

Debora Shuger

Dirty Laundry



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I will leave the Wissenschaftskolleg tomorrow, like so many other American Fellows, with the happiest memories – of the Kolleg, of Berlin with its wonderful music, museums, and white-gold fall leaves, of Erfurt, Meissen, Weimar, Bautzen, Pirna, Stadt Wehlen, and the Bastei – and a suitcase full of dingy greyish-blue undergarments: the result of a natural failure to remember before doing that first jet-lagged laundry load that 90 degrees Celsius is much hotter than 90 degrees Fahrenheit.

I had come a year ago to work on censorship in early modern England, a project that went back to the mid-1990s, when I began to

be puzzled by why virtually no one up until the late seventeenth century seemed opposed to it in principle; why in the autobiographies, diaries, and memoirs written after the lapse of licensing controls during 1640s, one again and again finds a wish for their reinstatement. From my initial research two things had become clear: first, that between 1558 and 1641 the writings placed under official ban were mostly sectarian hate-literature (sinister conspiracy theories, scandalous rumors about murder, lust, and corruption at Court and in the Church); second, that the laws regulating language were far less concerned with dangerous ideas than with insult, ridicule, false accusation, betrayal of secrets, and in general with words intended to humiliate and hurt individuals. The rules governing language seemed ethical rather than (in the modern sense) political; they were about guarding people's privacy, dignity, and honor from verbal attack; about preserving the King's peace and Christian charity. This was quite different from the received view circa 1995, which viewed Tudor-Stuart censorship as an attempt to suppress ideological deviation or political critique. Some of the forbidden texts I was reading were indeed designed to embarrass or overthrow the government (ecclesiastical as well as temporal), but the language of political opposition was not ideological – not Republicanism or Liberalism – but defamation and scandal-mongering.

And then the Lewinsky-affair broke, an outburst of libelous politics American-style that so closely paralleled my own argument about early modern oppositional writing that I began to feel that I was writing allegory rather than history, and so turned to a different project.

It was only when that project was finished and I had come to Germany that I returned to the question of censorship, not quite sure whether it made sense to try to do this in Berlin. What I thought I needed to look at were court archives, manuscript libels, news diaries, and other unpublished material available only in England. The first months at the Kolleg were disturbing. I started with the forbidden literature printed abroad, most of which was by Roman Catholic exiles attempting to discredit Elizabeth's Protestant regime, since these tracts were the primary target of state censorship. I had skimmed some of this material before, but now reading through one after another detailed exposé of betrayal, fraud, Machiavellian hypocrisy, and court intrigue, I began to feel increasingly off-balance and unsure of what I thought I knew. I found myself convulsively turning to *The Cambridge History of Modern Europe* to reassure

myself about what really happened, for protection against the insidious power of the Big Lie.

One of the most memorable lunchtime conversations I had came out of this. There were a couple of scholars working on Nazi propaganda at the Kolleg this year, one of whom I asked at lunch whether he found himself having to struggle against wondering whether at least some of the texts he was working on might be, if not half-true, then a quarter-true, or even a sixteenth-true. I think the question caught him by surprise because the answer that came back was movingly unguarded. (I should add that the scholar was himself German.) The answer was yes; a yes followed – by way of explanation? justification? – by a listing of fact after fact contained in the propaganda about the sudden rise to wealth and prominence of Jews – German Jews, Russian Jews, French Jews, English Jews, American Jews. Both of us knew with absolute certainty that there was nothing sinister, nothing orchestrated behind this, but as I listened to him I could feel the wave of queasy uncertainty surging up. Too many coincidences. Why? ... It was not an anti-Semitic moment, but rather, for me at least, one of humbling and shuddering recognition of how easily the seed of doubt is planted, of how propaganda works. After the fact – 50 years after the Holocaust, almost 500 years after the Reformation – one can shake off the doubts quickly enough, but before? I began to see why the Tudor-Stuart authorities found the flood of conspiratorial hate-literature so alarming.

The other outcome of all this reading was the personal decision that the Reformation was over, or at least it was over for me. It had been about something in 1517, but by 1580 what divided Catholics and Protestants seemed mostly fears, hatreds, bad memories, and so I started dividing Sundays between the Grunewald Evangelische Kirche and St. Karl Borromäus.

But around Christmas my work changed direction because I stumbled over something astonishing and unexpected. Most Anglo-American scholarship treats censorship as government repression of dangerous ideas, but when I turned to the German scholarship, I found an extensive literature going back to the early 19th century that dealt with the regulation of the press in terms of *Verleumdung*, *Beleidigung*, *Ehrenschutz*. Much of the early modern material cited in this scholarship was virtually identical to my English sources. Moreover, it became clear from the German scholarship that these English sources were based on Roman law (more specifically, on the Roman law of *iniuria*), often Roman law as interpreted and elaborated by early modern continental jurisprudence, both civilian and

canonist. Since English law is supposed to differ from other European legal systems in *not* being based on Roman law, this came as a surprise. It had never occurred to me to look at Roman law. I didn't know anything about Roman law.

