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IN ADDRESSING POLICE OFFICER BEHAVIOR

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ABSTRACT

This dissertation examines how ethics, law, and technology are used to control the behavior of people and in particular how technologies such as video cameras are used to control police officers. In addition, the teaching of ethics to police officers is studied. The use of technologies as control devices will be compared and contrasted with the teaching of ethics to police officers. The thesis of this study is that in current society there is a greater reliance on technology to control the behavior of police officers than on the teaching and reinforcement of ethics. This study assesses which method is most effective at controlling behavior and how the two could work together to achieve the goal of producing ethical behavior in police officers.

This is a qualitative study and it will be done by an examination of the literature of the field and by an analysis of research conducted on the effects of video cameras on human behavior. Research into the teaching of ethics to police officers is also studied to assess the frequency of such training and its effectiveness.

This dissertation argues that while in Classical Greece the emphasis was on character education and ethics with control coming from within the person, ethics and law in the West have become increasingly rationalized with the shift in emphasis to controls from outside the person. This is manifested in the growth in law in modern society and the proliferation of technology, such as video cameras, that are used to guide human behavior while the emphasis on character education has declined.

The concept and theory of the Panopticon as theorized by Jeremy Bentham and Michel Foucault will be analyzed for its contribution to this study. Both saw the

Panopticon as the “all seeing eye” which would lead people to proper behavior under the conception that they were always being watched. While it is believed by some that modern society has become the Panopticon as envisioned by Foucault, others disagree, arguing that while there has been a growth in video surveillance, it has not achieved its stated purpose. Those arguments are analyzed in this study as well.

PREVIEW

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PREVIEW

CHAPTER I

INTRODUCTION

This study examines the relationships between law, ethics and technology as a means of social control. The research question asks how ethics and technology can and do work together to control human behavior. Specifically, in this paper, the behavior of police officers will be examined. The focus is how ethics, law, and technology are used as tools of social control, specifically as to how they are used to regulate behavior. The teaching of ethics in early societies had traditionally been the way in which people sought to control the behavior of its members. Law is considered a form of social control and its use over the years has been for the behavioral control of people, specifically to guide them into following the norms of society. Technology is now becoming an increasingly accepted way for society to monitor and coerce people into following the accepted norms. This study will look at social control historically and maintains that society has moved from ethics to law and now technology in its efforts to control and guide the behavior of people. In addition to the jurisprudence view, law, can be viewed as an organized body of knowledge for practical results, such as the control of human behavior. Law may be considered a technology when viewed in this manner, and many legal philosophers have looked at it in that fashion.. A particular technology, namely electronic surveillance used as a means of social control, will be examined ethically, historically, and socially. This study will move from the general to the specific and will focus on how electronic surveillance is used to attempt to control the behavior of police officers. While other research and studies have focused on the privacy aspects of surveillance technology, this is not the purpose of this study which will concentrate on issues already stated.

Statement of the Problem

The problem of how to control the behavior of human beings has plagued humanity since people have come together in communities of all types. There has always been a need for rules of some sort in order for people to live and work together with some semblance of harmony and cooperation. It was recognized early that each person cannot do as they please since this could lead to harms, disharmony, chaos, and disorder. Early societies, and even small societies in more contemporary times, have simply relied on mores and folkways to ensure this cooperation. As societies have become larger and more complex, new methods had to be found to compel people to follow the norms of society. In the time of the Classical Greeks, for example, while there were laws for that society, the emphasis of many of the thinkers was on ethics and moral philosophy. It was felt that internal controls were the best way to ensure proper behavior. If this failed, then there would be law. As time has passed, law has become more formalized and more encompassing in an increasing need to regulate the lives of people. In the process, the role of ethics has declined. Some Western societies in the past decade or so, including the United States, have been turning to the use of technology to control human behavior. This technology includes audio and video surveillance, satellite surveillance (GPS), information management, and computer monitoring.

