Banned
Australia’s Classification Review Board 1998-2008:
When Sex in Film is Just Too Offensive

Submitted by
Jade Y. Jontef
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School of Communication, Arts and Critical Enquiry
Faculty of Humanities and Social Sciences

La Trobe University
Bundoora, Victoria 3086
Australia

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# Contents

Acknowledgments

Thesis Summary

Statement of Authorship

<table>
<thead>
<tr>
<th>Introduction</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Brief Overview of Government Film Censorship</td>
<td>4</td>
</tr>
<tr>
<td>The Classification of Sex in Film: The Birth of the ‘R’ Rating</td>
<td>6</td>
</tr>
<tr>
<td>The Howard Years and Social Conservatism in Australia</td>
<td>8</td>
</tr>
<tr>
<td>The National Classification Scheme</td>
<td>10</td>
</tr>
<tr>
<td>The Classification Board and Classification Review Board</td>
<td>16</td>
</tr>
<tr>
<td>Chapter Review</td>
<td>19</td>
</tr>
</tbody>
</table>

## Chapter One

### Morality, Community Concerns and the Reasonable Adult:

#### What’s Moral, Whose Community and Aren’t I Reasonable? | 22
| Why Are People Concerned by Violent and Sexually Explicit Images? | 24 |
| What’s Moral? | 26 |
| Aren’t I Reasonable? | 36 |
| Community Versus the Individual | 39 |
| Conclusion | 43 |

## Chapter Two

### Cruelty, Sexual Violence and Fetishes: Why Pasolini’s *Salò* is Now Banned | 45
| *Salò* and its Classification Decision | 46 |
| *Romance* and its Classification Decision | 54 |
| Comparison: Why *Salò*? | 60 |
| Conclusion | 72 |
| Afterword | 73 |

## Chapter Three

### Rape, Gratuitous Violence and Explicit Sex:

#### Why the Depictions of Sex and Violence in *Baise-Moi* exceed R | 74
| *Baise-Moi* and its Classification Decision | 75 |
| *Irreversible* and its Classification Decision | 87 |
| Comparison: The Gratuitousness of *Baise-Moi* | 91 |
| Conclusion | 101 |

## Chapter Four

### Sex, Violence and Child Sexual Abuse: The Offensiveness of *Ken Park* | 103
| *Ken Park* and its Classification | 104 |
| *Mysterious Skin* and its Classification | 113 |
| Comparison: The Offensive Depictions of *Ken Park* | 122 |
| Conclusion | 129 |

## Conclusion | 130

## List of Terms | 134

## Works Cited | 139
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Thesis Summary

The representation of sex in the cinema has historically caused problems for the censors. “Obscene,” “immoral” and “offensive” are labels that are often linked to films which seek to explore sexuality in more explicit ways on screen. This thesis explores the censorship battles of three art films banned by the Australian Classification Review Board between 1998 and 2008. These films were banned because of their offensive depictions of actual sex, sexual violence and sexualised violence. The films which form the basis of this research are Pier Paolo Pasolini’s *Salò or The 120 Days of Sodom* (*Salò o le 120 giornate di Sodoma*, 1975), Virginie Despentes and Coralie Trinh Thi’s *Baise-Moi* (2000) and Larry Clark and Edward Lachman’s *Ken Park* (2002). Throughout my analysis I draw from three supplementary films which also contain depictions of actual sex, sexual violence and sexualised violence but were nonetheless released for viewing for the Australian (adult) public. Catherine Breillat’s *Romance* (1999), Gaspar Noè’s *Irreversible* (2002) and Gregg Araki’s *Mysterious Skin* (2004) will be used in a comparative analysis in order to demonstrate the limits of acceptability when it comes to the representation of sex in Australia.

This study focuses on the classification decisions of the Review Board and the reasons why these films were banned in Australia despite having been released all over the world. The Review Board determined that the sexually explicit and sexually violent imagery depicted in these films would be likely to offend the “reasonable adult.” The “offensiveness” of the material and the assumptions made in relation to community concerns regarding sexual images justified the Review Board’s decision to ban these films. This thesis asks whether the censorship of these sexually explicit films violates Australian adults’ civil liberties by restricting their freedom of choice.
Statement of Authorship

Except where reference is made in the text of the thesis, this thesis contains no material published elsewhere or extracted in whole or in part from a thesis submitted for the award of any other degree or diploma.

No other person’s work has been used without due acknowledgment in the main text of the thesis.

The thesis has not been submitted for the award of any degree or diploma in any other tertiary institution.

