

CINEMA

- MAR 2021
- FEB 2021
- JAN 2021
- DEC 2020
- NOV 2020
- OCT 2020
- SEP 2020
- AUG 2020
- JUL 2020
- JUN 2020
- MAY 2020
- APR 2020
- MAR 2020
- FEB 2020
- JAN 2020
- DEC 2019
- NOV 2019
- OCT 2019
- SEP 2019
- AUG 2019
- JUL 2019
- JUN 2019
- MAY 2019
- APR 2019

ON THE OFFENSIVE: OTT PLATFORMS AND POLICIAL CENSORSHIP

by KAMAYANI SHARMA

"We thank the Ministry of Information and Broadcasting for the guidance and support in the matter..." noted Ali Abbas Zafar, director of the nine-episode Amazon Prime webseries *Tandav* in January 2021, agreeing to make changes to his show in response to multiple FIRs and complaints in at least six states as well as a notice from the Ministry of Information & Broadcasting. The FIRs run the gamut of IPC sections, including those penalising the outraging of religious feelings and statements conducive to public mischief.

Tandav isn't the first OTT show to come under fire from the administration. In November 2020, the national secretary of Bhartiya Janta Yuva Morcha filed an FIR against Netflix-streamed *A Suitable Boy* for featuring a kiss between a woman and man against the backdrop of a temple. The controversy was connected to the unconstitutional legislation to outlaw conversion as part of interfaith marriage (termed "love jihad") then being introduced in the state of Uttar Pradesh. Nor is it the last instance of intolerance directed at mass culture - days after dispatching a team to Mumbai to probe the case against *Tandav*, UP Police sent another to investigate a case filed against Amazon Prime's *Mirzapur* by a resident of the eponymous district for not just offending religious sensibilities but showing Mirzapuris in a poor light. According to the petition, it was sacrilegious to show profanity, adultery, criminality and illicit relations between a woman and her father-in-law in a city famed for the Vindhyachal Temple. Another police complaint was filed against Netflix's *Leila* for hurting sentiments by associating Hindu practices and beliefs with a vision of an extremist and oppressive world. Returning to *Tandav*, it was a scene depicting a play with the Hindu deities Shiva and Narad as social media influencers that incurred the wrath of those offended.

The fantasy world of *Leila*, with its hostility to interfaith marriage, murders of Muslims, detention camps and large-scale propaganda, hardly seems dystopian in the context of lynchings, the CAA-NRC laws and the absorption of India's fourth estate into the ruling party's media machinery. One finds that it's the relationship between fiction and historical experience, lived, interpreted or imagined that is the source of unease: the Hindu *rashtra* cannot be shown as anything but a Ram Rajya - a utopian world.

A Suitable Boy's Lata and Kabir romancing in Nehruvian India is an unacceptable reminder of a young nation's betrayed secular commitments, to be rejected as the undesirable legacy of a former government. The scene of the kiss at the temple at Maheshwar Fort is introduced by a shot of its exterior and accompanied by the sound of devotional songs and bells. It is against this architectural and

CINEMA

- [+ MAR 2021](#)
- [+ FEB 2021](#)
- [+ JAN 2021](#)
- [+ DEC 2020](#)
- [+ NOV 2020](#)
- [+ OCT 2020](#)
- [+ SEP 2020](#)
- [+ AUG 2020](#)
- [+ JUL 2020](#)
- [+ JUN 2020](#)
- [+ MAY 2020](#)
- [+ APR 2020](#)
- [+ MAR 2020](#)
- [+ FEB 2020](#)
- [+ JAN 2020](#)
- [+ DEC 2019](#)
- [+ NOV 2019](#)
- [+ OCT 2019](#)
- [+ SEP 2019](#)
- [+ AUG 2019](#)
- [+ JUL 2019](#)
- [+ JUN 2019](#)
- [+ MAY 2019](#)

aural evocation of India's Hindu heritage in a post-Partition society that Kabir professes his love and Lata, while reciprocating his feelings, asserts the difference in their religions as an obstacle. A mirror is held up to the present, the temple not so much a site contaminated by passion as one that renders it impossible. Similarly, in *Tandav* there is an explicit reflection of contemporary crises, with references to UAPA, a university that's a dead-ringer for JNU and the ongoing farmers' protests. The mis-en-scène of the now-deleted portion is a rather unsubtle commentary on *Tandav's* plot and the situation in India - the protagonist essaying the god Shiva (after whose destructive dance the show is named) and the one playing the deity Narad, a similarly wily intermediary within the show's narrative, as they perform before a packed audience of students. Taking jibes at the popularity of Ram, the spoof mocks the linking of the demand for *azadi* with anti-nationalism. At the utterance of the word *azadi*, the audience erupts into echoing chants of slogans familiar from people's protests and marches of the last few years, thus revealing the comedy to be aimed at the government that inspired those agitations, rather than gods and mythology.

