

FILM CENSORSHIP

WHAT EVERYONE SHOULD KNOW ?

- **Introduction**

- Indian has the largest film industry in the world, making over 900 feature films and larger number of short films every year. At a rough estimate, a total of about 15 million people see films in India every day, either at its over 13,000 cinema houses or on the video cassette recorder or on the cable system. Thus, every two months, an audience as large as India's entire population flocks to its cinema houses.
- There is a huge investment in films and lakhs of people earn their livelihood from it. With such a large enterprise, it is natural that film-makers have to do their utmost to make the product which will fetch the best returns. In doing this, they also have to keep in mind the growing competition from television, video, cable and now satellite. Naturally, therefore, the film-makers are apt at times to go overboard in their enthusiasm in what they show, which may appeal to some, but may be revolting to a large number of people.
- It is seen that film certification has to play a part. But certification is not enough, especially when there are violations. And the police, which has so many other tasks to perform, has little time to detect these violations. This is where the citizen must step in and help the law enforcing agencies in strengthening the machinery of film certification.

- **Freedom of Speech and Expression**

2.1 India has a free press and the same freedom applies to cinema, which is free enterprise and outside the control of Government except the Films Division and the Doordarshan which are aimed at educating and informing the public, while entertaining them. The press in India is said to be the most free of any control when compared to other countries of the world, and the same applies to cinema.

2.2 However, neither cinema nor press is separately listed in the Constitution, although freedom is a constitutional right. This is because press and cinema fall under the Fundamental Rights chapter of the Constitution, particularly Article 19(1)(a) which says that all persons shall have "freedom of speech and expression". The freedom of expression means the right to express one's opinion by word of mouth, writing, printing, picture or any other manner, including movies.

2.3 But this right is subject to “reasonable restriction” on grounds set out under Article 19(2) of the Constitution. The reasonable limitations can be put in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign states, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

2.4 Thus, the framers of the Indian Constitution felt it essential to put certain reasonable restrictions in the larger interest of the community and the country and strike a proper balance between the liberty guaranteed and the social interests specified in Article 19(2). Furthermore, it is the duty of the State to protect the freedom of expression since it is a liberty guaranteed by the Constitution.

2.5 It is, therefore, clear that while the media – print, electronic, film or any other, is free to express opinion and thought, it is only in the larger public interest that there should be some control howsoever minuscule.

2.6 Further, since the reasonable restrictions are in public interest, it becomes the duty of the public to ensure that this freedom is not violated by unscrupulous elements in society, bent upon misusing the liberty given to them by the State and the Constitution.

- **Why is Film Censorship Necessary?**

3.1 While the media in our country are free, it is considered necessary in the general interest to examine the product it goes out for public consumption. While there is no censorship published material, need was felt to have censorship for films because of the effect that the audio-visual medium can have on the people which can be far stronger than the influence of the printed word.

3.2 Film censorship or certification is thus the end product of the process of previewing of film and it includes a decision either not to allow a particular film or public viewing or to allow it for public viewing with certain deletions and / or modifications. Furthermore, it is to ensure that the people do not get exposed to psychologically damaging matter.

3.3 The Supreme Court in a judgement three years ago said that 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 instill or cultivate violent or good behavior. It cannot be equated with other modes of communication. Censorship by prior restraint is, therefore, not only desirable but also necessary.

- **Film Censorship in India**

4.1 The Cinematograph Act, 1952 (Act 37 of 1952), apart from including provisions relating to Constitution and functioning of the CBFC or the Central Board of Film Certification (then called the Central Board of Film Censors), also lays down the guidelines to be followed by certifying films. Initially, there were only two categories of certificate – “U” (unrestricted public exhibition) and “A” (restricted to adult audiences), but two other categories were added in June, 1983 – “UA” (unrestricted public exhibition subject to parental guidance for children below the age of twelve) and “S” (restricted to specialized audiences such as doctors). The 1952 Act has been amended to bring uptodate and the last amendments were in 1981 to 1984.

