

## **New Labour, Old Morality.**

In *The Ideas That Shaped Post-War Britain* (1996), David Marquand suggests that a useful way of mapping the 'ebbs and flows in the struggle for moral and intellectual hegemony in post-war Britain' is to see them as a dialectic not between Left and Right, nor between individualism and collectivism, but between hedonism and moralism which cuts across party boundaries.

As Jeffrey Weeks puts it in his contribution to *Blairism and the War of Persuasion* (2004): 'Whatever its progressive pretensions, the Labour Party has rarely been in the vanguard of sexual reform throughout its hundred-year history. Since its formation at the beginning of the twentieth century the Labour Party has always been an uneasy amalgam of the progressive intelligentsia and a largely morally conservative working class, especially as represented through the trade union movement' (68-9).

In *The Future of Socialism* (1956) Anthony Crosland wrote that: 'in the blood of the socialist there should always run a trace of the anarchist and the libertarian, and not too much of the prig or the prude'. And in 1959 Roy Jenkins, in his book *The Labour Case*, argued that 'there is a need for the state to do less to restrict personal freedom'. And indeed when Jenkins became Home Secretary in 1965 he put in a train a series of reforms which damned him in the eyes of Labour and Tory traditionalists as one of the chief architects of the 'permissive society': the partial decriminalisation of homosexuality, reform of the abortion and obscenity laws, the abolition of theatre censorship, making it slightly easier to get divorced.

However, Labour's 1960s reforms never extended to the Official Secrets Act, and after Jenkins became Chancellor of the Exchequer in 1967 the momentum began to run down. Indeed, as Hugo Young argued in the *Guardian*, 18 July 2002, in an article headed 'Final proof that Labour is not liberal': 'The entire weight of libertarian trust in Labour rests on the performance of one man, Roy Jenkins, whose record was epic in many of these fields, but who is now a Liberal Democrat – as is almost every politician now prepared to take risks for civil liberties. The Blair government is, in this respect, old, old Labour. With one exception [the Human Rights Act], it has run away from every libertarian challenge. It is profoundly illiberal'. 'Liberal is a word that crosses Blair's lips as infrequently as socialist. The third way he seeks between these terms is the only one available: reliably and fiercely conservative'.

He was succeeded by Home Secretary by Jim Callaghan. The decriminalisation of cannabis which was recommended by the Wootton report and discussed in cabinet in 1969 never came about. Interviewed by Hugo Young in *The Sunday Times* just after he became Home Secretary, Callaghan made much of his 'God-given common sense' and declared: 'of course, I cannot bear the young men with hair hanging over their shoulders'. He also told a Police Federation Conference that: 'I am not ready to take the risks of permissiveness' and banned Dany Cohn-Bendit from entering the country during the events of 1968.

When Jenkins returned after the February 1974 election, the country was in a very different mood. The resumption of the 'troubles' in Ireland, replete with IRA bombings in London, forced him to introduce the Prevention of Terrorism Act. In 1976 Merlyn Rees replaced Jenkins, who had become president of the European

Commission, and Labour drifted with the increasingly authoritarian tide. It might have set up the Williams Committee, but it did nothing to repeal the blasphemy laws after Mrs. Whitehouse's private prosecution of *Gay News*, and nothing to legislate for freedom of information. In 1975 the government prosecuted fourteen pacifists from the British Withdrawal from Northern Ireland Campaign for alleged incitement to disaffection after they had distributed a handful of leaflets. In 1976 the journalist Mark Hosenball and former CIA agent Phil Agee were deported as dangerous subversives. After that it embarked upon the ABC show trial.

Nonetheless, the Crosland tradition was not entirely dead. Whilst deputy leader of the party, Roy Hattersley published *Choose Freedom* in 1987. Here he drew on John Rawls' *A Theory of Justice* to define the purpose of socialism as 'the extension of liberty': 'the true object of socialism is the creation of a genuinely free society in which the protection and extension of individual liberty is the primary duty of the state'. Compare this with the first lines of the party's 1988 document *A Statement of Democratic Socialist Aims and Values*: 'The true purpose of democratic socialism and, therefore, the true aim of the Labour Party, is the creation of a genuinely free society, in which the fundamental objective of government is the protection and extension of individual liberty irrespective of class, sex, race, colour or creed' (241). And it was in this spirit that the 1992 manifesto promised a Freedom of Information Act and the introduction of a Bill of Rights.

