



FILM CENSORSHIP
GUIDELINES IN MALAYSIA:
ART | IDENTITY | POLITICS

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WHAT'S WRONG WITH THE FCB (LPF) GUIDELINES?

- It wasn't made for a democracy; it was made for colonialism and authoritarianism.
- It often tries to enforce the elite view of what should be, not what is.
- It makes it harder to capture lived experiences, or to aid self-reflection and the confronting of hard truths and systemic issues.
- Overall, it is not working.
- In many cases, it 'others' and endangers minority/marginalised groups.
- It perpetuates narratives and perceptions that are dangerous.
- It magnifies the gap between the privileged and underprivileged.
- It is not who we are supposed to be.
- It definitely contravenes human rights principles.
- It is most likely unconstitutional.



CONTENT CREATION
IN A
DIVIDED SOCIETY

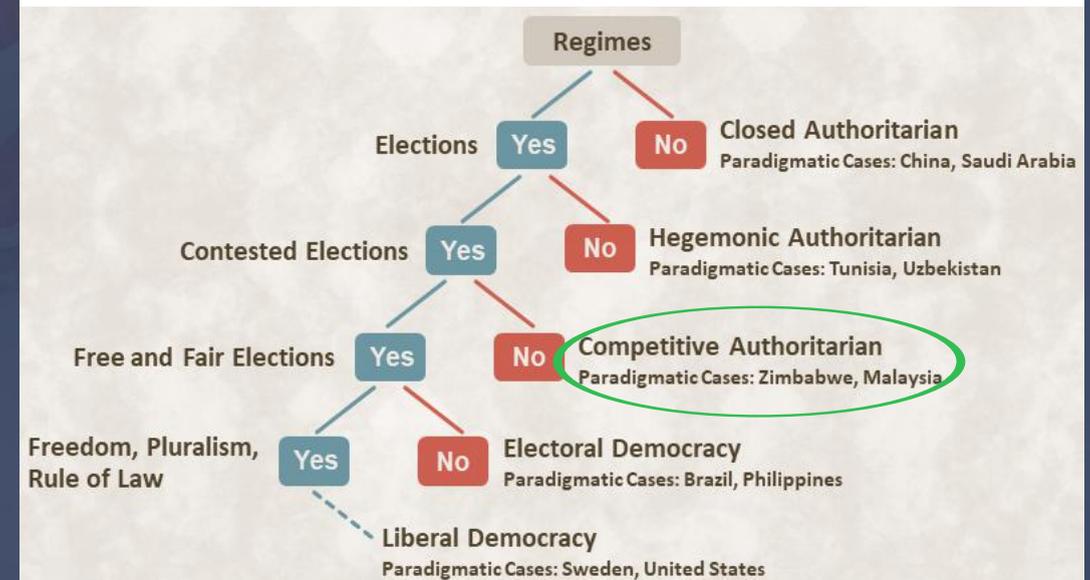
HISTORICAL & POLITICAL CONTEXT [1 / 3]

Content censorship did not develop organically in Malaysia. It was an external construct introduced by British colonial rule at the turn of the 20th century, to serve colonial interests. It was used to control ideas about the existing social order (inc. racial and religious constructs) and depress inclinations among 'the natives' to revolt against the Empire.

Yet, on independence, the new Malayan leadership kept the regulatory framework, simply transferring the leash from colonial hands to those of the local ruling elite.

Post-independence, Malaysia's deeply-rooted politics of ethno-religious identity reinforced a political structure that melded semi-authoritarian power with ethnic elite power-sharing. This enabled a single political coalition, *Barisan Nasional* (BN) to stay in power for 61 years, by entrenching state capture of bureaucracy, public policy, and the law enforcement and regulatory apparatuses.

Disaggregation of regimes along the dimensions of electoralism by Howard and Roessler (2006).



Source: Howard and Roessler, 2006.

HISTORICAL & POLITICAL CONTEXT [2 / 3]

Over the last 15 years, that semi-authoritarian system began to dismantle, led by BN's successive electoral losses in 2008 and 2013, and regime change in 2018.

But while democratic progress is observable in other areas, control over content creation, especially in the domestic film industry, has not seen much change. There are a number of reasons for this.

First, despite recent electoral changes, ethnicity, religion and regionalism remain significant drivers of political, economic and cultural competition. These drivers intersect (along with gender and class) to shape communal dynamics and cohesiveness.