The winter was terrific. I felt like a starving boa constrictor ingesting a hippopotamus. Hard work, and not pretty to watch, but fulfilling. The Kolleg library has the 3-volume Mommsen *Corpus iuris civilis* (unreadably small print, but the copier in the basement enlarges), which kept me out of trouble most of January. And then there was, an hour's train ride west of Berlin, Wolfenbüttel, the great (probably greatest) early modern research library, which has virtually every book printed in continental Europe from the 15th through the 18th century. The Kolleg arranged a week's stay. I read through volumes of juristic literature, stuff with titles like *Disputatio juridica de iniuriis et famosis libellis; quam Christo duce sub praesidio clarissimi viri Dn. Johannis Althusii J. U. D. et in illustri schola Nassovica quae est Herbornae, professoris, praeceptoris sui honorandi, exercitii causa in auditorio publico discutiendam proponit Robertus Tybius Clivo-Duysburgensis* (1601), taking notes at top speed on my no-longer-new laptop that made too much noise and, to my deep embarrassment, distracted some of the other scholars. (A potentially useful aside: I was amazed at how few English books the collection had, until somebody suggested that I search for the authors under their Latin names: the on-line catalogue that knew nothing of Robert Sanderson proved more than helpful when queried regarding Robertus Sandersonus. For some reason, I found this very endearing.)

By the end I had written only a third of a book, but I understood the premises and principles structuring early modern English regulation of language: why transgressive language was grouped with both assault and perjury; why a plea of truth was admissible in the civil action for words but not in the criminal or ecclesiastical; why the law focused on intent rather than content; why the Tudor-Stuart regulation of language seems less like censorship and a good deal more like what we think of as libel, slander, and dignitary torts like invasion of privacy.

By the end I had also begun to speak and write the awkward, stiff, but, I hope, intelligible German with which (with no small pride) I will finish this report: Seit zwölf Monaten befaße ich mich mit den Gesetzen und Grundsätzen, welche im frühmodernen Europa die Sprache regelten. Im Moment scheint es mir, dass es davon vor allem zwei Arten gab. Beide leiteten sich vom römischen Recht ab

und sind durch die Werke der Zivilrechtler und Kanonisten des Mittelalters entwickelt und vermittelt worden. Sie sind allerdings ganz unterschiedlich. Die eine kam von den Gesetzen gegen die Ketzerei und zielte darum auf die Unterdrückung von angeblich gefährlichen oder falschen Auffassungen. Die päpstliche Bücherzensur der Gegenreformation fußte unübersehbar auf diesen Gesetzen, die auch schriftliche und bildliche Obszönität verboten. Die andere Art stammte auch aus dem römischen Recht, in diesem Fall aber aus dem Gesetz zur *iniuria*. Buchstäblich bedeutet *iniuria* Verletzung, aber der Begriff umfasst nicht nur körperlichen Schaden. Den Römern nach gehören Angriffe auf Ehre und Ruf auch zur *iniuria*, weil diese als eine Verletzung der Persönlichkeit wahrgenommen wurden. Aus diesem Grund wurden Verleumdung, üble Nachrede usw. als *iniuria* angesehen. Jene europäischen Gesetzssysteme der folgenden Jahrhunderte, die das *iniuria*-Gesetz übernahmen, regelten die Sprache, um Personen gegen böswillige Verleumdung, öffentliche Beleidigung und den Verlust ihres sittlichen und gesellschaftlichen Ansehens zu schützen. Nach diesen Gesetzen macht es keinen Unterschied, ob die Worte wahr oder unwahr sind. Ein englischer Jurist erklärte es so: Eine Frau hätte sich nicht darüber geärgert, dass man von ihrer roten Nase redete, wäre sie nicht wirklich so. In diesen beiden Arten von Zensur fällt die Abwesenheit von Begriffen wie Presse- oder Redefreiheit auf. Vom Standpunkt der Ketzergesetze aus könnte eine solche Freiheit nur als Erlaubnis, wenn nicht Einladung erscheinen zu irren – und andere irrezuführen. Vom Standpunkt der *iniuria* aus hat man dasselbe Recht, die Ehre seines Mitmenschen mit Spott herabzusetzen wie (um ein Beispiel aus dem römischen Recht zu entlehnen) jemanden mit einem Stock ein Auge auszustechen.

It is the 29th of August. I am the last Fellow to leave. Two days ago, the temperature suddenly dropped, and it is cool now. The leaves on the chestnuts across the lake have begun to turn. Ade, auf Wiedersehn.