible to feeling offended. As Nietzsche said: superior man, the one he calls a "free spirit", is immune to offence and resentment, which is a defensive and reactive feeling. A powerful being does not react against anyone but only acts, does not need others, can do without them and therefore cannot be offended by anything. That's why

it's so absurd to think that a god or prophet may be offended by "human, too human" jokes. Only those with little or no power at all to make themselves felt and to assert themselves are victims of offence. As with most of Nietzsche's theories, this one must be used with caution. Nietzsche liked to provoke, sometimes being right, always brilliant and devastating in his criticism, but he was also exaggerated, over the top and wrong when diagnosing reality. Nothing he said can be taken on board without it being put into context. Victims of offence are, certainly, weak people or groups. Precisely because they are weak, we should ask ourselves whether the undervaluation they perceive is real or fictional, mere perception or a consequence of injustice. In other words, we should ask ourselves whether it is legitimate to use a right such as free speech to denigrate those who are often incapable or do not have the resources to defend themselves. In short, we should question whether offence must be considered one of the limits to free speech.

The great theories of freedom and liberalism, I'm thinking particularly of John S. Mill<sup>2</sup>, established a single limit to individual freedom: injury to the other. From their point of view, nothing justified intervening in people's freedom except to prevent others from being injured. To a certain extent, we may consider that article 20 of the Spanish Constitution, which recognises the right to free speech and its limits, is expressing this idea of freedom. Attacking people's image or honour and not safeguarding the protection of children, the two constitutional limits to freedom, constitute bad uses of freedom, as the fundamental rule of not injuring anyone has been broken. However, injury is not the same as offence. Injury is somewhat objectifiable and easy to prove, especially when talking about injury in the form of extortion, violence or physical assault. Injury understood in this way can be measured and quantified, but not offence. Very rarely can we empirically prove that free speech has physically injured someone. It's true that language can incite violence and hate, that there are images that can lead to conduct harmful to people (anorexia is the most current example), that personal aggravation, such as the ever more frequent harassment and bullying, lead to depression and even suicide; that, especially minors, particularly have to be

2 MILL, J. S. *Sobre la llibertat*. Barcelona: Editorial Laia.

protected from an environment that can lead to deviant behaviour. All this is true, but it is also true that no-one now defends the absolute causality of the media in people's behaviour. Television, video games, mobiles, the Internet are merely one factor, among many others, that influences people's education and socialisation and helps to form and modify tastes, habits and social norms.

However, given that audiovisual media are the most widespread and that they can exert considerable influence, the regulations governing them are more restrictive than those applied to the press. The European "Television Without Frontiers" Directive clearly states that all programmes must be avoided that are liable to physically, mentally or morally injure children. However, precisely due to the difficulty in determining the causes of possible injury, it is wise to talk not of harmful content but rather of "risk content".<sup>3</sup> There is indeed some content that *might* constitute a risk for the most vulnerable audience, such as children. We don't know exactly whether violent or gross programmes are harmful but it seems that they are very likely to be so. In the same way that there are populations considered at risk with a view to suffering certain diseases or becoming delinquents, the exposure of children, and even some poorly educated adults, to certain programmes is considered to be a situation of risk with regard to acquiring ethical values or simply the acquisition of criteria in order to orient oneself in life in cultural, social and ethical terms.