As Downes and Morgan put it in their seminal essay 'Dumping the Hostages to Fortune' in *The Oxford Handbook of Criminology* (1997): 'though Labour Party history has been marked by a libertarian strand which has surfaced from time to time,

the late 1960s witnessed a sustained programme of criminal law reform under a Labour government'. To some extent this programme was pursued by the Tories too. However, 'two decades later, the entire period of liberalizing achievement by both Conservative and Labour was to be derided by the new right of Thatcher and Tebbit as the "permissive society", having achieved nothing more than a slackening of authority and an unwanted release of the baser passions. What was, by most standards, a major period of reform promoting greater tolerance and freedom of expression came to figure in the popular press and in rightwing ideology as the source of unprecedented rises in criminality in the 1980s' (119). Labour have since put a good deal of effort into 'dumping the hostages to fortune'. Amongst these were anything which could be used to paint Labour as 'soft' on morality and issues to do with 'law and order', and especially anything associated with sixties 'permissiveness'.

As Ross McKibbin put it in 'Very Old Labour' in the *London Review of Books*, 3 April 1997: 'Labour leaders apparently wake every morning terrified by what the tabloids might have said that day. To be fearful of the tabloids is not, of course, unreasonable. Probably no other major European country has a popular press as malicious as Britain's, and Labour politicians undoubtedly have to live with that. It is also the case that a handful of press barons and journalists determine large swathes of British social policy. But that is because they are allowed to by politicians like Michael Howard. We do not know how effective as managers of opinion the tabloids are. On the one occasion when a politician (Stanley Baldwin) has seriously taken them on, the politician won hands down. What does not work is the attempt to anticipate the tabloids. It demeans those who do it, demoralises the Labour Party and leads to a Dutch auction that in the long run only the Conservatives can win'.

In 1992, Blair had joined the Christian Socialist movement. In the Foreword to a collection of Christian Socialist essays, *Reclaiming the Ground*, Blair wrote: ‘There is right and wrong. There is good and bad. We all know this, of course, but it has become fashionable to be uncomfortable about such language. But when we look at our world today and how much needs to be done, we should not hesitate to make such judgments. And then follow them with determination’ (in Rentoul 202).

Blair was shadow home secretary from 1992 to 1994. He persuaded John Smith that Labour should abstain on the Third Reading of the 1993 Criminal Justice Bill (described by Anderson and Mann in *Safety First* as 'the most illiberal and coercive law-and-order package for decades'), but tabled 'reasoned amendments' to particular clauses and abstained on its second reading. Also engineered by Blair (as leader of the party) was the end in 1996 of Labour's annual opposition to renewal of the Prevention of Terrorism Act. In February 1993, in the wake of the Bulger murder, Blair warned that: 'A solution to this disintegration doesn't simply lie in legislation. It must come from the rediscovery of a sense of direction as a country and most of all from being unafraid to start talking again about the values and principles we believe in and what they mean for us, not just as individuals but as a community. We cannot exist in a moral vacuum. If we do not learn and then teach the value of what is right and wrong, then the result is simply moral chaos which engulfs us all' (in Rentoul 200). In June 1993 Blair attempted to link the perceived breakdown in law and order to the breakdown in the family: 'I have no doubt that the breakdown in law and order is intimately linked to the break-up of a strong sense of community. And the break-up of the community is to a crucial degree consequent upon the breakdown in family life. If

we want anything more than a superficial discussion on crime and its causes, we cannot ignore the importance of the family'. And just after being elected leader in 1994, in reply to Brian Walden, Blair said that: 'if what you are saying to me is do I believe that that it is best that kids are brought up in normal, stable family, the answer is yes, I do believe that'. He also made it clear that he distanced himself from the 1960s 'tendency for certain people on the left to say, well, you did your own thing'. And in 1996 in a major speech in South Africa he stated that the central objective of a Labour government would be to strengthen and nurture family life to create the 'Decent Society' through 'a new social morality'.

In 2004, Blair quite explicitly turned on the 1960s when launching the government's five year strategy for the criminal justice system and the Home Office, announcing that this 'marks the end of the 1960s liberal social consensus on law and order'.

