



## CENSORSHIP IN INDIA VIS-À-VIS FREEDOM OF SPEECH: COMPARISON OF THE EXTENT OF CENSORSHIP LAWS IN INDIA AND ABROAD

<sup>1</sup>Priyanka Ghai, Dr. <sup>1</sup>Arnind P Bhanu

<sup>1</sup>Amity Law School Noida, Amity University, Sector-125, Uttar Pradesh, India-201313

Email: [priyaghai16@gmail.com](mailto:priyaghai16@gmail.com), [apbhanu@amity.edu](mailto:apbhanu@amity.edu)

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### Abstract

With the current outrage at the arbitrary method of censorship applied by the board of film certification in India, it was pertinent to understand and take a closer look at the methods and principles which guide the method of censorship in India, this is also an attempt to understand why censorship is a vital tool to ensure peace and unity in India. The paper also looks at the past and present of censorship, in the form of how it came to be, why it came to be and also what role it plays in society today. In order to get a bigger picture of censorship an attempt has been made to understand censorship in the United States of America, which is a champion of democracy and also in the People's Republic of China which uses censorship to shepherd its populace in the other direction. The effects both schools have on censorship have been explored in this paper. India being a mixture of both influences has the right to expression subject to certain instances and therefore must understand that even though the right of free speech is indeed a requirement in these times and places, but why censorship as a necessary evil as well in India.

**Keywords:** Censorship, Freedom of Speech, India, The United States of America, People's Republic of China

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### INTRODUCTION

"Censorship is when a work of art expressing an idea which does not fall under current convention is seized, cut up, withdrawn, impounded, ignored, maligned, or otherwise made inaccessible to its audience."

-Ritu Menon, for Women's World Organisation for Rights,

### Literature, and Development

The repression or control of ideas, free communication and information circulated within a society is termed as censorship. The right to freedom of speech and expression is guaranteed by the Constitution of India under Article 19 of the Constitution of India, the only catch being that such modes of expression may be suspended if it is objectionable, harmful, or required to maintain communal harmony. Since time immemorial from the Greek republic to the Papal States to the current modern form of Government, censorship has been wielded as a tool to battle any unwanted form of expression which may cause disruption of the working of the country. Certain governments, like India for instance provide for certain limited protection against censorship, whereas countries like USA and China are on opposite sides of the spectrum. While one upholds the sanctity of freedom of expression to a fault the other views as a privilege for a select few in order to protect the security and integrity of the nation.

A classic example of censorship in India is the Central Board of Film Certification (CBFC) which comes under the purview of Ministry of Information and Broadcasting. The Board regularly instruct, direct to eliminate anything it deems offensive or subjects considered being politically subversive. The Cinematograph Act, 1952 governs the censorship of films. It assigns various certifications such as Universal, Adults, and Parental Guidance to films in India before public exhibition.

Globally, the greatest concern of censors is the portrayal of violence and sex. The job of censor board is to control the "corruption of the mind" and to stop pornographic films. But on the other side, it is reality of today that anyone with internet access can see pornography easily available. Today a youngster with internet access can watch all kinds of pornography by using

three letters "sex", while the censor board are still on long discussions for the permitted duration of a kissing scene in a movie.

The Constitution of India provides the right to freedom of speech and expression with certain restrictions that is morality, decency, public order etc. Further, the Indian Penal Code (IPC) allows cramping free speech on grounds of outraging religious feelings, making statements creating or promoting enmity, hatred or ill-will between classes on grounds of caste, religion, language or race.

These laws are so broadly classified that cases can be impossible to invalidate, because it is difficult for a judge to take the view that some of speech does not promote hatred between groups. There is no chance that these laws can be struck of the legislations. Politically, nobody will do it, because we have such a huge vacuum of leadership that nobody has the guts to step up and suggest such changes.

Lately the movie "Love, Simon" was banned from India. India's censor board has denied banning "Love, Simon", an iconic American movie with a gay protagonist, and accused the producers of creating a controversy to attract viewers.

Vani Tripathi, a member of the Central Board of Film Certification (CBFC), told Outlook over the phone that the CBFC had cleared the film on February 6 with an adult certificate. LGBT rights activists have been accusing the CBFC, a statutory body under Ministry of Information and Broadcasting, of putting a ban on the movie because of its subject, considered taboo by many in India.

With the recent over turning of the judgement relating to section 377 of the Indian Penal Code is it fair to say that there is a need of change of perception in the eyes of the CBFC? Movies such as UDTA PUNJAB and MOHALLA ASSI are more relevant and recent examples of censorship being wielded unfairly to silence issues of great importance to the nation as a whole however, films are not subject to only nation-wide cuts but also regionally with movies such as PADMAAVAT and JODHA-AKBAR coming under fire from various extreme groups causing the movies to be either delayed or various portions cut to appease the various fringe groups.

The question therefore lies where does reasonable content end and objectionable content begin? It further begs the question what rights (fundamental or otherwise) does a filmmaker have in the pursuit of protecting his movie from unfair and undue banning or cuts from the film board in question?

### **History Of Censorship- A Look At The Changing Need For Censorship**

Censorship is a practice being carried on since ancient times, earlier censorship was done of books, plays, pamphlets, songs and paintings in order to regulate the norms and practices followed during the era with respect to dressing, self-expression, religious observance and any deviation from norm was considered to be taboo if not heresy. Censorship was a mode of enforcing the prevalent orthodoxy in a community or area.

The Greek thinker Plato was the first thinker of note formulates a rationale for intellectual, religious, and artistic censorship. In his ideal state outlined in "The Republic", official censors would prohibit mothers and nurses from relating tales deemed bad or evil. Plato also proposed that unorthodox notions about God or the hereafter be treated as crimes and that formal procedures be established to suppress heresy. Conceivably the most famous case of censorship in ancient times is that of Socrates, sentenced to drink poison in 399 BC for his corruption of youth and his acknowledgement of unorthodox divinities. It is fair to presume that Socrates was not the first person to be rigorously punished for violating the moral and political code of his time. This ancient view of censorship, as a benevolent task in the best interest of the public, is still upheld in many countries, for example China. This notion was advocated by the rulers of the Soviet Union (USSR), who were responsible for the longest lasting and most extensive censorship era of the 20<sup>th</sup> Century.

Freedom of speech in Ancient Rome was reserved for those in positions of authority. The word censor has been taken from the Latin verb *censere* which means to assess or estimate. During the Roman period the power of the Regimen *Morum* or Roman Censor grew to a level that it became the supreme arbitrator of manner and morals, they held the power to shun or ban anyone found to be in deviation. No one was safe from the Censor and commoner and noble alike was held accountable for any deviation in morals or manner. Almost 2-3 percent of Roman Senators fell from grace on account of the Regimen *Morum*.

