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*Censorship: An  
Eyewash in India*

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**ABSTRACT:**

Censorship in India is a emerging issue which has become debatable too. Some opine that it prevents the freedom of speech and expression whereas some think that it is necessary as it prevents the telecast of violative materials like vulgarity, obscenity, nudity and any other harmful material which affect the values of life. Through this paper I wanted to show both the Positive and Negative aspects of censorship and its major role in the fields of Music, Books, Internet, Newspapers and Movies etc...

The Research Paper starts with the Introduction which details about the relation of technology with Censorship and deals with the questions like what is censorship and how technology is taking it to an updated stage in a rapid manner. Moreover, I have stressed on some positive aspects of Censorship like It prevents racism, It prevents Plagiarism and moreover resolve religious conflicts and moreover it prevents the children from keeping their mind corrupt by seeing harmful materials containing obscene materials.

Then my Research paper highlights landmark judicial Pronouncements like K.A. Abbas v/s Union of India and some on the legislation THE CINEMATOGRAPHIC ACT, 1952 and THE PRESS COUNCILS ACT, 1978 like Shankar& ors. v/s State of Tamil Nadu and Moorthy v/s State of Tamil Nadu which lays out certain principles and certain guidelines for the Censor Board that how they should act upon. The Research paper highlights some famous movies, books and documentaries which had to undergo the cut of censor board in India. Lastly the paper concludes by saying:

“Power corrupts Totally and Absolute Power Corrupts absolutely”

**INTRODUCTION:**

Censorship is the term used to describe the editing of the media to control public access to whole or specified texts.

There is a constant debate on the topic of Censorship because some people on one hand think that media has a strong influence on people through printing media like newspapers, magazines, books etc. and electronic media like television, radio and the most popular internet on computers and in some cases this media is not totally but somewhat responsible for the drastic actions of the individuals but on the other hand some people think that people have a right to choose that which channels which books or which sites they should be prone to which is a more liberal opinion.

With the increasing population not only in India but in other various parts of the world where prices have descended, technology is increasing its speed like an airplane and incomes have also risen so media is in touch with almost all regions of the world in one form or the other whether it is rural areas or urban areas and thus with this the controversial materials is in touch with every one like the controversial books, pornographic materials etc.<sup>1</sup> With the internet in particular, it is almost impossible to control that who are exposed to it and are facing some serious consequences. When a country is at war, few can argue that a certain degree of censorship is required. It is necessary to limit the public's access to sensitive material concerning the war, such as strategies and the details of conferences, so the enemy cannot use the information to their advantage. While this form of censorship is understandable, it presents the problem of too much information being held back making the state totally in control, and the possible cover-up of a government faux-pass.

There are three main elements which are censored in a media i.e. cursing, violence and sex. Everyone should think that if materials available in the market need to pass minimum quality standards set by either the government body or an independent organization so quality of media reaching to society should also require a quality assurance otherwise it would have a detrimental effect on the society. The Indian government has blocked around 250 websites, ordered Google

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<sup>1</sup> As reported in The Hindu, Freedom of the Press and Journalistic Ethics, <http://www.hindu.com/2011/06/03/stories/2011060363621400.htm>, dated 03/06/2011

and Facebook to pull content, threatened legal action against Twitter if it doesn't delete certain accounts, and has arrested several people for sending inflammatory text messages, all in the name of public safety. Social media and text messaging, both of which are becoming increasingly common in reaches of India's enormous lower and middle classes, accelerated the flow of rumors and of inflammatory images. Some of the material turns out to have been fake doctored images and videos showed anti-Muslim attacks that never happened. Because the rumors can be self-fulfilling, their lightning-fast spread across India's vast population, much of which is very newly connected to the web, can be costly. The original 1993 crisis displaced an estimated 20,000 people.

Youtube is probably among the top ten most visited Internet sites in the world, with hundreds of videos added every day. It is not difficult to set up an account and even easier to make a fake one. Many of the explicit content videos that have been uploaded onto the site are blocked by a mere "confirm your age" button. All one needs to do is change the birth year to anytime earlier than 1988, and then they are granted complete access to any video, mature or otherwise. This ease to view whatever you want no matter what age you are is a perfect example of how in today's age information is available to literally anyone. For girls the toys like Barbie are turning them into the ideal mans woman: slutty, exposing and easy. For boys, all those soldier toys are turning them into 'macho" men, some of which have started to use swear words like damn and hell. Even now they're beginning to be transformed into what they are expected to be by the time their in high school. Thus media has a impact on child innocence.