Although he noted positive aspects of the 1960s, he also stated: 'It was John Stuart Mill who articulated the modern concept that with freedom comes responsibility. But in the 1960s revolution, that didn't always happen', adding that, as a result, 'a society of different lifestyles spawned a group of young people who were brought up without parental discipline, without proper role models and without any sense of responsibility for others'. He went on: 'Here, now, today, people have had enough of this part of the 1960s consensus. People do not want a return to old prejudices and ugly discrimination. But they do want rules, order and proper behaviour ... They want a community where the decent law-abiding majority are in charge; where those that play by the rules do well; and those that don't, get punished. For me this has always been something of a personal crusade'. *Telegraph*, 19 July, 'Blair rejects the swinging Sixties in promise to tackle law and order'; *Express*, 19 July, 'Blair blames

permissiveness for rise in thuggery as he admits not doing enough on crime'; *Mail*, 19 July, 'How 60s values shattered society ... by Tony Blair'.

According to Anderson and Mann, one of the reasons for Straw (another Christian Socialist) getting the job of shadow Home Secretary after Blair was his 'extreme distrust of anything smacking of metropolitan trendiness'. With Labour determined not to be outflanked by the Tories on law and order, Straw came up with a host of policy proposals which, as one member of the shadow cabinet put it, would ensure that he would be 'the most illiberal Labour home secretary in history'.

In 1995 Straw proposed his famous crackdowns on 'noisy neighbours', 'families from hell', 'squeegee merchants' and the 'aggressive begging of winos and addicts'. He also called graffiti 'a much neglected crime in my book' and continued that: 'even where graffiti is not comprehensible or racist in message, it is often violent and uncontrolled in its violent image, and correctly gives the impression of a lack of law and order on the streets'. The same year Straw proposed Community Safety Orders (for restraining 'chronic, anti-social behaviour') and Child Protection Orders (in spite of the title, a means of placing curfews on unsupervised children out on the streets late in the evening, and thus of criminalising the under-tens). In 1996 he proposed Parental Responsibility Orders, requiring the parents of persistent young offenders to attend guidance sessions, and even raised the possibility of local authority approved bedtimes for children. Many in the party were concerned that, amidst a moral panic about children in the wake of the murders of James Bulger and Philip Lawrence, and allegedly 'uncontrollable' schools, the appeal to 'family values' was a means of legitimising otherwise unacceptable intrusion by the state into the private sphere.

In 1996, Labour abstained in the House of Commons vote to exclude homosexuals from the armed forces. The same year Clare Short, a member of the shadow cabinet, was publicly slapped down for agreeing with a number of chief constables that the debate on decriminalising small-scale cannabis possession should be reopened.

As Will Hutton put it in *The State to Come*: 'as evidence of social fragmentation mounts, there is an increasingly shrill cry to remoralise society - in which morality is regarded as the prohibition of individual actions backed by repressive legislation. Economic and social reforms, which might address the roots of these problems, are seen as a return to what has failed; instead the future is one of moral individuals, caned at school, smacked at home and wary of steep punishment in prison fixed by automatic sentencing, who keep their families together and so stand as bulwarks against social implosion ... Nor does the talk of admonition and prohibition stop there. The climate which produces constraints and bans does not begin and end with school expulsions and longer sentences for offenders of all ages; it extends seamlessly into the censorship of books, films and theatres'(38). That this was actually written about the last *Conservative* government but equally well applies to the present Labour one is significant enough in itself.

Three months before the 1997 election *The Economist* described Labour as 'a poor defender of liberty'. The party's manifesto boasted that 'Labour is the party of law and order', and promised 'zero tolerance' of anti-social behaviour and crime. As Straw proudly stated at the start of 1997: 'we haven't opposed a criminal justice measure since 1988'.

According to Larry Elliott and Dan Atkinson in *The Age of Insecurity*: 'It quickly became apparent that Labour's new leader was an unabashed social moralist determined to restructure British society along "communitarian" lines. What this meant in practice, beyond a sort of compulsory togetherness presided over by social workers, was not easy to discern' (211). 'Quasi-religious exhortation delivered in impeccably middle-class tones gave the new Labour leader the general demeanour of a house captain in a respectable Anglican boarding school, one whose study door was always open for boys with genuine problems but who gave short shrift to timewasters, those who smoked behind the bicycle sheds and those whose conduct generally could be described (in a favourite Blair epithet) as "pathetic"' (ibid).

