



CINEMATOGRAPHIC FILM VIS-A-VIS THE BOARD OF FILM CERTIFICATION: ROLE AND RESPONSIBILITY IN SOCIETY – A CRITICAL ANALYSIS

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“Man as a rational being desires to do many things, but in a civil society his desires to be controlled, regulated and reconciled with the exercise of similar desires by the other individual” – The Supreme Court of India

Abstract–Movie plays an important role in grasping the minds of the people across the globe. Particularly, the young minds are easily corrupted by the movie. The film or movie is the art of stimulating experiences that communicate idea, stories, perceptions, feelings, beauty or atmosphere by the means of recorded or programmed moving images along with the other sensory stimulations³. The Oxford English Dictionary defines film as follows “film is a story or event recorded by a camera as a set of moving images and shown in a cinema on television”⁴. While the cinema are enjoying full freedom in the name of freedom of speech and expression under the Indian Constitution, it should be borne in mind that it is having the responsibility of protecting the nation from any untoward incidents or should not lead to corrupt the young mind in an unhealthy, or abhorrent situation. Therefore, in this paper the authors are going to analyse how the cinematographic film affects the society at large and the role and responsibility of the cinematographic films and the board of film certification in protecting the children and the younger generation as well as the society from indulging in any misdemeanor.

Keyword: Mass Media – cinematographic film – Board of film certification – Heroes and fans.

INTRODUCTION

MASS MEDIA AND THE CINEMATOGRAPHIC FILM

Meaning of Cinematographic film: According to Concise Oxford dictionary, a cinematographic film is a film which by a rapid projection through an apparatus called cinematograph produces the illusion of motion on a screen of many photographs taken successively on a long film. The Copyright Act, 1957 defines the cinematographic film in the following words

“Cinematograph film” means any work of visual recording and includes a sound recording accompanying such visual recording⁵. According to wikipedia, cinematography is the art of motion picture photography and filming either electronically by means of an image sensor, or chemically by means of a light sensitive material such as film stock⁶.

Meaning of Mass Media: Since the cinematographic film forms part of mass media, the authors first intends to define what is mass media? According to Techopedia.com, “media is the plural form of medium which broadly speaking describes any channel of communication. This can include anything from printed paper to digital data, and compasses art, news, educational content and various other forms of information”. When the media is

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³ Serverny Andrei, the movie theatre of the future will be in your mind, available at web.archive.org/web/20130907214603/http://tribecafilm.com/future-of-film/future-of-the-movie-theatre-in-yopur-mind. Last visited on 23.09.2019

⁴ Serverny Andrei, the movie theatre of the future will be in your mind, available at web.archive.org/web/20130907214603/http://tribecafilm.com/future-of-film/future-of-the-movie-theatre-in-yopur-mind. Last visited on 23.09.2019

⁵ Section 2 (f) of the Copyright Act, 1957 as amended in 1994.

⁶ en.wikipedia.org/wiki/cinematography, last accessed on 25.11.2019.



addressed to a large number of populations, it is called mass media. Film being displayed to mass number of people, it is also comes within the purview of media. Internet media can also be considered as a mass media. In India mass media plays a pivotal role in usurping the minds of the people very easily. In particular, this leads to some commission of crimes or being a cause for the new dimension of the crimes in the globe. For example, for the reasons to be discussed in later, the rate of crimes committed after the release of Bollywood film titled *Dhoom* alone was 15, *Special 26* number of crimes inspired was 26, *Oye Lucky ! Lucky One*, 5 *Darr* and *Munnabhai MBBS* – 1 case respectively.

OBJECT OF THE RESEARCH

The object of the research is to analyse impact of the mass media in the society and to discover how the mass media particularly the movie, corrupts the young mind and to find out the role of censor Board in sustaining the morality, decency and *ordre public* in the modern era..

