

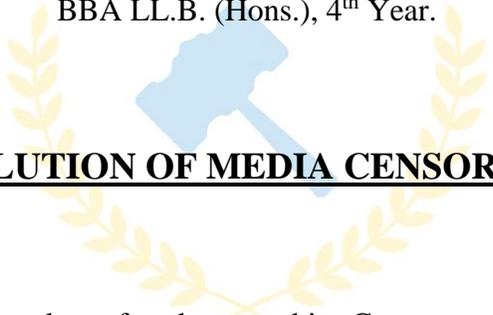
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**EVOLUTION OF MEDIA CENSORSHIP**

**Abstract**<sup>1</sup>

For decades, Indian filmmakers have faced censorship. Governments, religious institutions, and right-wing organizations have all taken offense in the past. Films have been barred from theaters and festivals, requiring directors to make required cuts and adjustments. Reasons have included reportedly disparaging song lyrics, intimate or sexually graphic scenes, and contentious depictions of historical or legendary figures.

**Introduction**

Over the years a lot of movies have been banned from theaters due to religious beliefs or the very fact that the society cannot face specific realities. Homosexuality has been one of these realities that the Indian society refuses to accept, they are seen as people who are doing a horrible offence which should not be acceptable.

There have been various other movies such as the Bandit Queen (1994) the movie was considered a laughing stock in the Indian censor board as it revolved around a woman playing a thug using offensive and vulgar language. One of the movies which was ridiculed was Kama Sutra – A Tale of Love, which is very ironic as the very nation that came up with idea of Kama Sutra chose to

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<sup>1</sup> Available at: [100 years of film censorship in India \(livemint.com\)](https://www.livemint.com)

ridicule the movie, the critics supported the movie but, in the end, it was the Indian Censor Board which got the movie banned.

### **Recent developments in Censorship for Media**

Filmmakers fear that the Narendra Modi-led BJP government's planned new laws will suffocate the process even more. The proposed new rules, known as the Cinematograph (Amendment) Bill 2021<sup>2</sup>, will grant the federal government specific "revisionary powers." This means that, based on audience complaints, the government can cancel a film's certification, even if the censor board sees no problem with its content.

The draft bill also includes clauses that would make piracy punishable by a jail sentence and a fine. It also aims to offer film categorization based on age. Mr. Modi's government has come under fire from human rights advocates and opposition politicians for allegedly crushing dissent and limiting free expression. Even OTT platforms like Netflix and Amazon have come under fire from government authorities, with some filing police complaints against the company's management. New guidelines have also been implemented by the government, requiring technology and social media companies to remove content if requested by law enforcement or judicial officials.

One of the most recent examples can be seen in Udda Punjab, the has caused a roar in community and a lot of tough decisions were taken, the issue had gotten so big that it had to be taken in court.

The triumph of Udda Punjab's legal battle has inspired others to fight for their creative freedom.

Anil Kapoor, an actor and producer, has purchased the rights to adapt the American TV sitcom Modern Family for the Indian market. Some see it as a risky decision because the series features a lesbian relationship and homosexuality is currently prohibited in the country.

The Indian Constitution has given every citizen the fundamental right and freedom of expression and speech which goes for the press and in 2005 Right to Information Act has been further extended and implemented on media in India as well.<sup>3</sup>

### **Cases**

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<sup>2</sup> Available at: [Explainer | What is the Cinematograph Act amendment that's becoming a controversy now \(deccanchronicle.com\)](#)

<sup>3</sup> Available at: [197-1593082708.pdf \(icreview.com\)](#)

In *K.A. Abbas v. Union of India*<sup>4</sup>, the petitioner challenged the censorship as a violation of his freedom of speech and expression. And the Supreme Court held that the films need to be treated separately as a motion picture is able to bring up emotions in people which is why two categories were made for films **A** which is for adults only and **U** which means for all.

The same was upheld again in the case of *Bobby Art International v. Om Pal Singh Hoon*<sup>5</sup> where the Supreme Court confirmed again and upheld the Appellate Tribunal which comes under Cinematograph Act and that the guild lines need to be followed and granted an **A** (Adults only) for the films.

### **Example**

In 1996 a movie called *Fire* was released which caused a complete uproar in the Indian society.

Ashok is the household's chief, a devout man who accepted a vow of celibacy after finding that his wife, Radha, was unable to bear children in *Fire*. For a long time, Radha has accepted her fate in the loveless marriage. Her destiny is to play a traditional Indian housewife who puts her husband and family first. Her days are spent caring for Biji (Ashok's mother), who has suffered a stroke and is unable to communicate, as well as housekeeping and assisting at the shop. Radha has learned to stifle her need for more, just as she did when she was a child and wanted to see the ocean. Jatin is Ashok's younger brother. He's divided between what his family expects of him and his affections for Julie, his Chinese mistress. Because Julie does not want to live in a joint household, he agrees to an arranged marriage to placate Ashok and Biji. He must balance his desire for a distinct life and freedom with the responsibilities that come with being a member of a joint family. He frequently resolves conflicts by upholding family traditions for the sake of tradition while living his life on his own terms. As a result, he has no intention of giving up his mistress, even after his arranged marriage to Sita. Sita has a passionate side to her. She doesn't understand why her spouse was first dismissive of her. She begins to question her status in the family as she learns more about his mistress's condition. Sita slowly falls in love with Radha, her sister-in-law, who is the only person in the house that cares for her and loves her. Sita is a modern Indian woman who has been

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<sup>4</sup> AIR 1971 SC 481

<sup>5</sup> (1996) 4 SCC 1

conditioned to follow many traditional rituals and cultural beliefs but does not comprehend why she is required to do so.