In a way no longer thought possible for the economy, New Labour in power is instinctively interventionist and dirigiste in social matters. 'There is a reliance on legislative solutions to what are presented as ethical threats. Whatever the problem - bad behaviour in schools, noisy neighbours, children on the streets in the late evening - New Labour seems poised to reach for the legal pen ... New Labour appears to see few problems when it comes to legislating for individual behaviour, yet has fought shy of doing the same for corporate responsibility'. (Stephen Driver and Luke Martell, *New Labour: Politics After Thatcherism*: 119). According to Driver and Martell, 'there is a relatively novel willingness to make judgements on individual lifestyles and pass legislation on citizens' responsibilities' (176). In many ways this can be seen as Labour's final abandonment of the 'Wolfenden strategy', which 'relied on a distinction between private behaviour (which was regarded as domain of choice between consenting adults) and public behaviour (which was the legitimate realm

of regulation and control' (Weeks 70).

The Crime and Disorder Act December 1998 introduced the ASBO and gave local authorities powers to declare dawn-to-dusk for all children under the age of ten, powers which were subsequently extended under the Criminal Justice and Police Act to include children up to the age of 15. It also abolished the legal presumption that ten to thirteen year olds are incapable of distinguishing between right and wrong, leaving England and Wales with one of the lowest ages of criminal responsibility in Europe.

In the years since, 'in the wide and often fatuous prohibitions on behaviour imposed by Asbos, it seemed that the British government and courts were extending their role into that of managing day-to-day morality' (Poole 23). Law is not, and should not be, entirely co-extensive with morality, not least because, in Western societies, there are considerable variations in what people regard as moral and immoral.

Key ingredients of Labour's social authoritarianism are a form of North American communitarianism and English ethical socialism. Labour seems to have shifted from a philosophy that was rights-based, redistributive, collectivist, socio-economic, aimed to a large extent at business responsibility to the community, to one which is conditional on duties and responsibilities, morally prescriptive, conservative, and focused on the individual. Labour is now more concerned with a moralistic community - society held together by strongly held values rather than by the universal experience of collectivist welfare institutions. As Anderson and Mann put it: 'what is most distinctive about the measures that communitarians propose is their intrusiveness into spheres generally marked out as private by liberal politics', in particular on issues

such as divorce and parenting. Elliott and Atkinson talk about ‘an attempt to micro-manage the private lives of sixty millions Britons’ (214) and argue that: ‘Seen through the eyes of the social authoritarian, British society is essentially a hierarchy of potential wrongdoers’.

In his post-Bulger speech quoted above, Blair stated that: ‘The importance of the notion of community is that it defines the relationship not only between us as individuals but between people and the society in which they live, one that is based on responsibilities as well as rights, on obligations as well as entitlements’. Elliott and Atkinson criticise what they see as Labour’s ““ balance sheet approach to civil liberties, the idea that each right carries attached an equal and opposite responsibility. On 13 June 1997, Tony Blair told an audience in Worcester: “Rights and responsibilities go together”. But they do not. No responsibility attaches to any right other than a general responsibility to respect the same rights in relation to other people. Rights and responsibilities are different things; irresponsibility is no disqualification for the exercise of a right’ (215).

As Anderson and Mann argue, through its pronouncements on law and order: ‘Labour has come perilously close to identifying the central problem of society as the need to contain and control the underclass’.

Of course, it could be argued that there is nothing necessarily wrong in legislating on moral issues, but that the real problem with Labour's policies on moral issues is that they have become more conservative and less progressive. New Labour also tends to locate the roots of the all-too-visible signs of social breakdown in various forms of

‘permissiveness’ and irresponsibility than in the failures of unfettered free market economics. The problem with the communitarians is that they are ‘meddling only peripherally in the activities of capitalism but forever seeking new ways to bully people into leading better lives’ (Elliott and Atkinson 259).

In the *Guardian*, 27 January 2000, Hugo Young, reflecting on Labour’s first 1000 days in office, wrote that: ‘On every libertarian question, the performance has been as unreliable as, on most economic questions, it has been secure ... Whenever a liberal instinct is required to defend historic freedoms, neither Mr Blair nor any of his colleagues have a grain of dependability left from the days when, in opposition, they railed against the Tories’s systemic authoritarianism. They have become, in the worst of all senses, governmental’.

