

Censorship, Free Speech and Indian Films

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Abstract

The present paper is an endeavour to examine the nature of censorship. It is divided into three sections: the first section explores the definitional and historical aspects of censorship; the second section tries to look at the question of censorship vis a vis free speech; and the final section takes into account the rationale of film censorship in Bollywood. Through critical reflections on the nature of censorship and free speech by John Milton, J. S. Mill, Michel Foucault and Stanley Fish, the paper examines the tensions between the acceptable and the unacceptable in public culture. The paper not only explores what constitutes/curbs free speech in general, but also discusses the factors contributing to film censorship in Hindi cinema in particular. The paper argues that film censorship is mediated by the state, market and community in India.

Keywords: Free-speech; Moral panic; Obscenity; Regulative/Prohibitive/Productive Censorship.

*"I disagree with everything you say—
but will fight to the death for your right to say it."
(Voltaire)*

I

Ways of Policing: Censorship and Its Philosophical Genealogy

Not a single act of human expression can be adjudged absolutely free from some degree of restraint, disciplining, or even the censorship of information. In other words, human communication—oral, textual, or visual—is always limited and limiting. Not only our public interactions are bound by the invisible structures of authority, but our everyday conversations as well, although partially, are self-regulated by the normative cultural structures and ethical/moral concerns. Therefore, to wholly understand the multifaceted (hi)story of censorship, it is important that we look at censorship not merely as an autocratic fascist mechanism of content regulation rather as a site of ideological conflict. Usually, censorship is defined

as any direct/indirect control over any content which limits the freedom of expression. It is often argued that its source lies in the institutional/structural systems of authoritative power whose function is to suppress anything which it deems to be transgressional. Although the uses of the term 'censor' dates back to ancient Rome, "where the censors were certain high ranking magistrates responsible for supervising public morality", the institutional censorship can be understood if we focus on the pre-publication practices of surveillance, self-regulation and post-publication strategies of exclusion and prohibition (Laerke 3). The *Oxford English Dictionary* defines censorship as "suppression or prohibition of any parts of books, films, news, etc. that are considered obscene, politically unacceptable, or a threat to security." This definition foregrounds a sort of dialectical conflict between the normative religious and political institutions—which demand the suppression of anything they consider contemptible and offensive—and the audaciously progressive free-thinkers who constantly combat for acceptance of all kinds of ideas and freedom of expression.

It has often been suggested that the necessity for an elaborate structure of censorship arose with the invention of the printing press in the fifteenth century; on the moment of arrival of the printed books. This will to censor was also accompanied by an idea of the rights of individuals to freedom of expression during the Renaissance. In 1559, Pope Paul IV issued the *Index librorum prohibitorum*, which came up with a list of books found to be heretical and contrary to Catholic Christian morality. As a consequence, when Galileo published his *Dialogue Concerning the Two Chief World Systems, Ptolemaic and Copernican* (1632) challenging the Ptolemaic theory which had remained the basis of Christian cosmology for centuries, he was censored with life imprisonment and forced to forgo his faith in the Copernican hypothesis. In England, Charles I promulgated *Licensing Order of Printing* in 1643, which demanded all printed books to be registered with the Stationers' Company and approved by either the Archbishop of Canterbury or the Bishop of London before publication. John Milton, while defending the right to freedom of expression, vigorously opposed this licensing act and published his *Areopagitica: A Speech for The Liberty of Unlicensed Printing to the Parliament Of England* (1644) in defense of freedom to speech/writing. Milton's tract is often held as a classic text espousing the ideal of civil liberty which made a very strong case against pre-publication censorship. Milton contended that the Church and the Commonwealth may have a "vigilant eye how books demean themselves as well as men; and thereafter to confine, imprison, and do sharpest justice on them as malefactors", however, pre-publication book censor-

ship must be held unlawful as it will primarily constitute “the discouragement of all learning, and the stop of truth, not only by disexercising and blunting our abilities in what we know already, but by hindering and cropping the discovery that might be yet further made both in religious and civil wisdom” (*Areopagitica* n.pag.). By invoking the Church and the Commonwealth, Milton was referring to the two fields of censorship, namely *political censorship* and *moral censorship*. While the former implied the restriction of speech/writing mainly by the government, the latter would largely be practiced by the ecclesiastical authority, whose purpose would be to regulate social behavior and ethical conduct of man. Furthermore, Milton was also indicating towards the *regulative* (which endeavours to determine the pre-publication suitability of the content for public consumption) and the *prohibitive* (which uses bans, burnings and penalties as strategic tools to regulate *offensive* content) nature of censorship.

