

CAMPAIGN AGAINST CENSORSHIP

October 2005

The CAC Council

- Ted Goodman - Chair
- Mary Hayward - Secretary
- Nigel Meek - Editor
- Basil Stein
- Mark Taha
- Brian Seager

Inside this issue:

Chair's Report	1
Editor's Introduction	1
Racial and Religious Hatred Bill	2
Extreme Pornographic Material	3
About the CAC	4

CHAIR'S REPORT

Since the last Members' Meeting, your elected CAC Council has been active. It meets quarterly and has organised representations by CAC, some of which have been successful. For instance, after years of acknowledged protests by CAC to the appropriate authorities, film censorship has been liberalised. The British Board of Film Censors was renamed "British Board of Film Classification" and transferred from the authoritarian jurisdiction of the Home Office to that of the Department of Culture. Sexually explicit films and video recordings have been legalised in the R18 Category. CAC was instrumental and has been mentioned by name in published BBFC reports.

CAC was, by contrast, unsuccessful with OFCOM (the broadcasting regulator). Despite CAC making a written submission to the contrary

in 2004, OFCOM in its new Code of 2005 prohibits British television broadcasts of R18 material even through a protective PIN number system.

CAC is currently making representations against the Incitement to Religious Hatred Bill on the ground that such a law will criminalise cogent criticism of any belief systems.

To assist its effectiveness, CAC is affiliated to Liberty and the Sexual Freedom Coalition. In addition, when appropriate, it co-operates with other organisations, such as the Libertarian Alliance and National Secular Society.

Ted Goodman, CAC Chair

EDITOR'S INTRODUCTION

Welcome to the first issue of the new-look CAC Newsletter.

We can only give the merest flavour of what the CAC has been doing recently. However, rest assured that CAC members have been busy on many fronts on behalf of the cause of anti-censorship.

Nevertheless, "eternal vigilance is the price of liberty" and that

means "getting involved", whether personally or just making sure that the CAC has the funds to continue its work. In whatever form, your support is needed and appreciated.

Nigel Meek, CAC Editor

CAC POSITION PAPER: THE RACIAL AND RELIGIOUS HATRED BILL

Agreed by the CAC Council on the 4th August 2005

The Government has made it clear that the *Bill* will be forced through Parliament regardless of the strength or the source of the opposition to it. That in itself has implications for freedom of speech and makes opposing it essential.

The *Bill* does not stand alone. It takes the form of amendments to Part 3 of the *Public Order Act, 1986*; the part dealing with religious hatred. In this part, the words "racial hatred" are amended to "racial or religious hatred" wherever they occur.

There is no definition of "religious". The *Bill* defines "religious hatred" as "hatred against a group of persons defined by reference to religious belief or lack of religious belief" but does not say what constitutes a religion. It would be interesting to see what happened when some litigious sect tried to get a prosecution brought against people who insisted that it was not a religion but a swindle.

Those who drafted the *Bill* clearly regard race and religion as equal conditions. They are not. People cannot change their race. They can, and should be able to, change their religion. By equating the two the *Bill* goes contrary to Article 9 of the *European Convention on Human Rights*, which specifically "includes freedom to change his religion or belief". People are not, and must not be, defined by the beliefs of their parents or grandparents. (There is precedent for that sort of definition, of course.)

The *Bill* refers only to groups. Therefore it implicitly backs religious hierarchies against their own dissidents, people who have left their organisation, people who want to leave or people whose forebears may have practised their faith but who have never been members themselves. Hatred of an individual on religious grounds is not banned. The next Salman Rushdie would be on his own.

Words, behaviour, written material, drama, recordings, film and broadcasts do not have to incite hatred in order to fall foul of the *Bill*. They only have to be "threatening, abusive, or insulting". Nor do they have to do it on purpose. It is enough that "having regard to all circumstances" they are likely to be seen or heard by "any person in whom they are (or it is) likely to stir up racial or religious hatred". How is anyone supposed to know? When the street fills up with demonstrators shouting for their work to be banned?

It has been claimed that the *Bill* would not affect comedy or satire. Since the material charged need only be "abusive or insulting" this is clearly untrue. Some people's religion is very easily insulted. That is the paradox of the *Bill*. In a society of many faiths and none people should be able to respect their neighbours' ideologies. But respect cannot be imposed. It must be earned. The religious lobbyists who have campaigned for the *Bill* are undermining their own case. What they are saying is that their beliefs do not help them to stand up for themselves. On the contrary, beliefs are weaknesses that must have the protection of the secular state. The law may defend them against hatred but it will not save them from contempt. The faith that cannot handle insult without help from a man-made law is not worth having.

It has been said that because prosecutions will only be brought with the consent of the Attorney General they will be few and far between. That may be true but it also means that decisions to prosecute will be selective and political. Conduct likely to cause a breach of the peace is already illegal, which makes the *Bill* unnecessary. The right to criticise belief systems must remain part of a free society.