The research question for this dissertation; “How do ethics and technology work together to control human behavior, specifically the human behavior of police officers,” also sums up the statement of the problem which is, essentially, what method, or combination of methods, is best in controlling the behavior of human beings? As stated above, this is a problem that people have wrestled with for centuries. Unfortunately, the

methods used to control people have never really been subject to rigorous study to see what works. A look at moral and legal philosophy throughout history reveals a plethora of theories, often with criticism of past theories and sometimes argumentation as to which is best. The response to disorder and issues of control in contemporary society has been to enact more laws in governmental settings and to issue rules and regulations in non-governmental situations. Now, technology is being used to supplement law and rules in an effort to enforce compliance. In the history of humanity, the control of human behavior has moved from the internal, the teaching of ethics and morality, to external control in the form of rules and laws and in the present day to technology. These methods have sometimes been used in conjunction with one another. For example, the Classical Greeks viewed the law and ethics as similar and often merged the two. But, more often the case is that one method will be chosen to the exclusion of others. This, however, begs the question of which would best control human behavior. For example, when dealing with the issue of racial profiling, many police departments respond by stating that they will install video cameras in the police cars as a method to check the problem instead of trying to teach officers to act ethically and to raise awareness of issues of human rights and of fairness and justice.

The purpose of this dissertation is an attempt to answer the above question. A historical analysis of ethics, law, and technology as they are used to control behavior will be conducted with an eye towards discerning which method is superior or how they should be used in conjunction with one another. Recent studies and surveys of the use of technology, primarily video surveillance, both in public areas and in police cars and police stations, will be analyzed to gauge their effectiveness as tools of control. Studies

and surveys of ethics education of police officers will also be analyzed for the same purpose. The methods will be compared and contrasted with the desired goal of determining their effectiveness. This dissertation will attempt to seek a synthesis of internal and external controls to see if the needs of society can be better met.

It is believed that this research is both significant and important. It is in the best interest of society and necessary, if we are to live together in any type of community, that people conform to the norms of that community, both the written norms as well as the unwritten ones. Trying to achieve this goal has been a concern of society almost since humans came together in communities. Much has been written over the years concerning moral and legal philosophy and the field of sociology has been concerned with the study of social control of people. But, much of this literature is focused on which moral theory is the best, historical study and analysis of the law, as well as with theories of punishment for failure to apply the rules. Sociology and social control studies tend to look more at deviant behavior and why people are deviant rather than what is the best method to get people to conform to the norms of a group. There is little in the literature as to which is superior, internal or external controls, to compel people to be of good character, i.e., those who willingly follow the rules because it is the right thing to do.

The advent of technology into the realm of control of human behavior adds another dimension to the discussion. Both governments and private sector institutions have been quick to adopt technology for this purpose of guiding and controlling human behavior. This technology is usually in the form of audio or video surveillance, the surveillance of data (dataveillance), the monitoring of computers, or satellite surveillance via GPS. While everyone has been quick to jump on the technology bandwagon, few studies have

been conducted on its effectiveness, and virtually none have compared the use of technology to other methods of control. In England, there have been some studies done on the effectiveness of video surveillance in public areas in the reduction of street crime which will be covered in later chapters. This topic is significant because it will attempt to ascertain whether technology should stand alone as a way to control human behavior.

This research is important for another reason; it will move from the control of the general population to look specifically at video surveillance applications in policing as they are used to control the behavior of officers. The issue of how to ensure that the police behave in a professional and proper manner is one that has been of concern since the inception of the modern police, which is generally agreed began in England in 1829 and coincided with social developments and changes caused by the Industrial Revolution. The police in the US have been plagued by allegations of corruption, brutality, and racism since their founding in the 19th century. Over the years there have been numerous commissions, both federal and local, that have investigated these issues resulting in concomitant calls for reform originating from them. It wasn't until the 1960's, with the results of President Lyndon Johnson's Commission on Crime and Disorder to study criminal justice, that efforts to train and educate the police really began to be formalized. However, the same issues remain. Numerous approaches to control police corruption, misconduct, brutality, and racism have been tried over the years. These approaches have ranged from tightened internal affairs controls to citizen review boards, grand jury investigations, improved hiring methods, increased supervision, and federal consent decrees. The latest call has been for the use of video cameras in police cars and police stations, with much of these efforts being funded by the federal government. While there

has been much discussion given to increased ethics training efforts, this report will attempt to show that this has not been the reality because the training is either not done, or done haphazardly, and issues of police misconduct continue to arise.