THE IMPACT OF CINEMATOGRAPHIC FILM IN THE SOCIETY

Films literally exhibited the *sine qua non* of human relationship, family values, respect elders, sentiments and feelings of fellow beings. Songs are sung with the moral values of the life, highlighting the national integration, togetherness and brotherhood etc were consciously projected as a message to the nations. Heroes play or act as a good role model to the society like having positive sentiments, law abiding, earnestness, hard working, honesty, integrity, commitment to the right cause and the youngsters (fans) are behaving in the society like the heroes in the cinema. No doubt, those films exhibit victory of good over the evil. In sum and substance, the messages conveyed through such films are welcoming. For example, Dr. MGR, the former Chief Minister of Tamil Nadu, while he was acting in Tamil film industry, was never shown to be drinking or smoking and consciously avoided such scenes for the sake of public. It was with such austerity the late, Dr. MGR decided his roles, and conveyed the message of social importance⁷. The good deeds done by the heroes are used to be followed by the fans of the heroes in the real life and thereby the society gets benefitted.

The Tamil film industry has so far, contributed five Chief Ministers to the Tamil Nadu and they have been ruling this state incessantly from 1967 onwards. In neighbouring State of Andhra Pradesh also, late NTR was able to capture power in 1983 within 9 months of formation of his party. This would only demonstrate the tremendous impact of the cinema over the mass.

CINEMATOGRAPHIC FILM IN PRESENT SCENARIA

By the passage of time, social values became dilemma in films, commerce encroached into the ethics and values, economics donned the hero, where the virtues had no role to play. Antisocial activities, criminal acts as we already mentioned, are common in present days movie which suggest that there is nothing wrong in adopting illegal, violent and immoral ways and methods to achieve the desired results, which in turn, may also be an illegality⁸.

SOCIAL OBLIGATION AND RESPONSIBILITIES OF HEROES AND THE BOARD OF FILM CERTIFICATION

The things to be noted here is that all the changes are happening under the guise of censor board, which is supposed to examine the film before permitted to release for the public exhibition. It is one of the reasons for rise in crime rate in our country, as the people used to imitate their heroes. It is reported in media that a fan of a popular hero in Andhra Pradesh became addict to alcohol after seeing he advertisement featuring his hero taking liquor⁹. The above situation only indicates that more social obligation and responsibilities are cats upon the actors especially leading heroes who have large fans, to think twice before doing antihero roles which will

⁷ Tamil Nadu Brahmin Association Vs Central Board of Film Certification, Date of Order: 27.05.2013. available at indiankanoon.org/doc/84149253, last accessed on 24.09.2019.

⁸ Ibid,3

⁹ Ibid.



induce and encourage negative message. Apart from making money, the leading actors have obligations and responsibilities to the people. As most of the youngsters consider their heroes as their role model, the actor are duty bound to give positive messages to the youngsters¹⁰.

IS CINEMA A REASON FOR CRIMES IN SOCIETY?

Though cinema is a business, it should do public good, or at least should not corrupt or dehumanise the people. During pre independence period, patriotism was spread by cinema. After independence, cinema acted as medium by which social and political changes have been achieved. Social values, morality, decency, ethical were hallmarks of the film. Such a dynamic medium has been made pure business today. In a news paper it has been reported that in one case, the accused confessed that they sprinkled the chili powder in the scene of crime to escape from the clutches of law and to get rid of from the sniffing dogs. They got this ruse/idea from a popular Tamil Movie¹¹. The point to be noted here is the accused 2 decades ago have committed many murder after watching the Tamil movie. In yet another incident that happened in Chennai, a 15-year-old 9th class student in a school on Chennai stabbed to death a teacher inside the classroom of his school for being strict with him. A news paper report said that during questioning by police, the boy had said that he had recently watched the Hindi Movie “*Agneepath*” and was influenced by the hero who takes revenge on those who falsely implicate his father¹².

IMPACT OF FILM FROM REEL LIFE TO REAL LIFE: A FLEETING LOOK

In this part, we are going to analyse how the films are inspiring the people to commit crimes in real life from the reel. Though the movie gives a disclaimer stating that “*the characters and incidents portrayed and the names used herein are purely imaginary and fictitious and any resemblance to the names, character or history of any person is coincidental and unintentional and not intended to hurt anybody*” as we already discussed, the youngsters are easily corrupted only the movie and not by the disclaimer as shown in the movie. For example, the warning given in the film that “*cigarette smoking is injurious to health; Liquor drinking is injurious to health; tobacco causes cancer*” while the actor are using the cigarette, tobacco and liquor are of no use.