During the 19<sup>th</sup> Century caricatures and plays were the subject to state-imposed censorship and had to work under such conditions as allowed by the government. The French revolution was one of the major political events of the century and censorship was rampant during that era in order to maintain a hold on the people. During this era people were still highly uneducated and pictorial representation specially caricatures were a powerful means of floating ideas and sentiment among the people. The constant shifts in power mixed with the rise of a fledgling democracy saw censorship being use on newspaper and artists. Fines and imprisonment were often used on such people for "press" crimes.

Censors prevented the distribution of prints that were considered harmful to "religion, the general good and the peace of the State, and the purity of morals." Political prints from England were also seen as a threat and attempts were made to stop them before they entered France. But this ban on imported prints had limited effect and a large black market developed for English engravings. During the Napoleonic Era only a few newspapers and artists were allowed to function. However, the end of that era multiple news houses opened up for business.

The First and Second World war saw censorship be given free reign and was used as a source to either boost the morale or cause fear amongst the people. Though not many advances were

made in the First World War, the Second World War saw the rise of the Ministry of Information in Britain which would be responsible for the issue as well as the censorship of news. Newspapers worked on the principle of self-enforcement and a balance of freedom of speech and national security was to be kept in mind. The article was to be passed on to the Ministry prior to publication. Once it was allowed by the ministry and bore its seal then the newspaper was allowed to run it.

Similar to the Ministry of Information in Britain, the Propaganda Ministry of Germany run by Dr. Joseph Goebbels was infamous for its smear campaign against the Jew populace and was a pioneer in the use of cinema to boost morale and glorify the cause of the Nazi party worldwide. News and media were more of a weapon of psychological warfare then a means of information. It is important to note the use of the Golden age of Cinema as a mean of propaganda during this era; censorship was used to glorify the cause of both the axis and allies.

The Red Scare during the 1950-1980's saw the arbitrary use of censorship in film and media and any deviation from a democratic or republican way of life resulted in arrest. Communism or any Communistic sentiment was punished with imprisonment and fine. This era saw the two superpowers (United States of America and U.S.S.R) greatly wield censorship as a weapon to further their cause and way of life; censorship was finally used as a means to impose control on the ideas and expression of citizens.

The use of censorship as a means of limiting the spread of information is till date continued and kept in practice, though it has been relaxed in democracies throughout the world, India still adheres to a structure which is in need of a dire change and requires a change of perspective from a narrow, conservative one to a more accepting and liberal one in order to benefit filmmakers of the present, to vindicate the artists of the past and to provide an incentive to the filmmakers of the future.

### **Rationale: The Need For Censorship And Free Speech**

In order to better understand what censorship is, there is a need to examine the need and rationale behind the word and to remove the stigma thereby in order to achieve an unbiased meaning of the word and the rationale behind it.

Censorship is an amalgam of various interrelated concepts amongst which the most prominent being free speech, it is the ability to express or articulate one's ideas freely without any limitation or interference. This meaning has over the years been given a broad interpretation and now includes speeches, music, movies, artistic works etc.

These are the various types of censorship which are exercised in a society or a country and one of its major goals is to ensure the suppression of free speech on the grounds that such expression is offensive or harmful to the public. In order to better understand the need for censorship it is pertinent to understand the need for censorship as well as free speech.

The following are arguments based around the need for free speech and censorship respectively. The need for free speech maybe justified in the following:

The first justification is that in order to showcase a thriving and proper functioning democracy it is important to have a healthy and broad level of free speech. It further provides a scope for ideas to be floated amongst the masses and stimulates the minds of the people and provides a stable environment for intellectual discourse and debate. It allows for the criticism of public policy from various perspectives and provides a valuable amount of feedback to the lawmakers. Free speech acts as a sieve through which ideas good and bad can be sifted through and better legislation maybe enacted in the right spirit of democracy.

The second justification for free speech is in the search of truth. One of the first proponents of this argument was poet John Milton who promulgated that "Where there is much desire to learn, there of necessity will be much arguing, much writing, many opinions; for opinion in good men is but knowledge in the making". According to Milton that where there is knowledge there will be a scope of healthy debate, this in turn will test the boundaries of the said knowledge and define its scope, the quest of truth will break boundaries and lead to more discovery thereby leading to more debate and search. Milton further add, New ideas must be put forward, scrutinized from all angles, tested against competing ideas, and in all likelihood the winner brings us closer to truth than we had been before.

A similar sentiment has been expressed by prominent philosopher John Stuart Mills, he says that: - "If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.

The third argument is that of personal autonomy it means that man being a social animal needs to propagate his ideas and thoughts onto others. In order to be human, there must be freedom of thought and speech if not man is no better than a mindless drone with only one task that is existence and subsistence. Without pursuance of thought and putting said thought into action how does one differentiate between one person and another. It is a person's individuality which makes him unique and as such the need for free speech has an effect on personal autonomy.

Censorship being a negative law had few proponents among the few the most prominent were the Greek philosopher Plato and American Joel Feinberg. Plato was in favour of censorship which was narrow and definite and would benefit the youth in learning, it was to be done to enhance the knowledge of the privileged youth of those time who would grow up to become leaders of society. He believed that this was the only true path to gain knowledge. Feinberg was of the impression that censorship could be wielded as a weapon against bigotry, he argued that censorship could protect a person from offense to his sensibilities.

Plato's arguments in favour of censorship are two-fold, they are as follows: -

- a) Censorship as a tool to protect children from "evil" influences:
- b) Censorship as a tool to protect society:

According to him it is vital for the survival of the nation. In other words, Plato expects each citizen to do what is right in interest of the greater good and not just for the fulfilment of his or her needs. Plato expects the republic to maintain a higher level of moral standards in order to maintain a level of national pride even if it means to curb those thoughts which undermine such values and morals.

#### **A Brief Introduction To Indian Censorship-**

India is most accurately described as an amalgamation of multiple ethnic groups, races and religious outfits who have for the most part managed to live in harmony. They have similar forms of expression whether it be, literary, artistic or cinematographic, further these expression at one point of time or another either been deemed offensive to another.

The need for a censor board was first felt during the British period wherein, the aim was to ensure that there was no display of any objectionable material or any such material which would morally maim the sensibilities of the masses thus, the

Cinematograph, 1918 was created with a view to provide the magistrate the power to review the movies and pass a judgement on the certification. They were however unclear on what to inspect and were further replaced by a board of censor, which were set up in the presidency towns of Bombay, Madras and Kolkata and later on Rangoon and Lahore. They were given a set of rules and were to adhere to them and were given the authority to judge films both local and foreign.