The behavior of police officers is of concern for society for very important reasons. The police exercise a great deal of discretionary power over citizens. In spite of Constitutional and statutory limitations on that power, there is often little in the way of checks on how that power is used. The police have the power to deprive people of their liberty and, sometimes, their lives. Police officers have the discretionary authority to decide who to stop, when to stop, who to arrest, who to search, which laws to enforce, and of course, on the other side, who not to stop, search, arrest, etc. Police work is often called low visibility work because the police work at times and in places where there may not be any witnesses to what they do or don't do. This is coupled with the fact that many police officers work alone, and supervisors are spread too thin to closely monitor what officers are doing and to see how they make their decisions. Another phenomenon in policing is the "code of silence," when police officers will not turn in or testify against other police officers, even when they know that they are doing wrong. Police officers who are of poor character and who are not closely supervised, therefore, are in positions where they are free to act in a corrupt manner or to mistreat the people that they are supposed to be protecting. It is believed that the research and findings of this dissertation will add significantly towards answering the question of how to best control the behavior of police officers.

Relation of Humanities and Technology to Research

The goal of the Salve Regina University Ph.D. Program is to attempt to answer the question: “What does it mean to be human in an age of advanced technology?” (Lappin and O’Connor 1998, 2). In order to answer this question, an interdisciplinary approach that combines humanities studies with those from other disciplines is taken. The goal is to “gain a wider perspective on how technology has and will leave its mark on people, society, and the environment” (Ibid.). It is hoped that through this process students will move towards an understanding of the human implications of technology and how it will affect the human condition. Toward that end, the dissertation must be a study of the synthesis of technology and the humanities, addressing the effect of technology on the human condition.

The humanities are defined by Otto Bird as deriving from the word “human,” and he said that they “serve to determine an area of concern, interest, and inquiry that centers upon man and all that is distinctive and characteristic about him, his common humanity” (1976, 162). The humanities are “open to all human experience through the ways of awareness available to men” (163). This is what sets the humanities apart from the sciences. Eugene Lappin and Antony O’Connor define the humanities as the “study of the qualitative aspects of human life” (1998, 4). The National Endowment of the Humanities defines the humanities as a group of academic disciplines that include the following: history, literature, philosophy, ethics, languages and linguistics, jurisprudence, arts, comparative religions, and those aspects of the social sciences that use historical and interpretive rather than quantitative methods (National Endowment of the Humanities, n.d.). The Massachusetts Foundation for the Humanities defines the humanities as “a way

of thinking about and responding to the world – as tools we use to examine and make sense of the human experience in general and our individual experience in particular” (Massachusetts Foundation for the Humanities, n.d.). The humanities are concerned with the complete record of human experience, including the assessment and interpretation of it (Ibid.). It is through a study of the humanities that we seek to understand humanity, its place in the world, and how to make it better.

The humanities are said to “center on the concern for human individuals: their emotional development, their moral, religious, and aesthetic ideas, and their . . . growth as rational and responsible members of the community” (Lappin and O’Connor, 75). The Massachusetts Foundation for the Humanities said that the humanities not only enrich us, they are also socially useful because they enable us to not only look at issues in a critical fashion. The humanities also assist us in looking at the values that are at stake when addressing these issues. The humanities are valuable to humans when confronting the issues of the day because they help us to view these issues in light of their impact upon humanity and assist us in making enlightened decisions. The study of the humanities gives people a broader perspective of the world, helps them to see things differently, and often allows for greater creativity in seeking solutions to problems.

It is important to understand what is meant by technology, because there tends to be confusion as to what the term signifies as technology has taken on added significance in our lives. Several definitions of technology have emerged in modern times and they all appear to have common elements. Galbraith described technology as “the systematic application of scientific or other organized knowledge to practical tasks” (1985, 112). Ian Barbour said that technology was “the application of organized knowledge to practical

tasks by ordered systems of people and machines” (1993, 3). The Salve Regina University Ph. D. Program defines technology as the “organization and institutionalization of knowledge for practical purposes” (Lappin and O’Connor 1998, 4).

Langdon Winner used Jacques Ellul’s definition of technology in his works. This definition, “the totality of methods rationally arrived at and having absolute efficiency in every field of human activity,” was the foundation on which he built his theory (1977, 9). Technology “points to a vast, diverse, ubiquitous totality that stands at the center of modern culture,” and it “includes a substantial portion of what we make and what we do” (Ibid.). Technology and *technique* are derived from the Greek *techne*, which means art, craft, or skill. Winner notes that, since early times, *technique* has been differentiated from other forms of human action “by its purposive, rational, step-by step way of doing thing” (10.).

