

Freedom of Speech and Cinema: The History of Korean Film Censorship

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Conflicts between individual expression and restrictive institutions have always existed regardless of time and place. In fact, no country in the world defines the controversial concept of freedom of speech clearly, due to the differing extents of freedom as well as the constant changes of society itself.

In particular, films came under strict control after their introduction in Korea, because they had great impact on the public with their great popularity and their vivid audio-visual effect. The censorship of Korean cinema has changed according to the government's attitude toward films and the social structure. In addition, as films have developed into an industry, freedom of speech has become not only an ideological issue, but also a demand from the film world that the government has had to pay attention to.

Before the Motion Picture Law

Film was first brought to the Korean Empire (1897~1910) towards the end of the Chosun dynasty. With its great popularity, it was a good means of introducing Western culture as well as high technology. In the early years, the intervention of the government was confined to general police action aimed merely at the prevention of fire or theft,

as many audiences gathered in dark places. However, when the country was put under Japanese rule in 1910 and Korean films were being made in quantity, the government started controlling ideas. Censorship on films began with the enactment of the “Entertainment and Entertainment Venue Regulation” (1922) followed by the “Motion Picture and Film Censorship Regulation” (1926). The government wielded its power against nationalist films or political films. During the Second World War, films were used as a means of war propaganda or instilling ideology. Therefore, film censorship was strengthened with the “Chosun Film Decree” (1940), which focused on censoring films that might damage the status or image of the Japanese Empire. Films that hindered any war objective or glorified the enemy, including America, were prohibited.

After the liberation and the setting up of the US military administration, the government newly established in August 1948 promoted its ideology through films. Naturally, films were controlled by the Public Information Office and the Ministry of National Defense (during the Korean War). In 1955, jurisdiction went to the Ministry of Culture and Education and the “Regulation for the Censorship of Public Performances” was passed. After the Democratic Revolution on 19 April 1960, a private organization called the Films Ethics Committee was established for the first time. However, this did not last long, due to the military coup on 16 May 1961. During this period, new government organizations and ideological confrontations between the right and left wings fueled confusion. In other words, the nation was not yet ready to think about the specific role of film as an autonomous social institution.

The Motion Picture Law

During the Third Republic (1961~1972), a number of regulations and systems were established, based on authoritarian administration. The first basic law for films, the Motion Picture Law (Act 995) was passed

in 1962. Film censorship took the form of granting permission before filmmaking by the Minister for Public Information. The Motion Picture Law was composed of three basic rules, i.e. the requirement of approval before filmmaking, the registering of filmmakers, and the requirement of government endorsement before exporting or importing films. This had nothing to do with promoting Korean culture, but was designed to control public ideas and instill anti-communist ideology. For over thirty years of the military government, control over films was strengthened as a means of maintaining and promoting the administration.

The revised constitution of 26 December 1962 clearly specified film “censorship” in the name of more effective regulation. The revised Motion Picture Law (Act 1830, 1966) required reporting of filmmaking activity itself and pre-censorship of screenplays, setting up a double censorship system. Any filmmakers not abiding by the regulations were ordered to stop their work. The Motion Picture Law stipulated basic rules for censorship. With the revision of the Public Performance Law on 31 December 1975, the Korea Performance Ethics Board was established. Although it appeared to be a private organization, it was run and supported by the Ministry of Culture. The establishment of the Board simply meant outright censorship by the government. This institution lasted for twenty years, until a ruling of the Constitutional Court in 1996. The Korean cinema had to endure a long dark period due to the ever-strengthening Motion Picture Law and the so-called Yushin (“revitalizing reform”) Constitution of the Fourth Republic.

Censorship was abolished with the fifth revision of the Motion Picture Law (Act 3776, 31 December 1984), following the prohibition of censorship by the revised Constitution of the Fifth Republic. Instead, a “pre-deliberation” system was adopted. However, the revised regulation only reflected the constitutional principle on paper, and in essence censorship remained unchanged. In other words, deliberation on films

was almost the same as censorship in terms of subjects, standards, and process. Films against anti-communist ideology or the government were not allowed to be screened or even made. The only new thing was that some erotic films were allowed, reflecting the overall democratization mood and a more open attitude towards sex. However, such erotic films fueled controversy about lewdness and led to the periodic control of such films. The public ended up getting the idea that Korean films were low-class and turned their back on them. Meanwhile, films started to reflect the public desire for democracy with the democratization movement in June 1987. Though such films were strictly controlled by the government, they led the public to feel angry about freedom of expression, which laid the groundwork for the Constitutional Court's ruling in 1996.

The Film Promotion Law

The Film Promotion Law (Act 5129) of 30 December 1995 replaced the Motion Picture Law. It stipulated pre-deliberation by the Performance Ethics Board in Article 12, which was very similar to the previous deliberation regulation. However, a new clause was inserted that exempted short films (less than forty minutes) and small-gauge films (under 16mm) from any deliberation. The pre-deliberation system was changed following the Constitutional Court ruling on 4 October 1996. The court concluded it was unconstitutional, as the deliberation system fell under the category of pre-censorship, which the constitution prohibits.

The government quickly amended the Film Promotion Law (Act 5321) and introduced a rating system. Films had to be rated by the Korea Performing Art Promotion Commission, and the decision could be held back for six months in the name of preventing any side effects from the rating system. The rating system was only a stopgap measure, and it did not make any fundamental change. Therefore, the Constitutional Court ruled the Commission unconstitutional too, much as with

the previous censoring institution on 16 September 1999.

Just before the ruling, the government revised the Film Promotion Law (Act 5929, 8 February 1999) and introduced a comprehensive measure that replaced the Korean Motion Picture Promotion Corporation (KMPPC) with the Korean Film Council (KOFIC). The revised Film Promotion law also replaced the Korea Performing Art Promotion Commission with the Korea Media Rating Board. The under-15 rating was deleted and the period of rating postponement was shortened to three months. Appeals could be filed within thirty days. Yet, the revised Law was due for another change with the Constitutional Court's ruling of 30 August 2001. The court said that the Rating Board was still under the control and support of the administration and the postponement system was simply a form of censorship, as it could postpone the rating decision indefinitely. Thus, the rating postponement system was abolished and a restricted screening system was established.

Conclusion

For a long time, the public was deprived of any opportunity to even discuss freedom of expression and films under colonial rule and military governments. Films were reduced to a means for the government's promotion of ideology and preservation of order. Yet, the film-related laws evolved in a legitimate way through the rulings of the Constitutional Court. Currently, the Korean film deliberation system is still in the process of changing, with continued talks on the restricted screening system and the establishment of an independent deliberation organization.