The 1920s bought forward the Indian Cinematograph Committee in the year 1927 which was led by former Madras High Court Judge T. Rangachariar. It made a comprehensive inquiry and gave a number of suggestions such as a need for a setting up a central board for censor, the clarification of titles as **U** and **A**. However, these changes took a painstaking time to come into fruition. One of the other objectives of the censor board was to censor material which would portray British rule in a poor light or any such film which would incite communal discord and hatred amongst communities. Bigger worries followed with the threat of Independence looking to boil over any time, movies which sowed the seed of nationalistic sentiment were also considered censor worthy during those times.

Movies whose content showed uprising or any such material were censored or banned during the British rule and the number of censored or banned movies rose from 25 in 1943 to 446 in 1948. Further the **U/A** certification method was finally adopted almost 20 years after it was suggested by the ICC, also a central board was finally established in Bombay which was later renamed the CBFC.

Post-Independence, the act of 1918 was scrapped and in its place the act of 1952 was therein provided for the structure and other provisions required for certification and censorship.

In order to judge the fitness of a film or motion cinema for public display the Central Board of Film Certification was established by the Ministry of Information and Broadcasting, it is a statutory body tasked with the duty of censorship and certification under The Cinematograph Act, 1952. Under the aegis of this act films maybe publicly shown only after they have been duly certified by the CBFC.

The Board consists of non- official members and a Chairman who are appointed by the Central Government. It has its main headquarters in Mumbai and nine regional offices in Kolkata, Chennai, Bangalore, Thiruvanthapuram, Hyderabad, New Delhi, Cuttack and Guwahati. These offices are in turn assisted by advisory panels, which are chosen by the Central Government.

The Cinematograph Act, 1952 and the Cinematograph (Certification) Rules, 1983 are the two statutes which provide power and structure to the CBFC.

#### **Need For Censorship-**

The Supreme Court of India in its wise opinion has stated the following in a case:-

"Film censorship becomes necessary because a film motivates thought and action and assures a high degree of attention and retention as compared to the printed word. The combination of act and speech, sight and sound in semi darkness of the theatre with elimination of all distracting ideas will have a strong impact on the minds of the viewers and can affect emotions. Therefore, it has as much potential for evil as it has for good and has an equal potential to instil or cultivate violent or good behaviour. It cannot be equated with other modes of communication. Censorship by prior restraint is, therefore, not only desirable but also necessary."

It is often said that India is an example of unity in diversity; though this may be true it also has its shortcoming. There have

been countless episodes of communal violence or an aggressive reaction to a film due to its offensive content, given the fact that film not only attracts adults but children as well it is therefore important to protect both from the effects of content which may cause a situation of communal violence or public unruliness, it is therefore of paramount importance that a movie be properly certified and censored prior to public exhibition. Free speech of an individual is most definitely a right which must be protected but that too is checked by Article 19 (2) of the Constitution of India which provides for reasonable restrictions to freedom of speech. It is in order to prevent such situation as mentioned above that a censor board has been created.

The duty of the board is to find a balance between what is acceptable and what is not. If there was no censor board then it would be difficult to stop offensive material from getting across which would in turn destroy the premise on which the country stands, that is tolerance and good faith. If the premise is destroyed then it spells only lawlessness and communal violence throughout the nation. Therefore, the importance of a censor board cannot be stressed be enough.

That being said it is important that the censor board should not have extremely rigid standards and should judge the fitness of each movie on an admixture of both objective and subjective viewpoints and look to promote the cinematic arts rather than chastise it at every given opportunity. The ideal censor board should have a broad spectrum and not a narrow one; it must be impartial and provide support to the film maker in order to ensure fitness of the film for public viewing.

India's censor board has recently come under a lot of flak due to its often-controversial banning or censoring of movies on mere trivial issues or due to coming under pressure from various fringe groups and therefore it is important to have a board which is able to do its duty both for the betterment of the cinematic arts and at the same time maintain the law and order situation within the country.

"A conservative government is organised hypocrisy"  
- Benjamin Disraeli

#### **INDIAN CENSORSHIP: AN ADVANCED LOOK INTO THE CENTRAL BOARD OF FILM CERTIFICATION**

The Central Board of Film Certification (CBFC) is a statutory body under the aegis of the Ministry of Information and Broadcasting (MiB). It is a body made up of various artists and is set up for the purpose of censor and providing adept certification to films to be exhibited for public viewing.

The CBFC has a singular vision of "To ensure the good and healthy entertainment in accordance with the provisions of the Cinematograph Act 1952 and the Cinematograph (Certification) Rules 1983".

The CBFC has the following objectives:

1. To ensure healthy entertainment, recreation and education to the public.
2. To make the certification process transparent and responsible.
3. To create awareness among advisory panel members, media and film makers about the guidelines for certification and current trend in films through workshops and meetings.
4. To adopt modern technology for certification process through computerization of certification process and upgradation of infrastructure.
5. To maintain transparency about Board's activities through voluntary disclosures, implementation of e-governance, prompt replies to RTI queries and publication of annual report.

6. To develop CBFC as a Centre of Excellence.

The CBFC is has very definite structure and is made up of a panel inclusive of a chairman who are all elected by the Government of India. The main office is in Mumbai and there are various regional offices in the country which is then assisted by an advisory panel or two who adjudicate the fitness of the film for display. The CBFC is governed by the Cinematograph Act, 1952 and the Cinematograph (Certification) Rules, 1983.

#### **Structure Of The Board-**

The CBFC is a body which has been duly elected by the central government and is headquartered presently in the city of Bombay; its member holds their office at the pleasure of the Central Government. At the helm of the board is the Chairman who holds the office for a term of three years and if a successor is not promptly found will continue to hold such office till his successor is appointed.

However, if another chairman is not found then the Central Government may put another person to act as a chairman for not more than a period of one year. All other members too hold office for a period of three years. A member who is retiring or whose term has expired is eligible for reappointment by the Central Government. It is significant to note that by way of notification dated 16<sup>th</sup> November, 1994 the Central Government may take steps to ensure that there is due representation of women on the board. In the event of a casual vacancy due to death, resignation, and removal or otherwise, it shall be filled by the appointment of another who shall serve the full term.

Apart from the main branch in Mumbai the CBFC, the other regional branches shall have attached to it an advisory panel. Like the Central board, members of the advisory panel will be appointed at the pleasure of the Central Government for two years in consultation with the central board. The casual vacancies in the event of death, resignation, removal or any such circumstance is similar to that of the Central Board.