However, the nature of censorship has radically changed since the days of Milton. The idea of institutional censorship has been critiqued by several scholars. Theorizing the liberal conception of modern forms of censorship, Matthew Bunn argued that censorship is “external, coercive, and repressive. Censors are authoritative social actors, extrinsic to the communicative process, who deploy coercive force to intervene in the free exchange of ideas to repressive effect” (29). Annette Kuhn, one of the prominent historians of censorship, proposes that “censorship is not always about repression, it is a result of a productive process rather than a forced silence” (quoted in Sen 178). Sue Curry Jansen, another noted theoretician, contends that censorship includes:

all socially structured proscriptions or prescriptions which inhibit or prohibit dissemination of ideas, information, images, and other messages through a society’s channels of communication whether these obstructions are secured by political, economic, religious, or other systems of authority. It includes both overt and covert proscriptions and prescriptions. (Quoted in Sen 178) check the page numbers

These theoretical formulations set censorship free from being identified as a mere negative phenomenon, or a repressive mechanism, operating only to regulate and prohibit, and consider censorship as a productive site of discursive engagement too which channelizes new formations of communication practices. They also suggest that censorship is not merely a question of public morality or political control.

 II

In Love with Truth: Free-speech and Censorship

It is impossible to properly understand the facets of censorship without the knowledge about free speech. In electoral democracies which constitutionally protect the individual's right to freedom of speech, censorship constitutes a curious paranoia wherein the authority can both grant and withdraw the freedom of speech at any moment if it is found to be threatening. Though the degree of free-speech may vary across the countries and is always contestable, the fundamental idea is to limit the powers of state legislatures/ bureaucracy to allow vital critical debates to happen. The protection of democracy is not possible without safeguarding free speech, and the special protection of speech is the greater ideal of any democracy. Writing in defense of free-speech and against censorship, John Stuart Mill, in his famous work *On Liberty* (1859), argued for minimal state/governmental control and maximum permissiveness. He used a metaphor, 'the marketplace of ideas' to express his theory. He reiterated that all the ideas—both the good and the bad ones—must be allowed to have unrestricted communication for the welfare of mankind, and only in a receptive environment of the free competition of ideas—like it happens in the market place—the truthfulness/falsity of any idea could be ascertained.

The power itself is illegitimate. The best government has no more title to it than the worst. It is as noxious, or more noxious, when exerted in accordance with public opinion, than when in opposition to it. If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind. (Mill 18)

Here Mill is not only critiquing state censorship, but also general intolerance of 'unpopular opinions' by the common public. For him, the 'discovery' and 'production of truth' through freedom of speech is the basic epistemic argument, because only in a competitive environment of free speech, 'the truth' can be told.

Foucault, too, has observed that freedom and courage to speak (*parrhesia*) is an elemental feature of any democracy. In *The Courage of Truth*, he opines that *parrhesia* (truth-telling, free-spokenness) which includes both the right to express one's opinion and the courage to go against the opinions of others is crucial to democracy (35). However, he contends that *parrhesiastic* freedom, or the freedom of speech given to everybody and anybody,

though certainly useful and essential, is fraught with dangers because it makes the distinction between true and false discourses impossible (Foucault 36). Further, it endangers the act of truth-telling itself which may not be tolerated by the society due to its capacity to offend an individual or a group. Foucault observes that

It will be those who please the people, say what they want to hear, and flatter them. The others, those who say or try to say what is true and good, and not what pleases the people, will not be listened to. Worse, they will provoke negative reactions, irritation, and anger. And their true discourse will expose them to vengeance or punishment. (37)

Foucault's notion of *parrhesia* is crucial to understand censorship because many a times, when an artist envisions showing darker reality of the society which may offend the majority, his art is subjected to censorship. What does not please people, or pleases provocatively is punished. Thus the censorship is understood as a threat to freedom of expression and free speech.