‘The new “commanding height” of the economy is the British psyche: the underclass is to be made to buck up its ideas, while those in work are subjected to “team building” and “attitude appraisal”. In other words, the state is seeking to remould what George Orwell’s Winston Smith described as the few square centimetres inside the skull’ (Elliott and Atkinson 217).

## **New Labour versus *Horny Catbabe***

It is often forgotten that the first attempt to introduce video censorship in the UK was actually undertaken by a Labour backbencher. This was Gareth Wardell, the MP for Gower, who, in December 1982, introduced a ten-minute-rule bill ‘to prohibit the rental of video cassettes of adult category to children and young persons’. In the event, it failed to get government approval and was dropped. However, after the Tories’ election victory in June 1983, amidst an ever-swelling torrent of ‘video nasty’ scare stories in the press, Wardell proposed a Commons motion to the effect that: ‘This House urges Her Majesty’s government to introduce forthwith legislation to control access by children to video nasties, thus honouring its election pledge.’ And when the Video Recordings Bill duly appeared the following month it was supported as eagerly by Labour as by the Tories, partly out of genuine conviction (greatly strengthened, of course, by woeful ignorance of the actual contents of any contemporary horror films) and partly out of determination not to be portrayed as ‘soft’ on morality by the Tory press.

Labour managed to emerge with even less credit in April 1994, in the wake of the murder of James Bulger and the ludicrous attempts by the press to pin the blame on horror videos in general and Child’s Play III in particular. Whilst Tory Home Secretary Michael Howard was actually trying to *resist* calls for parliament to impose stricter video censorship, large numbers of Labour MPs eagerly supported an amendment to the Criminal Justice Bill by the Liberal Democrat David Alton that would have banned any video that ‘presents an inappropriate model for children’ or ‘is likely to cause psychological harm to a child’. Thus, ever eager to appease the

vociferous Something Must Be Done lobby, as well as being transfixed by the prospect of humiliating Howard in the Commons (since there were over 80 Tories amongst the two hundred or so MPs supporting the amendment), Labour MPs pressed on towards trying to put on the statute book a measure which, if passed, would have effectively meant that no video unsuitable for children could be distributed in Britain, thus killing the video industry here stone dead, not to mention bringing down the well-deserved wrath of most of the electorate on Labour's head.

Had this opportunistic idiocy been allowed to play itself out to the end we would, of course, have witnessed a sharp and immensely sobering lesson in real-politik as the British government quavered and crumbled before the immense might of Hollywood – something of which even the redoubtable Thatcher was known to be scared. But Howard's resolve finally crumbled in the face of a hysterical press campaign – to which Roy Hattersley and Gerald Kaufman ably contributed in those two well-known Labour papers, the Daily Mail and Daily Telegraph respectively. Thus a face-saving formula for both Howard and Alton had to be found. And the person who played a key role here was none other than Tony Blair, then Shadow Home Secretary, who helped to broker an amendment which, while being more workable than Alton's nonsense, still tightened video censorship even further by requiring the British Board of Film Classification (BBFC), when considering classifying any video, to have: 'Special regard ... to any harm that may be caused to potential viewers or, through their behaviour, to society by the manner in which the work deals with - (a) criminal behaviour; (b) illegal drugs; (c) violent behaviour or incidents; (d) horrific behaviour or incidents; or (e) human sexual activity'. Altogether fittingly, Labour in power has come to grief over this amendment.

In June 1996, during the Tories' latter days, the director of the BBFC, James Ferman, met with Tom Sackville, parliamentary under-secretary of state for the Home Office, who asked him if the BBFC could liberalize the guidelines of the R18 video category, which designates videos that may be sold only in licensed sex shops. The reason for this was that the Metropolitan Police were increasingly concerned at the growth of black-market sex shops which took full advantage of the fact that their legal counterparts could sell only relatively tame material. Ferman was happy to agree, and the guidelines were relaxed, albeit with a mind-boggling and obsessive attention to minutiae, which cries out for scrutiny from students of classification. One can only wonder what Émile Durkheim and Marcel Mauss would have made of this mania for order.

