Obscenity and Film Censorship

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An Abridgement of the Williams Report

Edited by
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Preface to this edition

ONORA O'NEILL

Few official reports on public policy become books, still fewer books of lasting relevance. The *Williams Report on Obscenity and Film Censorship* was produced in 1979 and first published as a book in 1981. It makes the case for a liberal approach to regulating obscene or pornographic printed material, and for rather more restrictive regulation and prohibition of obscene and pornographic images, including film. Its conclusions have been widely accepted in Britain and elsewhere, its criticism of what it dubbed "the chaos of the present law" widely endorsed, and its sparkling and careful arguments both enjoyed and travestied.

Since the report was published, the technological and social context in which we communicate has changed. We no longer live in a world in which publishers and newsagents can control access to obscene content, or broadcasters and film-makers access to pornographic images, or in which governments (or the Post Office, to which the Report often refers!) can use traditional methods to control, to regulate or to censor. Regulating or prohibiting material that some see as obscene or pornographic is harder in the age of the Internet.

However, worries about such material, and particularly about its effects on children and young people, are as acute as they were thirty-five years ago. Even if we agree with the Williams Report that obscene or pornographic content should be available to adults who choose to receive it, but not more widely, it is now unclear how this is to be achieved. How is freedom of expression for those adults to be combined with protecting others from intrusive and unwanted content? How robust are arguments that certain sorts of publication cause harm?

The Williams Report did not find robust evidence of harm caused by encountering pornographic content, but argued (see Chapter 9) that the public *display* or *availability* of such material was something that people "reasonably judge offensive" and that providing such material, except to willing recipients, should therefore be regulated or prohibited. Today we might wonder whether we can still find consensus about which sorts of display will be "reasonably judged offensive".

Should rights to freedom of expression be qualified by prohibitions on displaying material that is "reasonably judged offensive"? Or have we concluded that offence is in the eye of the beholder, and so not a matter for reasonable judgement or public consensus? If we reach that view, we may no longer be able to offer a *generic* justification for controlling and regulating content judged obscene or pornographic. Any justified restriction or prohibition would have to refer to more *specific* failings. Speech acts that defame or incite hatred, that intimidate or defraud, that deceive or terrorise, and many others, are now widely taken as offering robust reasons for restriction and prohibition, which mere offence does not. Yet it is far from clear whether we can do without a generic standard in determining how freedom of expression may be qualified. The Williams Report challenges both those who now take the most liberal views of freedom of expression, and their critics.

Preface

The Committee on Obscenity and Film Censorship, of which I was Chairman, was appointed in July 1977 by the then Home Secretary, the Rt Hon. Merlyn Rees, and reported in October 1979. This book is a reprint of our Report, originally published by HMSO (as Cmnd 7772) in 1979. It is unchanged except for the omission of eight appendices, on such matters as the history of the criminal law in these areas and of film censorship, the law in other countries, and bibliographical and statistical issues. We are grateful to the Home Office and to the Stationery Office for giving permission for this reprint.

A Departmental Committee of this kind, like a Royal Commission, ceases to exist after it has reported. Responsibility for this Preface cannot therefore be ascribed to the Committee. Still less, of course, can it rest in any way with the Home Office, and it must be simply my own.

There are other and more general effects of the fact that such a Committee ceases to exist. It cannot do anything collectively to influence or comment on its Report's reception. This is no doubt inevitable, but it can put the Committee and its Report at some disadvantage against its critics, who, particularly in the case of organisations and pressure groups, have (quite legitimately) continuing opportunities to comment on it.

It would be inappropriate for me to comment here on the reception of our Report or on criticisms which it has received. However, I can perhaps say something about the kind of Report it is, and what it tries to achieve. For reasons that we explain in Chapter 1, we did not think that this was a subject on which we could usefully commission or suggest new research. There is already a gigantic amount of research material on these subjects; much of it is admittedly not very helpful, but what would be needed to improve on it would be inspiration, not simply more labour or Departmental support. What we sought to do was to clarify the issues involved and to develop some shared understanding of such things as the nature of pornography, an understanding which we hoped would be at any rate rather less superficial than that often displayed in controversy. We were also very determined to direct our discussions towards a workable law,

and to make recommendations that would be practical for this society at this time.

The people who were members of the Committee are certainly very various, and we did not start with shared conceptions of the problems, nor with the same prejudices about where we might come out. After a great deal of discussion, we arrived at a unanimous report, and I can honestly say that this was not a unanimity of compromise – in the sense of one person's giving way on one point if someone else gives way on another – but a unanimity of conviction, to the effect that our recommendations indicated the right way in which to proceed.

It is central to the recommendations of this Report that they identify two different kinds of objective that can be served by legal action on pornography, one of which calls for suppression while the other calls only for restriction. This second concern, that of the offensiveness of public display, had already, at the time of our Report, motivated a number of Bills to curb indecent display, all of which had failed. At the present time, however, another Bill, introduced by Mr Tim Sainsbury MP, has passed through the House of Commons and is almost certain to become law during 1981. We have argued in the Report that the 'indecent displays' approach to this problem is likely not to be very effective, but I am sure that the Committee would welcome the measure so far as it goes, and wish it success in curbing offensive public displays. Even if it is successful, the Bill, as Mr Sainsbury himself has emphasised, addresses only some of the difficulties raised by the present hopeless state of the law on pornographic and similar publications, and, of course, there remain in addition the various problems that the Report identifies concerning the cinema.

There is one matter on which this Report has attracted misunderstanding, and it may be useful if I briefly explain in this connection what we were trying to say. We recommend that neither suppression nor restriction should be applied to any publication which consists entirely of the written word (or, to put it rather more precisely, the offensive element in which consists of the written word). Some have concluded from this that we must suppose literature to have a less significant effect on people than photographs do. I think that it should have been clear, though evidently it is not, that no such idea is implied by our recommendation. That recommendation is based on the consideration that merely *in the matter of immediate involuntary offensiveness,* which it is the principal aim of restriction to prevent, written material has less effect than photographs do: quite simply, to be offended by written material requires the activity of reading it. On the question of suppression, again, the criterion that we recommend

for that (harm to participants) does not apply to written material at all. The recommendation about written material may be controversial, but I hope that the ideas behind it will not, at any rate, be misunderstood.

There is a great tendency for public debate on an issue of this kind to regress to stale formulae and well-worn patterns of controversy. I hope that the republication of this Report will encourage fresh discussion not only of its recommendations, but of the arguments and distinctions that surround and support them. Discussion of the Report up to now has tended to concentrate on a few issues, and there are several other important questions which have been so far largely neglected. The conclusions of Chapter 8, for instance, about artistic merit and the 'public good defence', have been very little discussed, but if they are sound, they are of some consequence for any future comprehensive legislation about obscenity.

BERNARD WILLIAMS
Cambridge
May 1981