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THE IMPACT OF LEGAL CINEMA ON ANCIENT LAW REFORM

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ABSTRACT

For the longest period, legal film and law have coexisted. This study attempts to connect the two via the creation of a film, Philadelphia. The film's reception, as well as the widespread critical praise, was hailed by the general public when it was released in 1993. The importance of legal film in the field of law is self-evident. People may consider the possibilities that might arise if ideas are executed when they are shown on a large screen. As is the case with the aforementioned film, which prompted heated discussion regarding HIV-related legislation as well as the whole field of homosexuality. The legislation and regulations governing the Human Immunodeficiency Virus in India, as well as active efforts being done to raise awareness about the virus, will be emphasized in this article. The idea of homosexuality, as well as the stigma surrounding it, will be addressed. The importance of legal film and associated case law is also discussed.

KEYWORDS: AIDS, Film, Law, Legal, And Philadelphia.

INTRODUCTION

While it comes to law and cinema as a field of intellectual study, there has been a debate over how wide academics should cast their net when looking at films about law. These vary from the notion that a precise definition of the subject is required to an analysis in which the area of inquiry is expanded to include all fiction films.

Law and legal film have both good and bad effects on each other. There have been instances when legal cinema has persuaded decision-makers and policymakers to evaluate the need of enforcing laws based on the topic depicted in the film. Other times, lawful film may face harsh criticism for deviating from the country's overall legal framework and exercising too much artistic freedom. It is essential to create a balance between the two, allowing cinema to promote constructive debates and the revision of societal rules.

Immutable law or natural justice, on the one hand, and flawed man-made law, on the other, are contrasted in criminal trial films. They tell us what justice would look like in the present situation and then use it as a model for what should happen[1].

Philadelphia (1993) is a ground-breaking and thought-provoking film set in the city of Philadelphia in the state of Pennsylvania. It was inspired by real-life stories of individuals who had battled AIDS without having any understanding of the illness at the time. Various

scholars and individuals who have been diagnosed with AIDS have analyzed the film critically.

REVIEW OF LITERATURE

Law in Film: Resonance and Representation:

The author compares cinema with law, referring to them both as narrative systems. He draws parallels between the two by pointing out that both the movie and the legal realm have narrative activity. He goes on to say that there is a distinction between story and power, and that there is also a distinction between narrative and law. Pleasure in cinema is analogous to power in legislation. Legal authority and cinematic pleasure may both be discriminating. Some of the enjoyment we get from movies is linked to the discriminating politics we witness in everyday life. Regressive laws, for example, reflect the depiction of racial stereotypes and gender inequality in films. "The judicial system is a biased regime that attempts to portray itself as a fair one," writes David Black. Film, on the other hand, is a fair system since prejudice is shown rather than hidden. Finally, the author asserts that, at a certain point, cinema wields a particular type of power, whereas law offers a certain kind of pleasure. As a result, legal cinema is a hybrid of the two.

Cinema, Law, and the State in Asia:

According to the writers, attorneys and the legal system are distorted in order to increase entertainment value or create a coherent narrative. With the passage of time, the law and legal film develop. In the 1950s, Hindi films depicted jurors, but this idea has since been abandoned in films since India does not have a jury system. The Censor Board is established by the Cinematograph Act 5 of 1918, which was passed in India. Law and film are therefore linked in this manner. Every film is subjected to the examination of the Board, whose permission is needed before the picture can be released. Legal cinematic films based on Mahatma Gandhi's life after the partition affected the people to think in a particular manner, which academics believe was harmful. The colonial administration tried to regulate radical patriotic films, but the filmmakers who created them refused to be confined by the state. The writers also point out that India's cinematic history has seen many periods of censorship, tactility, and exclusion.

American Criminal Trial Films: An Overview Of Their Development, 1930-2000.

Nicole Rafter examines the evolution of criminal trial films from the 1930s to the 2000s. In the framework of legal cinema and the portrayal of laws in film, she outlines three distinct stages of filmmaking. From the 1930s to the 1950s, filmmakers experimented with different methods to portray stories including laws in order to make them more interesting and enjoyable. This was also the era when "law noirs," or highly expressionistic films, were produced. The second phase, which lasted from the mid-1950s through the 1960s, included films that praised the legal system and courts of justice. It attempted to persuade the general public that justice may be obtained. In contrast to law noirs, the author observes that attorneys in films seemed to be cultural heroes at this time, and the photography is mainly static. The third kind of legal film was one in which the judicial system was questioned. Until the 2000s, these films grew increasingly thought-provoking, encouraging viewers to examine the realities of the legal system. In the journal, the author also offers many instances of similar films.