#### **POSITIVE ASPECTS OF CENSORSHIP:**

Censorship is the curbing of the inflow of thoughts, speech and express in a society. Both autonomous and non-autonomous countries take help of it. With the ever-growing and rapid communication technology, it has become universal and ubiquitous. There is a dispute as to whether censorship is good or bad. It is present in all form of media like programmes on television, movies which come under electronic media and also in books, magazines and newspapers.

Censorship does not restrain the right to express opinion of anyone but on the other hand it is imposed to help them in protecting their right. Censorship of pornographic material is necessary as it protects rather prevents the minds of children especially below 18 years from becoming knavish or nefarious. Religious wars are abstained through censorship of materials which tend to harm or injure any particular Religion or religious community. Censorship is necessary to preserve the secrets and confidentiality of the nation. It is useful in hiding sensitive military information, which could be used by an enemy state. Scenes of people consuming alcohol or smoking influence people to copy them. Hence, censoring such scenes serves a useful purpose. People may copy dangerous stunts shown on TV or movies. Censorship proves necessary here. Books may be used to portray wrong information about individuals or groups that could incite violence against them. Censorship would definitely prove helpful here. It can be used to prevent politically motivated propaganda. It protects the privacy of people.<sup>2</sup> Plagiarism is prevented. Abusive scenes in movies may offend some people. Censorship prevents that. It protects indigenous cultures from the bad influence of foreign cultures. It prevents the public display of disrespect to any particular individual or community.<sup>3</sup> It prevents companies from spreading inaccurate or grossly exaggerated claims about their products. It prevents spreading of racism. It promotes political correctness. Children are prevented from learning things that could harm them and others. It prevents the ill effects of globalization affecting societies. It shields the morals of society and restrains vulgarity and obscenity. It prevents violence by stopping the broadcast of events, which might trigger it. During an emergency like a terrorist attack, it helps in controlling panic and rumors throughout the nation.

### **ROLE OF CENSORSHIP IN VARIOUS FIELDS:**

#### **Music:**

When it comes to derogatory music related to religion or other sensitive issues, it is usually banned from being aired on the radio, with only pirated sites being able to view these as downloads. Even profane lyrics are silenced to avoid listeners from hearing abusive content.

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<sup>2</sup> M.P.Jain, Indian Constitutional Law 1085 (Lexis Nexis Butterworths Wadhwa, Nagpur, 6th ed., 2011).

<sup>3</sup> The Media in the India> Freedom of the Press, Available at <http://Indian.usembassy.de/media-freedom.htm>

Usually music artists record two versions of the same song, one in its explicitness and the other in a clean format. Genres are treated differently depending on what the lyrics convey. The more controversial the song, the higher the chances of the band/musician suffering from severe censorship rules.

**Books:**

There are certain authors who pen down details of an unstable topic, aggravating readers who find it going against their belief system or culture. Like the infamous Salman Rushdie who's book spurred not just anger and a censorship in India banning the distribution of his books, but a rage against the author to a point of driving him out of his own country. He now takes refuge beyond its borders for fear of being killed by the opposition. Certain books when they cross a fine line between what is acceptable and what is not, are often banned from readers and public circulation.

**Television:**

Certain content is withheld from public viewing simply because content shown is of an explicit and obscene nature that must be monitored before viewing. Some censor boards allow the movie / documentary / television series to be viewed although blurring or cutting out the part in the sequence of events. Children and those who are too young to watch the said graphic material aren't allowed to dabble in such immoral content. There is a 'Parental Guidance' warning with even age-specific messages for a movie, which is a practice for adults to monitor television time. Even some websites have these before one ventures for into its content.

**Internet/Magazines:**

Certain countries ban the distribution of magazines that feature pornographic content, including those like Penthouse and Playboy for their vulgarity and openness towards the exposed human body through print. The Internet is a behemoth in our present media age, and the content that it provides (some of which is freely viewable) is questionable and extremely uncouth. Child pornography is a major industry that is a red alert area for the government and censorship boards, where usually these sites are either banned or shut down for good.