As such, controlling the dominant public narratives of history, religion, culture, ethnic identity and the importance of government dominance is still vital to the interests of many in the political, bureaucratic and religious elite.

TV and cinema are important sites of identity formation because of their mass reach. As a form of expression, they can capture the state of society, reflect dominant cultural beliefs, and shape how cultures and societies are perceived, especially in multi-ethnic societies.

And so, elites are invested in retaining their expansive regulatory control over film content. The age of social media has intensified that imperative.

HOW CONTENT IS CONTROLLED [1/4]

THE STATE HOLDS 360° CONTROL BY IMPOSING PRIOR CENSORSHIP, DEFINING WHAT IS LAWFUL CONTENT, CHOOSING THE DECISION-MAKERS, AND RETAINING VETO POWER.

- Prior approval is required for any film displayed on traditional (non-internet) platforms. Failure to comply carries criminal penalties.
- The government (through the Ministry of Home Affairs and Film Censorship Board (LPF)) produces codes that lay down restrictions and prohibitions on film content.
- The government decides who sits on the LPF and its appeals panel. Their task is to decide if a film contravenes the codes. Industry practitioners are not required to be included in the board or panel.
- In any event, the government (Minister) holds the power to override the decisions of the LPF and appeals panel.

HOW CONTENT IS CONTROLLED [2/4]

RESTRICTIONS ARE NOT CLEAR CUT, ARE DIFFICULT FOR FILMMAKERS TO APPLY, AND GIVE STATE OPERATIVES A WIDE DISCRETION THAT IS EASY TO ABUSE.

- Some of the restrictions are necessary and reasonable.
- But many are widely framed or subjective, and their precise meaning is difficult to pin down. They give the LPF wide interpretive latitude and significant discretionary power.
- Other restrictions are incredibly specific, with a rigidity that does not permit contextual or subtextual interpretation.
- Overall, the wording and scope of many of the restrictions make it difficult for filmmakers to apply independently, and they often resort to 'pre-censorship consultation' with the LPF.

HOW CONTENT IS CONTROLLED [3/4]

OTHER ARMS OF STATE, NOT JUST THE CENSORSHIP BOARD, HAVE INFORMAL VETO POWER OVER FILM CONTENT. JUDICIAL OVERSIGHT IS NOT SEEN AS A VIABLE OPTION.

- As a result of the ambiguities and given what is on the line, an informal practice has evolved where filmmakers run scripts and story outlines past censors and, at the urging of the censors, also through authorities such as the police and religious bodies.
- Because of the nature of the content restrictions and the way they are drafted, these authorities have an informal power to veto how certain aspects like police behaviour, law and order or religion are portrayed in local films.
- The censorship decisions are not easy to challenge in court. First, the laws say such decisions are not subject to judicial oversight. Second, the requirement of prior censorship and the time factor of court proceedings often make the legal option impractical.

HOW CONTENT IS CONTROLLED [4/4]

CONTENT
REGULATION IS
SEPARATED BY
MEDIUM AND/OR
PLATFORM. THUS
CONTENT IS
REGULATED BY
AUDIENCE TYPE.

- There is no standard model of content regulation in Malaysia - it depends on the medium or platform of delivery. Only films on traditional terrestrial-based platforms are covered by the censorship framework discussed here.
- Film content on digital and internet platforms fall under a different regulatory framework, one without prior censorship, and based on industry self-regulation. Content codes are produced through industry consultation. Government monitors, but does not control. Judicial oversight is preserved.
- Print content is not subject to prior censorship. But the government has power to ban publications. The general conditions for banning are provided in a statute. Judicial oversight is preserved.

A roll of film is shown, partially unspooled. The film has several frames with different scenes. The text 'Security and Public Order' is overlaid on a frame showing a city street. 'Religion' is overlaid on a frame showing a building. 'Socio-culture' is overlaid on a frame showing a building. 'Decorum and morality' is overlaid on a frame showing a city street. The film has 'AGFA EXCL CTX 100' printed on it. The background is a plain, light color.