CAC DRAFT RESPONSE TO THE CONSULTATION ON POSSESSION OF EXTREME PORNOGRAPHIC MATERIAL 2005

(1) No other European Union country criminalises mere possession of adult visual material. To do so here would create an Orwellian victimless crime enforced by Thought Police. There is no justification for trying to surround Britain by an Iron Curtain against freedom of access to adult material on the internet. It would breach the *Human Rights Act*.

(2) "Degrading," "serious violence" and "aberrant" are subjective concepts which have no place in criminal law. As Bernard Shaw stated: "The role of the artist is to shock." The proposed definitions of proscribed material would be interpreted in different ways by different juries, resulting in an arbitrary system of imprisonments.

(3) The only justification for proscribing mere possession of visual material is protection of minors, because they cannot give valid consent to the sexual acts portrayed. The proposed laundry list is intolerable because it provides no defence of consent by the subjects portrayed. Where there is no consent, the existing criminal law applies. Proscribing images of bestiality would criminalise classical art, such as *Leda and the Swan* and *The Rape of Europa*.

(4) The question is wrongly worded. What is required is justification for prohibiting adults from exercising their freedom of choice. There is none because the proposed crime is victimless. No-one is harmed by merely seeing any material. If they were, all crime films and some newsreels would have to be banned. Bestiality, necrophilia and violence, whether filmed or not, are already illegal.

(5) The present law is solely directed at paedophiles. The proposal, by contrast, seeks to imprison law abiding people who chose to look at adult material of which others disapprove. Any criminal offence committed in the production of the material can and should be dealt with under existing law.

(7) Imprisonment is totally unacceptable for

victimless thought crimes. The United Kingdom already has the highest prison population in the European Union. Why increase it with people whose only offence has been to look at the "wrong" thing? It would breach the *European Convention on Human Rights*.

Partial Regulatory Impact Assessment

(1) If the financial impact will be low (paragraph III) then the amount of material concerned cannot be large enough to justify imprisoning viewers. The requisite supply and demand exists and there is no evidence that it will increase. There is no "gap" to be closed.

(3) Participants in the material are already protected by the criminal law against assault. There is no justification for using the old "protection of children" argument. That would mean proscribing all material which is unsuitable for minors. No country does that. Option 4 has benefits, namely freedom of citizens in a supposed democracy to watch what they chose.

(4) Option 4 contains no message. In a democracy there should be no authoritarian "Nanny State" which only allows material of which it approves. If so alcohol and cigarettes should be banned.

(6) Male gay S-M material should be noted.

Notes to this Draft

The numbering above refers to the sections in the Home Office consultation document. This can be downloaded from www.unfettered.co.uk/backlash/consult.html.

Comments on the draft submission should be sent to the CAC at eacgoodman@yahoo.co.uk by the 20th November 2005.

Backlash, an umbrella organisation set up to contest the proposals, has its own website at www.unfettered.co.uk/backlash/index.html.

CAMPAIGN AGAINST CENSORSHIP

25 Middleton Close
Fareham, Hampshire
PO14 1QN
United Kingdom

Phone: 01329 284471
Email: chair@dlas.org.uk
Email: secretary@dlas.org.uk
Website: www.dlas.org.uk

About the CAC

The CAC is the successor to the Defence of Literature and the Arts Society that was founded in 1968 to assist writers, artists, and others threatened by censorship, and to campaign for reform of censorship laws.

In 1983 the DLAS was re-launched as the CAC with the object of promoting freedom of expression in all its forms and combating restrictions on that freedom and its exercise.

We believe that the repressive dangers of censorship for adults outweigh any possible benefits, and that what is acceptable for adults to read, see, or hear should be decided by personal judgement and taste, not by the law.

The Guiding Principles of the CAC are:

1. The right to obtain and impart knowledge.
2. Freedom from censorship.
3. Freedom for creative artists to present their perceptions, interpretations, and ideas.
4. Support for victims of censorship without discrimination on the grounds of sex, sexual orientation, race, politics, or religion.

Further policies guiding the work of the CAC are:

1. Vigilance in defence of the freedoms of information and expression requires continued monitoring of attacks on and restrictions of those freedoms, and of the effects of new technology on the control of information gathering, so that the public may be made aware of any dangers that may ensue.
2. Individual or group privacy should not be used as a weapon in defence of censorship or to restrict free access to information.
3. Reaction to any threat or restriction must be positive and expressed in simple, comprehensible terms.
4. The CAC is and should remain independent of all political parties.
5. Collaboration with individuals and organisations in Britain and elsewhere pursuing similar purposes should be pursued where appropriate.
6. The problem of access to material by children is different from that of access by adults. The principles listed above apply to adults.

Joining the CAC

If you support our work and would like to join the CAC, then please write to us at the address at the top of this page. The minimum annual subscription is £5 or £2.50 for students, senior citizens or the unwaged.