However, free-speech itself is a very problematic idea, not without its attendant controversies. Stanley Fish, one of the foremost critics of liberalist belief in free-speech, proposes that there is no such thing as free-speech. In his opinion, free-speech is an *unrealizable* and *undesirable* impossibility – all speech acts are ideological, therefore, subject to contestations/constraints:

Freedom of speech is a conceptual impossibility because the condition of speech's being free in the first place is unrealizable. That condition corresponds to the hope, represented by the often-invoked "marketplace of ideas," that we can fashion a forum in which ideas can be considered independently of political and ideological constraints. (Fish 115)

Here, Fish is not arguing that the freedom of speech should not be permitted. He is merely suggesting that any speech act will always already be constrained by some political and ideological *situatedness*. His argument constitutes a paradox when he puts forth that "the flourishing of free expression will in almost all circumstances be an obvious good; but in some circumstances, freedom of expression may pose a threat to that purpose, and at that point it may be necessary to discipline or regulate speech" (Fish 107). However, it is this contradiction which constitutes the core of free-speech and censorship debate.

The arguments made by Foucault and Fish provide us with new insights

to look into the debate of free-speech and censorship. Though Foucault writes about the problems of free-speech in democracy, more specifically about unreasoned speech, yet he upholds the view that it is freedom of speech which constitutes democracy. Although Fish argues about the unrealisability and undesirability of free speech, and inevitability of its normative constraints, yet he does not favour totalitarian regime of repressive censorship. What he questions is the conceptual ideality of free-speech, which is misunderstood as saying anything without constraint. Free-speech does not remain *sacred* in Fish's opinion and censorship seems to define the limit of speech. Thus, censorship is more than illiberal or draconian control of ideas. It goes beyond the logic of prohibition and unspeakability, and productively contributes in furthering the discourse it intends to censor. It might appear monological, yet covertly supports communication process.

III

The mantra of the marketplace, of course, is simple: if it sells, it ought to be manufactured.

(Stavans 147)

The Bollywood Mantra

Bollywood (as Mumbai film industry is called in imitation of Hollywood) is an industry for production of art/entertainment. It can also be called 'the culture industry' if we prefer to use the term coined by Adorno and Horkheimer in their book *Dialectic of Enlightenment* (1947). The primary nature of the culture industry is to produce art for consumption by the masses. In the process, it sometimes degenerates art into a commodity, stripping art from its 'truth-content'. For Adorno, true art is always defined by what it is not, its utopian element, a coherent vision which is inclusive of the 'other'. Proposing that 'the art is social by virtue of the fact that it is critical of society' Adorno points out some inherent traits of 'art' produced by the culture industry through its technical capabilities, capitalist economic resources and bureaucratic administrative structures:

- The entire practice of the culture industry transfers the profit motive naked onto cultural forms;
- The masses are not the measure but the ideology of the culture industry;
- The customer is not king, as the culture industry would like to have us believe, not its subject but its object;

- It proclaims: you shall conform, without instruction as to what; conform to that which exists anyway. (Adorno 12-19)

Adorno is proposing that the culture industry transforms art into commodity, audience into consumer, and aesthetic experience into unreflective consumption. On the basis of Adorno's insights, it can be aptly suggested that Bollywood too is a complex ecosystem of film business. It is always governed by politico-economic social factors and should never be confused with a site of creative expression alone. It is an 'industry' with a very large film business governed by the logic of profit. Therefore the issue of some sort of regulation over its production, and the laws regulating the same, are of crucial significance.

The question of content regulation in Bollywood has remained socio-political and governmental in nature. Films are always certified before their release into the marketplace for the public exhibition and consumption by Central Board of Film Certification (CBFC), a statutory body constituted by the Government of India. Such overt legislative content regulation is often seen as an assault on artistic freedom. In addition to state censorship, one also encounters several social groups which act as extra-judicial force demanding the social control of cinematic content. They foreground the idea of the cultural utility of film censorship. Although the film industry prefers self-censorship to governmental/social censorships, its inherent contradictions as an industry and the financial interests often lead to public perceptions that the film industry cannot regulate itself. Since art matters less than the money in the film business due to the corporate interests, many consider external content censorship as a necessary evil. Though censorship certainly affects free artistic expression in several key ways – and it does have its economic and political aspects – its regulation becomes a necessity as the truth of film business is money, not merely expression of artistic creativity as the industry regularly projects. In majority of the cases, the interests of marketplace dominate the concerns for high art.