A common element to all of these definitions is that of knowledge as being organized and applied to practical tasks or purposes. Defining technology as practical knowledge allows for the inclusion of technologies that are based on practical experience and does not limit it simply to machines. It allows for the inclusion of tasks and functions based on rationality and applied to different processes. Technology, when viewed in this fashion, implies a “mechanistic” type of thinking which can be applied to many rational activities and organizations in the modern world (Consider Weber’s bureaucracy). Modern law can be viewed as “mechanical” or “technical” because it is often thought to be applied in a “rational,” mechanistic fashion.

At least two definitions mention people in them. This is important since the use of technology not only involves people; they are also affected by its use. Therefore there is a

human element to technology. Ellul and Neil Postman note this effect of technology on humanity. In his discussion on technology, Postman described technopoly as “a state of culture” (1992, 71). This means that culture (society) “seeks its authorization in technology, finds its satisfaction in technology, and takes its orders from technology” (Ibid.). Ellul had said that since “*technique* has become the new milieu, all social phenomena are situated in it” (1990, 60). It is Ellul’s argument that all social concepts are modified by technology. Ellul tends to take a deterministic view of technology in which he believes that people are subordinate to it. He argues that people today have “adapted” to this technological milieu, and their ideas, beliefs, judgments, and myths have already been modified by it (Ibid.).

In a technological world, all of human experience is affected. Even without the adoption of the deterministic view of technology, it is difficult to argue that humanity has not been affected in some way by it, and not always for the good. There are also some who believe that technology is the panacea for all of the problems that face us, discounting the fact that sometimes technology causes the problems. Often the problems that confront humanity are very “human” problems that defy technological solutions. The specific technology addressed in this paper is that of electronic surveillance of people, specifically as it is used to control human behavior. The “mechanistic” application of rules and laws to control behavior are also discussed. While a holistic and interdisciplinary approach to the humanities is best applied to human problems, the specific humanity to be discussed here will be ethics, specifically the teaching and application of ethics to human behavior. Michael Josephson defines ethics as “A code of values which guides our choices and actions and determines the purpose and course of

our lives” (Josephson Institute for Ethics, n.d.). Simply put, ethics is the study of the standards of right and wrong. Rather than a philosophic discourse on moral philosophy, this paper will focus more on practical, applied ethics as a guide to proper behavior of people, with much of the focus being on character ethics. Applied or professional ethics, is the study of ethics applied to particular situations or professions, in this case, the police. The development of ethical theory in the West is explored, with much attention given to the character, or virtue, ethics of the ancient Greeks and its application in the modern world. Legal theory and how it has become more mechanistic in modern times is also discussed. The importance of moral character and ethics training of police officers is finally examined.

Methodology

The research methodology for this dissertation is qualitative, with greater reliance on evidence presented in words than on quantitative measures. The focus of this research is on applied ethics, the moral development of the person, and methods of social control, to include law and technology. This qualitative research will look more to the description of phenomena than it will the testing of hypothesis. The focus will be on “explanation and interpretations of human actions and motives” (Lappin and O’Connor, 45). Qualitative research is said to “be a form of social inquiry that focuses on the way people interpret and make sense of their experiences and the world in which they live” (Holloway 1997, 2). The foundation for qualitative research is in the “interpretive approach to social reality” (Ibid.). Qualitative research rests upon the examination of processes and meanings that may not be sufficiently described by the use of quantitative methods (Gittens, 2007).

Rudestram and Newton said that qualitative research methods share three “fundamental assumptions” (1992, 32). Qualitative research takes a holistic view in that the whole is viewed greater than the sum of its parts. The goal is to understand phenomena in their entirety in order to gain a complete understanding of the program or situation being researched (Ibid.). The second assumption is that qualitative research takes an inductive approach, that is, it begins with specific observations and moves towards the development of general patterns. Finally, it is naturalistic in that phenomena is understood in its naturally occurring state as opposed to experimental research which uses controlled conditions (Ibid.).