Eventually Radha and Sita decide to be there for each other and finally find happiness in their miserable life but soon they get caught and then decide to leave and be together as society would never accept them.

Fire was made for this very purpose, even though people read books, articles and attend lectures they do not comprehend it until they actually see a physical act of it.

The movies were initially allowed to release with an adult rating but once people found out what the movie was about and what it portrayed people were furious and refused to let the movie continue and eventually the movie had to be removed from theaters.

Fire is a film that challenges the status quo. It's a film about living and about women defining their independence on their own terms. Fire reworks some long-held stereotypes about Indian women that have been used to suppress them and reclaims them in a feminist voice. It is the first Indian film with an explicit lesbian theme, and it is highly dangerous to the patriarchal paradigm because it offers an alternate vision for Indian women. Even as she operates inside an Indian cultural context, the director envisions the film as one that opposes patriarchal norms.

Lesbians and gay rights advocates in India were inspired to be more outspoken about their life and the erasure of queerness from India's historical history as a result of the fire and the conversation that erupted around the film's general reception, both by supporters and detractors. The release of this film coincided with the start of a widespread national discussion regarding lesbian and gay rights. In response to the backlash, a new lesbian rights organization called the Campaign for Lesbian Rights (CALERI) was created. This community organized peaceful gatherings all over India.

### **The Program Code<sup>6</sup>**

The Program Code defines the rules for cable broadcasting. For example, a cable program cannot criticize friendly countries, attack religions or communities, or feature profane, libelous, harmful, misleading, or provocative innuendos. It also prevents broadcasters and cable operators from airing

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<sup>6</sup> Available at: [Programme and Advertising Codes \(mib.gov.in\)](http://Programme and Advertising Codes (mib.gov.in))

films unless the CBFC has deemed them fit for unrestricted public exhibition in India under the "U" category. Cable companies must also ensure that children's programming does not contain improper language or violence. The Advertising Code (which is quite similar to the Program Code) specifies that all advertising must comply with applicable laws and must not offend subscribers' morals, decency, or religious sentiments. As a result, while television content does not require pre-censorship like film content, broadcasters and cable operators must adhere to the Cable Television Laws regarding the content and advertising that can be made available to the public.

According to the Information Technology Act of 2000 (the "IT Act"), it is unlawful to post or communicate obscene or sexually explicit materials, including material depicting children in sexually explicit conduct. Section 69(A) of the Information Technology Act also empowers the Central Government to issue orders banning public access to any content. In this connection, the DoT ordered intermediaries to disable over 800 pornographic websites in 2015, and then emphasized that arbitrators were not obligated to disable websites that did not include pornographic content including children. The Uttarakhand High Court has ordered ISPs to ban the publication and transmission of obscene and sexually explicit material, including anything depicting children in any sexually explicit act and conduct. The Department of Transportation then instructed intermediaries to block such websites immediately.

The Department of Electronics and Information Technology (Intermediary Guidelines) Rules, 2011 (the "Intermediary Guidelines") provide a framework for intermediaries to follow when handling information stored or published on their computers. These guidelines may also apply to OTT platforms that are defined as intermediaries under the IT Act.

### **Conclusion**

Online content presently appears to be unrestricted, with artists taking full advantage of their creative freedom. Angry Indian Goddess, Romil and Jugal, Sacred Games, and Lust Stories would not have been made in India. However, just because there is no legal framework defining control or certification of online material or rules for online content makers does not mean that OTT platforms are wholly unregulated or uncensored. It is also a type of censorship because it prohibits the publication of sexually explicit and vulgar content online. Given their broad audience and varying moral standards, OTT media businesses may struggle to filter out sexually explicit and offensive content. This raises questions about how films are censored differently depending on

their distribution mechanism – certified films in cinemas vs self-regulation and censorship under the IT Act for films only available digitally. The public and industry stakeholders have opposing views on banning internet content and films. Assertions for freedom of speech and expression coexist with requests for pre-censorship of online content and removal of content that offends some sense or sensibility. In the end it comes down to the fact that people are allowed to drink, smoke, drive do various things which are not safe but when it comes to movies so many restrictions are added, restrictions such as no provocative language and body language should be used. It is the year 2021 movies and television can be used to send messages across, people watch them and are able to relate which is why the censorship board needs to change its regulations.



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