

The Intersection of Moral Policing and Censorship in Democracy: An Analysis of the Effects of Boycotting Movies on Freedom of Expression

Prashansa Agarwal*

Abstract: The entrenched concept of moral policing can be traced from the very idea that Indian culture should be “protected” from the vices of Western culture. The perpetrators of moral policing have proved at various times in history that democracy and the fundamental rights of citizens are secondary when it comes to preserving the Indian culture and values. They neither fear the law nor blink before wreaking havoc on innocent citizens, enveloped in Green and saffron, leaving behind them a trail of crimson red. The question that arises here is that is this what they called preserving “cultural dignity”. This paper emphasizes how so-called “cultural warriors” act and leave behind footprints in Indian society. Additionally, it also deals with how the word ‘obscenity’ is molded by these vigilantes, which exploits the true intention of the legislature.

Keywords: *Fundamental rights, cultural dignity, personal liberty, justice,*

1. Introduction

It is a system that vigilantly and strictly monitors and restricts individuals, who do not abide by the basic norm of society. The moral character of an individual is questioned by proponents. Such proponents claim to protect the culture and aim to protect the moral code in society. It is based on religious beliefs, customs, practices, and norms of society. Additionally, the cultural warriors aim for a pure and good society, which is untainted by foreign influences. They restrict and put a limit on the societal fashion that is considered alien to their culture. They resist and limit societal ideas they consider alien to Western culture. Some instances are when public spheres like bars, clubs, and parks are attacked by groups. They forcibly close the art exhibition, which according to them portrays the “culture” in obscene light. They even harass couples sitting in a park, and boycott movies, which they consider is against Indian culture by influencing others either forcibly or passively to boycott movies. A plea to ban movies is another form, where agents of morality police themselves forget the

* Student, Bennet University

concept of morality and act according to principles they perceive to be a highly humane form.

Several movies like 'Final Solution,' 'Water,' 'War and Peace' and others were curtailed based on "Public Interest" by a central board of film certification (Hereinafter referred to as the Censor Board. Movies like The DaVinci Code and Deshdrohi experienced political censorship regardless of the approval by the board¹. This is how moral policing operates and systematically controls freedom of expression. According to Article 19 of the Indian Constitution, the freedom of speech and expression is protected and guaranteed but despite the rights guaranteed by the constitution, these agents or forces deny such rights.

The paper aims to examine the act of moral policing considering boycotting movies, which leaves behind huge losses to not only filmmakers but to people who earn from that movie. The perspective of cultural warriors, the government stands, and the Court stand would be deeply analysed to understand the consequence of moral policing on boycotts of movies.

2. Guardians of Morality: The Duty to Enforce Cultural and Social Norms Through Moral Policing

Some individuals believe that the act of boycotting Bollywood movies can be regarded as a type of moral policing that has the potential to advance values and principles that conform to their personal beliefs. They might hold the view that certain films promote immoral behaviour or indecency, or that they are disrespectful towards particular communities or religions. From their perspective, abstaining from watching such movies serves as a means to maintain social and cultural values, safeguard their community's interests, and forestall the dissemination of immorality. On the other hand, proponents of movie boycotts and moral policing contend that they are crucial in making filmmakers and the film industry answerable for their conduct. They may posit that the film industry has a significant influence on society and that filmmakers should create movies that are in the best interests of the public. For these advocates, boycotting movies is a means of communicating to the filmmakers and the industry that they must be more accountable and principled in their productions. It is essential to bear in mind that many people do not subscribe to the practice of moral policing and movie boycotts, as it can potentially result in censorship, the infringement of individual rights, and

¹Bharti Dubey and Sanjeev Shivadekar, "'Deshdrohi' May Be Banned on TV" *The Times of India* (22 November 2008) <<https://timesofindia.indiatimes.com/india/deshdrohi-may-be-banned-on-tv/articleshow/3742387.cms>> accessed 17 April 2024.

the propagation of intolerance and prejudice. There are several reasons behind moral policing in India. We will discuss each in detail.

Patriarchal Mindset: From ancient times, Patriarchy is entrenched in the roots of Indian society. Women are considered weak and gullible. So, an extensive list of restrictions is prepared and is to date continued in terms of speech, clothing, behaviour, etc. and those women who do not adhere to the standards of society are trolled, harassed, and threatened through moral policing.

