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# for their eyes only

BY KITTY DOHERTY

**In the second issue of *For Women*, British law prevented us from publishing this picture uncensored. Why are erections considered harmful? And what else are the censors hiding?**

**t**he frustration for all of us looking at the pictures in this magazine is the conspicuous absence of erect penises. *For Women's* General Erection Campaign is hotting up, but even if it is successful – and it will take a long time before we know one way or another – it will make just a tiny dent in the masses of British legislation regarding our sexuality. It doesn't stop at obscene pictures of stiffies, but affects many aspects of our sexual lives. The law, along with Victorian values, double standards and Mary Whitehouse, regulates what we are able to see, read, hear and do in the name of sexual pleasure.

Successive British governments have legislated for the bedroom and the current ruling party has not bucked the historical trend. Their manifesto

proudly boasts: "We have the toughest anti-porn laws in Western Europe and we will keep them that way... British domestic control on porn will remain in place even after the completion of the single European market."

Thankfully, some people are willing to make a stand against the government and this country's archaic laws. One of the most vociferous activists is David Webb, director of the National Campaign for the Reform of the Obscene Publications Acts (NCROPA).

"Whereas virtually all other states of the European community, and most countries of the free world do not censor and prohibit sexually explicit material for adults," he says, "Britain, now almost uniquely, still imposes an iron-fisted suppression by the implementation of ridiculously imprecise, blatantly manipulatable and utterly unjust censorship legislation."

Webb's frustration is evident as he describes the absurdity of the 1959 Obscene Publications Act with its attempt to enshrine the concept of 'obscene' within the law. The Act states that material will be considered obscene if it depraves and corrupts. "These concepts," he argues, "are capable only of the most subjective interpretation."

**A**s always there is a sense of 'don't do as I do, do as I say' from those who seem intent on stopping our fun. Webb points to the suggestion made by former 'Minister for Fun' and part-time toesucker, David Mellor in 1990, where he said that the 1959 Obscene Publications Act "could, with benefit, be strengthened".

And the same year Superintendent Leslie Bennett, former head of Scotland Yard's Obscene Publications branch, was revealed to have been an ex-member of Gamblers Anonymous and a transvestite. In his opinion, though, people who read so-called obscene publications were sick and evil. And let's not forget the Crown Prosecution Service's Alan Green who was hoisted by his own petard, caught kerb-crawling. Webb doesn't judge these people for their misdemeanours, just their stunning hypocrisy.

Those, like Webb, who want to see an end to censorship are dismayed that the government ignores its own reports on pornography. The 1979 Home Office Committee on Obscenity and Film Censorship stated that pornographic

material should be freely available to consenting adults. The more recent Home Office Research Unit's Report *Pornography: Impacts and Influences* came to the important conclusion that there was no relation between legal availability of sexually explicit material and sex crime.

Avedon Carol, a founding member of Feminists Against Censorship group,



says, "There have been several studies into the link between porn and violence and none of them have been conclusive. Nobody is arguing for the violent depiction of women being raped and killed. That stuff is indefensible. But censorship gives strength to the government. It doesn't empower women. Censorship will be used against us, not in our favour."

As she points out, "No one in the US, or most of Europe, thinks it odd to see an erection in a magazine. But in Britain some judge has decided a hard-on would corrupt and deprave us."

To avoid corrupting and depraving us, the British sex industry rigorously censors itself. For example, *Skin Two* the SM magazine, is not allowed to depict any association of pain with pleasure, which does rather defeat its purpose.

Tim Woodward, director of *Skin Two*, explains how this self-censorship may still not be enough to protect such magazines from the wrath of the law. "When the police decide to prosecute a company, they confiscate all the stock," he says. "This is normally enough to put a small company out of business even if the material confiscated is later judged not to be obscene."

Magazines are further regulated by the 1981 Indecent Displays Control Act. Even if the contents are not obscene the magazine can be prosecuted for having an indecent cover. Incidentally, this law was used in a bizarre manner in 1990 when a joke shop owner was fined for

having an indecent display of chocolate and other novelty willies in his shop. The prosecution was brought by a police officer, Sgt Mark Nurthern, who later lost a case against a book shop owner who had been selling copies of a book on body piercing and tattooing called *Modern Primitives*.