ON THE CUTTING ROOM FLOOR

Security
and Public
Order

Religion

Socio-
culture

Decorum
and
morality

THE DICHOTOMY

The principles and objectives of LPF film censorship overly promote a particular set of norms that **protect state interests**: e.g. that government and its leaders are to be shielded from public censure; that public interests and social values are state-defined concepts; that religious homogeneity is a protected state interest; that socio-cultural values include the preservation of the dominant politico-religious narratives.

The rights of individuals to freely express themselves and determine their viewing choices are not adequately recognised or prioritised.

Prior censorship laws and opaque restrictions give censors significant **veto power**.

In contrast, the industry-developed content code for the digital and internet space - **while not perfect** - takes effort to **balance individual rights and freedoms, against communal and national interests**. It acknowledges the freedom to create, choose and access content, and expressly affirms human rights protections. It also acknowledges that plurality and diversity of consumer preferences across political, economic and cultural spectrums must be reflected in the range of available content.

On protected classes, the code takes a **rights-based approach**, requiring that content must not contain discriminatory material but instead reflect intersectional diversity. The code underscores that the **power and responsibility of determining what is and is not suitable content, is shared** between the content producer and the consumer.

From the CMA Content Code:

“ Attention will be given to include and respect diversity such as may be expressed through differences due to, but are not limited to, cognitive or physical ability, culture, ethnicity, religion, socio-economic status, gender, age, national origin, **political persuasion**, marital status, educational background or geographic location. ”

“ [Section 211, CMA] requires Code Subjects to ensure that material disseminated does not include anything which offends good taste or decency; is offensive to public feeling, is likely to **encourage crime or lead to disorder**, or is abusive or threatening in nature. ”

The standards by which Content is measured, given the requirements, will be viewed in the context of the country's social, religious, **political**, and educational attitudes and observances, as well as the need to accommodate global diversity in a borderless world. ”

SECURITY AND PUBLIC ORDER

- Restrictions are widely-framed, and can be used to justify cuts to content that criticises or censures the government of the day, or portrays government mismanagement or failure to perform, or promotes differing political views or identities.
- For example, restrictions are imposed on content that:
 - a. portrays the triumph of violence, anarchy and evil over the rule of law, justice and truth;
 - b. discredits or denigrates the government or its leaders;
 - c. is 'provocative', 'slanderous' or 'may stir social unrest';
 - d. portrays authorities as not taking action against criminals.
- As a result of these restrictions, filmmakers are informally required to get 'pre-approval' from the police/military when law and national security enforcement are portrayed in local films.

From the CMA Content Code (for Broadcasters only):

 In dealing with religious Content, Broadcasters shall have regards to Islam as the official religion of the country and the constitutional rights to freedom of religion of all other communities.

Religious broadcasts are aimed at respecting and promoting spiritual harmony and to cater to the varied religious needs of the community.

Broadcasters shall ensure that its religious Content is not used to convey attacks upon any race or religion or is likely to create any disharmony.

All religious Content shall be in congruence with the relevant national religious authorities and/or accredited scholars prior to transmission.

Content that includes the propagation of any religion other than Islam whether directly or indirectly is not permitted.

Content that is wrongful, fanatical, critical, and insulting against any religion shall not be permitted. 

RELIGION [1 / 2]

- There are wide-ranging restrictions on how **Islam and Muslims** may be depicted. The underlying purpose is to ensure that films do not stray from the State-prescribed narrative of Islamic religious beliefs, practices and precepts.
- Some restrictions are **general and imprecise**, e.g. 'ridiculing and derision of the purity of Islam', '...conflicting with the opinions of Muslim clerics' and '...depicting scenes that can lead to disunity among the Muslim community in this country.'
- Some restrictions are **specific and directive**, e.g. 'scenes that... glorify the gains and benefits of a person who has forsaken the Islamic religion without any retribution to the offender'; or 'a Muslim who plays the character of non-Islamic faith... and who performs acts of worship in a temple, church, etc'.