To summarise what I have said up to this point, firstly we find ourselves in a world where there is a lack of homogeneous references, perspectives or criteria. It is increasingly more difficult to say that something is in bad taste or indecent because we lack a unified canon of taste or decency. With the lack of objectivity that was possible in more hierarchical and stable societies, what counts today in distinguishing what is correct from what is not is people's subjectivity, the feeling of having been attacked or of having suffered offence. In post-modern times we do not enjoy the confidence and certainty instilled by enlightened modernity. Today, everything is much more relative. Secondly, we're talking about broadcasting and its effects, effects that, if they are harmful, harm in a way that can hardly be proved,

therefore liable to equally subjective, relative and variable opinions. It's not easy to prove whether broadcasting language, which is what we're talking about, actually harms an audience. What can be proved is that there are people whose dignity or principles have been injured. Given this situation, what should be done? What should organisations such as audiovisual councils do, whose function is to ensure that the media respect and protect people's rights? Must we prioritise free speech, understanding that there must be more tolerance with regard to what anyone might want to say? Or should we rather insist that freedom must be responsible and that responsibility entails setting limits and being more careful when speaking? Freedom, tolerance and responsibility, three values, perhaps the fundamental civic virtues in contemporary democracies. Three values that cannot be abandoned but must be balanced.

### 3. Arguments against limiting free speech

a) *Fear of censorship.* An initial reason for not putting limits to free speech is the fear of resorting to censorship. Our Francoist past makes us particularly sensitive to this fear and reticent to harm a right to a freedom that, for us, is still very new. It should be noted, however, that the word *censorship* is very strong and has connotations, deriving from very specific practices, that do not allow us to consider it in its more descriptive and neutral sense. In fact, to censor is to reprove or condemn something believed to be incorrect. Although I have mentioned above the lack of references that do not allow us to objectify criteria for what is correct or incorrect, it must be acknowledged that, at the same time as losing traditional references, we have gradually decreed the incorrectness of many expressions that are rooted in everyday language. Today there is a whole pile of words censored by politically correct language. As human rights have become more universal and are better defended, all those expressions considered as degrading or vexing for someone have been eliminated from the public sphere. *Gipsy*,

3 As stated by the *Llibre Blanc: L'educació en l'entorn audiovisual*, Audiovisual Council of Catalonia, 2002.

*black, lame, retarded* and *animal* are publicly vetoed words. So we cannot say, in a strict sense, that there is no censorship, that we don't even censor ourselves when we want to express ourselves correctly. We would not be intelligent beings, who think before speaking and who analyse what we are going to say and judge whether it is convenient or not to say it, if we did not do so. No, censorship is not what we should be afraid of, but rather arbitrary and interested censorship, applied without grounds, when it is inappropriate or not applicable. With regard to the area we are dealing with here, the question is: given people's increasing tendency to feel offended and to complain about offence, do we need to censure our way of speaking? Who is more wrong, the offender or the offended? I have just said that there are "offences" that are drastically forbidden by politically correct language. So must we say that, even in these limitations, we have gone too far? Do we exaggerate not being able to take language in its figurative sense? Have we condemned only those expressions that identified the most discriminated and vulnerable people or groups or, by extension, are we condemning that which upsets any susceptibility, wherever it may come from? In conclusion, far from censorship being a reason to reject any repression of free speech, we should be more specific and distinguish between legitimate censorship and non-legitimate censorship.

b) *The key value of freedom.* In fact, free speech was the great invention of modern liberal thought, the purpose of which was for subjects' voices to be able to express themselves and make themselves heard against those of the sovereigns and privileged classes. Civil liberties are the instrument held by people to criticise and ridicule power, be it political, religious or any another type. The bourgeoisie fought against the privileges of the aristocracy. The suffragettes claimed a right that no-one recognised for them. The black community in the United States rebelled against discrimination and the inhuman exclusion it was suffering. Workers unionised to fight against the interests of capital. In summary, civil society has gradually become aware as an area for free speech,

against the political power that represses it. These were the origins of liberalism but, in present-day liberal societies, the dynamic has changed. Civil liberties and, specifically, free speech were revolutionary until the mass media, which should have influenced these freedoms, placed more emphasis on the oligarchies maintaining them than on the needs of society. Habermas explained very well how the public sphere, which should be the place for expressing individual freedoms, has been colonised by a media that is merely the instrument of advertising and propaganda at the service of the dominant interests. Not everyone has the same access to the media nor can they express their opinion freely. There has been a "feudalisation of public space" that brings into doubt the original value of free speech.<sup>4</sup>