#### **A Board For Censorship-**

In order to most adeptly conduct its business, the central government may appoint a Chief Executive Officer (CEO), Regional Officer, Additional Regional or Assistant Regional Officer as maybe required by the Headquarters or by each of the regional offices. The Chief Executive Officer may appoint officers as he sees fit under his jurisdiction and may also remove, reprimand or suspend them from service subject to limitations by the central government. The Chief Executive Officer subject to the same may appoint Regional or Assistant Regional Officers to perform such duties as maybe provided under the Cinematograph (Certification) Rules, 1983 or by the CEO or the Chairman of the Board. These positions have been created to improve accountability in the board and help to decentralize tasks and reduce the burden amongst the board. It allows for a smoother working environment.

Apart from the full-time members, honorary members may also be appointed to the board, though they do not draw any salary from the board they are allowed certain perks such as consultation fees for either a meeting or previewing a film in case of an out-station member and a further daily allowance and in case of a local member, consultation fees and no daily allowance is owed to him. An out-station member may also be allowed either air travel or train travel by the Central Government.

Advisory panellists elected for assisting the regional offices are also entitled to remuneration as well and may draw daily allowances or travelling allowances in case of outstation attendance of meetings of the board or the discharge of any such duty which is provided under the Act on the extent provided

under the fundamental and supplementary rules applicable to first grade officers of the Government.

Member of the panel are entitled to allowance for attending any preview or a meeting of a committee or for the purpose of suggesting cuts. However, the allowance may not be provided if panel member is drawing a consultancy fee or on the days he draws such consultancy fees. Further members of parliament who are such panellists as well shall not be allowed such remuneration other than those mentioned in clause (a) of section 2 of the Parliament (Prevention of Disqualification) Act, 1959. This section under the mentioned Act refers to "Compensatory Allowance" and mainly consists of house rent, travelling allowance, or any such expense incurred by him in performing the functions of this office. This primarily allows Members of Parliament to hold office of profit in certain cases.

#### **Meetings Of The Board-**

The CBFC being a statutory body must take up meetings in order to discuss the betterment of the cinematic arts and at the same time execute their duties efficiently. Hence, they meet once in a quarter, the chairman may however call for an extraordinary meeting if it is considered necessary by him. The meeting take place by the discretion of the chairman at a place he decides upon for the purpose. The chairman may choose to single out the CEO or any of the regional officers to attend the meetings and participate in the meetings but is not entitled to a vote in the proceedings

The Participants in the meetings are to be given prior notice of twenty days, whereas in case of an urgent or extraordinary meeting at least three days' notice is sufficient. The meeting is presided usually by the Chairman and he may table for discussion any matter he may consider urgent or important. If the Chairman is absent from the meeting then a member shall preside who shall be elected by the members amongst those present. In order to successfully conduct the meeting, there is a minimum requirement of members to form a quorum. Which in this case if the president is present, at least a minimum of four members and if he is not present a minimum of six are required to form a quorum.

The queries or questions before the board are decided by way of a singular vote held by each member, in case of a tie in votes the president may cast a second or casting vote, in order to resolve a question and ensure a productive session.

#### **Procedure For Examination Of Films**

The Rules 21 to 36 deals with the examination, certification and revision of the films, they deal with the procedural aspect of certification. It begins with an applicant applying for examination, which is then followed by examination by the board and then after the board decides on certification a further revision in case of complaints. This portion of the rules provide a range of procedural manoeuvres which maybe availed by the board to best balance the duties of the office and expectations of certification by the applicant, it also provides scope to de certify film, provide cuts and ban films as well. It also provides provision for maintenance of records and also prescribed fees.

#### **Application For Examination Of Film**

The filmmaker in order to get ascertain the certification and fitness of his film for public exhibition must provide an application in writing addressed to the board and delivered to the Regional Officer concerned must be filled in the correct form under the second schedule attached to the Rules, Form I or I-A must be filled in case of movies produced in India, Form II or Form II-A must be filled in case the film has been imported into India, this refers to movies produce outside India.

The Regional Officer is the officer concerned with receipt of application however, the Chairman in certain circumstances allow another Regional Officer to receive such an application. They are as follows: -

- i. Where the chairman believes there is an immediate requirement for examination is necessary.
- ii. Where the examination of a film is not possible without the assistance of a person well acquainted with the language.
- iii. For such other reason which maybe specified by the chairman by writing.

The application must be accompanied with the prescribe fees as put forward under Rule 36 and with eight copies in case of feature films and five copies in case of other films, of the synopsis of the film, credits titles of the film, complete texts of the songs, also one copy of the complete shooting script as prescribed and a statement showing the reel wise length of the film.

Songs are another popular facet of the film industry in India and are widely popular amongst the members of the populace. They are yet another example as to how ideas are transmitted quickly and effectively amongst the masses through the use of films. A relevant example of song lyrics would be the heavily scrutinized song 'Bhag D.K Bose' in the movie 'Delhi Belly'. The song was allowed by the CBFC without any objection as to lyrics and therefore heavily criticized by a section of the population. Then CEO Pankaja Thakur was heavily criticized for not even ordering even one cut to the song.

Another requirement was the complete script this is also needed to understand the context of dialogue and the overall motive of what is being said and done. A statement showing the reel wise length of the film is to ensure that the proper prescribed fees has been paid with respect to the number of reels of film.

In the event that the film is in any other language other than English or any other Indian language, the applicant is required to furnish eight types or printed copies of the translation in either English or Hindi of the synopsis and of the full text of songs, if any, and one copy of the dialogues in English or Hindi.

Another requirement under the rules is that there must be a declaration in writing by the producers that there was no animal harmed during the shooting of the film in India. This is in solidarity with the Prevention of Cruelty to Animals Act, 1960. The meaning as to animal and cruelty has been taken to be as per section 2(a) and section 11 (I) (A) to (O) respectively. 'Animal' refers to any other living creature apart from human beings and 'Cruelty' may range from kicking, neglecting, administering injurious drugs, confinement, etc.

Films which have been imported must be accompanied along with an original or a certified copy of the import license together with customs clearance permit and also with the corresponding clearance papers. In case of any doubt or dispute regarding the validity or genuineness of the document the board will first deduce by referral whether the documents are genuine or not and then move ahead with the procedure. If documents in question are under examination by a court and is pending then the board shall not go any further till it is cleared up. The film must be imported validly according to import policy of India. The Public Notice No. 64/1997-2002 says that an importer of said imported movie must comply with the provisions of the Cinematograph Act, 1952 and must gain certificate in order to do so. In order to lessen the burden of piracy the import policy further states that unauthorized or pirated version shall not be allowed genuine copies only.