Family: The values ingrained in childhood are continued to a certain extent and generally Indian families tend to protect their reputation and dignity in society so they without analysing pass on the norms followed earlier.

Cultural Globalization: with the advent of globalization, there is the transmission of culture which has now become a part of Indian society. The perpetrators of moral policing oppose this and consider this as harm to Indian culture such as jeans.

Judiciary: In India, the judicial process is time taking, expensive so people instead of relying on Courts, take laws into their hands and execute trials as per the justice in the eyes of the perpetrators.

Laws: Section 292 of the Indian penal code states that materials such as books, and paintings are criminalized if they are deemed to be obscene². But the term 'obscene' is not defined, which means that it would be considered as per each case and circumstance, and thus this has created an opportunity for the police as well as the perpetrators of moral policing to take advantage of it.

3. When Rights Collide: Critical Analysis of Case Laws on Moral Policing and Freedom of Expression

Over the past ten years, a mindset of intolerance has become more prevalent. The boycott campaigns continue the widespread pattern of spreading false information and attempting to mold opinions. the echo chambers are installed on online platforms and users exploit them. These echo chambers are cultivated as the #BoycottBollywood campaign and are tuned into communalist, supranational, jingoistic, and misogynistic messaging.

The Bandit Queen depicted explicit scenes of gang rape as well as nudity and thus censor board allowed the movie to grant adult certification if all the scenes of nudity, rape, violence,

² Indian Penal Code 1860, Section 292

or indecency are deleted. It was released after it got a green signal from the appellate tribunal without any modification or deletion.³ But various communities revolted and filed a petition in the Delhi High Court stating that it degraded the status of womanhood. The High Court held that it would be granted an adult certificate only after deletion as it is degrading and indecent. However, when the case reached the Supreme Court held that scenes that were degrading, indecent, or immoral for showing nudity were an essential artistic expression as it was centred around the true story of Phoolan Devi, and thus the producer has the right guaranteed under Article 19⁴ to exercise his right.

Raj Thackeray's Maharashtra Navnirman Sena (MNS), which was in charge of the violence in 2008, claimed that the poor North Indian economic migrants—most of whom were from the States of Uttar Pradesh and Bihar—had taken advantage of Marathi workers' employment opportunities and were to blame for the state's unemployment issues. Therefore, they should be forcibly returned to their home countries, if required. Before this regionalism emerged and prompted stern attention which led the State Home Department to file 54 criminal complaints against Thackeray for rioting, assault, property damage, inciting animosity between various groups, etc. Nevertheless, Thackeray was able to post bail in each instance. Kamal Khan intended to depict the plight of migrants in his movie “Deshdrohi”, but the state government banned it for two months stating that it would hamper law and order. Despite the High Court as well as the Supreme Court's judgment in favour of the movie, it was not released as police denied protecting the theatre owners in the state⁵. The fight of the producer is far more than getting a certificate from the censor board⁶.

‘Water,’ by Deepa Mehta, depicted the condition of destitute widows in the temples of Varanasi, which was unacceptable to Hindu fundamentalists, and even before the start of filming, around two thousand protestors vandalized the movie set and give death threats to Deepa. However, it was shot with a different cast in Sri Lanka and got international recognition in 2005. But it was only in 2007 that it was released in India. But till that time, it lost its message and become a controversial issue.⁷

³*Bobby Art International v. Om Pal Singh & Ors*[1996] 4 SCC 1

⁴ Constitution of India 1950, Article 19

⁵ ‘Despite SC nod, ‘Deshdrohi’ fails to hit Maha theatres’ *The Financial Express* (January 23, 2009), <<http://www.financialexpress.com/news/despite-sc-nod-deshdrohi-fails-to-hit-maha-theatres/414435/>> accessed on 18 April 2024.

⁶The Indian Express, ‘SC Rejects Maharashtra Plea, Clears Deshdrohi’ (*The Indian Express* 24 January 2009) <<https://indianexpress.com/article/news-archive/web/sc-rejects-maharashtra-plea-clears-deshdrohi/>> accessed on 17 April 2024.