Notwithstanding this, freedom continues to be seen as an untouchable value, of greater interest than any other principle. Although everyone actually seems to assume that freedom is not an absolute right, the legal doctrine has not helped to strike a true balance between the right to free speech and people's other rights, such as the right to dignity or to their own image. In one way or another, what is imposed is the belief that, in the case of doubt, it's better for free speech not to be the loser. It's an old theory that we find reasonably supported by John S. Mill in the aforementioned book. What should be preserved above all else, he says, is the confrontation of different opposing ideas. Given that no-one owns the truth, all partial truths that may be expressed must be accepted, no matter how eccentric they may be. Out of all of these derives the only truth to which we may aspire.

The legal philosopher Ronald Dworkin, one of most prestigious and sensible liberals of our time, recently defended the "right to mock" as one of the legitimate forms of free speech. Referring to the issue of the cartoons against Mohammed, he made a distinction between the possible bloody consequences resulting from the publication of these jokes and the principle defending free speech. With regard to the first point, he celebrated the decision of the British press not to publish the

4 HABERMAS, J. *Historia y crítica de la opinión pública*. Barcelona: Gustavo Gili, 1981.

caricatures and not to give more motive to fanatics to encourage violence and disorder. He therefore judged self-censorship to be correct with regard to the consequences of publication. However, he did not have the same opinion regarding the setting of limits to free speech in the name of "the virtues of multiculturalism", as "in a democracy, no-one can have the right not to be insulted or offended". If minorities wish for legal recognition that does not discriminate against them, they must be prepared to accept insult from those who oppose their integration. Only in this way, letting fanatics and non-fanatics express themselves, can democratic decisions become legitimate. It would even be necessary, he said, to abolish the law concerning the rejection of the Holocaust and other similar laws. People must know everything in order to be able to make an informed decision.<sup>5</sup>

c) *Subjectivity of points of view.* In theory, it's not difficult to understand and to make others understand that free speech must have some limits and that these should lie in the possible injury that might be caused to others. Hence we may deduce that a certain amount of censorship or self-censorship is reasonable, at least as an expression of personal self-discipline and self-control that are essential to being able to co-exist with others. However, what is truly difficult to justify is the wrongness or harm that may be contained in what is perceived as an offence. As explained by the great philosopher of language, Ludwig Wittgenstein, the meaning of language has a pragmatic aspect that makes it subsidiary to the context in which locutions are produced. It's not the same to say "good night" as a routine before going to bed as to say it aggressively to bring an argument to an end. What it means is different in each case. In other words, language is a game whose rules are not fixed or invariable but change according to the needs of the players. These only have to know these rules, implicitly or explicitly, and agree to follow them. When this doesn't happen, mutual communication or understanding becomes impossible.

The rules of the linguistic game have also suffered from

the collapse of the characteristic fundamentals of post-modernity, where everything ends up relative. The "great stories" that used to add consistency to thought have disappeared. There are no longer ideologies, religions or visions of the world with enough force to impose them-selves and build the different social constructions of reality. However, this doesn't mean that beliefs have disappeared, without which it's very difficult to orient oneself in reality. Precisely because social homogeneity has been lost, because everyone can think what they want, beliefs have revealed themselves as what they are: mere beliefs, pure private opinions of a basis that makes them possible to universalise. It's this fragility that leads believers of all kinds to construct collective identities that, lacking a sufficient or shared justification of beliefs, are reinforced by means of reaction, defending themselves against adversaries. In this way, collective identities live off antagonism and injury and offence serve to nourish them and help them survive.