### **Examination: Section 5(B) And 5(C) And The Guardian Spirit Of The Cinematograph Act, 1952**

The examination of a film is the next step in order to get a movie certified. The regional office appoints an examining committee to examine the film. The cost of examination is borne by the applicant and the date, time and place is determined by the regional officer.

The Examination Committee in case of a short film is comprised of two members, a member of the advisory panel and an examining officer. A woman must be present in the committee in either capacity and in case of a long film there are four members of the advisory panel and an examining officer out of whom two shall be women. If it so happens that the examining officer is not present for said examination then the committee shall consist of 2 advisory panel members (in case of short films) and 5 advisory panel members (in case of long films).

The film in question must be in its final form it must consist of all the background music and all the sound effects which were recorded for the purpose of the film. The names of the members in the examining committee shall not be disclosed and the reports formulated must also be kept confidential. Names of committee member must not be disclosed even to official members in order to maintain secrecy and reduce chances of bias. The applicant or his representatives are not to be allowed during the viewing of the film. He shall in fact, not be allowed within the theatre. The Chairman in his power may allow by special or general order, a member of staff to be present during the viewing to aid the committee as and when needed.

The most important guiding principles of the examining committee are housed in Section 5(B) (1) and Section 5(B) (2) of the Cinematograph Act, 1952; these are the most vital consideration to be kept in mind while deciding the fate of the film. Article 19 (2) resounds clearly in these two sections as they state that a film may not be certified for public exhibition if it compromises the security of the state, friendly relations with a foreign states, public order, decency or morality or involves defamation or contempt of court or is likely to incite commission of an offence.

These are the shackles placed on the right to free speech and expression provided under Article 19 of the Constitution. This has been done in an effort to ensure peaceable relations with other countries and to maintain the status quo in terms of standards of morality and decency and also to prevent lawlessness amongst the masses. It allows the central government to propagate principles and direction as it sees fit to guide the committee. It is pertinent to note that the status quo with respect to morality and decency is dynamic and ever changing and thus it is important to shift from a narrow perspective to a broad one, in an effort to promote and encourage the cinematic arts. However, national security and law and order are no laughing matter and given the effect of movies on the masses it is important to ensure a fair but malleable application of these principles. A relevant example would be the delay of the movie 'Black Friday'. Here, Article 19(2) came into play with respect to defamation and as a result the release date was pushed back and the film was finally released in 2007 February. This is one of countless examples where Article 19 (2) has been applied as a reasonable restriction against free speech.

The examination committee is duty bound to follow these principles and has also formed guidelines to be followed, keeping in the spirit of Article 19 as a whole. These guidelines present on the CBFC website narrows down the negative markers which Section 5(B)(1) and (2) look to pin down and wholly avoid, it is pertinent to note that the mission statement and the guidelines of certification of the CBFC are designed to provide reinforcement and legitimacy to the words in Article 19(2).

Post examination of the film the members are expected to write his or her opinion on Form VII of the second schedule of the rules giving reasons for certification. They are to express their opinions regarding the film and to quote the certification to be given to the film. Films maybe certified under **U** (unrestricted public exhibition), **U/A** (children below the age of twelve maybe allowed watching it shall be considered by the parents or the guardians), **A** (fit for consumption by adults ) and even **S** (film made specifically for a particular class) for certain specific films.

Originally under the 1952 Act the classifications were only two-fold, being **U** and **A**. This position was remedied with further amendment of the Act by way of the 1983 Amendment two other categories namely **U/A** and **S** were added to the certification. As mentioned earlier Section 5 B of the Act, acts as the principle guideline which must be adhered to while dealing with what certification to be applied to the film.

The certification is subject to two conditions. One, the chairman may request on his motion or on request of an applicant the formation of a revision committee after receiving the record from the examination committee. Second, the movie is certified but subject to certain removal of certain portions of the film.

Under the first condition a Revising Committee is set up for the purpose of viewing the movie through a fresh pair of eyes and renewed perspective. The committee is led by the Chairman and is made up of nine other members, they maybe members of the advisory panel of a regional office or a part of the board, due representation is to be given to women. In the absence of the chairman, a member of committee so nominated by him shall preside over the proceeding. In order to prevent bias of revision no member of the examining committee shall be a part of the revision committee. The process of revision is similar to that of the examination committee apart from a few subtle changes. The revision committee expenses are also bourn by the applicant. The date, place and time are determined by the chairman. Applicant shall adhere to the conditions laid down in Rule 24 of the Rules.

Under the second condition wherein certification is subject to certain cuts recommended by the Examination Committee, the regional officer must ensure that they are complied with and once he is certain that the conditions are met, he may proceed to declare by way of Form IX that all the conditions have been met. In order to ensure compliance, the regional officer may ensure compliance by examining the negatives or copies of the same. He may require the applicant to produce a certificate from the owner or the manager of the laboratory where the film was processed in a form specified by the board in this behalf. It shall endorse with specification that the portion or the portions in question have been removed, it shall also mention the length cut and the length retained. In order to show the length deleted the film shall consist of a clearly visible triangle drawn at the left-hand bottom corner of the certificate, any person who imports or otherwise acquires a copy of the film after the date of certificate aforesaid, shall surrender to the Board such portion or portions in any such copy.

After the certificate has been provided and duly signed by the chairman and the regional officer, a copy of the film in any gauge certified by the Board, the expense shall be deposited by the applicant with the board at his own expense for the purpose of the record. Certificate granted shall be for a period of ten years from the date on which it has been granted. If there is a requirement for a fresh certificate after the expiration of the older one, the applicant may again approach for a fresh one under the appropriate form in the second schedule provided in the rules. The certificate delivered to the applicant shall be a copy alongside a copy of the film to be exhibited or distributed. If at the time of prior examination commentary or tape-recorded

commentary was not given at the time of application for the initial certificate.

The Central Government by powers conferred by section 6 of the Act, can also say that a certified film shall be deemed to be an uncertified film in the whole of India, the applicant and any other person or persons to whom the right's in the film have passed such as a licensee or a movie runner shall stop the exhibition of the film forthwith and surrender the certificate and all copies of the duplicate certificate granted in respect of the film to the Board within one month from the date of the notification, in case of any written application or request from the applicant or any other concerned person, the chairman may provide extension but the total period shall not be more than six months.