In the aftermath of Zafar's apology, the Supreme Court admonished one of *Tandav's* cast members for playing a role that hurt the "religious sentiments of others". The attempt to conflate life and art can be interpreted as a way to couch a specific political agenda in the more acceptable language of moralism. At the same time, it is not enough to merely wring hands at illiberal adjudication, which is certainly not new in the world's largest democracy, but to locate these events in a broader history of media censorship and legal and extrajudicial regulations on free expression in India.

The Censor Board of Film Certification (CBFC), provided for in the Indian Cinematograph Act, 1952, mentions "public exhibition" without defining it. Since OTT platforms are technically for private viewing and, despite the similarly intimate viewing context of TV (governed by the Cable Television Network (Regulation) Act, 1995) not broadcast via satellite signals, the CBFC and the Information & Broadcasting Ministry's Electronic Media Monitoring Centre cannot be involved. What this means is that there are no established standards for what constitutes as "acceptable" content online. Small wonder that Indians have been hoping that the government takes no notice of OTT fare. However, the downside is that there are, in turn, no protections for content creators from the displeasure of the state, no matter the party in power at the Centre. Whereas in the years of the INC's reign at the Centre, political censorship of films (*Aandhi*, *Kissa Kursi Ka*, *Amu* etc.) was enforced by an arguably partisan CBFC through technical compliance with its procedures, under the current administration moral censorship via mobs and the violation and manipulation of the law is being used as a means to further political goals.

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- MAR 2021
- FEB 2021
- JAN 2021
- DEC 2020
- NOV 2020
- OCT 2020
- SEP 2020
- AUG 2020
- JUL 2020
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- MAY 2020
- APR 2020
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- FEB 2020
- JAN 2020
- DEC 2019
- NOV 2019
- OCT 2019
- SEP 2019
- AUG 2019
- JUL 2019
- JUN 2019
- MAY 2019
- APR 2019
- MAR 2019

From the 1990s onwards fundamentalist groups, 'by turning to the police, the judiciary and other regulatory bodies' and invoking laws to do with inciting communal conflict and hurting religious sentiments, have succeeded in forcing Indian courts to validate offence-taking in the name of religion to maintain communal harmony at the cost of upholding free expression through art. Now, with regard to Over The Top (OTT) platforms in India, in the absence of a regulatory mechanism there is the consequent use, or rather abuse, of the law by state and non-state actors to install a censorship mechanism that operates through the police. What we are seeing in the *Tandav's* case is a consequence of this: there has been the intensification of what we might call a 'policial' censorship regime wherein the absence of medium-specific laws has led to the weaponising of those to do with offence-taking. Without a statutory set of guidelines to govern OTT content like webseries, it is easy for the offended - in good or bad faith - to deploy existing laws against content and creators that they harbour ideological or political animosity towards.

At the Information & Broadcasting Ministry's directive, throughout 2020 the major OTT platforms and digital content companies operating in India worked together to develop a self-regulation code. In December 2020, OTT platforms decided to bring on board 'legal luminaries' to their in-house complaint committees in order to appease the Ministry. These pre-emptive moves are to avoid State intervention for fear that it will greatly limit what is possible to produce and stream. But there is lasting value in confronting the State head-on rather than sidestepping its clutches. The filmmaker K.A. Abbas' 1970 film *A Tale of Four Cities* was repeatedly denied a 'U' certificate. Abbas filed a petition challenging pre-censorship as offensive to freedom of expression and demanding clarity regarding the rules governing censorship. Though rejected by the Supreme Court, Abbas' petition resulted in the creation of the Film Certification Appellate Tribunal (FCAT). One wonders what might have happened if Zafar and Amazon, instead of apologising for causing offence, had followed in Abbas' footsteps and taken offence right back.

References

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