But we must not deviate from our subject. If the subjectivity of offence is due, above all, to the fact that it ridicules singular and non-universalisable beliefs, identities or ways of thinking, what we have to ask ourselves is whether beliefs, whatever their content, deserve to be respected or, as expressed by Dworkin, if we can talk, even in a figurative sense, of a right to ridicule the beliefs of others. Ortega y Gasset wrote a book entitled *Ideas y creencias* (Ideas and beliefs) where he extensively expresses his opinion with regard to this issue. Unlike ideas, which we can have and stop having, beliefs are more solid, at least for the person who professes to hold them ("*we have ideas but our beliefs are part of us*", says Ortega), they form part of how a person lives or what they are like. That's why, the philosopher thought, ideas must be discussed but beliefs must be respected.

But I'm not sure if we should agree with Ortega y Gasset's conclusion either. This was refuted recently by Rafael Sánchez Ferlosio, also as a result of the discussion aroused by the cartoons against Mohammed. "Why" he wrote, "must I

5 DWORKIN, R. "El derecho a la burla". In: *El País*, 25 March 2006.

respect everyone's beliefs? Isn't it better to question them, to refute them, if necessary, to the extent of irreverence so that everyone may realise their weaknesses?". It's a similar point of view to another expressed by John S. Mill in the book already mentioned in this article. Mill distinguished between living and dead beliefs. The latter are accepted by people without discussion and are no stimulus for the evolution of thought. If, however, they are living beliefs, these must be defended against detractors, thereby forcing them to find reasons that support them. The respect demanded by Ortega, in principle, is silent, it shows no disagreement, it accepts everything without understanding, it's a kind of passive tolerance. A disrespectful attitude, on the other hand, although it may seem intolerant and morally reproachable, leads to controversy and to the expression of discrepancy: it is, ultimately, more dynamic and more enriching.

However, does a lack of respect for points of view or beliefs not shared by everyone have to give rise to offence? It's one thing to criticise and quite another to offend. We agree that what is offensive for some is not for those who do not share the points of view that are being satirised or ridiculed. Only Catholics, Islamics, nationalists, women or immigrants feel offended due to a lack of respect for each group's expressions of their identity or self-comprehension. If beliefs are subjective, so is offence. Is this conclusion legitimate? Or should we distinguish between "objective" offence and other offence that is not objective?

#### **4. Ethics and the aesthetics of free speech**

I have based my arguments on the idea that the development of a right to individual freedom has come about at the same time as the collapse of the points of reference that kept societies cohesive within a context of the same shared and generally unquestionable beliefs. It is increasingly more difficult to translate the distinction between good and bad into rules and values that everyone can subscribe to. First, we think that offending, by definition, is not a correct action. The word *per se* has a negative connotation: offence, insult, defamation, affront, in principle, cannot be good. But the problem is not the rule that says we must not offend. The problem is how to determine what an offence really is and

under what circumstances even offensive language can entail a greater good. Value-based concepts, and *offence* is one of them, do not assign facts but value them, that is why their meaning is inevitably indeterminate and imprecise. It depends on a point of view. This problem is not exclusive to offence. Seemingly clearer or more descriptive words such as *terrorist* do not have the same meaning for everyone. The member of a terrorist group rejects this denomination and may say that what they do is not murder but justice; terrorists, from their point of view, are the police and judges. Something similar happens with the concept of justice, clearly value-based. Social democrats do not understand justice in the same way as neo-liberals. The former define justice as freedom and equality, while the latter believe that any intervention in individual freedoms is unjust and that equal opportunity is a value that is incompatible with freedom. Everything is indeterminate in the moral sphere because moral is fed by value-based judgements. The problem, therefore, is not how to define offence but deciding what is actually a morally unacceptable offence.