Jade Y. Jontef

Date:   /   /
Introduction

From *The May Irwin Kiss* (Heise 1896) to *Male and Female* (DeMille 1919), *Ecstasy* (Machaty 1933) to *Lady Chatterley’s Lover* (Allègret 1955), *Last Tango in Paris* (Bertolucci 1973) to *Eyes Wide Shut* (Kubrick 1999), “evocations of sex have saturated cinema since its inception” (Krzywinska, “The Enigma of the Real” 224). Historically in Australia the censors have been careful not to condone the explicit portrayal of sex in literature and film. At times the representation of sex has proved to be so problematic for the censors that they have forbidden it. When *Lady Chatterley’s Lover* (Lawrence 1928) was banned in 1963, an article written in *The Bulletin* noted that “Australia has a reputation for being one of the most censor-ridden countries in the English-speaking world” (qtd. in Hawkins 33). Again in 1969 an article published in the *Age* commented, “It is time to bury the notion that Australians are less worthy of being treated as adults than their fellows in Europe and America” (qtd. in E. Williams 52).

Forty years on and Australia is once again becoming that censor-ridden country. Australian adults are still being denied access to the same films legally available to adults in countries such as the United States and our neighbouring New Zealand. Films like *Salò* (Pasolini 1975), *Baise-Moi* (Despentes and Trinh Thi 2000) and *Ken Park* (Clark and Lachman 2002) have been screened legally throughout the world, despite being banned in Australia (Browne; Rankin-Reid; Sobot; Pomeranz and Shelley). Moreover they have been acknowledged as artistic works even by those members of the Classification Review Board that sought to ban them. The central issue for the censors remains the films’ depiction of sex. Films which portray sex more explicitly, and in some ways more dangerously, are likely to face a downward battle with Australia’s classification system. The state of censorship in contemporary Australia seems to be no
more progressive than it was in the sixties. The representation of sex is still as problematic for the censors today as it was when Lady Chatterley’s Lover was released. This thesis asks whether the banning of sexually explicit material in film is a violation of our civil liberties. It will be argued throughout this study that despite the reluctance of people to discuss the banning of sexual imagery as a civil rights issue, the censorship of sex in film does impede upon the liberties of all Australians.

This research explores the censorship battles over six feature films which depict real sex, sexual violence and sexualised violence. I have chosen to discuss art films in order to take the censorship debate beyond the world of pornography and into the public sphere. By relocating this discussion my intention is to show that the censorship of sexual images affects all Australian consumers and not just consumers of pornography. Art cinema, as defined by film historian and theorist David Bordwell, is a realistic cinema, showing us real locations and real problems (153). Art films depict realistic or “complex characters . . . it is a cinema of psychological effects in search of their causes” (Bordwell 153). The films which form the basis of my research are Pier Paolo Pasolini’s 1975 film Salò or The 120 Days of Sodom (Salò o le 120 giornate di Sodoma, 1975), Virginie Despentes and Coralie Trinh Thi’s 2000 film Baise-Moi and Larry Clark and Edward Lachman’s 2002 film Ken Park. It is important to note that other films have been refused classification in Australia during the ten year span my research covers. However, many of these films were refused classification (banned) by the Classification Board and not brought before the Classification Review Board (Review Board) upon appeal. Those films that did appear before the Review Board and were refused classification would not be considered art films and did not provoke as much public controversy as the films I have selected. These include Spanish horror film Tras El Cristal (In a Glass Cage) (Villaronga 1986) in 2004, the schlock horror film The Gore Gore Girls (Lewis 1972) in 2005 and a number of pornographic films in 2000-2001.
Although both boards are responsible for classifying films in Australia, I have chosen to restrict my research to the classification decisions of the Review Board. As all appeals are brought before this board, in the end it is their decision which determines whether or not a film gets banned.

Throughout my analysis I also draw from three additional films, which were all controversial in their own right for their depictions of sex, sexual violence or sexualised violence. However, these three supplementary films all received an R18+ classification and as such were able to be released and freely consumed by the Australian (adult) public. Catherine Breillat’s 1999 film Romance, Gaspar Noè’s 2002 film Irreversible and Gregg Araki’s 2004 film Mysterious Skin will be used for comparative purposes in order to demonstrate what type of sexual imagery is acceptable in Australia.