4.2 The present censorship of films is governed by the 1952 Act, the Cinematograph (Certification) Rules promulgated in 1983 and the Guidelines issued from time to time, the latest having been issued on December 6, 1991. The Guidelines are issued under section 5B of the Act, which says that “a film shall not be certified for public exhibition, if, in the opinion of the authority competent to grant the certificate, the film or any part of it is against the interests of the sovereignty and integrity of India, the security of the States, friendly relations with foreign State, public order, decency or morality or involves defamation or contempt of court or is likely to incite the commission of any offence”.

- **Who does Film Censorship?**

5.1 The CBFC or the Central Board of Film Certification (known till June 1, 1983 as the Central Board of Film Censors) was set up in Mumbai, initially with regional offices at Mumbai, Chennai and Calcutta. At present there are nine such offices based at Mumbai, Chennai, Calcutta, Bangalore, Hyderabad, Thiruvananthapuram, Delhi, Cuttack and Guwahati.

5.2 Then there is a Film Certification Appellate Tribunal (FCAT) which has been constituted under section 5D of the 1952 Act for hearing appeals against any order of the CBFC. This tribunal is based in New Delhi.

5.3 While the work of certification of films is a Central subject, the States have to enforce the penal provisions of the 1952 Act and bring the offenders to book.

5.4 The organizational structure of the CBFC is based on the provisions of the Cinematograph Act, 1952 and the Cinematograph (Certification) Rules, 1983. The Board consists of a Chairperson and not less than twelve and not more than twenty-five other members appointed by the Central Government. They are appointed for a period not exceeding three years. They are eminent persons from different walks of life such as social sciences, law, education, art, film and so on, thus representing a cross-section

of society.

5.5 The CBFC is assisted by advisory panels in the regional offices each of which is headed by a regional officer and the members of these panels are also representative of a cross-section of society and interests. These members will hold office for a period not exceeding two years. However, members can be re-appointed.

5.6 The CBFC has divided itself into Examining and Revising Committees to provide a two-tier jury system for certification of films. In the event of a difference of opinion in the Examining Committee or the applicant not being satisfied with the decision of the Examining Committee, the Chairperson can refer the film to a Revising Committee.

5.7 The Certification rules also apply to foreign films imported into India, dubbed films and video films. In the case of dubbed films, the CBFC does not have any fresh censorship for the visual in general cases. The certification does not apply to films made specifically for Doordarshan, since Doordarshan programmes have been exempted from the censorship provisions and Doordarshan has its own system of examining such films.

• **What Guides the CBFC in its Decisions?**

6.1 Section 5B(2) of the 1952 Act lays down that, in addition to the general guideline laid down in Section 5B(1), the Government may issue “such directions as it may think fit setting out the principles which shall guide the authority competent to grant certificates under this Act in sanctioning films for public exhibition”.

6.2 These directions, commonly understood as a guidelines, have been issued by the Government and have also been amended from time to time, keeping in mind the changes in social outlook from time to time and also the kind of films being made.

The revised Guidelines issued on December 6, 1991 and updated till Sept., 15, 1997 state as under:

- The objectives of film certification will be to ensure that –
 - The medium of film remains responsible and sensitive to the values and standards of society;
 - Artistic expression and creative freedom are not unduly curbed;
 - Certification is responsive to social changes;
 - The medium of film provides clean and healthy entertainment; and

- As far as possible, the film is of aesthetic value and cinematically of a good standard.