It is therefore difficult for us to establish criteria such as a recipe or formula to distinguish unequivocally between unacceptable and acceptable offence. It is difficult and, further-more, inappropriate to attempt to do so. It's good that ethical rules are imprecise and sustained by abstract concepts. Abstraction is the price we must pay for accepting that the rule can be more general. It's not the same, for example, to defend sexual equality as to sanction homosexual marriages, nor does the rejection of the discrimination of women necessarily entail proposing policies of positive discrimination. Some people even say that the progress of liberal thought lies, among other things, in the penal code increasingly losing its influence and rules being increasingly more open to interpretation. What would not be legitimate is to deduce ethical anarchy from the plurality and subjectivity of perspectives, "anything goes". Quite the opposite, the other side of indeterminate rules can be no other than that of responsibility. Moral autonomy is a characteristic of people's moral maturity. Consequently, as freedoms grow, so must the responsibility of those who have more power to exercise freedom, such as those who have made the media their profession. We must remember that respecting people has always been a private issue, fomented and worked out in private. Because a lack of

respect or honour had public consequences. But the mass media have upset our notions of public and private. Gossip television and the gutter press play with this transmutation and take advantage of it. What is said in public has consequences, or can have them, which private communication would not. That is why we must direct the issue towards ethics of responsibility.

One philosopher that might help us today to think about responsibility is Hannah Arendt. The reality she had to live with under Nazi power led her to study totalitarianism in depth and to attend the trial against Eichmann, which she wrote about in one of her most commented books: *Eichmann in Jerusalem*. In this book, she develops the theory of the banality of evil, which scandalised more than one of her contemporaries. For Arendt, Eichmann is the perfect bureaucrat who only obeys orders without asking himself about the rectitude or correctness of what he has been told to do. It is a moral obligation to assume responsibility for the actions of the political community to which we belong. Not to disagree with "what must be done", "what everyone is doing" implies consent. The automatism of a person who acts like any other piece of the administrative machinery lies in the incapacity to distinguish between good and bad, which is merely the consequence of an incapacity to think and judge what is being done. So evil becomes "banal" when man abandons what distinguishes him from other animals, namely the capacity to judge or to discern between what must and what mustn't be done. The essence of moral thought lies in judgement.

In order to develop this idea, Arendt took her inspiration from Kant, but not from the Kant who founded practical morals or reason but from Kant's *Critique of Judgement*, a book aiming to establish aesthetic judgement. Without wishing to make comparisons between Nazi crimes and the issue we are dealing with here, I think that Arendt's comments on the incapacity to discern morally is a very suitable approach to apply to the problem of free speech and its limits, given, precisely, the subjectivity that seems to characterise any opinion or stance on the issue. Taste-based or aesthetic judgement is, in fact and by definition, subjective. However, Kant did not believe that this issue could be thought to be resolved by merely mentioning the known maxim of *de gustibus non disputanda est*. We cannot limit ourselves to admitting that aesthetic judgement is

subjective as, in fact, when we judge a work of art we do not only wish to express that we like it or don't like it but we also attempt a social recognition of aesthetic perception. So the judgement of taste requires the viewer of a work of art to be distanced and somewhat impartial, it requires the viewer to make an effort to consider points of view different from his or her own, to take into account other perspectives and opinions. In summary, it is not the individual alone who judges but a community individual searching for the community's acceptance.

Arendt transfers the ideas on taste-based judgement to moral judgement. This also presupposes distancing, an impartiality together with the desire to extend it to others. No-one who morally condemns gender-based violence, for example, believes they are making a purely subjective value judgement that cannot be generalised. Human social reality and the social reality of language do not allow us to consider moral judgements (nor aesthetic) as solitary pastimes. Public recognition is vital for our evaluations of reality to have meaning. Arendt gives the example of what happened with the French Revolution. What made the French Revolution an historic event was not the more or less glorious actions of the people involved but the opinions and enthusiastic applause of those viewing the Revolution.