Interestingly, two of the three films banned by the Review Board were granted an R18+ classification in the original decision of the Classification Board. At one point, the members of the Classification Board must have believed that these films were suitable for adult consumption, before making them legally available. However, upon appeal Salò and Baise-Moi were banned by the Review Board in 1998 and 2002, respectively. The Review Board overturned the original R18+ classification awarded to both of these films and instead refused to classify them. Contrary to the opinion of the Classification Board, the members of the Review Board did not believe that these two films should be legally available to those adults wishing to exercise their freedom of choice to watch them. The third film to be banned by the Review Board was Ken Park in 2003. Although originally refused classification by the Classification Board, the decision to ban Ken Park could have been set aside by the Review Board upon appeal. Instead the original decision was confirmed and Ken Park was effectively banned in Australia.

There is a large body of critical literature on pornography established over the last forty or so years. Scholars such as Edward Donnerstein, Daniel Linz, Catharine
MacKinnon and most recently Alan McKee, Katherine Albury and Catharine Lumby have studied pornographic films and the influence they have, detrimental or otherwise, on our lives and culture. However, much less has been written more generally about sexually explicit art films. In recent years graphic sex and violence has become increasingly present in French cinema (Beugnet 47), but can also be seen in recent American art films such as Ken Park. Australia’s classification guidelines and code are out of step with the current milieu of sexually explicit art cinema. Hardcore pornography (non-violent) has a category of its own and simulated sex is permissible within the adult restricted R18+ rating, but explicit and at times violent art films do not really fit within either of these categories. The films I have selected are by critically acclaimed directors whose work have screened at a number of film festivals around the world. This is the reason why so much controversy followed the Review Boards’ decision to ban them.

This thesis is about cinema and the rules and regulations governing its consumption, so it sits firmly within the screen studies discipline. Legally this work is also relevant as it deals with legislative documents and the bodies that enforce them. It has a historical aspect to it as it is concerned with a particular time in Australia’s history and the cultural and political implications of that time. Yet on another level it is also political. A main concern arising from this research is that in Australia our civil liberties, specifically our freedom of choice, are being restricted. The underlying argument of this thesis is that classification should never become censorship.

**A Brief Overview of Government Film Censorship**

Films have always been a “source of contention between the people who make movies, those who watch them, and the individuals and organisations that regulate, censor, condemn, and ban them” (Tropiano 4). The first Commonwealth Film Censorship board in Australia was established in Melbourne in 1917. As film historian
Ina Bertrand explains, before that time the states controlled and regulated films (“What We Are Allowed to See” 70). At first they were judged by synopsis only, but by 1918 all imported films were viewed by the federal censors. In 1927-28 censorship was the focus of the Commonwealth Royal Commission into the Moving Picture Industry. Women’s groups, teachers’ associations and religious groups all gave evidence suggesting that “movies were a bad influence on the community, and particularly on children” (Bertrand, “What We Are Allowed to See” 72). The major concern of these groups was that the existing censors were too lenient and permissive. They complained that a number of films which should have been censored had been granted public release. An advisory system of classification was recommended by the Royal Commission.

With the introduction of classification in 1929, fewer cuts would need to be made to films. At this time a full-time Censorship Board and a new part-time Appeals Board was instituted with Walter Cresswell O’Reilly appointed as Australia’s first Chief Film Censor under this new system (E. Williams 53). In 1931 the Appeals Board was replaced with an appeals censor as a conflict of standards between the Censorship Board and Appeals Board had erupted. However, a part-time Board of Review was re-introduced under Don Chipp during his term as Minister for Customs and Excise in 1969-1972 (Bertrand, “What We Are Allowed to See” 78). All films that were classified by the censors were either passed, cut and then passed or banned altogether.

The shift towards classification as opposed to censorship occurred around 1986-87. Bertrand says that this was “a trend which had been occurring informally for several decades” (“What We Are Allowed to See” 82). The Office of Film and Literature Classification was established in 1988 and incorporated the Film Censorship Board and a Film and Literature Board of Review. It was not until May 1989 that films carried not only a classification label but also consumer advice informing the public of the reasons for the classification (Bertrand, “What We Are Allowed to See” 82). The
Commonwealth Classification (Publications, Films and Computer Games) Act 1995 came into effect on 1 January 1996 and was Australia’s first national classification legislation (Graham, “Australian Censorship History”). The Censorship Board was also renamed the Classification Board at this time. In 2006 the Office of Film and Literature Classification was closed. The Classification Board and Review Board have since reported to the Attorney-General’s Department (Classification Website).