To fortify this view, we wish to state that after the release of *Dhoom 1*, a Hindi movie (Bollywood), a theft was committed in Kerala’s Malappuram district which is nothing but a real from reel. A gang of four robbers went ahead to make a hole on the floor and managed to ransack the bank of 80 kgs gold and 50 Lakhs rupees and also they confessed of being inspired by the movie¹³. Likewise, the movie *Oye lucky! Lucky Oye* inspired people to commit crimes. After watching this movie, a man was stealing cars along with four other men and they used the latest equipment and other techniques to steal cars. These movies lead to the registration of 15 and 1 cases respectively. The movie ‘*special 26*’ lead to registration of 16 cases in India. This movie itself was inspired by a true story. In June 2013, a gang of four persons including a lady posed as Income Tax officers and raided a business man’s house in West Delhi’s Rajouri Garden and looted the gold and decamped with Rs. 48 Lakhs in

¹⁰ ibid

¹¹ Also see the New York Times, By Newman, Andy (June 29, 2015) “Did Pepper Throw Dogs of the scent of 2 Fugitives? An Expert Says No”, Available at nytimes.com/2015/06/30/nyrigion/did-pepper-throw-dogs-of-the-scent-of-2-fugitives-an-expert-says-no.html. last accessed on 24.09.2019.

¹² Source: Murder in the classroom: Chennai boy stabs teacher, available at firstpost.com/india/murder-in-the-classroom-chennai-boy-stabs-stabs-teacher-208970.html, last accessed on 24.09.2019. also see The Hindu, Chennai, Students stabs teacher to death in Chennai School, available at the.hindu.com/news/cities//Chennai/student-stabs-teacher-to-death-in-chennat-school/article2874995.ece, last accessed on 24.09.2019.

¹³ Ahuja Shivani (June, 07, 2018), 10 Films that inspired people to commit crimes in real life available at: in.bookmyshow.com/entertainment/movies/hindi/10-films-inspired-people-commit-crimes-real-life/ last accessed on 24.09.2019.



cash¹⁴. The movie *Darr* influenced a man to kidnap a snapdeal executive girl Dipti Sarna. During the interrogation the man (accused) said that he was deeply influenced by Adolf Hitler, Genghis Khan and Shah Rukh Khan's character in *Darr*¹⁵.

From the above case analysis, it is quite clear that the movies are causing or influencing the people to commit crime in the society. But the producers or the director of the film are used to tell that they are taking the films only based on the real story. If that they are telling that they are taking the film to reveal the things that are happening in the society. The Union of Minister for Women and Child Development, Maneka Gandhi in Goa fest, 2017 said that violence against women is alarmingly increasing because of the indecent representation of them in Bollywood and regional movies¹⁶.

MODERN DAYS CINEMAS AND ITS IMPACT ON FANS

As we already discussed in the foregoing paragraphs, the fans are influenced by their heroes. What the heroes does in films that reflect in the minds of the fans or the public. Now a days the films are filled up with vulgarity, obscenity, indecency, depravity, cruelty, brutality, mindless violence, sexual violence, horror, glamorization of drinking and smoking, glorification of negative characters and titles, justification of illegal means and criminal acts which would like by to incite commission of offences and degradation of cultural, moral and ethical values are all necessary stuff¹⁷. Further, in the recent days the motion pictures contain negative titles, negative characters, negative dialogues and negative messages. In other words, the films are full of negativity and not in the interest of the society. Therefore, we the author with deep anxiety concerns about the modern day film industry. Though the authors agrees that current cinema industry is a business where the profit is the motive, but at the same time they should not forget to inculcate values and should not corrupt ethical, family and moral values and demoralize, dehumanize people especially impressionable youngsters¹⁸.

CENSORSHIP *VIS-A-VIS* THE CERTIFICATION OF FILM UNDER THE CINEMATOGRAPH ACT, 1952

The Censorship has not been defined in this Act. According to Oxford dictionary, the Censorship is defined, as the "prohibition, or suppression of any part of the news, books, films etc that are considered politically unacceptable, obscene, or a threat to security¹⁹". Under this Act, to censor the film a Board has been constituted *vide* Section 3 of the Act. The films are examined under Section 4 of the Act. According to which, any person desiring to exhibit any film shall make an application to the Board for a certificate²⁰ and the Board may after examining or having the film examined in the prescribed manner sanction (i) the film for unrestricted public exhibition²¹ or sanction the film for public exhibition restricted to adults²² or sanction the film for public exhibition restricted to members of any profession or any class of persons, having regard to the nature, content and theme of the film²³ or *direct the applicant to carry out such excisions or modification in the film as it thinks*

¹⁴ India Today, Delhi: Gang gets inspired by special 26, poses as I-T officers, robs Rs. 48 Lakh, available at indiatoday.in/crime/story/four-conmen-posing-as-it-officers-rob-rs-48-lakh-in-delhi-1501945-2019-04-15, last accessed on 24.09.2019.