From the CMA Content Code (general sections):

“ Attention will be given to include and respect diversity such as may be expressed through differences due to, but are not limited to, cognitive or physical ability, culture, ethnicity, religion, socio-economic status, gender, age, national origin, political persuasion, marital status, educational background or geographic location. ”

“ Code subjects will ensure, to the best of their ability, that their Content contains no abusive or discriminatory material or comment on matters of, but not limited to, **race, religion, culture, ethnicity**, national origin, gender, age, marital status, socio-economic status, political persuasion, educational background, geographic locations, sexual orientation or physical or mental ability, acknowledging that every person has a right to full and equal recognition and to enjoy certain fundamental rights and freedoms as contained in the Federal Constitution and other relevant statutes. ”

RELIGION [2 / 2]

- Films with **polytheistic elements** can be rejected or censored, unless the objective is to prevent polytheism, or the characters repent or receive retribution.
- Restrictions like these result in the 'othering' and devaluing of minority religions. They can perpetuate and justify inter-communal distrust, public intolerance and discrimination.
- There are polytheistic elements in religions or belief systems such as Hinduism, Buddhism and Taoism. These restrictions give the FCB extensive discretion to censor portrayals of the practices of these religions and beliefs.
- These restrictions give licence to religious authorities to play a dominant role in censorship screening processes; their views hold sway when any religion and religious practices are portrayed in films, particularly films in the Malay language.

From the CMA Content Code (general sections):

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The standards by which Content is measured, given the requirements, will be viewed in the context of **the country's social, religious, political, and educational attitudes and observances**, as well as the need to accommodate **global diversity in a borderless world.**”

SOCIO - CULTURE

- Socio-culture restrictions can be sub-categorised as follows:
 - a. **Political structures and positions of authority**, e.g. content that degrades royalty and governors;
 - b. **Superstition and religion**, e.g. showcasing lifestyles that are ‘contrary to religious teachings... that can lead to the destruction of the noble values of society’; portraying a Muslim male protagonist with earrings / tattoos, or Malay folk tales and legends that glorify matters contrary to Islamic faith;
 - c. **Sexuality and obscenity**, e.g. sex scenes, including homosexual and ‘unnatural’ sex;
 - d. **Violence and oppressive behaviour**, e.g. scenes of excessive violence; or oppression of a race/society;
 - e. **Portrayal of children**, i.e. depicting children smoking, drinking alcohol or taking drugs.

DECORUM AND MORALITY

From the CMA Content Code (general sections):

Code subjects will ensure, to the best of their ability, that their Content contains no abusive or discriminatory material or comment on matters of, but not limited to, race, religion, **culture, ethnicity, national origin, gender, age, marital status, socio-economic status, political persuasion, educational background, geographic locations, sexual orientation or physical or mental ability**, acknowledging that **every person has a right to full and equal recognition** and to enjoy certain fundamental rights and freedoms as contained in the Federal Constitution and other relevant statutes.

- Some restrictions result in othering and derecognition of marginalised groups. These include the following:
 - a. **Cultural and moral beliefs**, e.g. glorification of wicked deeds; content that induces the performance of immoral, deviationist or wicked acts; portrayal of artistic skills disrespectful or in conflict with the ‘artistic values of the Malaysian values’ [sic];
 - b. **Transgenderism**, i.e. depictions of transgender behaviour and lifestyle.
- Content depicting non-heteronormative behaviour or orientation is restricted under both ‘socio-culture’ and ‘decorum and morality’.
- Restrictions like these can perpetuate and justify intercommunal distrust, public intolerance and discrimination.

SUMMARY

The two different content regulation frameworks take diametrically opposite approaches to the same medium of film, while operating in the same socio-political landscape.

The main differential is the platforms on which they are being delivered, and the consumer classes to whom they are accessible.

What is the justification for a regressive, paternalistic approach to the regulation of traditional film platforms, when a more inclusive, rights-based approach for the internet and online platforms continues to operate in relative stability?

As viewers increasingly embrace OTT and online platforms for filmic content, is the film censorship framework even working in delivering its objectives?



Merging Multiple Malaysias?



THE WAY FORWARD

Proposals to reform and streamline film regulation include:

- The removal of prior censorship of films;
- The establishment of a self-regulated industry forum to decide, administer and enforce content standards for the film industry;
- The development of a content code for films that is industry-led and consultative;
- The application of a rights-based approach to the imposition of restrictions on film content (in accordance with prevailing standards of necessity and proportionality), that recognises and creates space for the expression of difference and alternative voices.