There have been several changes to the classification labels used over the years. In the beginning there was G for general exhibition; NRC not recommended for children; and AO for adults only (all advisory categories only). In 1971 a restricted category R was introduced, which will be discussed in more depth in the next section, and M replaced the existing AO classification. An X rating was created in 1984 for sexually explicit, non-violent videos. It was not until 1993 that MA for Mature Adult was added to the list of film classifications. MA was another restricted category in that unless accompanied by an adult or guardian, only those over 15 years of age were permitted to watch MA films (Graham, “Australian Censorship History”). The current classifications for films in Australia are G, PG, M, MA15+, R18+ and X18+.

The Classification of Sex in Film: The Birth of the ‘R’ Rating

1971 marked an important year for the classification of films in Australia. This was the year that all states throughout the country agreed to pass legislation enabling a new category for the classification of films with an adult content (Bertrand, Film Censorship 189). Three advisory classifications already existed: G for general exhibition; NRC not recommended for children; and AO for adults only, but none of these were mandatory (Bertrand, “What We Are Allowed to See” 75). The R classification was introduced as a restricted category for the classification of films containing material unsuitable for children. The first film to receive the newly created R
certificate was Robert Altman’s 1971 film McCabe and Mrs. Miller. It screened in Australia on November 15 1971 or R-day as Bertrand calls it (Film Censorship 189).

A powerful new organisation formed in the seventies – Festival of Light – with the goal to “‘mobilise Australians in support of purity, love and family life’ through Christian values and ethics” (Bertrand, “What We Are Allowed to See” 78). Festival of Light believed that people of God should turn away from pornography and “other distortions of sex.” They believed that Christians must reject pornography as inherently damaging and “uphold biblical teaching on sexual purity, while helping society comprehend a right understanding of sexuality” (FamilyVoice Australia). Festival of Light has always been particularly concerned with screen images, from hardcore pornography to nudity. Although censorship was not the only issue of concern for Festival of Light, it was a major part of their agenda. After failed attempts to prevent the implementation of the R certificate, Festival of Light targeted individual films such as Language of Love (Wickman 1969), A Clockwork Orange (Kubrick 1971), Last Tango in Paris (Bertolucci 1973) and Portnoy’s Complaint (Lehman 1972) (Bertrand, Film Censorship 191-92). Festival of Light is still very relevant today. Under their new name FamilyVoice Australia, they continue to be an active pressure-group in the fight for stricter censorship.

The creation of the R classification meant that children could be excluded from watching unsuitable films. This allowed adult audiences to freely watch films containing material, sexual or otherwise, which previously would have been banned. While the introduction of the R classification originally extended the freedom of adults to watch what they want, this analysis of recent Review Board decisions will show that it does not necessarily guarantee it.
The Howard Years and Social Conservatism in Australia

As the title suggests, this thesis is a study of films which were banned by the Australian Classification Review Board between 1998 and 2008. This period of history was dominated by a liberal conservatism indicative of the government at the time. The censorship of *Salò*, *Baise-Moi* and *Ken Park* reflects the social agenda of the Howard administration (1996-2007). Although the political context of these films in Australia is not the focus of this work, the social agenda of the Howard government is important to understanding the reformulation of classification board members.

Australian academic Marion Maddox has published a number of works on the interaction between religion and politics in Australia including *God Under Howard: The Rise of the Religious Right in Australian Politics*. According to Maddox, social conservatives lost much of their ground during the eighties and early nineties (76). However, under the Howard administration an extreme form of conservative Christianity was “assiduously cultivated” (Maddox, slip jacket). Former Prime Minister John Howard put “family values” back on the political agenda in Australia with policies indicative of a government “embrac[ing] the extreme end of conservative Christianity” (Maddox 74). Howard was backed by the Lyons Forum, a group of right-wing Christian Coalition MPs, who were fundamental in his ascendancy during his reign as Liberal Party leader. Moreover, the Lyons Forum waged the Howard Government’s “successful family values crusade” (Maddox 30). His “willingness to front, and exploit, a religious right social agenda” (Maddox 30) had a real impact on the arts in the nineties and early naughties.

During Howard’s time in office, the Liberal Party supplied the Office of Film and Literature Classification with a “more conservative panel of censors” (Maddox 76). *Salò*, *Baise-Moi* and *Ken Park* were all brought before the Review Board during the Howard administration. In “Moral Cleansers Past Their Used-by Date,” well-known
writer and political commentator, Ross Fitzgerald describes how Howard “carefully installed puritans” in key positions throughout the government, leaving Australia with a “wowserish administration” ill-fitted to deal with modern society. Others such as academic Binoy Kampmark have also used the term “wowser” to describe the conservativism of the Australian media landscape during the Howard years.