**Movies:**

Censor board plays a pivotal role in the outcome of a cinema in a good way. In olden days there rarely used to be vulgar scenes in a cinema. But things have drastically changed now. More time has been allocated for the scenes which effect human sentiments and which affect our culture.

More number of vulgar scenes has been put up by the directors so as to collect high revenues for the movie. The deletion of vulgarity is not the sole purpose of the censor board. Rather it is to supervise cinema content as being appropriate to its viewing population. Therefore instead of focusing on vulgarity (whose degrees are highly subjective, we should focus on the segregation of publics viewing cinema content and enforce rules which set a clear distinction between the public and accordingly allow content to be viewed, advertisements to be published and followed in all viewing halls

### **CENSORSHIP OF VIOLENT ACTS:**

Censoring violent acts are compulsory. It is important that a community protects itself from violence as it can have a negative influence on people and disrupt the peace by affecting the mental and social health of people. Violent scenes can often increase peoples' brutal instincts. People can become arrogant, mean, boring, rude, and aggressive due to violence. It is said that 1998 – 2002, was the year when most of the movies were launched.<sup>4</sup> Out of those movies approximately more than 98 movies were violent movies and came under the super hit category such as Anaconda, Jurassic park (2), Godzilla etc. These movies were obviously watched by most of the population in the world as they were super hit and popular, therefore majority of the people who watched these movie were affected by the violent acts which lead to the failure in the normal development of their lobes in the brain. In order to try and cope up with the issue, the government came up with a law that people only 21 years and above will be allowed to watch movies which have violent content. It is mandatory now for every film to obtain the censor certificate from the Censor board which is present in every country. The censor board which consists of experts decides which parts of the film should be censored and which film is suitable for a particular group of viewers.<sup>5</sup>

Another reason why it is important to censor violent acts is that in the third world countries majority of the population is uneducated. When these illiterate and semi-illiterate humans watch

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<sup>4</sup> Available at <http://www.buzzlehien.com/1.html>

<sup>5</sup> Press Freedom, available at <http://www.newspapersoc.org./press-freedom>

these movies, they are unable to understand and analyze the situation in the movie. It has been observed that if the movie contains criminal acts like murder, kidnapping etc, these people take ideas from the movie and do it in reality may- be to earn money in their otherwise miserable lives. The reason for this was due that the young servants learned the tricks from the movies which prompted them to try out these violent acts against their employers. Most of the young children convicted under Juvenile crime act did confess that they learned all these crimes from the movies and films. But if we censor these kinds of scenes then it will contribute to peace and harmony in the society.<sup>6</sup>

#### **JUDICIAL PRONOUNCEMENTS:**

In **Brij Bhushan & Anr. V/s State of Delhi**<sup>7</sup> the Chief Commissioner of Delhi issued an order against the publisher, printer of the English Weekly of Delhi called the 'Organiser'. The Court held that there can be no doubt that to impose pre-censorship on a journal it is a restriction on the liberty of the press which is included under freedom of speech and expression under 19(1)(a) of the Constitution of India.<sup>8</sup>

In **B.K. Adarsh v/s Union of India**<sup>9</sup> the Court held that mere grant of certificate under Section 5A to motion pictures who contain obscene or pornographic scenes does not entitle the producer of a particular film to a certification under 5A. It is the particular film which has to be in conformity with law and is granted certificate under 5A of Cinematographic Act, 1952. The petitioner is not entitled to avail the benefit of Article 14 of the Constitution if it has violated the law.

In **Romesh v/s Union of India**<sup>10</sup> a petition was filed to restrain the screening of the film serial Tamas as it violated Article 21 and Article 25 of the Constitution of India and Section 5B of

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<sup>6</sup> Role of Indian Media at New Age, available at <http://www.pressclubmumbai.com/news/award/role-indian-media-new-age>.