DISCUSSION

The Philadelphia Controversy

One of the first major films to address HIV/AIDS, homosexuality, and prejudice was Philadelphia, directed by Jonathan Demme and starring Tom Hanks and Denzel Washington. It established a wonderful precedent and encouraged public discussion about the taboo

subject of HIV. Tom Hanks plays Andrew Beckett, a young homosexual lawyer who contracts AIDS. After learning that he has AIDS, which he kept concealed from his employers, his legal company sues him. He contacts many attorneys in an attempt to get justice for the unfair prejudice he faces at work, but to no effect.[2]

He eventually comes across Joe Miller, portrayed by Denzel Washington, after being unable to locate a counsel to defend him. Joe's homophobia puts him in a difficult position at first, as he considers whether or not to take up Andrew's case. He maintains his distance from Andrew for fear of acquiring the illness, but after seeking medical counsel, he discovers that it is not infectious. However, as the film progresses, his fear fades and he becomes good friends with Andrew. He defends Andrew in court, where others make fun of him for being gay and insist that he brought it on himself by having sexual relations with a guy. Following a heated courtroom debate, the judge rules in Andrew's favor. Andrew succumbs to the deadly disease in the end, but he dies with the pleasure of having altered at least one person's backward thinking along the road.

Various critics, as well as members of the LGBT community, weighed in on the city of Philadelphia. While some praised the filmmakers' approach and agreed with the representation of gay characters, others said that the portrayal of the characters was totally inaccurate and did not reflect the lives of homosexual people in real life.

“Here we have a big celebrity, playing a key part with a visual for HIV, played out wonderfully as an award-winning movie,” says Marla Gold, an HIV specialist and public health dean at Drexel. So this isn't like a brochure you get in the mail that cautions you against something. This is the genuine deal.”

Criticisms came in as well, revealing the audience's dislike for the picture. “Philadelphia' has nothing to do with the AIDS I know, or the homosexual community I know,” said Larry Kramer, an AIDS campaigner. It has no relation to the life, planet, or cosmos in which I exist. To assume that any audience, especially people with whom I'd want to have had a meaningful experience while seeing this film, will alter their views after viewing it is like believing that Jesse Helms or George Bush would change their minds after watching an episode of 'Another World[3].”

Philadelphia had redeeming characteristics that aided in the investigation of AIDS patients' pre-existing conditions. Over 2.5 million individuals had been diagnosed with HIV at the time of its publication, and the illness had been ravaging them for over 12 years. For the most part, it was a useful chance to examine the social isolation exhibited to members of the LGBT community as well as those suffering from AIDS. Philadelphia was a popular legal cinematic film because it exposed the flaws of a lawyer who was unquestionably evaluated for his sexual orientation in a nation that prides itself on being the finest in the world, with laws that protect minorities.

It also demonstrated that not all films must have a good impact on people in order to be historically significant. Controversial topics are almost never greeted with universal approval. The goal of such films is to raise awareness about problems that minorities and marginalized people face on a daily basis, to put ourselves in their shoes, and to fight for the common good. This is where the two worlds of film and law collide[4].

Judicial Pronouncement

1. Suresh Kumar Koushal and Anr. v. Naz Foundation and Ors

The Naz Foundation is a non-profit organization dedicated to improving the lives of HIV/AIDS sufferers and preventing the illness. They filed a writ case in the Delhi High Court in 2001, claiming that Section 377 of the Indian Penal Code is unconstitutional because it violates Articles 14, 15, 19(1)(a)-(d) and 21 of the Indian Constitution, which protect the right to life and personal liberty. It is also discriminatory against homosexuals and a barrier to

HIV/AIDS prevention since it pushes these groups behind. This writ petition was rejected by the High Court in 2004, but following remission for a new judgment in 2009, the court ruled that consensual actions between two adults should be decriminalized. The court also cited a number of progressive international legal frameworks, including the Yogyakarta Principles and the Equal Rights Trust's 2008 Declaration of Principles of Equality, as well as a number of studies and documents showing Section 377's discriminatory impact. As a result, the judgment was appealed to the Supreme Court[5].

The case was heard by a panel of two Supreme Court justices on December 11, 2013, who granted the appeal and reversed the High Court's earlier judgment, finding it "legally unsustainable." The Supreme Court eventually determined that Section 377 IPC did not violate the Constitution and dismissed the Respondents' writ petition. "Those who engage in carnal intercourse in the ordinary course and those who engage in canal intercourse against the order of nature constitute different classes," they wrote in their decision. "Those who engage in canal intercourse against the order of nature cannot claim that Section 377 suffers from the vice of arbitrariness and irrational classification." While the court determined that Section 377 was not unconstitutional, the justices emphasized that the legislature was still entitled to examine the need and appropriateness of repealing or modifying the provision[6].