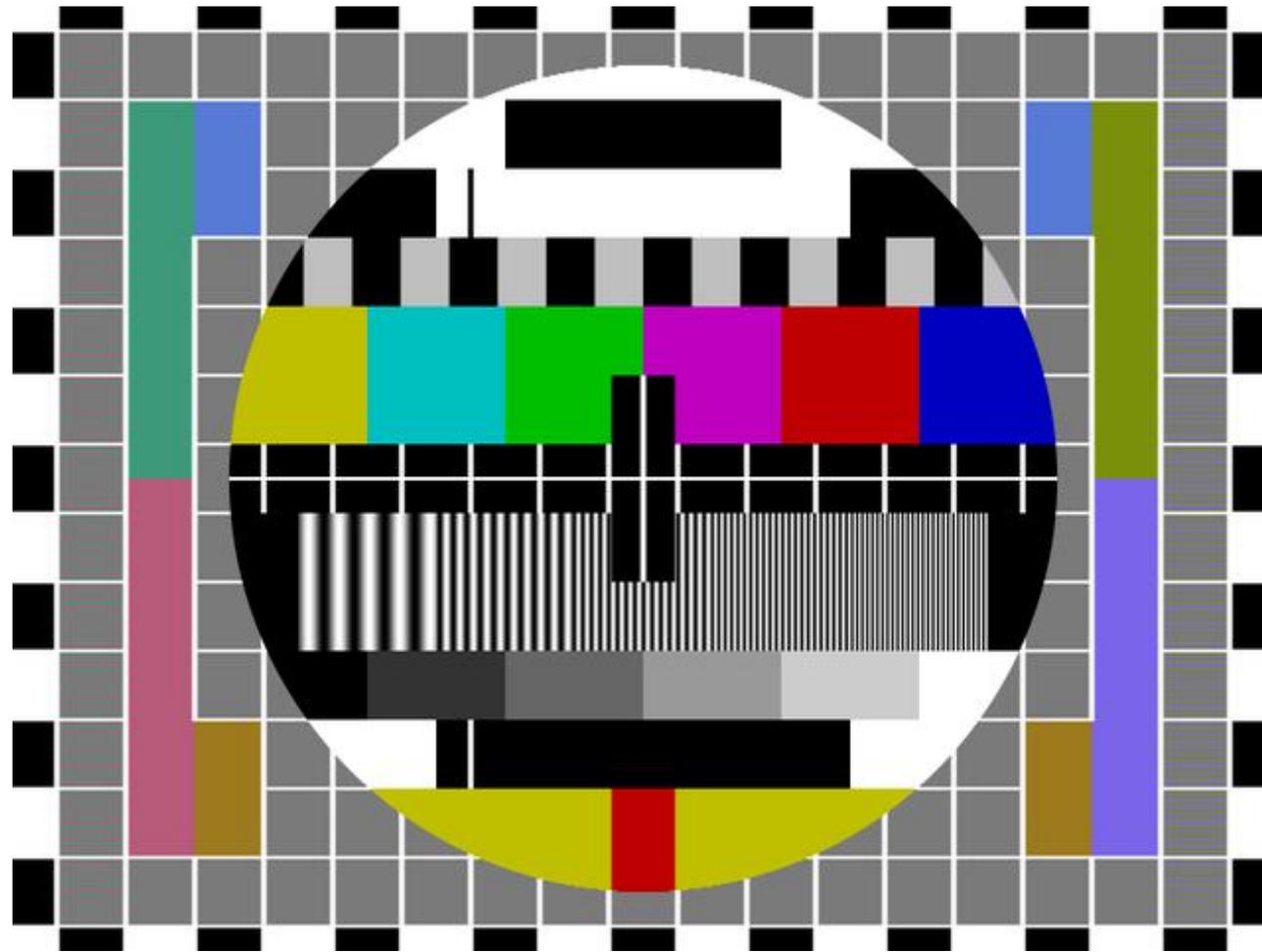
RUKUN NEGARA

Whereas our Country, Malaysia nurtures the ambitions of:

- Achieving a more perfect unity amongst the whole of her society;
- Preserving a democratic way of life;
- Creating a just society where the prosperity of the country can be enjoyed together in a fair and equitable manner;
- Guaranteeing a liberal approach towards her rich and varied cultural traditions; and
- Building a progressive society that will make use of science and modern technology.

We, the citizens of Malaysia, pledge our united efforts to attain these ends guided by these principles:

- BELIEF IN GOD
- LOYALTY TO KING AND COUNTRY
- SUPREMACY OF THE CONSTITUTION
- RULE OF LAW
- COURTESY AND MORALITY



THANK YOU