¹⁵ India Today, Snapdeal employee Dipti Sarna's kidnapper was inspired by SRK's *Darr*, available at: indiatoday.in/mail-today/story/dipti-sarnas-kidnapper-was-inspired-by-srks-darr-308894-2016-02-16, last accessed on 24.09.2019.

¹⁶ Maneka Gandhi at Goafest, 2017: "Romance in almost every film starts with eve teasing" available at nwsnation.in/india/news/maneka-gandhi-at-goafest-2017-romance-in-almost-every-film-starts-with-eve-teasing-167551.html, last accessed on 24.09.2019.

¹⁷ Ramesh Vs Director General of Police and others, Date of Order: 13.10.2014.

¹⁸ *Ibid*, Para.2.

¹⁹ The Cinematograph Act of India, Censorship of Films in India, available at: stalawfirm.com, Last accessed on 25.09.2019

²⁰ Section 4 (1) of the Cinematograph Act, 1952.

²¹ Section 4 (1) (i) of the Cinematograph Act, 1952.

²² Section 4 (1)(ii) of the Cinematograph Act, 1952.

²³ Section 4 (1) (ii) (a) of the Cinematograph Act, 1952.



necessary before sanctioning the film for public exhibition under any of the foregoing classes²⁴ or refuse to sanction the film for public exhibition.²⁵ Provided that the applicant for the certificate, any distributor or exhibiter or any other person to whom the rights in the film have passed shall not be liable for the punishment under any law relating to obscenity in respect of any matter contained in the film for which certificate has been granted under Clause (a) or (b) of sub Section (1) of Section 5 A of the Act. The Board after examining the film, the certificate is issued under Section 5 A of the Act, 1952.

CIRCUMSTANCES UNDER WHICH THE FILM SHALL NOT BE CERTIFIED

As per Section 5 (B) of the Act, a film shall not be certified for public exhibition, if in the opinion authority competent to grant the certificate, the film or any part of it is against the interest of sovereignty and integrity of India, Security of state, friendly relations with foreign state, *public order*²⁶, *decency or morality* or defamation or contempt of court or is likely to incite the commission of any offence²⁷. Further, the Central Government may issue such direction 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.²⁸

As per the above provisions, the Central Board of Film Certification has the authority to not to grant the certificate for the public exhibition of the film if the film is against (i) the interest of sovereignty and integrity of India, (ii) security of state, (iii) friendly relations with foreign state, (iv) *public order, decency or morality* or (v) defamation or contempt of court or (vi) *is likely to incite the commission of any offence*.

As per our analysis, if any of the film portraits against the public order, decency or morality or is likely to incite the commission of the any offence, then the Board has the authority not to issue the certificate for the film.

Moreover, the Central Government also may issue such direction 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.

In protecting the society, *public order, decency or morality* plays an important role. Subject to which, anything can be displayed or exhibited or published. But, any activity which runs against the spirit of the public order, decency or morality can be curtailed with iron hand. Emphasis has to be given to the interest of the society at large rather than the benefit of the individual.

Though the freedom of speech and expression is being broadly construed to include the freedom to circulate one's views by word of mouth, or in writing or in audiovisual instrumentalities, it is to be noted that the liberty of one must not offend the liberty of another. In *A.K. Gopalan Vs State of Madras*²⁹, it has been observed that "*man as a rational being desires to do many things, but in a civil society his desires to be controlled, regulated and reconciled with the exercise of similar desires by the other individual*". Therefore, we suggest that the right to propagate one's view through the print media or electronic media or through the multimedia or mass media or through any other communication media or channel should be subjected to the liberty of other individuals³⁰ including *public order, decency or morality* and any activities which *is likely to incite the commission of any offence*, shall not be permitted to be displayed, exhibited or communicated to the public at large. The right to freedom of speech and expression under Article 19 (1) (a) of the Indian Constitution, is not absolute one India. It is subjected to certain limitation contained in the sub clause (2) of Article 19 of the Constitution of India. This

²⁴ Section 4 (1) (iii) of the Cinematograph Act, 1952.