#### **Re- Examination Of Films**

In the event that there is a complaint registered by any member of the public, then the Central Government may take the necessary steps of directing the Chairman to re-examine a film or any part within the film in such manner and with such assistance as maybe specified in the direction. The applicant or any such interested party such as a licensee may at his own expense send a print of certified film to the Board. The Chairman then shall examine the film in relation to which the certificate was issued and pass on the recommendations to the Central Government who then shall take appropriate steps under Section 6 of the Cinematograph Act, 1952.

#### **Appellate Tribunal**

An appeal can be made before the Film Certification Appellate Tribunal (FCAT) under Section 5 C of the Cinematograph Act, 1952 by an applicant for a certificate in respect of a film in case he is aggrieved by an order of the Central Board of Film Certification (CBFC) – (a) refusing to grant a certificate; or (b) granting only an 'A' certificate; or (c) granting only a 'S' certificate; or (d) granting only a 'U/A' certificate; or (e) directing the applicant to carry out any excisions or modifications. The appeal can be filed within 30 days from the date of the order of the CBFC, or within a further period of 30 days in case he has been prevented by sufficient cause from filing the Appeal within the initial period of 30 days.

#### **Structure Of Appellate Tribunal**

Typically, when a person is aggrieved by the decision making of the Board he may then apply to the Appellate Tribunal. It is based in Delhi. A person shall not be qualified for appointment as the Chairman of the Tribunal unless he is a retired Judge of a High Court, or is a person who is qualified to be a Judge of High Court. The Chairman and the members of the Appellate Tribunal shall hold office during the pleasure of the Central Government. The chairman holds office for a period of three years and will continue to hold office till his successor is appointed. Similarly, the members of the board shall hold office for a period not exceeding three years.

Both Chairman and Members are eligible for re-election to the tribunal after expiry of term. The Central Government after consultation with the Chairman, choose the members to represent the board, they also may be removed before expiration of their term. This must be done by conferring with the chairman and not according to the whims and fancy of the Central government.

The Tribunal by way of the Central Government or the in order to carry out certain tasks elect a secretary and such other officers as it may consider necessary, the Chairman may grant leave or suspend or remove from service any officer appointed by him.

Every honorary member (including the Chairman where he does not receive any salary) may, if he is an outstation member,

- (i) travel by air or by train as admissible according to the orders issued by the Central Government from time to time in respect of journeys undertaken by him for the performance of his duties as such member.
- (ii) be paid a consultancy fee for attending the preview of a film or meeting of the Appellate Tribunal at the rate of Rs. 100 for each day of such preview or meeting; and
- (iii) be paid daily allowance at the rate of Rs. 50 per day for the day preceding the meeting and that following the meeting, if the member actually stays at the place of the meeting;
- (iv) if he is a local member, be paid a consultancy fee for attending the preview of a film or meeting of the Appellate Tribunal at the rate of Rs. 500\* per day for each day of such preview or meeting. Provided that daily allowance will not be admissible in addition for the day or days for which consultancy fee is paid.

#### **CENSORSHIP IN THE UNITED STATES AND THE PEOPLES REPUBLIC OF CHINA**

This Chapter looks to explore the various standards of censorship adopted by two countries namely the United States of America and the Peoples Republic of China, these are democracies much like ours and have their own standards of censorship therein. The objective of this chapter is to look at them holistically and try to pull out differences from the Indian censorship method.

It is important to understand the standards of censorship in foreign democracies as well as Communist nations and see how films makers are given their freedom of expression in order to fully test the limit of their crafts. It is plain to see by the previous chapter that there are a lot of issues at play in our country but do such issues hinder release of movies in other countries is a point which must be investigated to understand the shortcomings and the scope for improvement in Indian Censorship standards. Despite the recent attempts to refresh the approach taken by the Central Government we can also appreciate the various constitutional rights provided by democracies around the world.

The first democracy is the United States of America whose constitution has the First Amendment Rights which are secured to its citizens. The US Constitution provides first amendment rights which apart from religious freedom provide the freedom of speech which is the hallmark of their constitution. The censor issues are currently dealt with by the Motion Pictures Association of America, it is a self-governed body run by studio executives, directors, actors etc. The members are artists rather than the bureaucrats themselves and are able to appreciate, curate and certify movies on their own.

The second country is the Peoples Republic of China. All censorship related issues are dealt with by the State Administration of Press, Publication, Radio, Film and Television (SAPPRFT). It is the apex body which deals with ratings, release and how movies are to be released. Compared to the Western democracies the freedom of speech is a privilege rather than a right and deviation from set norm comes with dire consequences such as imprisonment and hefty fines. However, things are looking better since 2016 a more set in stone Article 16 has been amended and put forward into the constitution of China. These countries have been examined in detail below.

#### **The United States Of America**

The Country prides itself for its democracy first approach and thus has also provide fairly liberal and easy censorship norm in the form of the MPAA, it is a body made up of individuals from within the American film industry and they curate the rating of the movie and certifying them fit for consumption. Further a federal body has also been setup in the form of Federal Communication Commission to regulate Television content.

### The MPAA-

It was set up in 1922 to protect and support the budding film industry; it was set up with the help of William Hays under the name of Motion Picture Producers and Distributors of America (MPPDA). Under him a regulatory system, popularly known as the Hays Code was developed. It was adopted in order to prevent the Government from meddling with the certification and to provide positive entertainment to the masses. It was properly enforced in the year 1934. Some of the rules of the code were as follows:

Crime and immorality could not be shown in a positive light as such if someone committed a crime on screen they had to be punished on screen as well. Film could only portray the correct standards of life, i.e. they could not show broken homes or poverty and movies dealing with divorce. The more proper family values were pushed on screen to educate the masses and enforce the norm on the movie going public.

The law had to be protected and upheld. Apart from the cartoons such Woody Wood Pecker or The Wiley Coyote could get away with their antics but serious movies such as the 1932 epic Scarface, saw the antagonist meet his bitter end at the hands of the law, therefore there was more of a good versus evil storyline adopted by the movie houses of those time. Nudity and portrayals of sexual behaviour could not be shown even between consenting adults. Movies such as gone with the wind and Casablanca were heavily censored due to its explicit content, on screen kissing, and illicit affairs shown between its protagonists who partake in adultery. Another aspect of the Hays code condemned bestiality as well. The sanctity of marriage had to be upheld as it was considered to be a positive virtue under the Hays Code.

Religion could not be portrayed in a mocking manner; the use of Blasphemy was severely condemned and therefore the use of God's name in vain was considered to be off limits. Detailed depictions of crime and drug use were not allowed as well. Subjects such as homosexuality, sexual diseases, erotic themes, buggery could not be discussed in movies as well.

Apart from this the United States flag had to be treated with the utmost respect.