⁷ Subhash K Jha, ‘Deepa Mehta's 'Water' turns 16: Revisiting the travails and anger of the director’ *The Times Of India* (Mar 9, 2023), <<https://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news/deepa-mehtas->

In other movies, Deepa faced hostility from the Hindu fundamentalists in her movie *Fire*, which depicts the lesbian relationship between a married woman and Earth that showed how friends of different religions got separated with a partition in 1947. The right-wing party demonstrated against the movie and vandalized movie halls. Their agenda was successful as the movie had to be withdrawn from the theatre but was later re-released.⁸ In such circumstances, the supremacy of moral policing is established even if they protest unnecessarily. Law and order are kept aside and secondary and establish their rule.

The movie 'Unfreedom', 2015, depicted a homosexual love story with a twist of terrorism. After the assessment of the committee and FCAT, it was banned without any scope for modification. It was done on the ground that the theme of the movie incites unnatural, unacceptable passions, and homosexual drives among vulnerable individuals in society. The Board was also troubled by the potential for religious conflict between the Muslim and Hindu communities brought on by the issue of Islamic extremism.⁹ However, this was streamed on online streaming platforms which reflects the double standards of the board.

The movie simply repeats the speeches given by different party candidates and leaders during the general elections. When viewing the movie as a whole, one does not get the idea that the theme attempts to polarise people along caste or communal lines and is full of hate speech or inflammatory speeches.¹⁰ Despite the possibility that some of the film's words or some of its content may violate the standards established by the Central Government under Section 5(B) of the Cinematograph Act of 1962¹¹, neither the Board nor the FCAT has made it clear which of the movie's scenes or dialogue would be in contravention of the standards.

The infamous movie, 'Udta Punjab, depicted the drug menace which affects the youth of Punjab. Various people revolted claiming that shows the Sikh community in a bad light and degrade the community.¹² When this matter reached Court, the Court stated that if a movie depicts Sardar or Sikh, it does not suggest that it is depicting the entire Sikh community.

[water-turns-16-revisiting-the-travails-and-anger-of-the-director/articleshow/98510925.cms?from=mdr](https://www.indianexpress.com/article/entertainment/bollywood/keeping-the-flame-alive-what-made-deepa-mehtas-fire-such-a-pathbreaking-film/)
accessed on 17 April 2024.

⁸Dipanita Nath, 'Keeping the flame alive: What made Deepa Mehta's *Fire* such a pathbreaking film' *The Indian Express* (March 20, 2016), <<https://indianexpress.com/article/entertainment/bollywood/keeping-the-flame-alive-what-made-deepa-mehtas-fire-such-a-pathbreaking-film/>> accessed on 17 April 2024.

⁹Anjuri Nayar Singh, 'Film banned for showing religious fundamentalism: Unfreedom director' *Hindustan Times* (April 04, 2015), <<https://www.hindustantimes.com/bollywood/film-banned-for-showing-religious-fundamentalism-unfreedom-director/story-CUzA8XkPurtzWHtZyB0H4N.html>> accessed on 17 April 2024.

¹⁰*Manu Kumaran and Another v. Central board of film certification and others* [2018] W.P.(C) 5598/2016 & CM 23267/2016

¹¹Cinematograph Act 1962, Section 5(B)

¹²*Phantom Films Private Limited and others v. Central board of film certification and others* [2016] LIND 2016 bom 303

Additionally, it does not mean the petitioner is promoting the consumption of drugs and the free movement of drugs.

In the case of *Indian Express Newspapers Vs. Union of India*, the Court stated that individuals have the right to be informed about the developments that occur in a democratic process.¹³ This implies that the act of forces vandalizing movie sets or using violence is a hindrance in the process of getting informed about various perceptives.

In *S. Rangarajan v. P. Jagjivan Ram*, the Supreme Court reversed the decisions of the High Court that revoked the certificate granted by the censor for depicting a movie on reservation policy. The Court held that a producer is free to project a story if it is opposed by other individuals.¹⁴ The restrictions of freedom of expression can be applied as per Article 19(2) of the Indian constitution,¹⁵ which is justified in cases of necessity and not under circumstances of convenience. Similarly, in the case of *LIC vs. Manubhai D. Shah*, the Court stated that the modes of media such as radio, media, and television, are essential public educators in democracy, and the act or attempt to restrict or muzzle this right would be at odds with a democratic system.¹⁶

A writ under Section 32 was filed in the case of *Ramesh vs. Union of India*¹⁷ in the Supreme Court to restrain from telecasting a serial titled “Tamas”, which depicts communal violence, and looting scenes that occurred between Hindu and Muslim communities during partition.¹⁸ The Supreme Court rejected the plea stating that it could incite communal violence and disharmony and stated that due to modern developments in national as well as international politics, it has become difficult for individuals to witness the realities of conflicts. It is necessary to see the cause of the conflicts.

