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The Indian Movies and their Freedom of Speech and Expression

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ABSTRACT

There is no other entertainment platform than movies nowadays. The movies are the best leisure for people. People connect with society through movies. They are always used as a major conversation platform for directors to show their ideology to the people. Movies convey a lot of information through different genres like action, comedy, love, political, biographical, movies based on real-life instances, and so on. Each genre of movie depicts different storylines. Most movies are welcomed by people, but some movies are also controversial. Controversies can make a movie depicted in the wrong way to the people, which interferes with the freedom of speech in movies. When movies are viewed from the wrong point of view, the actual story line of the movies is also conveyed incorrectly. "A film is a petrified fountain of thought". Thoughts should be conveyed how they are thought, and when they are interrupted, the thoughts are disrupted and the movie cannot completely exhibit the story line. The movies are viewed in different ways in different countries. Most countries have certain rules regarding movies. In India, movies have restrictions regarding how they are filmed, what kind of story line is used, what words are spoken, and what story they resemble. They should not be used for defamation. The movies are taken in different ways to express their ideas, and they can depict the truth or untruth in a story, which could make the story realistic. Hence, there should be a balance between freedom of speech and censorship in movies.

Keywords: *Movie; Leisure; Controversial; Defaming; Censorship.*

I. INTRODUCTION

A movie is basically a recording of moving images with sound that tells a story while people watch it on a screen. The movie can be made for many reasons; it may be just for entertainment or to impart knowledge to the people. The message the movie delivers could be good or bad, but the decision is made under the act, which deals with the laws relating to movies like the Copyright Act of 1957, the Cinematograph Act of 1952, defamation, hate speech, and anti-competitive agreements. There is a division in age through which people decide what movie they are eligible to watch. All the above laws and rules are regulated in such a way that they do

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not affect society. Still, there are many allegations against movies that such a movie should not be exhibited based on the storyline. These activities should be stopped, and freedom of speech and expression for movies should be given where the movies also should not violate any of the laws or disturb society².

II. LAWS RELATING TO MOVIES

1. THE COPYRIGHT ACT 1957:

This law mainly aims at

- The scope of rights conferred on the author: Under Section 13 of the Copyrights Act of 1957³, it protects original literary, dramatic, musical, and artistic works, cinematograph films, and sound recordings from unauthorized uses.
- Provisions to determine first ownership: Section 17 of the Copyrights Act⁴ says that the only first owner of a work is the author who first made the work itself.
- Civil and criminal remedies: the civil remedies are mentioned under Section 55 of the Copyright Act 1957⁵, which includes injunctions, damages, destruction and delivery of infringed copies, and damages for conversion. All these problems are civil cases where the remedies are compensation.

The criminal remedies are mentioned under Section 63 of the Copyright Act of 1957⁶, which includes imprisonment, fines, seizure, and searches of infringed copies. The imprisonment ranges from 3 years to not less than 6 months. And the fine ranges from 50,000 rupees to 2,00,000 lakh rupees⁷.

- Creation of copyright office and copyright board: Section 9 of the Copyright Act 1957⁸ deals with the creation of copyright offices, and Section 11 of the Copyright Act 1957 deals with the creation of copyright boards.

2. THE CINEMATOGRAPH ACT 1952:

This act deals with the certification and licensing of movies for public exhibition. This act

² Indian cinema censorship laws, freedom of speech and - 84 Indian cinema: Censorship laws, freedom of, Studocu, <https://www.studocu.com/in/document/karnataka-state-law-university/constitution-law/indian-cinema-censorship-laws-freedom-of-speech-and/27510329> (last visited May 25, 2023).

³ The Copyrights Act of 1957, Section 13

⁴ The Copyrights Act of 1957, Section 17

⁵ The Copyrights Act of 1957, Section 55

⁶ The Copyrights Act of 1957, Section 63

⁷ Sneha Mahawar - et al., Film titles and copyright law iPleaders (2022), <https://blog.iplayers.in/film-titles-and-copyright-law/> (last visited May 25, 2023).

⁸ The Copyrights Act of 1957, Section 9

also regulates exhibition by means of cinematography. This act is very important for a movie to be released for people's viewing. This act also has some restrictions regarding the licensing of films⁹.