- In pursuance of the above objectives, the Board of Film Certification shall ensure that –
 - Anti-social activities such as violence are not glorified or justified;
 - The modus-operandi of criminals, other visuals or words likely to incite the commission of any offence are not depicted;
 - Scenes –
 - Showing involvement of children in violence as victims or perpetrators or as forced witnesses to violence, or showing children as being subjected to any form of child abuse;
 - Showing abuse or ridicule or physically and mentally handicapped persons; and
 - Showing cruelty to, or abuse of animals, are not presented needlessly;
 - Pointless or avoidable scenes of violence, cruelty and horror, scenes or violence primarily intended to provide entertainment and such scenes as may have the effect of desensitizing or dehumanizing people are not shown;
 - Scenes which have the effect of justifying or glorifying drinking are not shown;
 - Scenes tending to encourage, justify or glamorize drug addiction are not shown;
 - Scenes tending to encourage, justify or glamorize consumption of tobacco or smoking are not shown
 - Human sensibilities are not offended by vulgarity, obscenity or depravity;
 - Such dual meaning words as obviously cater to baser instincts are not allowed;
 - Scenes degrading or denigrating women in any manner are not presented;
 - Scenes involving sexual violence against women like attempt to rape, rape or any form of molestation, or scenes of a similar nature are avoided, and if any, such incident is germane to the theme, they shall be reduced to the minimum and no details are shown;
 - Scenes showing sexual perversions shall be avoided and if such matters are germane to the theme, they shall be reduced to the minimum and no details are

shown;

- Visuals or words contemptuous of racial, religious or other groups are not presented;
- Visuals or words which promote communal, obscurantist, anti-scientific and anti-national attitudes are not presented;
- The sovereignty and integrity of India is not called in question;
- The security of the State is not jeopardized or endangered;
- Friendly relations with foreign States are not strained;
- Public order is not endangered;
- Visuals or words involving defamation of an individual or a body of individuals, or contempt of court are not presented;

Explanation: Scenes that tend to create scorn, disgrace or disregard of rules or undermine the dignity of court will come under the term “contempt of court”, and

- National symbols and emblems are not shown except in accordance with the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950 (12 of 1950).
- The Board of Film Certification shall also ensure that the film
 - Is judged in its entirety from the point of view of its overall impact; and
 - Is examined in the light of the period depicted in the films and the contemporary standards of the country and the people to which the film relates provided that the film does not deprave the morality of the audience.
- Films that meet the above – mentioned criteria but are considered unsuitable for exhibition to non-adults shall be certified for exhibition to adult audiences only.
- (i) While certifying films for unrestricted public exhibition, the Board shall ensure that the film is suitable for family viewing, that is to say, the film shall be such that all the members of the family including children can view it together.
- (ii) If the Board, having regard to the nature, content and theme of the film is of the

opinion that it is necessary to caution the parents / guardian to consider as to whether any child below the age of twelve years maybe allowed to see such a film, the film shall be certified for unrestricted public exhibition with an endorsement to that effect.

- If the Board having regard to the nature, content and theme of the film, is of the opinion that the exhibition of the film should be restricted to members of any profession or any class of persons, the film shall be certified for public exhibition restricted to the specialized audiences to be specified by the Board in this behalf.
- The Board shall scrutinize the titles of the films carefully and ensure that they are not provocative, vulgar, offensive or violative of any of the above-mentioned guidelines.
- **The process of certification**

7.1 The Cinematograph (Certification) rules, 1983 have laid down the procedure that a producer must go through to get his film or vide film certified, explicitly stating the steps he has to undergo and also the fees he has to pay and other materials he should submit.

7.2 The film or video film and other material specified in rule 2.1 have to be submitted to the regional officer of the concerned regional centre. On receipt of all the film materials, requisite fees and written matter required under the rules, the regional officer will form an Examining Committee to view the film. Under rule 22, this Examining Committee, in the case of a short film, will consist of an officer of the CBFC and one advisory panel member either of whom shall be a woman, and in the case of a long film / feature film, one of whom two persons shall be women. After the film has been previewed, the CBFC has to ensure that each member gives a report in writing about his recommendations about the deletions and / or modifications and the certificate the film should be given. The report is then given to the Chairman who will ask the regional officer to initiate further procedures.

7.3 However, if the Chairman, on his own motion or on the request of the applicant, so feels, he may refer the film to Revising Committee under Rule 24. The Revising Committee will consist of Chairman, in his absence, a board member and not more than nine members, drawn either from the CBFC or the advisory panel, provided none of them was on the Examining Committee. The Revising Committee will view the same film print shown to the Examining Committee without any changes, and each member will be required to record his verdict before leaving the theatre. If the Chairman is no in agreement with the majority view, he may direct another Revising Committee to see the film. The quorum of the Revising Committee shall be five members of whom atleast two persons shall be women: Provided that the number of women members shall not be less than one-half of the total members of a committee constituted under sub-rule (2).