Irene Graham is the editor of libertus.net, a website dedicated to providing information about censorship and freedom of speech in Australia. According to Graham “a remarkable number of appointments made since 1999 indicated positions on the Classification Boards were regarded as jobs for mates of Commonwealth Liberal Party Government politicians and/or the Liberal Party generally” (“Classification (Censorship) Boards”). Graham is not the only person to have pointed this out. In 2007, then Australian Labor Party Shadow Minister for Homeland Security, Arch Bevis MP said:

The chief problem facing Australia’s classification regime these days is simply the fact that the government has spent the past 11 years making sure that, instead of community representation, Liberal Party mates are more than well represented on that Classification Review Board . . . In other words, we have a board that, in large part, is representative not of the community at large but of a narrow political ideology represented in the Liberal Party. How can the Australian community have confidence in the classification watchdog when more than half of its members are representative of such a narrow constituency?

Graham lists a number of members appointed to the Boards who had connections with then Prime Minister John Howard and the Liberal Party more generally. Some of these include: Donald McDonald who is the current Director of the Classification Board and former chairman of the Australian Broadcasting Corporation. He is according to Graham, “widely reported to be a close friend” of John Howard (“Classification
(Censorship) Boards”); Trevor Griffin who was Attorney-General in the South Australia Liberal Party Government and “during which time . . . demonstrated the traits of an arch conservative” (Graham, “Classification (Censorship) Boards”); former Convenor of the Review Board, Maureen Shelley was a Liberal Party candidate in the 1998 Federal election and is a Councillor and former Deputy Mayor of Ku-ring-gai Council; former Review Board member, Rob Shilkin was a Liberal Party member; and another former member of the Review Board, Gillian Groom is the wife of Ray Groom who was Premier of Tasmania from 1992-1996 (Liberal Party). The number of political persons on the Classification Board and Review Board during the Howard Government suggests that they are far from representative of the Australian community.

The National Classification Scheme

The National Classification Scheme was established following recommendations made by the Law Reform Commission in 1991. The National Classification Scheme commenced on the 1 January 1996 as a cooperative arrangement between the Commonwealth, States and Territories (Classification website). The scheme was established so that classification would be nation-wide rather than the responsibility of each Australian jurisdiction. Under the National Classification Scheme the Australian Government is responsible for the classification of films. The Classification Board and Review Board were established to make classification decisions in line with the Commonwealth Classification (Publications, Films and Computer Games) Act 1995, the Guidelines for the Classification of Films and Computer Games and the National Classification Code. These legislative documents are particularly important to my thesis and will be referred to as the Act, the Guidelines and the Code. Together they determine what is legally acceptable to be shown in each film classification category throughout the country. When classifying a film, the Review Board must make their decision in
accordance with these three documents. Below is a brief outline of those sections of these documents which are of relevance to this thesis.


The Classification (Publications, Films and Computer Games) Act 1995 came into effect on 1 January 1996. The Commonwealth Act was Australia’s first nation-wide classification legislation for publications, films and computer games. Additionally each State and Territory has its own classification enforcement legislation. However the States and Territories agreed in 1995 to rely on the decisions made under the Commonwealth Act and granted the Commonwealth Classification Boards the power to classify publications, films and computer games (Graham, “Australia’s Classification (Censorship) System”).

The Act names the seven classification categories for films as G General; PG Parental Guidance; M Mature; MA15+ Mature Accompanied; R18+ Restricted; X18+ Restricted and finally RC – Refused Classification. The Act does not define these categories. Specific criteria for each classification is set out in the National Classification Code and the Guidelines for classification. However what is particularly relevant to this research is Section 11 of the Act entitled “Matters to be Considered in Classification.” Section 11 lists 4 matters that are to be taken into account by both classification boards when classifying a film. Section 4(a) and 4(b) will be especially relevant as they establish the need for the Review Board to consider the standards of acceptability and artistic merit. The 4 matters to be taken into account when classifying a film are:

(a) the standards of morality, decency and propriety generally accepted by reasonable adults; and
(b) the literary, artistic or educational merit (if any) of the publication, film or computer game; and

(c) the general character of the publication, film or computer game, including whether it is of a medical, legal or scientific character; and

(d) the persons or class of persons to or amongst whom it is published or is intended or likely to be published.