3. DEFAMATION:

Defamation is mentioned under Section 499 of the Indian Penal Code 1860¹⁰. This section states that when a person's reputation is harmed by either words spoken or written or by actions, the person should be liable under this section. So in making a movie, one should be very clear about the words to be spoken and actions that are not defaming anyone, like not mentioning any real person's name in case of affecting their reputation or by mentioning a brand name in a bad way. When all these are noted properly, there will be no issue with the exhibition of movies¹¹.

4. HATE SPEECH

Under Section 153A of Indian Penal Code, 1860¹², it states that acts that promote enmity between different groups on grounds of religion, caste, place of birth, and language, as well as acts that disturb the harmony in society, are liable under this section.

Under Section 295A of Indian Penal Code, 1860¹³, this act states that when there are deliberate and malicious acts that could cause religious problems by means of discriminating against one religion from another, they are liable under this section¹⁴.

5. ANTI- COMPETITIVE AGREEMENT

This is an issue caused between filmmakers. When one film is to be released, the filmmaker buys all the available theatres, whether major screens or single-screen theatres, so they can sell the movie for more profit, but that could make other filmmakers unavailable for any screen, and this could be a very big financial backdrop for the other filmmakers because of less show time for people¹⁵. This could create some competition between filmmakers, and this is being mentioned in the Competition Act of 2002¹⁶.

⁹ Diva Rai - et al., Laws governing censorship of movies in India iPleaders (2022), https://blog.iplayers.in/laws-governing-censorship-of-movies-in-india/#Censorship_of_movies_and_related_legislation (last visited May 25, 2023).

¹⁰ The Indian Penal Code 1860, section 499

¹¹ Ayush Verma - et al., Film making laws in India iPleaders (2020), <https://blog.iplayers.in/film-making-laws-india/> (last visited May 25, 2023).

¹² The Indian Penal Code 1860, section 153A

¹³ The Indian Penal Code 1860, section 295A

¹⁴ Chhavi Dhawan, Laws related to movies and films Black n' White Journal (2022), <https://bnwjournals.com/2022/07/02/laws-related-to-movies-and-films/#censorship> (last visited May 25, 2023).

¹⁵ *ibid*

¹⁶ The Competition Act of 2002

III. AGE DIVISION FOR MOVIES

- According to the international norms mainly prevailing in the United States, movie censorship is divided based on the age of a person.
- Movies are separated mainly into three divisions: U, which means they can be seen by children without any restrictions; U/A, which means children can watch movies in the presence of adults; and A, which means they can be watched by adults and children are completely restricted.
- The recent system of movies has separated movies according to ages, like U, 12+, 15+, and A. This separation of ages is according to the movies resemblance to violence, foul language, sexual content, and drug use¹⁷.
- This age division is very properly set up by the censor board so that no one will be affected by seeing movies that are not appropriate for their age. If any person is restricted and watches the movie on their own, then the risk is on the person watching, and the movie will not take any burden.

IV. LANDMARK JUDGMENTS ON CENSORSHIP OF MOVIES

The government of India tries to separate freedom of speech and expression on motion pictures like movies that other people are entitled to. There are a few cases that support this context above, and they are:

1. **K.A. Abbas v. Union of India**¹⁸

The Supreme Court held that under Article 19(2) of the Indian Constitution¹⁹, one should separate the freedom of speech and expression of motion pictures from others because they deliver a deeper impact of emotion than other ways of speech and expression; hence, there should be some limit while depicting anything in this kind of motion picture.

2. **Bobby Art International v. Om Pal Singh Hoon**²⁰

Bandit Queen Movie was opposed by Om Pal Singh, and he filed a petition to stop the exhibition of the film because it has obscene scenes and also targets womanhood. He contended that this could be a disgrace to the women and that the scenes being depicted are wrong. The supreme court in its appeal upheld the decision of the high court and issued an "A" certificate to the

¹⁷ Sofiabhbambri, *Censorship of films in India* Sbhbambriadvocates (2021), <https://www.sbhambriadvocates.com/post/censorship-of-films-in-india> (last visited May 25, 2023).