It is important to realise, however, that the videos passed as a result of the new dispensation were still far less explicit than the conventional hardcore porn legally available almost everywhere else in Europe, as even a brief comparison of the old and new guidelines (not in the public domain, by the way) rapidly reveals. For example, under the original guidelines, images to be cut included 'erect penis in close sexual contact', 'clear sight of oral-genital contact' and 'ejaculation, semen on mouth, face or sexual organs'. Bearing in mind that we're talking about plain and simple sex videos here, it's not difficult to see why the legal sex shops weren't selling any R18s, except perhaps to the terminally naive or undemanding. However, turning to the new guidelines, we find that images to be cut unless 'de minimis' include 'close-up of ejaculation', 'sustained sight of semen', 'close-ups of genitals during penetration' and 'close-ups of genitals during oral sex' – in other words, the very staples of a

cinematic genre that relies more than any other on intimate shots of human body parts. It is also interesting to note that prior to 'liberalisation' only 'passing shots of anus' were acceptable, but under the new dispensation 'lingering shots' were OK. Inevitably, long, animated and occasionally even heated discussions ensued within the Board over what actually constituted close-ups and sustained shots; all this over a few tacky, mildly erotic (at best) videos which wouldn't merit a moment's serious consideration anywhere else.

### **Backdoor Straw**

During the 1990s, Ferman had come to be regarded by papers like the *Mail* as being far too liberal, and in particular had earned their undying enmity for passing *Crash*. Under the Tories, the Home Office had made it clear that they wished to exercise greater control over senior BBFC appointments, but had failed in their attempts to do so. They saw their opportunity again when in May 1997 the BBFC told them that they would like their Vice-President, Lord Birkett, to become their new President. The Home Office clearly indicated that it wished to be directly involved in the selection process, which was quite without precedent in modern times. At the same time, Tory MP Julian Brazier, backed by other Tories, was in the process of tabling his Film Classification Accountability and Openness Bill, and, when this failed, there were rumours that he and David Alton would be trying to tack many of its proposed measures onto the forthcoming Crime and Disorder Bill.

In the summer of 1997, press stories strongly suggestive of hostile briefings, casting doubt on Ferman's future, began to appear, especially in *The Sunday Times*. The first, by Nicholas Hellen on July 27, was headed 'Censor quits after 22 years in crossfire'.

On 10 August, the paper published a letter by Ferman in which he pointed out that the headline and opening paragraph were ‘wholly untrue’. However, on August 31 Hellen returned to the fray, reporting that Andreas Whittam Smith was to be appointed as vice-president of the Board, and would take over as president in two years time. His task would be to make ‘Britain’s heavily criticised system of film censorship more accountable to public opinion’. According to Hellen, Whittam Smith ‘intends to challenge the board’s traditionally secretive culture by taking personal responsibility for explaining censorship decisions to local authorities, parliament and other interest groups. The government will underline its determination to take a more hands-on role to censorship by appointing all five of the principal figures at the board, rather than rubber-stamping the board’s preferred candidate’.

When Jack Straw (already well known for his dislike of anything smacking of metropolitan trendiness) discovered about the relaxation of the R18 guidelines he hit the roof, releasing to the press a letter criticising Ferman ‘in the strongest possible terms’ for his ‘unacceptable, unilateral decision to liberalise the law’. Of course, the decision was far from unilateral, as we have seen, but Straw insisted that the BBFC reverse its ‘liberalisation’ policy and also let it be known openly that he was reviewing Ferman’s position. In December 1997, he vetoed the appointment of Lord Birkett, the BBFC Vice-President and a supporter of the liberalisation policy, as the Board’s new President, and made it clear in private that he would designate another agency as the video classification body if he did not get his way over the new President. Thus was installed Andreas Whittam-Smith, who had founded the *Independent* but had no obvious credentials as a film and video censor. In his letter of acceptance, Whittam Smith attached certain conditions, in particular that BBFC

executive power be transferred to the President – which was in line with Home Office wishes.