However, film censorship in India does not always ensue from the fear of commodification of art and the audience due to pressures of capitalism and market economy. It also exemplifies attention between the acceptable and the unacceptable in public culture which is concerned with (il) legitimacy of images. In fact, every society has mandates and guidelines which regulate production and circulation of images for its members especially apropos representation of sexuality and religious ideas. However, the problem with such mandates is that they often reflect both the majoritarian and minoritarian will suppressing any dissent, right or wrong.

Anything which may challenge the norm – political, ideological, religious or sexual – is censored. The image which is offensive is silenced. In other words, visual censorship desires to put a curb on the heterogeneity of the individual tastes and intends to produce a homogenous public taste.

In India, visual censorship can be explained in a number of ways. Primarily, the pre-empting of objectionable content, through pre-censorship and reasonable restraint on the freedom of expression by the state, has been used to contain and curate the cinematic content. Censorship by CBFC can be considered a case in point. In addition, there are several other facets of film censorship on religious and political grounds, generating the narrative of hurt sentiments. The will of the people wields enormous authority when it comes to censoring cinema. Several caste/religious groups are intermittently found to be demanding censorship/ban of cinematic content. It has often been observed that people's sentiments, mostly religious and moral, affect censorship practices. The market is another powerful apparatus which controls the flow of images in masses. Thus the ideology of the censorship moves beyond the ambit of the state to the people and the market.

The history of film censorship in India begins with the Cinematograph Act of 1918 which was passed by the colonial British government to prevent the public exhibition of "objectionable" films. Under the provisions of this act, censor boards were set up in Calcutta, Bombay, Madras, and Rangoon in 1920 which certified legitimacy or illegitimacy of films for public display. During this period, both the colonial government and nationalist leadership viewed cinema as a threat. Monika Mehta argues that "the colonial state instituted censorship to guard the morals of the natives and to prevent them from sinking into depravity, religious bigotry, or ethnic strife. Like other institutions and legal constraints, censorship contributed to the formation of the colonial state and helped to justify its rule" (28). Interestingly, Mehta reports that there were strong protests against screening Hollywood films in India because overtly sexualized representation of white women in these films may have provoked the volatile, male native spectators. Even the nationalist leaders were also quite skeptic about the uses of cinema. This is very much evident from Mahatma Gandhi's much publicized statement that "even if I was so minded, I should be unfit to answer your questionnaire, as I have never been to a cinema. But even to an outsider, the evil that it has done and is doing is patent. The good, if it has done any at all, remains to be proved" (qtd. in Jain 24). After India's independence, the Central Board of Film Certification (CBFC), a statutory body which certifies films before their public exhibition was set up under the provisions of the Cinematograph Act, 1952. The Board examines the

content of films and its representation certifying them into four categories:

- U - for Unrestricted Public Exhibition
- UA- for Unrestricted Public Exhibition, but with Parental guidance required for children below 12 years of age
- A- Restricted to adults
- S-Restricted to any special class of persons

Thus the Indian nation-state practices the ubiquitous but reasonable censorship of the state, and examines films before their release. However, its process of certification keeps generating controversies at regular interval. Filmmakers often complain that this censoring institution often works as a moral police for the people considering them immature, un-evolved children to be protected from the sleazy representations of sensuality/ sexuality and offensive cultural content. Summing up the nature of film censorship in postcolonial India, Someswar Bhowmik argues that its agenda is to siege “ [a]the collective psyche of the Indian citizens . . .[b] the cultural formation of the post-colonial Indian society . . .[c] the political rights of the citizens of a democratic India” (27).

In the first two decades of the twenty-first century, film censorship has become more significant for another reason because the various newspapers of the country have been reporting about several sporadic incidents of protest, vandalizing of cinema houses, court cases and occasionally violence against features films. It has been disheartening to read that Kamal Hassan’s film *Vishwaroopam* was initially denied a release in Tamil Nadu even after the certification from the Censor Board. A Muslim group had demanded that the film painted their community in the negative light and hurt their sentiments. Law and order problem was cited as a reason by the government to not allow the screening of the film in the state. Though Kamal Hassan considered this demand for ban to be an assault on freedom of expression, yet he was forced to mute my scenes in his gesture of compromise with the community. A case was filed against Sanjay Leela Bhansali’s *Ram-Leela: Goliyo ki Rasleela* (the film’s title was changed, first from ‘Ramleela’ to ‘Ram-Leela’, and then to ‘Goliyon Ki Rasleela: Ram-Leela’ to end the controversy) in several Indian states because it allegedly hurt the religious sentiments of Hindu community as it contained ‘sex, violence and vulgarity’ which did not go well with the word unhyphenated, or even hyphenated title of the film polluting the deeper religious meanings of a pious performance. In another interesting case, the Central Board of Film had asked the director of the film *Humpty Sharma Ki Dulhania* to chop

off the kissing scene between the lead actor and actress of the film.