The Hays code has been criticized for its sheer rigidity and also caused directors to use innuendo and other subtle methods of direction to deal with deeper themes and meaning in order to reach the masses at a more emotional and conscionable level. The movie Rebel without a Cause is a prominent example of film makers using mannerism and innuendo to explore homosexual themes in the movie through the concealed gay character as a sympathetic character.

Gradually the big five of Warner Bros., 20<sup>th</sup> Century Fox, MGM, RKO Radio Pictures and Paramount, were forced out of controlling means of exhibition by way of an Anti-trust Judgement in the form of a landmark judgement **United States v. Paramount**, wherein the big production houses who controlled the means of production and dissemination were forced to sell their theatres and other exhibition lots to ensure no cartelization took place in the movie business. They lost their grip on Hollywood and subsequently their absurdly rigid standards started to fall.

Perhaps the biggest upset in the Golden-era of Hollywood was the Miracle decision, the movie, the Miracle which had controversial Catholic imagery with an ironic re-working of the virgin birth was held to be an artistic medium of expression protected by the First Amendment Rights. This reduced the threat of national government issued censorship and at the same time neutered the standards set by the Hays Code. The Hays Code saw its end in the year 1965.

Thanks to the First Amendment Rights the United States has no solid Censorship system in place they are now provide token Certificates in the name of public interest by the MPPA and are subject to censorship from other countries if they are to be showcased there. The only regulatory authority present is the Federal Communication Commission which essentially deals with radio and television but not with film, it is used to protect the citizens from obscenity and the spectrum is also rather broad in this case. The FCC is also seated rather uncomfortably as it is also affected by the First Amendment rights in certain cases, this has further been curbed by allowing them authority to regulate content between 6:00 AM and 10:00 PM, that is when children are most likely to be awake.

### First Amendment And The Effect On Movies

As mentioned above after the influx of various new art house directors from foreign lands who explored thematic landscapes boldly and the decision given in the Miracle decision and Subsequently in the Freedman decision the Hays Code lost its footing to the First Amendment Rights in the Constitution. This was just the beginning of the end of state-wide censorship as the First Amendment was upheld various landmark judgements which allowed the movie business in the U.S. to thrive.

Even though the miracle decision upheld the rights guaranteed in the First Amendment, the various state censor bodies continued to censor film especially in states like New York and Ohio. A final ruling was made into the matter in the case Superior Films, Inc, v. Department of Education. Taking strength from the Burstyn Decision (Miracle Decision), the principle thought behind the reversal was that-

"Motion pictures are of course a different medium of expression than the public speech, the radio, the stage, the novel, or the magazine. But the First Amendment draws no distinction between the various methods of communicating ideas. . ."

Further they were also of the opinion that "In this Nation every writer, actor, or producer, no matter what medium of expression he may use, should be freed from the censor."

By the end of the 1950s various themes of depictions such as immorality, religion, crime, intimacy etc. were no longer valid reasons to ban films. Even more extreme themes such as nudity were for the most part allowed. The use of them in scientific or documentary film making was considered not to be lewd, lascivious. The documentary titled Garden of Eden was given a clean chit by the court despite its discussion and portrayal of nudity.

The stance was further strengthened in *Excelsior Picture Corp v. City of Chicago*, the court was of the opinion that "Without immorality, indecency, incitement to crime or debasing of morals, suggestive language, or even explicit nudity as grounds to censor a motion picture, regional regulators and municipal censors had one remaining cause of action: obscenity."

However, the line on obscenity was drawn in the case of *Jacobellis v. Ohio* the Ohio censors found it to be most obscene. Writing for the majority Justice Brennan recognized the state's legitimate responsibility need to regulate material harmful to children, but that does not justify total suppression of such material, in concordance with Justice Brennan, Justice Potter Stewart's iconic monologue regarding the test for such material in jurisprudence came into light. He said "I'll know it when I see it".

The issue with respect to obscenity and censorship was put to rest in the mercurial judgement in the California court case of *Miller v. California*, the court was of the opinion that, "All ideas having even the slightest redeeming social importance—unorthodox ideas, controversial ideas, even ideas hateful to the prevailing climate of opinion—have the full protection of the



[First Amendment] guarantees.” This test was constantly evolving in subsequent decision given by the various circuit courts in the country and developed a three pronged approach to dealing with obscene material and consider censorship, the First being whether the work offends patently the sexual conduct defined by the state law, the second was the fixing up of prurient interest, this refer to any such material which gives rise to lasciviousness and lust and if exhibited in normal course would be a nuisance to the public. The third was whether the work was a work of art or whether it was devoid of any such literary, scientific, artistic or political value. The court was of the opinion that such decision should be judged on the basis of objective standards rather than referring to community standards.

This metamorphosis of the Miller Rules helped the court in developing sound legal opinion on matters relating to censorship and obscenity. The rationale of protecting an individual’s First amendment rights is a unique facet of the American method of Censorship and provides a broad spectrum of what is acceptable and what is not.

### **Censorship In U.S.A- Present Day, A Look Into How Free Speech May Turn Into Hate Speech**

The protection of First amendment right is definitely a plus point in the favour of the American way of life and thus, allows more scope for creativity among the people, it has led their Hollywood movies be profitable and at the forefront of film making but all this freedom begs the question whether the rights secured have been a positive or a negative for the Country as a whole? Has the country compromised itself and left itself open to insightful behaviour by the wretched elements of society? Are the children truly and wholly protected from the violence and realities of life beset at all angles? And is the MPPA enough to certify and truly censor material in films nowadays?

This can be answered by studying the effect of one short video published under the title ‘Innocence of The Muslims’ on the popular video sharing platform You Tube. The video was amateurish attempt at production of a short film, with an absurd script and portrayed the Prophet Muhammad as a lascivious, warlike, aggressive, buffoon and the producers posed as Israeli Americans who had paid for the video, this feature has been for all intents and purposes been considered as a hate speech and an attempt to cause tension between the Arab and Jewish Communities. The video was also most menacingly posted on Eleventh of September which was the day of the Twin Towers Attack causing a lot of loss of life and property. The video was available for viewing by courtesy of You Tube and as such reinforced the scorn of those viewing it across the world. Only after the Actress in the Film Cindy Lee Garcia began receiving threats of an assorted variety, the courts acted in the form of calling for ban of the video by Google from its site You Tube, the court was convinced that the petitioner in this case was just a bystander of something more sinister. However, Google pushed for a rehearing, this time winning the decision by way of an eleven-judge panel which was of the opinion that Google had the right to post this video online. Judge Margaret McKeown quoted that “In this case, a heartfelt plea for personal protection is juxtaposed with the limits of copyright law and fundamental principles of free speech. The appeal teaches a simple lesson—a weak copyright claim cannot justify censorship in the guise of authorship.”