²⁵ Section 4 (1) (iv) of the Cinematograph Act, 1952.

²⁶ The concept of public order is wider than security of state. The term 'public order' is something more than ordinary law and order. Public Order is synonymous with public peace, safety and tranquility. Anything that disturbs the public tranquility or public peace disturbs the public order. Public Order thus implies absence of violence and an orderly state of affairs in which the citizens can peacefully pursue their normal avocation of life.

²⁷ Section 5 (B) (1) of the Act.

²⁸ Section 5 (B) (2) of the Act.

²⁹ AIR 1950 SC 27.

³⁰ Subject to the limitation contained in Article 19 (2) of the Indian Constitution. For the limitation, see Article 19 (2) of the Indian Constitution.



sub clause empowers the state to make any law restricting or imposing reasonable restriction, in the interest ofpublic order, decency and morality and also on the ground of incitement of offence, on the right of freedom of speech and expression.

Further, one more view is that even *the right to practice any profession or to carry on any occupation, trade, or business*³¹ is also subjected to certain limitation under Clause 6 of Article (19) (1) (g) of the Indian Constitution. This clause does not prevent the state from making any laws imposing, in the interest of general public, reasonable restriction on the exercise of this right³².

CONCLUSION AND SUGGESTION

The combined reading of Article 19 (2) and (6) read with Section 4 (1) (iii) of the Cinematograph Act, 1952 empower the Central Board of Film Certification not to grant the certificate to the film which carries any vulgarities, obscenity, inhumane activities, portraying women in an indecent manner, carrying negative character and negative culture etc, and also empowers the Board to direct the applicant to make any correction or modification or excision in the film so as to ensure that the film are not violating the principles of morality, ethics, against the spirit of the public order, not inciting the commission of the offence. But in reality, the Board fails to execute the provisions of the Indian Constitution as well as the provisions of the Cinematograph Act, 1952 including the guidelines issued by the Government of India, Ministry of Information and Broadcasting No. S.O.9E, Dated 7th January, 1978³³, in letter and spirit. The Madras High Court in the case of *Tamizh Nadu Brahmin Association Vs Central Board of Film Certification, Ministry of Information and Broadcasting, Government of India*³⁴ concerned over the role of Censor Board and observed that the board must be more responsible especially when it is exhibited with mindless violence, brutality and criminals are glamorized and glorified. The criminal acts, vulgarity and obscenity are justified in many movies. Further, para 12 of the above Judgment questioned the functioning of the film Board as 'whether Censor Board functions or not'.³⁵ Furthermore, the Court strongly suggested to amend suitably the Cinematograph Act and Rules in accordance with public morality³⁶, but to the shock and surmise, no amendment has been carried out till date.

Therefore, we suggest the following

1. In protecting the society *particularly* the youth and the children, the role and responsibility of the heroes and the producers, since the author of the film according to the Copyright Act, 1957 is the producer, shall be defined under the *Cinematograph Act, 1952*.
2. The Proviso to Section 5A (1) of the Cinematograph Act, 1952 has to be suitably amended to penalize the applicant for the certificate, distributor, Exhibitor, or any other person to whom the rights are assigned for making the film against the public order, morality and decency and incitement of commission of the crimes.
3. A minimum of 3 months punishment shall be inflicted for those who violate the above criteria.
4. The members of the Central Board of Film Certification shall be removed from the post and should be debarred from further selection to said post.

³¹ Article 19 (1) (g) of the Indian Constitution.

³² Article 19 (1) (6) of the Indian Constitution.

³³ Central Board of Film Certification Guidelines for sanctioning films of public exhibition.

³⁴ 2014 (2) CTC 699: MANU/TN/0762/2013

³⁵ *Tamizh Nadu Brahmin Association Vs Central Board of Film Certification, Ministry of Information and Broadcasting, Government of India, 2014 (2) CTC 699: MANU/TN/0762/2013.*

³⁶ *Ibid*, Para 13.