Such public policing of cinema is an outcome of the immense popularity of films in the twenty-first century India. And such popularity is bound to have its side effects and unnerve society's political and moral guardians. The social implications of commercialized production of 'artistic commodity' by profit-led film industry for voyeuristic consumers are also immense, and not without genuine concerns. Liberalization of Indian economy in 1991, and its natural impact on the 'production' of aesthetic content is such that there are several groups who argue that films have adversely affected the psyche of youths, and their uncontrolled circulation—stripped of our cultural and national ethos—is bound to considerably distort the moral fabric of our nation. This group, often mockingly addressed as 'the moral guardian' reflects a 'moral panic', and demands an incessant urgency to regulate cinematic content. The foci of their moral panic is woven around a) over-sexualized hyper-seductive representation of females. (b) utter disregard for the native cultural traditions and normative social moralities (c) exaggerated representations of acts of violence and its uncritical implicit glorification. They often consider that the audience is a category of innocent, malleable persons, whose minds can be harmfully influenced by 'immoral content,' capable of corrupting the broader societal frameworks.

Further, though a visible turnaround can be marked in Indian society regarding sexuality and sexual culture in the aftermath of 1991 economic liberalisation, yet it is also axiomatic that the issue of sexual morality has become more complex. India is standing at cultural crossroads, waiting to be swallowed by the rhetoric of sexual revolution. Recognizing that the sexual repression negatively affects individual growth, and has detrimental consequences on their social behavior, non-traditional sexual behaviour has become a fad. Many radicals would argue that India has just entered 'the era of sexual expression' from 'the age of sexual repression' paving the way for recognizing, if not accepting, deviant sexual practices and cultures. They would uphold that the period marks the end of sexual morality. It is an age of sexual freedom. However, to consider that the hypothesis of sexual expression/revolution is uncontested is to make a big mistake. The vast majority of masses, especially middle class, continue to resist such 'moral degeneration', which they contend not only corrupts culture, but also depraves women, their sexuality and its representation. Through various organizations, and institutional mechanisms, they confront this fringe immoralism.

However, the perspective outlined above is not as simple as it has been

made to appear. Films are unarguably the most popular medium of entertainment today and exercise enormous influence over people transforming their lifestyles, perceptions and opinions. Therefore there are arguments that, if not filtered, films can adversely affect the social fabric and public health of a society. It has always been vociferously argued that art can be diabolic in effects if combined with capitalist forces—commodification of art severely damages the moral structure of a society. Films, being one of the most powerful products of capitalism, can certainly affect social morality. Because films continue to control the ways of seeing and deriving pleasure, the socio-political actors too persist in the will to censor desiring the “retention of political power, upholding of theological dogma, and maintaining community standards” (Caso 11).

Thus there can be two major approaches to look at the issue of censorship in cinema. First, the neo-liberalist free-speech approach, basically structured around the belief that the society must uphold the sanctity of free speech safeguarding it at all costs and guaranteeing immunity to all and any kind of visual expression. This approach concurs with free speech ideologues who argue that only free speech can deepen democracy, ensure progress and justice; therefore, the law must protect the right to express opinion as it is an inalienable right of an individual. The second approach argues for the necessity to retain film censorship to counter the detrimental effects of undesirable films in the name of the collective will demanding intervention of public authority. It believes that industry is incapable of practicing self-censorship and the innocent spectators must be protected from the evil of films.

In conclusion, cinema has been viewed as a modernizing force which is often held to be synonymous with westernizing Indian culture. However, it has not only *pleased* people, but also *provoked* them. In other words, cinema has always remained a site of resistance and regulation though reflecting changing contours of the Indian public sphere. Cinema, usually mainstream commercial cinema, is subjected to censorship because it is said to be governed by the logic of profitability and laws of the market, catering to the morbid tastes of the average masses, overlooking and trivializing the aesthetic concerns of art for commercial success. Censorship in cinema is thus often seen as a consequence of the birth of an entertainment industry which has transformed art into commodity and led to a devaluation of art. This logic of censorship is premised on the alleged or real impoverishment of art.

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