This furore was the cue for more anti-BBFC press stories. Thus in the *Sun* 24 November 1997, headed ‘Straw’s blue fit’, Straw was quoted as saying ‘the Board has behaved very badly’ and ‘I was appalled to discover the licenses for the registration of these obscene videos has been changed’. Ferman is described as ‘gaffe-prone’ and as having ‘sparked a series of rows in his 22 years as unelected head of the BBFC’. An editorial headed ‘Dirty work’ opines that: ‘The film censor must have been watching too many mucky movies. His judgement is now so suspect he should be relieved of his job ... Home Secretary Jack Straw is right to give James Ferman a rocket. Let’s hope he attaches Ferman’s P45 to it’. The *Sunday Telegraph*, 7 December, stated that: ‘The Home Secretary holds Lord Birkett personally responsible for the relaxing of the guidelines and is adamant that the problems of the BBFC can only be tackled by a new figure untainted by its past. He has pledged “resolute action” to bring in new personnel and tighter regulation for an organisation that has traditionally shrouded its activities in secrecy and guarded its independence’. It also adds that ‘the position of James Ferman, the long-serving director of the BBFC, is also believed to be in the balance’. The *Guardian*, 8 December, predicts a shake-up of the BBFC and quotes the Home Office to the effect that ‘it’s a matter of record that the Home Secretary is unhappy and the appointments are under review’, adding that ‘the position of James Ferman, director of the BBFC, was also being reviewed, it was confirmed’. The *Telegraph*, 9 December, argues that the BBFC is ‘now facing a crisis that is likely to result in a wholesale change of personnel and culture’. A government source is quoted as saying that ‘their performance did not exactly inspire confidence’, and the

paper notes that ‘there is a view that under Mr Ferman it [the BBFC] has become a law unto itself’ and that Straw is ‘expecting Mr Ferman to retire next year and for a new director to be selected by the board’. Then, in the *Sunday Times*, 14 December, it is announced that new President Whittam Smith ‘has been asked to revamp the British Board of Film Classification (BBFC), after complaints that it was not responding to public concern over levels of video violence. Jack Straw, the home secretary, wants an overhaul of the organisation. It will be expected to explain its decisions more comprehensively to parliament and local authorities, and consult more closely with police and customs officers’.

Having forcefully made his point however, Straw then stepped out of the limelight and left the BBFC to deal publicly with the consequences of his actions. His presence was distinctly felt behind the scenes, however, not least in the Orwellian-sounding Enforcement Sub-group, a secretive consultative body consisting of representatives from the Home Office, the BBFC, Customs, police, and the Crown Prosecution Service.

Straw’s grounds for forcing the BBFC to reverse its policy on the R18 hinged on his insistence that material passed during the ‘liberal’ period was of a strength similar to material seized as obscene by Customs or subject to forfeiture by a magistrate under Section 3 of the Obscene Publications Act (OPA). This conveniently ignored the fact that far *stronger* material has been regularly let off the hook by juries when defendants have elected to be tried by judge and jury under Section 2 of the OPA – a right, incidentally, which they will no longer enjoy if Straw’s draconian plans to curb jury trials manage to become law. Faced with this awkward fact, the Home Office

changed tack, arguing that the R18s passed by the Board in the ‘liberal’ period would ‘harm’ any children who might view them and would thus fall foul of the amendment which Labour had been so instrumental in introducing in 1994. The fact that this makes an utter nonsense of the whole principle of classification by age range on which the Video Recordings Act is founded was, of course, ignored. Meanwhile, distributors who had had relatively ‘strong’ material passed by the Board at R18 during the ‘liberal’ period were now finding that, with the old guidelines reinstated, the Board was refusing to pass similar strength material. Arguing that the BBFC had been inconsistent in changing its guidelines, and that it should anyway have consulted them before doing so, the aggrieved distributors took a number of cases to the Video Appeals Committee (a statutory body established under the VRA). The appeal was heard in July 1999 —and the distributors won. (For the full story of the R18 saga, see Julian Petley, ‘The Censor and the State’, *Journal of Popular British Cinema*, vol. 3, 2000, pp. 93-103.) The BBFC then applied for judicial review of the appeals procedure in April this year, but this was dismissed by Mr Justice Hooper on the grounds that the risk of these videos being viewed by and causing harm to young people was, on present evidence, insignificant.

In the *Mail*, 17 May, a leader headed ‘Brave new world’, stated: ‘Welcome to a brave new Britain where the rights of pornographers are considered more important than the protection of childhood innocence ... A new tide of “adult” videos is but the next step in this coarsening of social values. The most profound human experiences of love and commitment are being systematically demeaned. And what is even more depressing is that nobody in politics, the law or the liberal establishment seems to have the wisdom, moral conviction or courage to call a halt’. In *The Times*, 21 May,

Roger Scruton lamented that the decision ‘suggests that the last vestiges of decency are being finally chased from the law’.