¹⁸ K.A. Abbas v. Union of India, (1970) 2 SCC 780

¹⁹ The Indian Constitution, 1950, Article 19(2)

²⁰ Bobby Art International v. Om Pal Singh Hoon, (1996) 4 SCC 1

movie regarding the obscene scenes, but it held that we should consider the impact of the movie in whole and not just the scenes; this movie depicts the wrongs done to women, so it is not right to stop the exhibition of the movie.

3. S. Rangarajan v. P. Jagjivan Ram²¹

The Tamil movie 'Ore Oru Gramathile' was challenged on the grounds that the movie depicts the difference in caste and should be stopped, but the supreme court in its appeal overruled the judgment of the high court and held that the movie here depicts the lower people suffering in that period and does not completely depict the caste system; hence, a movie is released for the knowledge of the people, so stopping the exhibition will be no good for society.

All the above cases depict only one thing, which is that every movie has its own meaning, and the information from the movie can be bad, but in general, when we see that the movie wants to depict a story, such a story should not violate the law or cause any miscommunication in society. When there is no reason to believe that a movie is causing hatred, anger, or even wrong depiction towards people, which may have a huge impact on the peace of society, then that movie is fine to be exhibited and enjoyed by all.

V. PEOPLE VIEW ON CENSORSHIP ON MOVIES

There are different kinds of movies, and all kinds of movies are also controversial in different ways. If the movies depict love or lust, people start saying that these movies are not good for children to watch, and some teens could get affected by watching those movies. If it is violence, then the movies depict anger and aggression that can make people think of taking revenge or behave brutally. If it is about politics, then the movies are not even being released, and if it is about biography, then people start saying that those movies are depicting false stories and not the truth²². So this is the actual situation for movies in India. Whatever movies are released or yet to be released, they are being influenced by censorship, politics, or even people's thoughts²³. Nowadays, people think that there is no need for censorship in movies because the need for censorship is when there is a need for restriction because there are already restrictions in the way of age limits for people watching them. If a person is willing to see a movie, then it is the person's wish to watch it; if the person feels the movie should not be watched by them, then

²¹ S. Rangarajan v. P. Jagjivan Ram, (1989) 2 SCC 574

²² Myadvo Techserve Private Limited, The race between freedom of speech and censorship MyAdvo.in, <https://www.myadvo.in/blog/race-between-freedom-of-speech-and-censorship/> (last visited May 25, 2023).

²³ Boyd, B. M. (1972). FILM CENSORSHIP IN INDIA : A "REASONABLE RESTRICTION" ON FREEDOM OF SPEECH AND EXPRESSION. *Journal of the Indian Law Institute*, 14(4), 501–561. <http://www.jstor.org/stable/43950156>

there is no need to watch it. In this way, the movies will not be affected by censorship, and there will be freedom in the movies, as they thought would be established²⁴.

The movies being created will have some meaning and need to establish the content they want to show people, so if those are restricted, the meaning of making such a movie becomes all in vain. The directors and producers wish to make a movie based on their ideology, so restricting them can make the movie less impactful to people or may not completely achieve the meaning they wanted to convey. It is purely the people's intention to say whether the movie is liked or disliked for the content they have created or whether the movie was a hit or not, so finally the good one will be appreciated, and that may make more money, or the movie may be a flop and not make very much money, so there is no need for censoring the film unnecessarily and leaving the decision in the hands of people.

VI. CONCLUSION

The film industry is a vast platform, and there are plenty of people working in it. The main goal of those people is to make a movie so that they can tell something through it to people, or just to make money. At the end, everything is for a reason. So when movies are being made, they have an expectation that the movie could be a hit, but in the end, banning or censoring a movie is unnecessary and can make all the workers work in vain. There are laws that enforce in what category a movie can be released; hence, it is not on the part of the people to simply find flaws in the movie, which could make the release of the movie difficult or even biased. Government intervention should also be stopped. Finally, if a movie is released, it has all its freedom of speech and expression.

²⁴ Censorship in movies, talentbattle, <https://talentbattle.in/group-discussion/is-censorship-in-movies-necessary-group-discussion-essay-writing> (last visited May 25, 2023).