This study involves hermeneutics, which is described as “the interpretation of texts or transcribed meaning” (Rudestram and Newton 1992, 33). This approach to data is “used to gain a better understanding of the context that gives it meaning” (Ibid.). When using this approach it is often necessary to return to the texts many times to reexamine the data in order to understand what it means. Rudestram and Newton feel that this approach is applicable to all study of human action where the action is treated as if it has “textual structure” (35). What makes hermeneutics different from other approaches is the belief that particular activities can only be understood in conjunction with understanding the context it in which it occurs (Ibid.).

The focus of this study is “on the interpretation of meaning and values” as they relate to ethics and technology (Rudestram and Newton 1992, 41). The specific focus of this research will be on how ethics, law, and technology are used to control the person, and particularly how ethics and technology work together to ensure that police officers act in an ethical fashion. This fusion of ethics and technology is important because many feel

that one can be used without the other to achieve results. For example, video cameras are placed in police cars to monitor officer behavior. It is often believed that this can replace ethics training. The problem, as some research shows, is that officers may sabotage the equipment to do what they want regardless of the morality or legality of the action. This study aims to show that the two can, and should, work together to ensure the ethical behavior of police officers. This is also important because police officers possess power and authority over the citizens that they police. In addition, they have a great deal of discretionary authority in how to use that power and authority. It is important that this power and authority be used ethically, and there must be methods in place to ensure that this occurs.

The methods used to control human behavior are studied with a focus on development from ethics to law, and now technology as society has progressed. The manner in which people develop morally, as well as moral education, is also examined. This research will move from a general discussion on ethics, law, and technology and their uses in society to their particular uses in the control of police officers. This will employ various fields of literature, including ethics, moral philosophy, jurisprudence and history of western law, philosophy of technology, social control, Panopticon studies, psychology of moral development, ethics education in policing, surveillance technology and applications of surveillance, and surveillance in policing. This literature is from books, journal articles, newspaper stories, magazine articles, Internet based articles, web sites, and related dissertations. In as much as possible, primary authors are consulted to protect and verify the integrity of material presented. Some of the material and information comes from government organizations such as the National Institute of Justice, the Bureau of Justice

Statistics, and the Office of Community Oriented Policing Services. Other information is from private organizations such as the International Association of Chiefs of Police, the National Institute of Ethics, and the Southwestern Law Enforcement Institute.

Additional information used in this study is from surveys and research studies, as well as a research survey that was carried out specifically for this study. Many of the surveys and research studies refer to the effectiveness of the uses of surveillance for control purposes, and of the teaching of ethics in policing. As there has been a great deal of research in England on the effectiveness of video surveillance in public places, while little has been done in the US to date, this study will not be limited to the US. Some of this research will be examined, and its relevance to the US will be extrapolated. England has far greater use of video cameras in public spaces than does the US, and its use appears to be generally accepted by the populace while that is not always the case in the US. The majority of these studies have been conducted by academics and academic institutions with some commissioned by the government. The relevant, although limited, US research is also examined.

There have been some surveys on the use of video surveillance in police cars and police stations, but little research as to its effectiveness. Much of the information as to its effectiveness as a control tool is anecdotal, and it will be analyzed in that light. Other technological methods that are being used to control police officers are touched on, such as Global Positioning Satellites (GPS) and control through information management. However, little research has been done specific to these technologies, and inferences will have to be drawn from writings in these areas. There have been numerous surveys and studies conducted on the teaching of ethics to police officers. These studies have focused

on how much time was devoted to the topic, course content, instructor qualification, and the best method of teaching ethics. These studies, as well as a survey that was conducted specifically for this dissertation, are analyzed, compared, and contrasted. While many surveys on the teaching of ethics have been conducted, little attention has been given to the results. This research attempts to fill that void.

Review of the Literature

In researching this dissertation a comprehensive review of the literature was done. This literature review was conducted by researching databases available through several different libraries, searching the libraries themselves, through research on the Internet of public databases and various educational, governmental, and institutional web sites. The research was not confined to any one medium. Books, journals, newspaper, professional publications, magazines, dissertations, and web based material were consulted. The purpose of the Literature Review is to see what has been written and discussed in the fields under study as well as to compare and contrast the various writings to look for areas of agreement and disagreement and to draw conclusions and ideas that may not have been previously reasoned out. In this section selected literature will be reviewed to give the reader some background on the issues covered in the dissertation. Much of the literature is covered throughout the dissertation as it is embedded throughout the discussion. A Review of the Literature section is included in the Appendix for the convenience of those who may wish to consult it in one place and for a more detailed, comprehensive review than might be provided here.