At this point, in a move that must have seemed quite inexplicable to those who had thought this was a private dispute involving only the BBFC, the Video Appeals Committee and a couple of video distributors, a furious Straw suddenly took centre stage. Labour worthies Lord Bassam and Robin Corbett were wheeled onto television to denounce the judgement, and the Home Office issued a statement to the effect that: ‘the Home Secretary believes that the situation is unsatisfactory and will be considering carefully whether there are any additional steps that can be taken to protect children from exposure to this sexually explicit material. Any such changes may require legislation’. In the *Guardian*, 19 May, Polly Toynbee argued: ‘There is a liberal consensus: it is a consensus among New Labour and Tories alike to demonise liberals. These days if you bleat sheepishly at senior ministers that the liberal agenda has become the sacrificial lamb in the New Labour project, they grin and lick their lips wolfishly. They take it as a compliment. Labour likes to balance its progressive social policies with toughness on liberal causes. If liberals aren’t hurting, then the third way isn’t working’. She also objected to Straw’s ‘persistent and deliberate war on every liberal front he can find, stamping Labour with his macho *Mail*-friendly imprint’.

### **The climate of constraint**

The R18 saga raises a number of important issues around the relationship between the Home Office and the BBFC, and more generally about the Board’s political function. In effect, the Board has been forced to act as Straw’s patsy throughout this case, since

the full extent of Home Office involvement has remained largely hidden (greatly helped, of course, by a supine, and in some cases complicit, media), presumably in an attempt to preserve the fiction of the 'arm's length' relationship which is supposed to exist between the Board and the Home Office. However, it is important to realise here that the BBFC President has always had to be approved by the Home Secretary of the day, and up until the Second World War was a deeply political appointment, including men who had formerly been, for example, Chief Secretary for Ireland, Permanent Head of the Foreign Office, and indeed Home Secretary – in other words, as Nicholas Pronay puts it in *Propaganda, Politics and Film*, the President has always been a man 'whose experience and background ensured that he could be relied upon to know what was needed, who was fully "in the picture"'.

In those days the Board was concerned with explicitly political censorship – hence the infamous remark in 1937 by BBFC President Lord Tyrrell that: 'we may take pride in observing that there is not a single film showing in London today which deals with any of the burning questions of the day'. Today, of course, the 'burning questions' are no longer 'relations between capital and labour', 'bolshevist propaganda' and 'lampoons of the institutions of monarchy', to quote from the BBFC's compendium of prewar prohibitions, but this certainly does not mean that they are not concerned with political issues in a broader, more contemporary, sense of the term – one which takes account of the extent to which the personal has become political, and vice versa.

This politicisation of the personal is well illustrated by the Labour government's evident attachment not simply to the ideology of communitarianism but, rather, to a socially authoritarian version of it which does not shrink from proposing measures notable for their intrusiveness into spheres usually marked out as private by liberal

politics. As Stephen Driver and Luke Martell argue in *New Labour: Politics after Thatcherism*: 'In a way no longer thought possible for the economy, New Labour in government looks set to be interventionist in social matters. The 'strong community' looks dirigiste. There is a reliance on legislative solutions to what are presented as ethical problems. Whatever the problem – bad behaviour in schools, noisy neighbours, children on the streets in the late evening – New Labour seems poised to reach for the legal pen'.

From this perspective, the furore over the R18 is part of a meaningful pattern compounded equally of bossiness and moralism, and highly reminiscent of the worst excesses of the Thatcher regime. Taken in conjunction with restrictions on forms of expression considerably more important than, say, *Horny Catbabe* – namely, the use of the discredited Official Secrets Act against Tony Geraghty, Richard Tomlinson, David Shayler, Nigel Wylde, the *Guardian*, *Observer*, *Sunday Times* and *Mail on Sunday*; the Regulation of Investigatory Powers Bill, which will give the police, MI5 and Customs significant new powers to intercept communications; the flagrant betrayal of the promise to introduce a thoroughgoing Freedom of Information Act (use of which would soon have flushed out Straw's involvement in the R18 affair); and the Terrorism Bill which threatens to criminalise vast swathes of political activism – the picture begins to look distinctly disturbing.