4. Beyond Entertainment: Investigating the Socio-Political Impact of Movies and the Implications of Censorship Through Boycotts

While movie making, a huge budget is set and it offers employment to a great number of people and, if a movie is boycotted in such a manner, then the producer has to rethink their budgets, quality of content and would try to please a large number of people and would deprive themselves to create movies based on real incidents or depict a new idea, that might be unacceptable, vulgar by few. The trend of protest by boycott armies on social media has

¹³*Indian Express Newspapers v. Union of India* [1986] AIR 515

¹⁴*S. Rangarajan v. P. Jagjivan Ram* [1989] 2 SCC 574

¹⁵Constitution of India 1950, Article 19(2).

¹⁶*LIC v. Manubhai D. Shah* [1993] AIR 171

¹⁷Constitution of India 1950, Article 32.

¹⁸*Ramesh v. Union of India* [1988] 1 SCC 668

hampered the film industry. A movie like *Brahmastra* has been called by the protestors to be banned. Ranbir Kapoor in his old video stated his preference for meat eating and thus it has become a reason for its boycott. Another movie 'Raksha Bandhan' by Akshay Kumar, commented on Sanatana Dharma and Kanika, who commented on the hijab ban and communal lynching becoming the sole reason for its boycott trend. The recent movie 'Lal Singh Chaddha' was called for a ban based on Amir Khan's comments that he does not feel safe. Such reasons were mentioned in his previous movie *Dangal*, but the quality of the content managed to escape the controversy. But his current movie faced huge boycott calls.¹⁹ Other repercussions of cinema censorship exist as well. A film's ban impacts many people's economic freedom, which is also protected by Article 19(1)(g) of the Constitution, in addition to the freedom of speech and expression of the film's creator. Film production, distribution, and screening are crucial aspects of the movie industry; if a movie is banned, it has an impact on all three, which unquestionably comes under Article 19(1)(g). Violence-filled gangs frequently attack movie houses in protest at the showing of movies. Such behaviours damage the theatre venue owners' property. Contrarily, Article 300A of the Constitution states that without the intervention of legislation, a person's right to property is unalienable.²⁰ Therefore, allowing one's property to be destroyed by a collection of people clearly violates a fundamental right to private property. Even after the AP High Court overturned the State's prohibition, things got worse in Andhra Pradesh when activists from the All-India Christian United Front barged in, ransacked a multiplex in Hyderabad, and forced the management of the theatre to stop showing the movie." whenever such a thing happens, the state governments in question will be held accountable for neglecting to uphold the rights of their constituents. The irony is that the Board's decision to eliminate movies is just one aspect of the game. Even the Board's or the FCAT's approval is not final. Prior to being taken to Court, the Union Government and occasionally the State Government have the last say. As a result, movies had to wait years after they were finished before they were truly released. The film may completely lose its significance in the interim. Similar protests have been launched repeatedly to impede the practice of freedom.²¹ In actuality, viewers are denied the opportunity to watch a film merely because it is inappropriate for a group of people to which

¹⁹ Ashmita Saha, 'Pathaan row: Other recent Bollywood films targeted by boycott brigade and why' *India Today* (December 19, 2022), <<https://www.indiatoday.in/india/story/pathaan-row-other-bollywood-films-targeted-by-boycott-brigade-why-2310770-2022-12-19>> accessed on 17 April 2024.

²⁰ Constitution of India 1950, Article 300A

²¹ 'Economic Times, 'SC Rejects Plea to Ban Da Vinci Code' *The Economic Times* (13 June 2006) <<https://economictimes.indiatimes.com/news/politics-and-nation/sc-rejects-plea-to-ban-da-vinci-code/articleshow/1641529.cms?from=mdr>> accessed 17 April 2024.

they have no connection. Instead, they lack the freedom of information.

An actual instance might make the implication of whose interests the demonstrators are promoting clearer. Over 200 million Indians in those States were unable to see "The Da Vinci Code" because it was outlawed in seven of those States. While the States that banned the film have varying percentages of Christian inhabitants, the nation as a whole has a 2.3% Christian population. The book was extensively read and translated into Malayalam, the state's official language, in Kerala, the region with the most Christians. Whose "religious sentiments" and "emotions" are implicated if this is the case? The State Governments only decided to cancel the film because of complaints from a few organizations.

