



CLASSIFICATION AND REGULATION IN BRITAIN

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For as long as screen entertainment has been available to a mass audience, there have been questions about the likely impact on individuals and on society. The British Board of Film Censors, set up to curb the excessive zeal of local authority censors, produced its own set of rules as early as 1916. T P O'Connor, the President of the Board, appearing before the National Council of Public Morals, summarised the problems by listing forty-three grounds for deletion laid down for the guidance of examiners. The concerns of O'Connor and the 1916 Board relating to politics and sex are rooted in the morality of the times and reflected the need to protect a country at war. Thus the rule that dictates the deletion of "Scenes and incidents having a tendency to disparage our allies" or "scenes and incidents calculated to afford information to the enemy", while pompous in tone, has a certain validity. As for sex, it probably didn't exist on screen at all. Not so, violence. Here the concerns have a familiar ring: cruelty to infants and excessive cruelty to adults, especially women; cruelty to animals; the exploitation of tragic incidents of war; gruesome murders and strangulation scenes and executions.

In more recent times, the furore around the release in Britain of Stanley Kubrick's film *A Clockwork Orange*, was fuelled by gangs of young men dressing up as 'droogs' and modelling their lifestyle on the activities of their 'heroes'. In one case, a sixteen year-old hit a tramp over the head with concrete slabs, beat him up, and left him for dead. In the trial, his defence lawyer said "...the conclusion that the film had some terrible influence on what is happening is inescapable". Kubrick, thoroughly alarmed at the threats against himself and his family that resulted from the ensuing pressures withdrew the film from Britain, a self-imposed ban that has never been rescinded. Thus grew the direct linking of entertainment and real-life events.

Some ten years after *Clockwork Orange*, the development of video technology widened the choice of distributor and viewer. The system of age restriction that barred access to certain cinema films proved easily subverted by the free access to video. The new video market also provided a far wider range of titles than had been available in Britain's limited theatrical outlets. Among these titles was a relatively small number of films depicting rape, violence and revenge, which were dubbed the 'video nasties' in the press. The government was provoked into legislation. Despite the introduction of the Video Recordings Act in 1984, worries about the links between video violence and the commission of offences of violence remained. Indeed, the impression that there is a direct link persists, at least in the minds of newspaper editors, despite evidence to the contrary in all the cases investigated. In perhaps the most disturbing case in recent years, two young children were convicted of the murder of a two-year-old child, Jamie Bulger. Summing up the case, the judge said "It is not for me to pass judgment on their upbringing, but I suspect that exposure to violent video films may in part be an explanation". That evening, the main television news bulletin carried the judge's words with a large reproduction of the video packaging for a mildish horror film, *CHILD'S PLAY 3*, its central character, the demonic doll, Chucky, grinning cheerfully out of the screen. That Chucky had played no part in the lives of the young killers and that this fact was read into the official Parliamentary record has made no difference. Guilty or not, Chucky has become symbolic of the links that are made between violence that is real and violence that is not.

The role of the press in creating and maintaining moral panics cannot be underestimated. Censorship is usually seen as repressive. In recent years, the debate about censorship in

Britain seems to have been more about what is allowed than what is repressed. After the 'video nasties', *Child's Play 3*, *Natural Born Killers*, and a documentary about capital punishment, *Executions*, all fell under the scrutiny of the press. In the last two examples, the industry itself enforced a ban. Our most recent experience involved the David Cronenberg film, *Crash*. Writing from the Cannes Film Festival, one British critic characterised the film as 'the most corrupt movie ever made'. The chase was on and the BBFC was subjected to an intense campaign against what became known as the sex'n'wrecks film. Suddenly everyone was an expert about a film they hadn't seen. Even one or two of my magistrate colleagues, who ought to know a thing or two about hearsay evidence, denounced the film, sight unseen. Freedom of speech is one of the guiding principles of most civilisations. The paradox of a free press in Britain is that a certain section preserves its own freedom of expression for venal ends while encouraging censorship tendencies among its readers. Thomas Jefferson writing to George Washington in 1792 said "No government ought to be without censors and where the press is free, no one ever will".

Nevertheless, concern about violence runs like a red vein through the history of film entertainment, as we recall from T P O'Connor's forty-three rules. While this concern has an historical specificity, at the heart lies the issue of harm. The obscenity law in Britain defines harm in published material as that which has a tendency 'to deprave and corrupt', or, to make morally worse. The Video Recordings Act makes the harm criterion much more specific. The original legislation required the classifier to have special regard to the circumstances of home viewing, where the audience is likely to include children. Increased focus on media violence in 1994, led to an amendment to the Video Recordings Act, confirming the question of harm as the determining factor when classifying films on video. As the classifying agency, the BBFC must have regard to particular harms, the harm done to the individual, defined as a 'potential viewer' and the harm done by an individual to society. Potential viewer is defined as anyone, including a child or young person, who is likely to see the work, no matter what classification is issued to it. The challenge to the classifier is to identify both the harm!s and the potential viewer, while bearing in mind that the Obscene Publications Act makes the specific declaration that the film (or video or book) must be taken as a whole. Our main aim is to protect children from fear and from being misled into thinking that violence and crime are the solution to problems.