In *Legal Theory*, Wolfgang Friedman presents a discourse on the various aspects of legal theory (1967). Of particular interest is how he explains the concepts of law and

ethics, which he does in terms of three characteristics. First is the coercive aspect of the law; it must have a source of authority and the sanctions must be enforceable. Next, the law must be accepted by the community. Usually this is because the law is an outgrowth of customs or norms of the community. Finally, in order to control human conduct, there must be rules, which become the legal norms. In defining the concepts of ethics and social morality, Friedman makes a distinction between the two. Ethics is presented as the ideal form of life set out by individuals for themselves, while social morality, on the other hand, consists of rules or principles that govern human behavior and apply to a community or class. A minimum conception of morality entails those rules which are necessary to keep society together. Friedman argues that these three, law, ethics, and social morality, are related to each other, and in fact, function together. If this were true, it would counter the argument that law is concerned with external conduct while morals are concerned with internal conduct. These two realms, he states, are fluid and interrelated.

Harold Berman, and others, in *The Nature and Function of Law* argues for a sociological perspective of the law (1996). For Berman, law serves a social function, which is to hold society together. In leading up to this perspective he discusses three main previously held views of the law. First, he considers the theory of natural law, in which law and morality are closely intertwined. Next, he examines the view that the law is a neutral body of technical rules, a position known as legal positivism. Finally, he focuses on the perspective that law is a reflection of the norms and customs of a particular society.

Taking a functional approach, Berman defines law as a social institution. In this approach law takes on several roles. First, when people act badly, law is needed to deal with social misbehavior. In this view, law contributes to the maintenance of the social order. Second, the law serves to restore equilibrium when it has been disrupted. Finally, the law helps teach people what is right in that society. Berman considers this last perspective the most important because of the complexities of modern society, including the growing significance of advanced technology.

In *Social Control Through Law* (1942), Roscoe Pound adopts a sociological perspective of the law and contends that its purpose is for social control. In his argument, Pound looks at the development of society and of rules to control human behavior. His premise is that rules developed because men must first control their inner nature before they can gain control over their environment (17). Cooperation is necessary to achieve this goal; therefore, rules develop to ensure this collaboration. In kinship societies, this control was achieved at the clan level and was rather informal with religion playing an important role (21). As society grew more complex, social control was secularized and fell increasingly under the realm of the state where it is exercised control through the law (25). In fact, Pound argues that law has “become the paramount agency of social control” (20). Law and the state have even intruded upon family life, diminishing its realm and importance. The purpose of law, in this view, is to keep peace and harmony in society so that civilization may advance itself (53-54). In spite of the growth and importance of law in modern society, the family, religion, and education are still necessary so that people may be educated in proper behavior (25). Without this formation, it will be difficult to achieve voluntary obedience to the law.

In a paper presented at Harvard University in 2001, Steven Shavell examines the differences between law and morality as tools to channel human behavior. Shavell discusses the situations in which each applies, separately and together, and why. In some situations morality alone is sufficient to control behavior, whereas in others it must be used in conjunction with law. Finally, in certain instances law alone is used to regulate a behavior or activity. Shavell outlines the reasons for each category. Next, he discusses different types of sanctions associated with law and morality, as well as the benefits and shortcomings of each. Shavell concludes the paper by looking at the relationships between law and morality, arguing that there are some situations in which law is more important than morality, and others in which morality is superior to law (2001, 21-31).

Bryan Wilson traces the evolution of morality from early times to present society in "Morality in the Evolution of the Modern Social System" (1985). Wilson states that there are three phases of moral development, which coincide with three periods of societal development. In each of these phases, he looks at how technology changes society, which in turn influences morality. It is his argument that technology loosens the bonds of society and the traditional role of morality diminishes. In the first phase of society, moral norms are necessary to hold society together. As society evolves, morality and its norms change. It is on the last, or technological, phase of society, however, that Wilson concentrates his discussion. Technology causes many changes in society in this period and among them is decline of morality. The moral character of the person is no longer viewed as a public good, and the ordinary family spends less time in the teaching of morality. Because of the decline in morality, external means are needed to regulate