7.4 After the applicant in apprised of the decision of the Board, he will delete any

portions (if so directed) and submit them to the regional officer, along with one copy of the film as certified.

7.5 Before any order prejudicially affecting the applicant of a film is passed by the Board, he is given an opportunity to represent his views in the matter.

7.6 If the matter goes in appeal under section 5C of the 1952 Act to the Film Certification Appellate Tribunal which is headed by a retired judge as chairman and not more than four other members, the FCAT may hear both the applicant and the CBFC before coming to its judgement.

- **Censorship Violations**

8.1 As stated before the Central Board of Film Certification is responsible for certifying films for public exhibition. However, enforcement of the penal provisions of the Cinematograph Act, 1952 is the State Governments/ Union Territory Administrations, since exhibition of films is a State subject.

8.2 There are various forms of violations which often go unchecked because there are no checks and no complaints from either the law enforcement agencies or members of the public.

8.3 The following are the major violations that agitate the minds of the public:

(a) exhibition of an "A" certificate film to a non-adult.

(b) exhibition of an "S" certificate film to persons other than those for whom it is meant;

(c) exhibition of a film in a form other than the one in which it was certified. Such violations are known as interpolations. Interpolations can be described as follows:

(i) re-insertion in prints of a film for exhibition those portions which were deleted by the Board before certification of the film;

(ii) insertion in prints of a film portions which were never shown to the Board for certification.

(iii) exhibition of 'bits' unconnected with the certified film.

(d) exhibition of a film which was refused a certificate (or 'banned' in common parlance)

(e) exhibition of uncensored films with forged certificates of other films.

(f) exhibition of films without censor certificates.

9. Film Posters

9.1 Another violation that has often come to light is that the theatres often display obscene and indecent film posters. The 1952 Act does not cover posters or film advertisements and these come under the common law of the land relating to obscenity, particularly section 292 of the Indian Penal code. Furthermore, this issue comes within the purview of the State Governments and Union Territory Administrations, particularly their law enforcing agencies including Police.

9.2 There are Central / State legislations that cover this aspect. The Indecent Representation of Women (Prohibition) Act, 1986 is administered by the Department of Women and Child Development in the Ministry of Human Resource Development, but the responsibility of enforcement is, again, with the local authorities. The West Bengal Government have enacted the "West Bengal (Compulsory Censorship of Film Publicity Materials) Act, 1974" to deal with obscene and indecent posters.

9.3 After discussions with the film industry representatives, it was decided that the film industry would deal with this matter on its own. Thus, the Film Publicity Screening Committee was formed with headquarters at Bombay and regional chapters at Bangalore, Hyderabad, Madras and Thiruvananthapuram. The committee, which began its work in April 1990, screens film posters and other publicity material for obscenity and depiction of women in a derogatory manner or highlighting violence.

9.4 The Ministry of Information and Broadcasting has decided to watch this situation for the time being to see if it works satisfactorily.

10. What the Government is doing to Ensure Cleaner Films?

10.1 India today has more than 13,000 cinema halls spread over the length and breadth of her territory. Furthermore, there are lakhs of video libraries and video parlours in the country. Obviously, it is a very difficult task for the official machinery to check any violations of the film censorship provisions. The citizen will have to step in more actively if he has to ensure that he gets wholesome and clean entertainment that does not violate his norms of decency.

10.2 On its own, the Government has from time to time been alerting the State Governments and Union Territory Administration about the problem and urging them to take action. They have been asked to give greater priority to incidents of interpolations and exhibition of uncertified films.

10.3 The law has laid down clear rules for dealing with this problem and has also strengthened the penal provisions.

10.4 Under section 5E of the 1952 Act, the Central Government can suspend a certificate

granted to any film for a fixed period or even revoke it if the film is being shown in a form other than the one in which it was certified. The applicant of the certificate will have a right to appeal / review of the order under section 5F.