The above-mentioned case showcases the no holds barred approach when it comes to First Amendment Rights and thus, allows a stern criticism of the lack of state enabled censorship in the United States of America. The current political climate is a powder keg waiting to explode and as such the allowing of hate speech to be posted so boldly and blatantly in a public forum is indeed a shame which may someday overshadow the rights so

proudly held by the people of the land of the free and the home of the brave, the land which is the United States of America.

### **Censorship In The People’s Republic Of China**

Dynasty, War, Occupation, Revolt, Communism albeit Maoism are choice words to describe the political landscape of China. It is safe to say that this way of life is an antithesis to the American Way of Censorship. The state is of the opinion that the privilege of expression is earned by a select few and not by the mere citizens, any criticism of the government is seen as a threat and is dealt with rather heftily. Some may call it as an overreaction. The Government has already been criticized for its stance against social media platforms and has lately again raised the ire of the people outside China by banning, WhatsApp a popular messaging application on smart phones.

The right to free speech has been reserved for members of the elite and can be differentiated on the basis of their functions in society. There are, Senior party members, Intellectual elite, Ideological elite, Linguistic elite and Financial elite.

The only people in China who can publish criticisms of, or opinions contrary to those, of the Communist Party, are senior members of the Communist Party. An example would be the criticism by former party president and close confidant of Mao Zedong, Li Rui who said the following:

“The key is reforming an aged political system that is obsolete, and speeding up the development of democratic politics so the country can truly embark on a course of peace and stability characterized by democracy, science, and rule of law. . . . Only with democratization can there be modernization. This has been a global tide from the 20th century, especially the Second World War, onward, and those who join it will prosper while those who resist it will perish. The Constitution stipulates that the National People’s Congress is the highest power in the country, and the relationship between the Party and the NPC should be suspended, the NPC should not be led and directed in the name of the Party.”

This is an excerpt from a speech given by him at the Sixteenth Party Congress of the NPC of China, Mr Li was sentenced to “re-education by way of labour” for a period of eight years in 1959.

### **Film Censorship Regulation in China**

Censorship and control on dissemination of ideas and information is an important aspect of communism, the main aim is kept a vice grip on the nation and its people. However, change is on the horizon as the Chinese Government has decide to dissolve the SAPPFRFT and go with a new board of censorship and control, which would be directly under the control of the State council which is the highest body in the bureaucracy. The regulatory provisions are eleven in total which deal with a lot of security of state, defamation and other such restrictions as maybe imposed, the last one deals with technical and quality of problems.

In 2003 a requirement for checking of scripts and records was also added in order to ensure more stringent censorship of dialogue.

With the dissolution of SAPPFRFT, Broadcast industries like television and radio are separated from print and film industry. The National Radio and Television Administration (NRTA) has been strict in their guidelines and banned artists from show casing tattoos, hip-hop culture, low-culture or problematic morals even blurring of men ears wearing earrings.

The process of censorship is also very opaque and there is no transparency to be expected from the bureaus or boards who are evaluating the movies., often films are edited or worse, forbidden by the government without giving any precise grounds of such

acts. Censorship policies on top of that have been wholly inconsistent and there is no surety to the film makers that his movie will be certified, cut or forbidden by the Government. Another problem noticed was that the criteria to judge films was the same which can prove harmful to children who are exposed to movies filled with violence and gore from a young age.

#### CONCLUSION: CENSORSHIP A NECESSARY EVIL IN THIS DAY AND AGE

India is a country whose constitution along with great freedoms and liberty adds reasonable restrictions to it. This is in order to protect certain communities and to ensure that there is no strain on the law and order of the country and the states sovereign reigns supreme. The use of censorship is one such tool used by the government to ensure a peaceable and relaxed time for movie goers who are able to enjoy and mull over the movies they watch rather than fume over some slight in the movie. Movies are an expression and therefore art and art are meant to be enjoyed not to spill over in anger and start a riot. It is indeed true that censorship if severe is a denial of the basic right of expression and free speech, but if the expression is capable of fuelling a catastrophe then it is pertinent to protect the masses from such a film.

Compared to the United States, India has managed to avoid total freedom of fundamental rights by placing Article 19(2) in the Constitution and thus limited the damage caused by hate speeches and other such malevolent forces who conspire to break this great nation apart and has reduced the damage which can be caused by bigotry and phobia in the masses. The CBFC compared to the MPAA has the advantage of being a statutory body and thus has its own rules and regulations; this lends it legitimacy in the eyes of the law and has prevented a drastic change in the thought process as witnessed in America with the Hays Code and then the Miller Principle. It is also important to note the difference amongst the masses which makes us unique, India being a progressing country has yet to be accustomed to what the west contains acceptable while the United States must take a stand on the everything goes approach by making if not a censorship board at least a certification board to ensure that the exhaustiveness of First Amendment Rights are not being abused for malicious causes which may cause a great divide in the nation. It is also important to appreciate the way the courts in the United States have supported the cinematic arts from censorship and indeed paved the way to make film and production a profitable business in the west, it has turned film into a medium of powerful story telling which affects the life of people around the planet.

India and the Chinese school of censorship and freedom of speech are poles apart. While one provides the right as a fundamental one, the other raises it as a privilege, censorship to have been applied differently. While India uses it to prevent any compromise of security or morality among other such restrictions, the Chinese have used it as a tool for propaganda and to maintain the discipline amongst the masses. It is a method of discouraging free speech which is discouraging to see in these life times.

India is a melting pot of various cultures which despite its differences has been held together by the spirit of brotherhood and oneness. It was the hope of the makers of the constitution that no calamity shall befall upon the country because of the abuse of a fundamental right by an individual. In order to nullify such an effect, the constitution has in it the reasonable restrictions, which help in preventing such speech or expression which compromise the nation. Censorship is therefore best explained as a necessary evil called upon when absolutely required and is absolutely necessary to safeguard a nation as diverse as unique as ours. It is this fail-safe character of the constitution which makes it perfect for the country.

Despite its obvious qualities, censorship if applied too severely cannot be considered a good thing. It is important to let an individual express themselves in a democracy, if not he will remain an individual and not a real citizen.

It is therefore recommended for all future purposes to apply censorship only in the worst of cases and to allow the cinematic arts the patronage and freedom it deserves to be great and illustrious. Allowing a broader spectrum of freedom not only shows how far India has come from colonization and despite many hurdles been able to overcome bias and move into the present with great zeal and persistence and ability to approach the future with broader horizons and even greater hope for the future.

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