The images we are allowed to see may seem anodyne but they are positively explicit compared to the legally permissible moving image. Films and videos are not only controlled by the Obscene Publication Acts, they also have to have a prior stamp of approval from the British Board of Film Classification. For cinema release, the BBFC only acts as an advisory body suggesting to local authorities the certificate a film should receive. However, with the 1984 Video Recordings Act, the BBFC became a Home Office-designated body that classifies videos for both supply and distribution.

Guy Phelps, assistant director of the BBFC and who helps decide what we can and can't see, says the Cinema and Video Acts offer no set standards for what is liable to corrupt and deprave. So the board looks, once again, to the Obscene Publications Acts for legal guidance, despite the Acts being unclear on the subject themselves. He argues that the BBFC aren't restricted by these acts. "They allow flexibility and this is a good thing with standards changing all the time. There isn't a laundry list of what can and can't be shown. Everything has to be taken in context."

Film makers, however, would disagree with Phelps about the lack of restriction. With the obscenity laws, the burden of proof is reversed and it is up to the defendant to prove that material is not obscene and has artistic merit. Or an educational one, as the recent *Lovers' Guide* proved. Even the censors had to admit that it might be impossible to instruct on love-making without an erect penis in sight!

Also, you can be tried for the same purported offence over and over again. In the '80s a man was tried five times over a pornographic film he had made. He was found innocent four times, but in the fifth trial at Preston Crown Court, he was found guilty and sent to prison.

Phelps agrees that few people will submit hardcore porn to the board of classification, but he believes that the BBFC are responsive to the changes in public opinion. "Sex regulations are becoming more and more liberal all the

time," he says. "Look at television, things are constantly changing because the British public are changing."

**T**he responsiveness of the censors may be debatable, but according to a recent survey by the Broadcasting Standards Council, as far as television goes, the British public are definitely loosening up. The 1992 *Review On Sex And Sexuality In Broadcasting* found that 88 per cent of respondents agreed with the statement, "People who don't like watching sex can always switch off". Similarly 78 per cent agreed with the statement, "If people want to watch sex on TV, they should be allowed to". And 54 per cent of those questioned said that there was the right amount of sex on TV.

This must have upset Mary Whitehouse and her National Viewers and Listeners Association, which has had some impact on the nation's diet of sex. Some believe that Whitehouse's earlier concerns and objections sparked Margaret Thatcher into establishing the Broadcasting Standards Council.

It is surprising that the survey's respondents found any sex on British television at all. Television is also now subject to the Obscene Publications Acts and, under the 1990 Broadcasting Act, programmes should not offend against good taste. The act doesn't define good taste, that is left to the Independent Television Commission (ITC) and the BBC to define. However, their good taste isn't necessarily yours. All the services that are licensed in the UK come under this legislation, but foreign-based satellite channels lay outside of British jurisdiction. So, for example, the porn channel *Red Hot Dutch*, which is licensed in Holland, can be beamed into British homes at present.

But if you are watching *Red Hot Dutch*, don't become too addicted. The National Heritage Department is looking into whether it contravenes an EC directive on trans-frontier programming. They might well complain to the Dutch government, who are ultimately responsible for the programme, or even go as far as stopping the advertising and making the necessary satellite decoders illegal.

**B**ack on our extremely mild terrestrial television, much is made of the nine o'clock watershed. This division line roughly follows the BBFC's certification guidelines with no 15-rated films being

shown uncut before nine o'clock, and likewise, no programmes of an adult nature before that time. But to stop you getting too excited, even films shown after the watershed are highly edited to remove bad language, nudity and sex.

Stuart Paterson, a spokesman for the ITC, explains how this can cause problems. "When *The Postman Always Rings Twice* was first shown on TV, it was uncut and some viewers complained about the explicit sex scenes," he says. "The ITC was told that TV companies should exercise greater care in the future. When this film was repeated someone had really gone to town with the scissors. There were even more complaints from film buffs about this edited version. You can't please all of the people all of the time."