Guidelines for the Classification of Films and Computer Games

The Guidelines for the Classification of Films and Computer Games explain the scope and limits of the material suitable to be shown in each classification category named in the Act. Up until 2003 there were separate guidelines in place for the classification of films and the classification of computer games: the Guidelines for the Classification of Films and Videotapes; and the Guidelines for the Classification of Computer Games. The Attorney-General and each participating Minister agreed to repeal these two documents and replace them with one set of guidelines: the Guidelines for the Classification of Films and Computer Games (Australia Commonwealth of Australia Gazette, No. GN 12). State and Territory Censorship Ministers are responsible for determining the classification criteria for each category. This is then documented in both the National Classification Code and the Guidelines for classification which are Commonwealth legislative documents. The three essential principles underlying this document are the importance of context, impact and classifiable elements. Context relates to whether a classifiable element is justified by the story-line or themes of the film (Guidelines 5). Impact is assessed using a hierarchy from very mild for a G rating to very high to be refused classification (RC). Finally, the six classifiable elements are themes, violence, sex, language, drug use and nudity. A film’s classification will depend on the context and impact of these elements as well as “the purpose and tone of a
sequence, and how material is treated” (Guidelines 6). The classifiable elements discussed in this study are sex and violence. Sexual violence, which is defined in the Guidelines as “[s]exual assault or aggression, in which the victim does not consent,” is treated as an element of violence (14).

The Guidelines were created to help the boards classify films by explaining the different classification categories and the acceptable material permitted within each category (Guidelines 2). As my research relates to depictions of sex and violence in films which have been banned, the classification categories of importance to my study are the R18+ restricted classification and the RC or refused classification category. Films classified R18+ are legally restricted to adults and some of the material depicted in these films “may be offensive to sections of the adult community” (Guidelines 11). If a film is given an RC classification by the Review Board it will be banned in Australia1.

In regards to acceptable depictions of sex and violence permitted in the R18+ classification, the Guidelines state that the impact of material in this category should not exceed high. Violence and nudity are permitted but sexual violence may only be implied and must be justified by context. Sexual intercourse and sexual activity may be realistically simulated but not the real thing. Sexual activity refers to “[m]atters pertaining to sexual acts, but not limited to sexual intercourse” (Guidelines 14). The “general rule is ‘simulation, yes – the real thing, no’” (Guidelines 11). If a film has exceeded the limits of suitable material permitted for an R18+ or X18+ rating, then it should be refused classification (RC). The X18+ classification is a restricted category for pornographic films containing consensual sexually explicit activity and only applies to films for sale or hire in the ACT and Northern Territory. As mentioned earlier each State and Territory has its own classification enforcement legislation which is complementary.

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1It is legal (except in Western Australia and prescribed areas of Northern Territory) to possess for private/personal purposes a film classified RC unless it is defined as child pornography/abuse/exploitation material. Although it is illegal to sell or distribute RC material, mere possession is not actually an offence.
to Commonwealth legislation. When the X category was originally proposed in 1983, all State Censorship Ministers agreed to pass legislation in their States enabling X rated films to be legally available for sale and hire to adults. However, there was so much political pressure by interest groups that none of the State Censorship Ministers followed through (Lumby, Green and Hartley 3). For instance the Women’s Advisory Council advised the premier of New South Wales to condemn X rated material as it portrayed women as “things, commodities and objects” (McKee, Albury and Lumby 19). Influential individuals such as British conservative Mary Whitehouse and her Australian counterpart, the Reverend Fred Nile, also lobbied the state premiers and censorship ministers to ban the X rating (McKee, Albury and Lumby 19). So although X18+ classified films have not been refused classification by the Commonwealth boards, they are illegal to sell to adults in six states.

For a film to be refused classification it would have been shown to contain gratuitous, exploitative or offensive depictions of sexual violence; violence with a very high degree of impact; cruelty; or real violence. If a film contains “[d]escriptions or depictions of child sexual abuse or any other exploitative or offensive descriptions or depictions” of a child who appears to be under the age of 18 years, it will be refused classification (Guidelines 13). To be RC a film may also have contained gratuitous, exploitative or offensive depictions of sexual activity accompanied by fetishes or practices which are offensive or abhorrent; incest fantasies; or other fantasies which are offensive or abhorrent. Perhaps the most important definition listed in the Guidelines is offensive, meaning “[m]aterial which causes outrage or extreme disgust” (14). The use and meaning of this word will become increasingly significant as it is the “offensiveness” of particular types of sexual images that causes certain films to be banned.
National Classification Code

Finally, the National Classification Code states that classification decisions are to be applied according to 4 principles. That:

(a) adults should be able to read, hear and see what they want;
(b) minors should be protected from material likely to harm or disturb them;
(c) everyone should be protected from exposure to unsolicited material that they find offensive;
(d) the need to take into account community concerns about:
   (i) depictions that condone or incite violence, particularly sexual violence; and
   (ii) the portrayal of persons in a demeaning manner.