The German philosopher's reasoning does not end there. At the same time, she also reveals, with disappointment, her great scepticism of people using their capacity to judge. She believes we are living in a world where judging is considered a bad activity. This she found when she tried to understand the Eichmann phenomenon. Who are you, they said, to judge what you haven't directly experienced? I think that Arendt was not mistaken when she came to this decision. Moral judgement is not well received in our era precisely for one of the reasons I have insisted on in my article. Those principles that had seemed fixed, permanent and untouchable are no longer so. We are only left with *mores*, customs, in the most descriptive and relative sense of the word. That is why we are condemned to "think without a banister", (once again an expression from Hannah Arendt), without metaphysics or ideologies to support thought and judgement. A condition, however, that should not relieve us from the obligation to think and judge in order to discern good or bad.<sup>6</sup>

It is this obligation to think, so ignored in the present-day

world, that forms the core of responsibility. The English have a word that, unfortunately, cannot be translated directly into Catalan: *accountability*. This is the obligation to answer for what is done, an obligation related to any position of power and from which the media should not be exempt. Being accountable is being answerable for what has been done. To answer one needs to think, value and judge, which is difficult to do from the interested position of someone who is involved. As Arendt says, it must be done from the disinterested and impartial position of a spectator. The figure of the impartial spectator has been a constant in moral philosophy and, more specifically, of the theories of justice. It is doubtful, however, whether the obligation of judging has been taken on board today by the different social agents. The division of work, on the one hand, and the ill will produced by judgement, especially when this is critical, has meant that this obligation is the exclusive task of judges.

Deciding whether judges are the only "spectators" of the public sphere, with the capacity to value, judge and reflect on public discourse, seems to me to be no more than setting up obstacles to democratic participation. All citizens are spectators who receive messages from politicians, from the media and different social agents. For some time now the media have stopped being strictly neutral "mediators" of what other people say, if they ever were. Neither do I believe that they should judge only the role of simple mediators or transmitters of alien messages. What is clear is that they are "involved" in a game and, being involved, they are not in a condition to judge impartially what they are doing. Someone from outside should do this, in a more or less organised way. Audiovisual councils have, among their functions, that of defending citizens and safeguarding their rights with regard to possible attack or transgressions by broadcasters. In this respect, we can see that they have been given the function of an "impartial spectator".

The media are not obliged to be edifying but they must avoid being harmful. In fact, this is declared by all the ins-

piring principles subscribed to by broadcasters in order to carry out their work. Beyond determining whether offensive content is a direct attack on people's rights or not, what programming undoubtedly does, fed by scandal and infamy, is to harm the audience and citizens. It harms citizens because it helps to distort people's moral sense and sense of taste. Systematic outcries, repeated aggression and offensive expressions contaminate the media environment, in the same way that pollution contaminates the natural environment. Verbal violence inevitably contaminates public discourse and at least affects and influences the behaviour of less educated people with fewer resources to judge what is happening. We should repeat here what has been said in the considerations made by the CAC on poor quality television: "Programming that violates or is about to violate fundamental rights, systematically and repeatedly, will probably harm the education of minors. Especially if it is characterised by resorting to language that is gross or virulent or lacking in respect and by dumbing down, as well as naturalising ignorance of the values of community and public spirit that inspire the educational system itself."<sup>7</sup> I believe these are sufficient reasons for us to watch out for the degradation of audiovisual content.

6 Cf. ARENDT, H. *Responsibility and Judgement*, edited by Jerome Kohn, Schocken Books, New York: 2003. Translated into Spanish, see "El pensar y las reflexiones morales". In: ARENDT, H. *De la historia a la acción*. Introducción de Manuel Cruz. Barcelona: Paidós, 1995.

7 CATALONIA BROADCASTING COUNCIL. *Consideracions i recomanacions del CAC sobre la teleporqueria*. Barcelona: Consell de l'Audiovisual de Catalunya, 2006 <[www.cac.cat/pfw\\_files/cma/actuacions/Autorregulacio/recomteleporqueria.pfd](http://www.cac.cat/pfw_files/cma/actuacions/Autorregulacio/recomteleporqueria.pfd)>).