If you feel that even the uncut version of *The Postman Always Rings Twice* is too tame for you and decide to send off for a porn video or magazine, beware. It is an offence under the Post Office Act Section 11 to send or procure an obscene publication. If the Post Office investigation department suspects that they are handling obscene material, they inform the police and the police decide whether or not to prosecute both you and the sender.

If you have ordered your porn from abroad, it may not even make it through Customs. The Customs Consolidation Act was drawn up in 1876 and uses the arbitrary, and even wider, term of indecent as well as obscene. Customs

pay their fines and hope their local newspaper doesn't find out about it.

So the sexual material legally available in British sex shops has already been heavily pre-censored. But that still may not be enough to protect the public's delicate sensibilities. The 1982 Local Government (Miscellaneous Provisions) Act gives local authorities control over the licensing of sex shops and the council isn't obliged to grant any licenses at all.

**I**n Soho, which is under the auspices of Westminster Council, there are just ten licenses available for sex shops and five have been taken up at a cost of over £18,000 a year. This means that these shops are allowed to sell sexually explicit material as long as it doesn't contravene all the other Acts already mentioned.

There are 28 adult book shops in Soho, selling both books and sex aids. The law regarding the status of these shops is unclear, as Michael Guth, Westminster's principal Licensing and Enforcement officer points out. "A shop has to be licensed if it is selling and displaying sexual material to a significant degree." Unfortunately the law does not define what a significant degree is. So, Guth and his team have to decide.

Guth admits to a certain ignorance regarding some sexual accoutrements. "The last adult shop we raided provided us with 78 bin liners full of confiscated material. We were glad that there were photos with some of the masochistic lingerie, otherwise we wouldn't have known what it was meant for. We found things like pots of jelly and had to decide if they were sex aids or not."

There is additional legislation that covers sexual encounter establishments like peep shows and strip clubs - and their numbers are decreasing rapidly. Swinger's nightclubs are also in danger of extinction. The owner of one such club received rough justice under the archaic 1751 Disorderly Houses Act, which was created at a time when the lower orders were squandering their small gains on worthless pleasures, namely gin. The club's proprietor says, "It was claimed

that unseemly sexual behaviour took place at the club, but it was little different from any other club. It's just a catch-all law allowing the police to shut down any place they don't like."

Back in Soho, there was an attempt by British Telecom to get rid of prostitutes' cards that proliferate in the phone boxes around the area by cutting off the lines advertised. However, OfTel, the

★ CENSORED ★

officers have the power to decide whether material is likely to be considered offensive and whether the Crown Prosecution Service will accept the case. Last year customs seized over 30,000 indecent and obscene materials including videos, magazines and records. Although you have 28 days to make an appeal on decisions made by Customs, most people will keep quiet,

telephone services watchdog told BT that they had to "provide universal service" without "discrimination against particular customers".

Prostitutes are not the only ones who have been cut off in their prime. Sex lines are overseen by the Independent Committee for the Supervision of Standards of Telephone Information Services who decide if recorded messages and live one-to-one adult lines offend against decency. One company that has recorded messages had a hundred lines cut after they were found to have "debasement, degrading or demeaning content and to be unacceptably offensive due to the sexual nature of the messages."

Callers to one-to-one live sex lines also talk to Big Brother, as all conversations are recorded. Since 1989, 13 companies providing these lines have been shut down for talking too dirty.

**L**eaving all the artificial aids and paid help aside, *sex au naturel* still suffers from state interference. Anal sex is out for a start. Part of 1956 Sexual Offences Act reads, "Buggery is defined by the common law as carnal copulation against nature by human beings with each other or with a beast. Both partners, active and passive, are liable for the offence. The intercourse against nature consists of anal intercourse by a man with another or with a woman." There is an exemption from prosecution for gay men over 21 years of age. For heterosexuals, the maximum penalty for committing buggery is life imprisonment!