5. Suppressed Voices and Democracy in Chains: A Critical Analysis of the Right to Expression in Censored Societies

A free press has to hold the government and other influential organizations accountable. This is a matter of democratic transparency and democratic fairness; regardless of how much we may disagree with what they are saying, everyone must have a voice if we want people to embrace democratic processes and laws that represent the majority's will. Everyone has the freedom to voice their opinions on various issues in a democracy. But does that imply that they ought to be thrown out? If their opinions don't appeal to a billion people, do they have to constantly knock on the doors of the Courts? Movies are valid and among the most significant media for addressing universal issues. Additionally, not everyone is publicly screened for them. Only those who are prepared to spend money on tickets, visit theatres, and view them have access to it. People who are unwilling can always decide not to go to the cinema. The Courts have taken into consideration that freedom of speech is entrenched in the roots of Indian society, which is also protected by the constitution and cannot be separated from individuals through acts of force.

There exists a close relationship between listener and speaker, which implies that without a speaker, a listener is unable to gain knowledge and information. The movie "The Da Vinci" infringed on the Constitution, which was claimed by Christian communities, specifically Article 25²². The Court declared that "blasphemy" is never an exception under Article 19(2). Additionally, there is no empirical evidence to show that the right to religious freedom is protected by blasphemy laws across the globe. In the above-mentioned movie, the Supreme Court rejected the plea to ban the movie by the All-India Christians welfare association

²²Constitution of India 1950, Article 25

request, as they had the opinion that it hurts their religious sentiments. The Court also stated that no strong evidence to support their argument was provided by the petitioner and no nation across the globe, with a significant Christian population, has banned this movie. It was of the view that the ban was systematically proceeded because of veto power. In this case, the Court preserved the right to freedom of speech and expression. It also declared government acts as irrational and unconstitutional.

Films are thought to be an effective form of communication. As per 19 of the Indian constitution, free speech and expression are protected, and it is not dependent on the expression of opinions that might be agreeable to the majority opinion. The very core of democracy is disagreement. As a result, those who share opinions that are critical of the social reality that is currently in place are valued members of the constitutional order. Dissension in all spheres of existence aids in the development of society. Those who challenge untested presumptions help to change societal standards. Respect for their bravery is the cornerstone of democracy. Thus, Moral policing is considered a socio-religious duty of individuals, but it should be operated and functional in a non-violent and appropriate manner. It is necessary for people to be self-aware about their acts. Moral policing has some positive sides as well as it lets the producer avoid hurting the sentiments of various communities and make better quality content, but they should not consider themselves as censor board, which has a huge responsibility to manage the screening of movies.

6. From Analysis to Action: Moving Forward

Richard Dawkins stated, “*Most thoughtful people would agree that morality in the absence of policing is somehow more truly moral than the kind of false morality that vanishes as soon as the police go on strike, or the spy camera is turned off*”.²³ When the hypocrite vigilante groups take the responsibility of making a pure society, free from the shackles of obscenity, and immorality then a problem arise which can be solved when a human is consciously awake to moral police themselves or self-rule.

The arguments for censoring films include upholding public order, honoring people's feelings, and other absurdities. By way of indirect interpretation, it might send the wrong word to the public. It is always best for viewers to watch it themselves and form their own opinions. Public debates and discussions should be encouraged in schools and colleges to raise students' knowledge of and sensitivity to various moral policing practices. To further

²³Richard Dawkins, *The God Delusion*, (Bantam Press 2008)

their agendas, organizations with prior knowledge and prejudices, sometimes intentionally deceive others by moulding the facts in their favour and forcing the state to fulfil their demands. The act of banning movies is a hindrance to the right to free speech and expression, which is conferred by the Constitution and is the very essence of democracy.

It is understandable that cultural warriors have the power and freedom of expression to express their opinion but the ability to restrict should not be used vaguely to fulfil their agendas or other influential people. If any act is adopted by the cultural warriors to prevent the screening of the movie violently or illegally, then the state government should be held accountable and there should be measures adopted by them to avoid such circumstances. However, if there is a reasonable ground where the sentiments of people are hurt, then have the right to demonstrate against it and demand for justice. But this also be in consonance with basics ethics, morality, and discipline.