Included in the Code is a table which sets out the broad criteria for each classification category as documented in the Guidelines. The Review Board must classify films in accordance with the information provided in this table.

Two important amendments were made to the Code and Guidelines in 1999 and 2005. These will be especially significant in Chapter Four concerning child sexual abuse. The first, in 1999, was to include in the guidelines for RC films “material which promotes or provides instruction in paedophile activity” (Australia Commonwealth of Australia Gazette, No. GN 22). The 1996 guidelines had only proscribed depictions of child sexual abuse and detailed instruction in matters of crime and violence, but nothing specifically regarding paedophilia. In 2005 additional amendments were implemented by the Censorship Ministers which are of relevance to my study. These are outlined in the Explanatory Statement to the 2005 Code issued by the authority of the Attorney-General. Again, amendments were made to the RC classification but this time in regards to offensive depictions of children. The Code stated that films would be refused
classification if they were to “depict in a way that is likely to cause offence to a reasonable adult a person who is, or who looks like, a child under 16 (whether or not engaged in sexual activity).” The 2005 Code states that films will be refused classification if they “describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not)” (emphasis added). Most significantly, the Censorship Ministers had increased the age mentioned from 16 to 18. According to the Explanatory Statement pornographic material involving 16 and 17 year olds was already being refused classification by the Classification Board. This change was said to be made to ensure that the classification system would continue to prohibit child pornography and would not “adversely effect the material that is permissible in dramatic films” (Explanatory Statement).

The Classification Board and Classification Review Board

Although my research largely deals with the decisions of the Classification Review Board, it will be necessary throughout my study to draw from the original decisions of the Classification Board. As such this section provides an overview of both classification boards in Australia. From 1994 to 2006 these two boards were incorporated in the Office of Film and Literature Classification. However, in 2006 the Office of Film and Literature Classification was dissolved and classification became the responsibility of the Attorney-General’s Department (Classification Website). As my research is mainly concerned with the period in which the Office of Film and Literature Classification was operating and governing classification in Australia, this body will be discussed periodically.

The Classification Board and the Classification Review Board are independent statutory bodies established by the Act. One of the functions of the Act is to set out the
powers and functions that may be exercised by these boards. These two bodies will be referred to as the Classification Board and the Review Board. The Act requires that before a film is released it must be classified by the Classification Board according to the principles of the Code and Guidelines for films. If the opinion of the Classification Board is not unanimous, the majority opinion prevails. A classification decision made by the Classification Board may be appealed in which case it is brought before the Review Board for consideration. The persons who may apply for a review of a classification decision are: the Commonwealth Censorship Minister on his/her own behalf or at the request of a participating State or Territory Censorship Minister; the original applicant for classification of the film; the publisher of the film; or a person aggrieved by the decision (Classification Act 48). The Review Board must classify the film in accordance with the same principles governing the Classification Board and all decisions made must be in accordance with the Code and the Guidelines. As an independent body separate from the Classification Board it is expected that the members of the Review Board take a fresh look at the film and make their decision accordingly. The final classification decision will come down to the majority opinion of Review Board members.

Members of the Classification Board and Review Board are appointed by the Governor-General for a period of up to five years. Members may be re-appointed but cannot hold office for more than seven years (Classification Website). Section 48(2) and 74(2) of the Act requires that when appointing members to both boards, regard must be given to ensuring that the members are broadly representative of the Australian community. Positions on the Classification Board and Review Board are advertised nationally and “[n]o formal qualifications are specified, but applicants are required to meet specified selection criteria reflecting the qualities required to effectively carry out the work of the Board” (Classification Website). According to the Classification Website, Board members must “possess maturity and balance, and the ability to apply
reason, commonsense and sensitivity in the performance of their duties.” The Commonwealth Censorship Minister is required to consult with the State and Territory Censorship Ministers before making a recommendation to the Governor General.

Commonwealth legislation requires that members of the Classification Board and the Review Board “are chosen from a range of backgrounds to broadly represent the Australian community” (Classification Website). However whether or not members of the Boards actually are broadly representative of the Australian community is another question. While Howard appointed Liberals to the classification boards, the Rudd Government\(^2\) preferred those with a legal background. Of the six current members of the Review Board: two have a Bachelor of Arts and a Bachelor of Laws; one has a Master of Arts, a Master of Human Rights and a law degree; another has a Master of Laws; one member is an Associate Professor in Law, has a PhD in Law as well as a Bachelor of Arts (Hons); and the sixth member is a registered psychologist who has “served as an expert reporter in the Family Court and Federal Magistrates Court on issues relating to the welfare of children” (Classification Website). Of the six members currently appointed to the Review Board, five have a law degree. This is not to say that the current members are not worthy of their appointment but rather the selection demonstrates that the Review Board is not, despite the requirements of the Act, broadly representative of the Australian community.