2. Navtej Singh Johar and Ors. v. Union of India and Ors.

The Supreme Court's decision in Suresh Kumar Koushal v. Naz Foundation was appealed, and on September 6, 2018, the Supreme Court overturned its previous ruling criminalizing acts between two consensual homosexual adults, declaring that Section 377 of the IPC is discriminatory against people based on their sexual orientation. The historic judgment also held that Section 377 of the IPC violates Articles 14, 15, 19(1), and 21 of the Constitution, which provide equality and the right to liberty to all citizens. The fact that LGBT persons make up a "minuscule percentage" of the population cannot be used to deny them their Fundamental Rights, which are protected by Part III of the Constitution. Despite being a sexual minority, individuals of the LGBT community are citizens of the United States and are entitled to the same rights as other citizens[7].

The court's decision does not necessarily imply that Section 377 and its legality in India are now settled. There have been no appeals or requests for reconsideration of this decision as of yet. While the decision is a step forward, it is restricted to just consensual intercourse and does not guarantee the other rules and rights that "normal people" in society are entitled to. Same-sex couples still do not have access to laws governing marriage, abortion, adoption, and citizenship. LGBTQ partner nominations on insurance forms, mediclaim coverage for partners, business coverage for couples, and even vacation and leave travel allowances for partners are simply not recognized[8].

Acts & Policies Surrounding Hiv/Aids

In India, numerous statutes and legislation dealing with discrimination, AIDS, and the LGBT population have been passed. NGO's and organizations strive for the benefit of various socioeconomic groups, who are constantly confronted with new problems and forms of oppression.

1. The Buggery Act, 1533

Buggery was defined as sexual activities that are not in accordance with God's will and are unnatural in nature. This legislation was authorized by King Henry VII, and it was used to punish "wrongdoers" until 1828. If a sodomite is convicted under this legislation, the government will take custody of their belongings, depriving their family of their legacy and inheritance. Under this legislation, they were likewise condemned to death. This act, which dominated the judicial system for an alarming length of time, gave birth to Section 377 of the Penal Code.

2. National Policy on HIV/AIDS and the World of Work Policy, 2009

The Ministry of Labour and Employment, in collaboration with the ILO (International Labor Organization) and NACO, developed this policy in 2009. (National AIDS Control Organisation). It is founded on human rights and seeks to minimize the epidemic's effect on the workplace. The policy's primary goals were to prevent HIV infection among workers and their families, offer access to healthcare for those who tested positive, provide dignity and fair treatment for employees, and ensure safe migration with HIV/AIDS resources.

3. HIV/AIDS Act, 2017

The HIV/AIDS Act was enacted by the legislature, punishing anyone who discriminated against those living with the illness. It also outlined the guardianship guidelines and reaffirmed the rights that individuals living with AIDS should have. Mistreatment at employment, in healthcare, or in education would result in a sentence of three months to two years in prison, or a fine of Rs. one lakh, or both. Antiretroviral Therapy (ART) is now a legal entitlement for all HIV/AIDS patients. If a positive test is found, the state and federal governments guarantee free treatment and secrecy.

The legislation has made it simpler for individuals who are affected by the disease to progressively overcome social stigma and to be guaranteed of medical expenses and non-discrimination in key social institutions. Its goal is to stop the transmission of AIDS and raise awareness about the disease. In the event of any complaints, redress was also recorded.

CONCLUSION

When crime, injustice, and prejudice are shown in a way that is more visible to the public, legal cinema has the potential to influence audiences and legislators. Philadelphia was mostly concerned with the absence of legislation and outright discrimination against individuals who do not fit into society's molds and are deemed aberrant. Discrimination in the workplace was rampant at the time and continues to be unchecked now. Tom Hanks' character was treated unjustly by his employers, who decided to terminate his employment with their company only because of his sickness, disregarding his talents and professionalism. The 'National Policy on HIV/AIDS and the World of Work Policy' has established recommendations to reassure those who have been wronged that being diagnosed with HIV/AIDS does not give anybody the right to dismiss or project unprofessional behavior toward them.

Without a doubt, Demme's picture had a significant impact in presenting the AIDS debate that many in America did not want to have on a larger scale. To this day, more than 5,700 individuals acquire HIV every 24 hours, and although the LGBTQ community continues to face prejudice in a variety of ways, films like Philadelphia have served to educate them rather than keep them in the dark. Much progress has been achieved in regard to these issues during the past 20 years, due to films like Philadelphia. Despite its slow pace, the broader public is increasingly exposed to previously unheard ideas. Legal cinema and law are in a delicate balance, with censor boards regulating films and deciding on freedom of speech and expression, and films influencing people's thinking, necessitating changes to current laws. In certain instances, such as Section 377 of the Indian Penal Code, the portrayal of forbidden topics and the indoctrination of audiences into believing that it is, in fact, normal results in the legalization of the antiquated legislation. Society and law are always changing, and as time passes, more laws and great legal films will emerge to benefit society.

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