10.5 Under section 6 of the 1952 Act, the Government has also revisional powers to deal with errant cases. According to this the Government on its own can call for the record of proceeding of the CBFC with regard to any film and pass such orders as deemed fit which include suspension of the certificate granted to the film or its revocation or alteration of certificate with or without further deletions or ordering further deletions.

11. Penalties and Violations

11.1 Offences with regard to violations of censorship provisions are cognizable. Furthermore, they are non-bailable.

11.2 Section 7 of the 1952 Act provides that if there is violation of censorship provisions or if there are interpolations or tampering of certified films or if non-certified films are exhibited, or where films meant for adult audience are shown to non-adults or where an "S" certificate film is shown to persons other than those for whom it is meant, then penalties specified therein can be imposed. Penalty can also be imposed for failure to comply with section 6A which required that any person delivering a film to an exhibitor or a distributor will also give to him details of all cuts, certification, title, length and conditions of certification.

11.3 Under section 7, a person guilty of violation is punishable with imprisonment for a term which may extend to three years, or with fine which may extend to Rs. 1 lakh or with both, and with a further fine upto Rs. 20,000/- for each day for a continuing offence.

11.4 Showing of video films which violate the rules in the manner prescribed in this section will attract imprisonment of not less than three months but which may extend to three years and a fine of not less than Rs. 20,000/- but which may extend to Rs. 1 lakh and a further upto Rs. 20,000/- for each day for a continuing offence.

11.5 Furthermore, the trial court can direct that the offending film be forfeited to the Government. Under section 7A, any police officer can enter a hall where an offending film is being screened, search the premises and seized the print.

12. What you should do?

12.1 Quite clearly, the role of the police is an important part of checking violations, but being pre-occupied with so many other problems, it cannot play its role fully without the co-operation of the general public. This is where every viewer, concerned with the kind of entertainment he is getting, can act.

12.2 Under rule 30(3) of the Cinematograph (Certification) Rules, 1983 every cinema has

to display prominently the certificate issued to the film being shown as also the cuts or changes directed by the CBFC.

12.3 Therefore, whenever any person seeing a film finds any scene which he feels should have been permitted or which he suspects has been interpolated, he can compare that scene he has seen with the certificate and details of deletions displayed by the cinema owner.

12.4 If he finds that the film is violating any of the certification conditions, he will have to bring it to the attention of the police, which can register a First Information Report under Section 7 of the 1952 Act.

12.5 After filing such a report, the police officer can immediately start investigating it and under the powers vested in him under section 7A, if he is prima facie satisfied that there has been violation, he can seize the print and take it to the CBFC for verification.

12.6 Since a copy of every film as certified and also all the deleted portions have to be deposited with the CBFC at the time of certification, the regional officer of the CBFC in the time of certification, the regional officer of the CBFC in the presence of a Special Executive Magistrate will examine the seized print with the copy lying with CBFC. The Magistrate will then make his report, on the basis of which prosecution under section 7 can be launched after completion of formalities.

13. Your check-list for action

13.1 Please check the publicity posters of films and find out whether the type of certificate ("U", "UA", "A", "S") issued by the Central Board of Film Certification has been indicated on it.

13.2 Please check whether a list of cuts or changes ordered by the CBFC in the film have been displayed in the theatre at a prominent place.

13.3 Please check whether the certificate issued by the CBFC is shown in the beginning of the film.

13.4 Please check whether children below 18 years of age are allowed inside the theatre to witness a film which has been granted an "A" certificate.

13.5 Please check whether any visuals or dialogues deleted by the CBFC as per cut list displayed in the theatre are appearing in the film.

13.6 Please check whether the film contains any scene which according to you, is obscene or vulgar or packed up with gruesome violence. It is likely that such scenes might not have been allowed by the CBFC but interpolated in the film after its certification.

13.7 If you find any type of violations as detailed above, you may inform the CBFC and / or the District Collector or take up the matter with any of the authorities through any social

organization or press, in case you are reluctant to report the matter to the nearby police station.

14. Conclusion

So the next time you are offended by anything projected on the large screen, do not walk out but act, since your act may safeguard the morals of your fellow citizens.