

Cinematograph Bill 2021

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A group of filmmakers, academics, researchers, programmers, students, technicians, lawyers and civil society have raised concerns at the proposed “Cinematograph (Amendment) Bill 2021” which among other things, seeks to confer power on the Central Government to revoke a Film Censor Certificate. The new draft proposes to amend the Cinematograph Act of 1952 with provisions that will give the Centre “revisionary powers” and enable it to “re-examine” films already cleared by the Central Board of Film Certification (CBFC). Let us take a closer look at what the draft proposes to change.

In news: What govt proposes to change in film certification

Placing it in syllabus: Law & Policy

Dimensions

- Provisions of the Bill
- Comparison with Cinematograph Act 1952
- Importance
- Criticisms

Content:

Provisions of the bill:

The draft Cinematograph (Amendment) Bill 2021 proposes to amend the Cinematograph Act of 1952 with the following provisions:

Revision of certification:

- This provision will give the Centre “**revisionary powers**” and enable it to “**re-examine**” **films** already cleared by the **Central Board of Film Certification (CBFC)** on account of violation of Section 5B(1) (principles for guidance in certifying films).

- It is also proposed in the Draft Bill to add a provision to sub-section (1) of section 6 to the effect that on receipt of any references by the Central Government in respect of a film certified for public exhibition, on account of violation of Section 5B(1) of the Act.
- **Age-based certification:** It seeks to introduce age-based categorisation and classification. It proposes to divide the existing categories (U, U/A and A) into further age-based groups: U/A 7+, U/A 13+ and U/A 16+.
- **Provision against piracy:** the act includes enabling provisions to check film piracy. Violation shall be punishable with imprisonment and fine.
- **Eternal certificate:** It proposes to certify films for perpetuity. Currently a certificate issued by the CBFC is valid only for 10 years.

An expert committee under the chairmanship of **Justice (retired) Mukul Mudgal** was constituted in 2013 to examine the issues of certification under the Cinematograph Act, 1952.

Another committee of experts was set up under the chairmanship of **Shyam Benegal in 2016** to evolve broad guidelines for certification within the ambit of the Cinematograph Act and Rules.

The recommendations made by both the committees have been examined in the ministry and efforts have been made to consider all the relevant issues through internal reviews of the Act in consultation with various stakeholders, the ministry said.

Comparison with Cinematograph Act 1952

Powers to Revise Certification:

- The 1952 Act, in Section 6, already equips the Centre to call for records of proceedings in relation to a film's certification.

- Currently, because of a judgment by the Karnataka High Court, which was upheld by the Supreme Court in November 2020, the **Centre cannot use its revisionary powers on films** that have already been granted a certificate by the CBFC.
- The Ministry of Information and Broadcasting explained that the proposed revision “means that the Central Government, if the situation so warranted, has the power to reverse the decision of the Board”.

Certification Categories:

- In the existing Act, films are certified into three categories – ‘U’ for unrestricted public exhibition; ‘U/A’ that requires parental guidance for children under 12; and ‘A’ for adult films.
- This proposed age classification by the bill for films echoes the new IT rules for streaming platforms.
- At present, there are no enabling provisions to check film piracy in the Cinematograph Act, 1952.
- The draft proposes to add Section 6AA that will prohibit unauthorised recording and specifies punishment for the violation

Validity of Certificate:

- As per the Cinematograph Act 1952, a certificate issued by the CBFC is valid only for 10 years.
- However, this will change after the new amendments are passed. The certificate once issued will be valid for eternity

Importance

- The draft comes shortly after the abolition of the Film Certificate Appellate Tribunal, which was the last point of appeal for filmmakers against the certificate granted to their film.
- By giving the union government the power to ask the

CBFC to re-examine a film, the proposed bill aims to overturn this decision of the apex court in the case of Union of India vs. K.M. Shankarappa, (2001)

- The Cinematograph (Amendment) Bill 2021 clearly defines the role of the Central Board of Film Certification (CBFC) as a body that certifies film content for public exhibition and not as a censoring body.
- Film piracy poses real challenges to filmmakers. Piracy of films is rampant in India, and the bill rightly recognises the issue.

Criticisms:

Preserving artistic freedom and reducing regulatory compliance are much-needed reforms for the film industry.

The critics say that the proposed changes in the draft amendment bill, however, do not seem to be easing either compliance issues or freedom of speech and expression through filmmaking in the country.

Government Super-Censor:

- The draft has been criticised by filmmakers such as Adoor Gopalakrishnan, who has termed it a “super censor”.
- Every year, films are released for exhibition following the CBFC vetting process but interest groups of one kind or another end up campaigning for deletions and even bans because they do not like the contents or portrayal of their particular community or interest group.
- The new draft is intended to directly provide the Centre with the right to force cuts if it so desires, and will likely open the door to a political, rather than professional, process of evaluating movie content.

Potential for curtailing freedom of expression and democratic dissent:

- Filmmakers have alleged that the proposed Amendment undermines the sovereignty of the Censor Board as it will effectively give the Central Government supreme power over cinema exhibition in the country.
- Giving the Union Government the power of recertification may lead to an additional direct government censorship going beyond that envisaged by the existing process run by the Central Board for Film Certification (CBFC).
- Moreover it simply means that no film that opposes the ideology of the Union government can be screened.
- This could potentially endanger freedom of expression and democratic dissent.

Contrary to Supreme Court View:

- The provision “revisionary powers” and powers to “re-examine” films also goes against the Supreme Court’s view that the government has no right to demand censorship once the Board has certified a film has left the Centre powerless.

Ineffective piracy prevention provisions:

- Film piracy poses real challenges to filmmakers, the proposed amendments do not address this concern effectively merely by introducing a penal provision.
- If introduced, sufficient exceptions on fair use, de minimis use and derivative work specific to films must be created.
- Systemic solutions to genuinely counter-piracy must be introduced.

Central Board of Film Certification (CBFC):

- It is a statutory body under the Ministry of Information and Broadcasting, regulating the public exhibition of films under the provisions of the Cinematograph Act 1952.
- It certifies films that can be publicly exhibited in

India.

- Headquarters at Mumbai.

Composition:

- The Board consists of non-official members and a Chairman (all of whom are appointed by Central Government)
- e panels are nominated by the Central Government by drawing people from different walks of life for 2 years.
- The Certification process is following The Cinematograph Act, 1952, The Cinematograph (Certification) Rules, 1983, and the guidelines issued by the Central government u/s 5 (B).

Mould your thought: Critically evaluate the provisions of the draft Cinematograph (Amendment) Bill 2021.

Approach to the answer:

- Introduction
- Discuss the salient provisions of the bill
- Discuss their difference from the 1952 Act
- Mention the importance of the changes
- Discuss the criticisms from film fraternity to the bill
- Conclusion