Members of the committee

Bernard Williams Esq.
B. Hooberman Esq.
His Honour Judge John Leonard QC
Richard Matthews Esq. CBE QPM
David Robinson Esq.
Ms Sheila Rothwell
Professor A. W. B. Simpson
Dr Anthony Storr
Mrs M. J. Taylor
The Right Reverend John Tinsley
Miss Polly Toynbee
Professor J. G. Weightman
V. A. White Esq. MBE
Obscenity and Film Censorship
An Abridgement of the Williams Report

Edited by
BERNARD WILLIAMS
University Printing House, Cambridge CB2 8BS, United Kingdom

Cambridge University Press is part of the University of Cambridge. It furthers the University’s mission by disseminating knowledge in the pursuit of education, learning and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9781107534407


This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

This abridged edition first published by Cambridge University Press 1981
Re-issued in 2010
Cambridge Philosophy Classics edition 2015

Printed in the United Kingdom by Clays, St Ives plc

A catalogue record for this publication is available from the British Library

Library of Congress Cataloging-in-Publication Data
Great Britain. Committee on Obscenity and Film Censorship. [Report of the Committee on Obscenity & Film Censorship]
pages cm. – (Cambridge Philosophy Classics)
KD8075.A8672 2015
344.420547–dc23 2015017922

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication, and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.
# Contents

*Preface to this edition by ONORA O’NEILL* ix  
*Preface* xi  

## Part 1 Background  
1 The Committee’s task  
   Exploring our subject 3  
   Research 4  
   Public opinion 6  
   Foreign experience 10  
   Previous reviews of our subject 11  
2 The present law 14  
   The “tendency to deprave and corrupt” 14  
   The “indecent or obscene” test 18  
   Forfeiture proceedings and the right to trial 20  
   The public good defence 22  
   Restrictions on the right to prosecute 24  
   Seizures by the Customs and Post Office 25  
   Indecent public displays 26  
   The Protection of Children Act 27  
   The chaos of the present law 27  
   Territorial limitations 28  
   International obligations 29  
3 The censorship of films 30  
   The legal basis of the censorship system 30  
   Cinema licensing conditions 31  
   Exemptions from censorship 34  
   The practice of film censorship 36  
   The British Board of Film Censors 37  
   Trends in recent years 39  
   The role of the Board 41  
   Consultative arrangements 44
## TABLE OF CONTENTS

4 The situation 46  
   The retreat of the law 46  
   Criticism of the law 50  
   Police corruption 52  
   Trends in British publishing 54  
   Self regulation by the trade 55  
   Changes in enforcement action 56  
   The size of the market 58  
   Controlling public displays 59  
   Applying the law to the showing of films 60  
   Doubts about film censorship 62  
   Rethinking the control of films 63  
   The end of controversy? 64  

Part 2 Principles 67  
5 Law, morality and the freedom of expression 69  
   Law and morality 69  
   Freedom of expression 73  
   Harms 78  
6 Harms? 83  
   I: Effects on sex crimes and violence 83  
      Anecdotal and clinical evidence 84  
      Research studies 88  
      Analysis of crime statistics 93  
      England and Wales 96  
      Denmark 106  
      Other countries 112  
   II: Other effects on human behaviour 113  
7 Offensiveness 126  
8 Pornography, obscenity and art 136  
   Pornography 137  
   “Obscene” and “erotic” 137  
   Art 139  
   The public good defence 143  

Part 3 Proposals 147  
9 The restriction of publications 149  
   The balance of our evidence 149  
   The means of preventing offensiveness 152
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>How to achieve restriction</td>
<td>153</td>
</tr>
<tr>
<td>The nature of restriction</td>
<td>156</td>
</tr>
<tr>
<td>Mail order trading</td>
<td>157</td>
</tr>
<tr>
<td>The definition of restricted material</td>
<td>158</td>
</tr>
<tr>
<td>The formula we propose</td>
<td>162</td>
</tr>
<tr>
<td>The age limit for special protection</td>
<td>167</td>
</tr>
<tr>
<td>A public good defence?</td>
<td>168</td>
</tr>
<tr>
<td>Enforcing restriction</td>
<td>169</td>
</tr>
<tr>
<td>The right to prosecute</td>
<td>171</td>
</tr>
<tr>
<td><strong>10 The prohibition of publications</strong></td>
<td></td>
</tr>
<tr>
<td>The need for prohibition</td>
<td>173</td>
</tr>
<tr>
<td>The depiction of sexual offences</td>
<td>173</td>
</tr>
<tr>
<td>Identifying harmful material</td>
<td>174</td>
</tr>
<tr>
<td>Transactions to be prohibited</td>
<td>178</td>
</tr>
<tr>
<td>A public good defence?</td>
<td>178</td>
</tr>
<tr>
<td>Enforcing prohibition</td>
<td>179</td>
</tr>
<tr>
<td><strong>11 Live entertainment</strong></td>
<td></td>
</tr>
<tr>
<td>How live entertainment differs</td>
<td>183</td>
</tr>
<tr>
<td>Restricting live entertainment</td>
<td>185</td>
</tr>
<tr>
<td>Live entertainment to be prohibited</td>
<td>185</td>
</tr>
<tr>
<td>Enforcing controls on live entertainment</td>
<td>188</td>
</tr>
<tr>
<td><strong>12 Films</strong></td>
<td></td>
</tr>
<tr>
<td>The need for censorship</td>
<td>190</td>
</tr>
<tr>
<td>Local authority control</td>
<td>195</td>
</tr>
<tr>
<td>A statutory system of control?</td>
<td>198</td>
</tr>
<tr>
<td>The nature of a new body</td>
<td>202</td>
</tr>
<tr>
<td>The application of “restriction” to films</td>
<td>203</td>
</tr>
<tr>
<td>Categories of certificate</td>
<td>207</td>
</tr>
<tr>
<td>The enforcement of film censorship</td>
<td>209</td>
</tr>
<tr>
<td>Conclusion</td>
<td>211</td>
</tr>
<tr>
<td><strong>13 Summary of our proposals</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>212</td>
</tr>
</tbody>
</table>
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”.

ix
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