<sup>7</sup> AIR 1950 SCC 129

<sup>8</sup> Pandey J.N, The Constitutional Law of India, Central Law Agency, 49<sup>th</sup> Edn, Pg. 194, 195

<sup>9</sup> AIR 1990 AP 100

<sup>10</sup> AIR 1998 SC 775



Cinematographic Act, 1952 which depicted the the events in Lahore before the partition of the country and was based on the novel of Bhisma Sahni. Two judges of the Bombay High Court saw the serial and rejected the contention that it propagated the cult of violence. Supreme Court agreed on this view of High Court and said that the telecast of serial on television should not be stopped as it is a powerful means of electronic media.

In **Ramanlal v/s Central Board of film certification**<sup>11</sup> it was held that refusal to grant a certificate for public exhibition because of its being based on and depicting superstitious practices cannot be sustained because it violates 5B(1) of Cinematographic Act, 1952.

In **Moorthy v/s State of Tamil Nadu**<sup>12</sup> the Supreme Court converted the death sentence under Section 302 of Indian Penal Code into imprisonment for life by making an observation that his mental agitation was fuelled by the movie, showing murder and other acts of violence and this was the vicious effect of films picturizing violence in detail on impressionable minds on the vulnerable mind of the respondent. So the Supreme Court observed that the censorship of violent acts is necessary and censored the scenes of the particular film.

In **Shankar & ors. v/s State of Tamil Nadu**<sup>13</sup> the Supreme Court observed that when promotion of art and culture is the primary underlying object, how obscenity, cruelty, and many such things can be shown in a magnified manner so here censor board has to step down firmly and insist the release of only those films which have a message and teaches the values of life and not those which exhibit scenes of violence, sex, rape, bootlegging and drug trafficking in such a manner which have the propensity of disturbing the minds of some viewers like children and particularly of those who are frustrated, indiscipline, weak-minded and likely to get indulged in crime.

In **M. Hasan v/s Government of Andhra Pradesh**<sup>14</sup> the petition was filed challenging the authority of the jail authorities on their refusal to the petitioner for interview of the condemned prisoners. The Court held that refusal to interview is violative of Article 19(1)(a) of the

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<sup>11</sup> AIR 1998 Bom 278

<sup>12</sup> AIR (1998) 3 SCC 207

<sup>13</sup> AIR (1994) 4 SCC 478

<sup>14</sup> AIR 1998 AP 35

Constitution of India but reasonable restrictions are allowed and if any thing shown to the mass at large is untrue or not just and proper then they could be deprived of this freedom.<sup>15</sup>

In a recent 2009 judgement of Destruction of Public and Private Properties v/s State of Andhra Pradesh<sup>16</sup> few principles were laid down by Mr. F.S. Nariman Committee and also suggested certain modalities:

**1. The Trusteeship Principle:**

Professional Journalists act as trustees of public and their mission should be to seek the truth and to report it with integrity and independence.

**2. The Self- Regulation Principle:**

The model of Self- Regulation should be based on the principles of objectivity and impartiality responsible reporting of sensitive issues, issues related to crime, violence, woman and children matters and ensure privacy.<sup>17</sup>

**3. Complaints Principle:**

There should be an efficient mechanism in just and a proper manner to hear complaints and work on them to ensure less number of complaints.

**4. Balance Principle:**

A Balance should be maintained should be maintained on the basis of the principles of proportionality and least invasiveness but ensures democratic governance and self restraint from news publications that the other point of view is morally accepted and accommodated.

In **Samaresh Bose v/s Amal Mitra**<sup>18</sup> the Supreme Court held that a vulgar writing is not necessarily obscene. Vulgarity arouses a feeling of disgust, revulsion, boredom but does not have

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<sup>15</sup> Pandey J.N, The Constitutional Law of India, Central Law Agency, 49<sup>th</sup> Edn, Pg. 188

<sup>16</sup> (2009) 5 SCC 212

<sup>17</sup> Jain M.P, Indian Constitutional Law, Lexis Nexis Butterworths Wadhva, Nagpur, 6<sup>th</sup> Edn, 2011, pg 1105

<sup>18</sup> (1985) 4 SCC 289

the power to corrupt the minds of the novel whereas obscenity tends to corrupt the minds of those who tend to be in touch of these moral influences.