Certain influential persons are still appalled by the idea of a non-reproductive sexual act. One British High Court judge has described the act of anal sex to be as serious as committing manslaughter. Many of us should now be considered hardened criminals, as an article carried in a woman's magazine in 1991 showed a survey that one in four women admitted to having anal sex.

The buggery law is an example of an old ruling that has not been updated to reflect the change in public opinion, but lawmakers are still finding ways of censoring people for their sexual activity. The 'Spanner' trial brought about the most important of these new rulings. In 1990, in a case estimated to have cost British taxpayers £4,000,000, 15 men were prosecuted under the 1861 Offences Against The Persons Act for taking part in consensual SM sex. Though the acts described in court -

genital torture and piercing - were extreme, none of the defendants required hospital treatment. However, Judge James Rant decided that consent to these acts was not a defence.

Liberty, the civil liberties campaign group, became involved with the case because they felt that it was a human rights issue that had implications for heterosexuals and homosexuals alike.



Andrew Puddephat, Liberty's General Secretary, says, "The sentences were outrageous. The defendants received longer terms than some men get for rape. There were concerns that the judge's decision would make acts from lovebites to boxing illegal. It wasn't a thought-through judgement."

Puddephat believes the question of consent to be a crucial issue. "If a person consents to an act that doesn't require later medical treatment, then it should not be the concern of the State. The question you should ask is: 'Does your sexual preference deny somebody else's rights?' It is very clear that paedophilia denies the rights of the child and it would be hard to gauge if an animal had given its consent to sex. There was no coercion involved for the defendants in the Spanner trial.

"The problem is," continues Puddephat, "when it comes to sexuality everyone is a minority. There is no majority sexual community. You can't stop people wanting different forms of sex. It is one of the most powerful forces people have. You can no more turn off desire than you can turn it on."

It is also important to remember that the law has a hidden agenda on controlling women's sexuality. Mores might have changed, but in some cases the double standards stay the same. Helena Kennedy QC, author of *Eve Was Framed* (Chatto & Windus) says, "Women are still expected not to have too many sexual partners - the word slut

still runs around the court room. In one case, where a woman was killed by her husband, the defence counsel questioned the paternity of the woman's child, as if it had some bearing on the case."

Although most women won't be affected by the laws surrounding prostitution, there is the danger, as Nicki Adams, spokesperson for the English Collective of Prostitutes says, of women being judged as 'common prostitutes' for merely carrying condoms and being in the wrong place at the wrong time. As Helena Kennedy points out, "The value of a woman is related to her sexuality".

The question now on everyone's lips is: Will it be any different in 1993 now we've become one with the rest of Europe? Will we at last be able to see a hard-on in British magazines? Don't hold your breath. Sadly, many believe that Fortress Britain will not be dropping her draw-bridge for our European neighbours when it comes to pornography. Still it's nice to know that there are

a small number of people in Britain that get to view sexually explicit material in order to protect us lesser mortals. Let's hope they are not being depraved and corrupted.

#### CENSORSHIP THROUGH THE AGES

● 2600BC - Egyptian authorities devise a 'canon' of rules regarding the freedom of artists, dictating the colours, designs and proportions of all art created there.

● 1737 - British Prime Minister Robert Walpole is so upset by the political satires of Henry Fielding that he pushes through legislation enabling censorship of plays.

● 1769 - London's Royal Academy states that no student under 20 should paint female nudes "unless he was married".

● 1860 - The Venus de Milo finally finds respectability when a businessman re-names his statuettes 'Goddess Of Liberty'.

● 1868 - A court case in England sets the standard for judging obscenity in Britain and America until well into the 20th Century. Among the books to fail the so-called 'Hicklin Test' were James Joyce's *Ulysses*, John Cleland's *Fanny Hill* and DH Lawrence's *Lady Chatterly's Lover*.

● 1912 - The British Board Of Film Censors is formed and vows to censor "indelicate or suggestive situations". Likewise Hollywood bigwigs devise 'The Code', a list of do's and don'ts which recommended fines for use of expletives. David Selznick was fined \$50,000 for Clark Gable's famed utterance, "Frankly, my dear, I don't give a damn" from *Gone With The Wind*. ■