The definition of these tests requires the classifier to ask a series of probing questions, the answers to which must be carefully weighed and balanced. Looking at the film as a whole, what is the overall attitude of the film towards violence? What part does the violence play and how is it shown? Research has shown us that violence placed in a familiar setting is far more likely to be upsetting than in a fantastic setting or one distanced by time or place. Different genres can be classified according to how they influence the perception of viewers and the extent to which those viewers find such films disturbing or violent. Thus traditional cartoons raise least concern, followed by comedy, westerns and war films, whereas police, gangster and horror films cause more concern, with Martial Arts and the vigilante/revenge films coming top of the list. We then ask how is the violence treated within its genre. Who is doing what to whom and why? What is the position of the viewer

? Are we placed as victim or perpetrator? What do we see? Are weapons used, for example? We then look at the potential audience. Taken as a whole, what effect would

such treatment have on the likely viewers, especially those below the age specified in the classification? Who is likely to be drawn to this film?

Do the stars or special effects have an appeal to the young? If it features dinosaurs, will they tear down the doors to get in?

Then we must look at the potential for harm to society. We have defined this as the acting out by young people of dangerous lessons. Clearly identifiable harms here would include the teaching of imitable techniques such as clear instruction about lock-picking, or breaking into a car.

Against this must be weighed the competing claim of those not at risk, either because they are adults living in two-thirds of the homes in Britain that are childless or because the young and vulnerable are unlikely to be attracted to the film. The European Court of Human Rights has ruled that any restriction of freedom of expression must be proportional to the harm perceived, which means that classification must always be our first option particularly when protecting children from fear and distress. If more drastic action is required, then the offending section may be cut. Very few films require the ultimate sanction of a refusal of a certificate. The grounds for refusal of a certificate rest on the harm condition, where the film maker has used material that exceeds the permitted freedoms even for films for adults.

Example - clip from Cliffhanger

Most of us find some forms of violence exciting and exhilarating. There have been times when I have empathised with James Agate, the distinguished critic, who wrote in his diary in 1942, 'Disappointed with Edward G Robinson in *The Sea Wolf*, a psychological film about a rascally captain with a split mind, whereas I had been looking forward to two hundred lashes in Technicolor'. Agate's distinction between different types of violence neatly points up the distinctions between different genres of film. As the Obscene Publications Act allows a defence in the interests of public good, that is, that a work may not be deemed obscene if it can be shown to be in the interests of, inter alia, art or learning, we must also make distinctions about quality, between exploration or exploitation. Billy Wilder put it more succinctly. When filming *Sunset Boulevard*, he instructed his cameraman, Johnny Seitz thus: 'Johnny, it's the usual slashed wrist shot...Keep it out of focus. I want to win the foreign picture award'.

Distinguishing between different groups of the audience is a hard enough task but assessing how a film is going to be received by individuals in that audience, creates serious and significant problems. We turn to research for illumination and understanding. Effects research has given us no conclusive answer about the direct cause and effect of film, although there are some indications from American researchers that may contradict this. Attitudinal research is more helpful to the regulator in providing clues about how respondents place issues such as violence in their personal code of morality. When the BBFC, in 1993, conducted some research into public attitudes, respondents were asked to rank a list of potentially offensive elements in videos from the most to the least offensive, drugs, not violence, topped the list with violence and bad language coming behind. One of the outcomes of this research was the formation of a BBFC Home Viewing Panel, which could be consulted from time to time about current

attitudes and concerns. By 1996, the Home Viewing Panel ranked violence third in the list of areas of 'great concern' after racism and drugs. Interestingly, when considering suitability of films for children, sex and bad language were considered of greater concern than violence. In a recent national survey, only 11% of respondents mentioned video as a major contributor to violent behaviour, putting it well behind TV (41%), lack of discipline from teachers and parents, home upbringing, unemployment, drink and films. Nevertheless, belief in the influence of the media on the young persists, particularly on young offenders.

Research conducted by the Policy Studies Institute in 1993 revealed that, in fact, the viewing habits of young offenders were much the same as those of non-offenders of the same age. Soap operas and long-running series had the greatest appeal in both groups and all the young people rated Terminator 2 as their favourite film. There appeared to be no evidence that offenders watched more television or selected more violent programmes and films. In fact they had less access to television and video than other children, probably because of the disrupted and chaotic lives that many of them led. The focus now turned not to what offenders watch but how, and a government-funded research project was set up at the University of Birmingham. The findings, due to be published this month may give us some clearer insight into the 'uses and gratifications' of violent entertainment for young delinquents and help us to understand the degree of culpability that video bears in contributing to youth crime.

Until we have more evidence or greater understanding about how screen entertainment is used by audiences, particularly the young and vulnerable, our task is to steer a, sometimes unsteady, course between the Scylla and Charybdis of extreme liberalism and ultra conservatism. Speaking personally for a moment, during my time as a magistrate, I have heard many violence-related cases. The single most important cause of such behaviour is the disinhibiting effect of alcohol. In that time I have never heard a single case where media violence was cited as the cause or reason for the offence. Violent heroes, however, do become part of our culture. A young man was brought into my court pleading Not Guilty to being drunk and disorderly. The policeman was called to give his evidence. 'I was on duty in a marked police car in the Victoria Park area when I noticed a disturbance in some bushes. On investigation, I found the defendant, the man standing before you, wearing a red handker-

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round his head and crawling through the bushes. When I asked him what he was doing, he said, "Fuck off, I'm playing Rambo".

Nevertheless, violence is inherent in our nature. What parent did not suffer a frisson of horror when the case of the young au pair, Louise Woodward, convicted of causing the death of a young child, was given wide circulation? The gentlest person can react irrationally and even violently when suffering from sleep deprivation and a crying child. Normally we control our violent feelings; perhaps it is the fear of losing that control that keeps us wary of endorsing it in depictions of screen violence.

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