In **K.A. Abbas v/s Union of India**<sup>19</sup> the Supreme Court held that Sex and Obscenity are not always synonymous and it is wrong to classify sex as essentially obscene or immoral.<sup>20</sup>

In **Ajay Goswami v/s Union of India & ors.**<sup>21</sup> The petitioner had prayed mandamus for laying down of rules/regulations to ensure that minors are not exposed to sexually oriented matters being published, especially in the entertainment section of newspapers without express consent of parents and guardians. The Court held that there should be no suppression of freedom of speech and expression supposedly to protect children from harmful materials.<sup>22</sup>

#### **FILMS/DOCUMENTARIES CENSORED IN INDIA:**

In 2002, the film 'war and peace' depicting scenes of nuclear testing and the 11<sup>th</sup> September Atrocities created by Anand Patwardhan was asked to make 21 cuts before giving it a certificate for release. The director said that the cuts asked are ridiculous and won't stand in court. The Court decreed the cuts unconstitutional and the film was shown uncut.

In 2003 the Indian Censor Board banned the production of the film Gulabi Aaina a film on Indian Trans-Sexuals. The Censor Board cited that the film was vulgar and offensive. The filmmaker appealed twice but it became unsuccessful and the film is banned even now.

In 2004, a documentary Final Solution was picturized on riots between Hindus and Muslims which was banned. The film showed 2002 clashes in the western part of Gujarat. The censor board justified the ban saying that it was highly provocative and may trigger off unrest and communal violence.

#### **BOOKS CENSORED IN INDIA:**

In 1989 Salman Rushdie's Satanic Verses was banned in India along with it in many countries for the purported attacks on Islam. India was the Second in the World to ban this book.

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<sup>19</sup> (1971) 2 SCR 446

<sup>20</sup> Pandey J.N, The Constitutional Law of India, Central Law Agency, 49<sup>th</sup> Edn, Pg. 85, 201

<sup>21</sup> (2007) 1 SCC 143

<sup>22</sup> Pandey J.N, The Constitutional Law of India, Central Law Agency, 49<sup>th</sup> Edn, Pg. 195

A book on the Maharashtrian prince, Shivaji, by Queens University Professor Jayant Lele was banned. This book asked the question of who was the father of Shivaji. The Central Government of the time Shiv Sena banned Shivaji: Hindu king in Islamic India and also the Epic of Shivaji which contained an objectionable phrase “Oedipal Rebel”.

In Punjab the “Bhavsagar Granth” was banned by the State Government following clashes between the mainstream Sikhs and the Apostate Sikh sect that produced that. It was banned because it was said that it had many number of portions from the Guru Granth Sahib because in one of the photos Baba Bhaniara was wearing a shining coat and headdress in a style familiar to Guru Gobind Singh.

‘The Polyester Prince’ biography of the Indian Businessman Dhirubai Ambani was banned nationally.

#### **INTERNET CENSORSHIP IN INDIA:**

In 2004, a Yahoo group discussion group forum was blocked because of fears the group, the Kynhun Forum had links with banned Separatists. The ban resulted in the entire yahoo groups being banned due to the internet service providers inability to implement a sub-group ban and hence a huge range of harmless material were made inaccessible. India also blocked internet access to several blogs and websites in July 2006 following the 11<sup>th</sup> July 2006 Mumbai Train bombings. As with the yahoo groups case the government had wished for a few blogs to be banned for spreading hateful or inflammatory material.

#### **CONCLUSION:**

Censorship is an issue which confronts us today most seriously with the emergence of a moral police and self styled protectors of what they regard as Indian values. Society must lean in favour of free speech and expression and courts must be very cautious while upholding restrictions imposed on notions like decency or morality. The Internet age and the breakdown of traditional madras is rendering censorship increasingly futile.

Censorship according to me is eyewash in India. It is a method to prove to its people that it has an eye on what's going on. This is why a system would ban advertising of tobacco in television and not in the market. All over the world the prime concern of the censors is the portrayal of violence and sex. The way the State wants sex to be portrayed reflects on the kind of Sexuality that the State thinks should exist. There are many pros and cons of media censorship. In an age where freedom of expression cannot be stressed enough, a pro media censorship agreement can be considered as sacrilege.

Some of the most inhuman reporting scenarios in some of the most shattering catastrophes, it is my personal opinion as a viewer and as a global citizen that censorship should be about keeping the media real enough to reflect society but subtle enough to keep it humane.