This research relies a great deal on the Classification Board and Review Board reports on _Salò, Romance, Baise-Moi, Irreversible, Ken Park_ and _Mysterious Skin_. Without these documents, this study would not have been possible. These reports gave me access to information regarding reasons for the classification decisions, in a depth I would not have obtained from any other sources. The reader will notice that throughout this work sections of these reports are included within the main text. Though the reports

\(^2\)After a leadership ballot was held in June 2010, Julia Gillard took over leadership of the Labor Government and thus the prime ministership of Australia.
are available online, some through the Classification Website, others on Libertus.net, I felt that the reader needed access to the relevant information to truly grasp its significance. Having the detail throughout the text, rather than in an appendix, helps the reader understand the material more clearly. Thus, at times, I felt it necessary to include quite lengthy quotes.3

Chapter Review

This thesis is separated into four chapters. Chapter One examines why the Review Board deems certain kinds of sexual imagery offensive to our sensibilities. When classifying a film the Review Board must take into account community concerns and consider what the “reasonable adult” would find acceptable. According to the Guidelines for the Classification of Films and Videotapes 1996, the “reasonable adult” is a person “possessing common sense and an open mind, and able to balance personal opinion with generally accepted community standards.” This chapter asks who is the “community” and what are they really concerned about when it comes to depictions of sex and violence in film? It poses the question who is the “reasonable adult” on whose behalf the Review Board claims to be making decisions? In contrast to the subsequent three chapters which discuss the classification decisions of the Review Board in relation to six case studies, this chapter is an exploration of three ambiguous but nevertheless readily enforced concepts: “morality,” “community concerns” and the “reasonable adult”4.

The three chapters that follow are case studies in which I focus my analysis on particular kinds of sexual imagery. Each of these chapters deals specifically with one of

3The reader may notice that passages from the classification reports are often grammatically incorrect. These grammatical errors were present in the original source and not the fault of the author.
4The term “reasonable adult” is frequently utilised by members of the classification boards when discussing film classification. To ensure readability, this term will be written henceforth without quotation marks.
the films banned by the Review Board and one of the films that were released with an R18+ classification. The Review Boards’ classification reports will be particularly important to my argument. These reports will provide insight into why these classification decisions were made and on what grounds the primary films were refused classification. In these chapters I examine why the sexual imagery and violent depictions in one film was considered unacceptable, while another film containing imagery of a similar nature was able to be accommodated within the scope of the R18+ classification.

Chapter Two starts by examining the case of Salò and, for comparative purposes, Romance. Both of these films were considered problematic due to their depictions of sexual violence and fetish activity. Additionally Salò contained images of violence in the form of cruelty and portrayed the sexual abuse of young people; while Romance was most controversial for its instances of explicit/real sexual activity. Chapter Three examines the reasoning behind the banning of Baise-Moi and the release of Irreversible. Both films are tales of rape and revenge and each contains instances of gratuitous violence, explicit sex and is particularly controversial for its depictions of sexual violence. Chapter Four is concerned not only with explicit sex and sexualised violence, but with the depiction of child sexual abuse in Ken Park and Mysterious Skin. The Review Board found the depiction of auto-erotic asphyxiation and the portrayal of child sexual abuse in Ken Park to be particularly offensive. The controversy that Ken Park sparked in Australia reinvigorated the debate around the censorship of images. There were the usual arguments for and against the banning of this film. On the one hand it was considered an artistic work by an acclaimed director and banning it would limit our freedom of choice. Others found the film offensive and gratuitous and condemned it. But Ken Park adds another element to the debate; the portrayal of children. Although all the actors were over the age of 18, they were depicted as being of school age. This fuelled an already existing debate around images of children and what constitutes child
pornography. However *Ken Park* was not banned because the Review Board believed it was child pornography. It was banned because it was considered “offensive.”
Chapter One

Morality, Community Concerns and the Reasonable Adult: What’s Moral, Whose Community and Aren’t I Reasonable?

In 1859 philosopher John Stuart Mill, in his influential work *On Liberty*, proposed a principle for law-making in which he stated that members of civilised society should be guaranteed the “liberty of tastes and pursuits . . . without impediment from our fellow creatures, so long as what we do does not harm them, even though they should think our conduct foolish, perverse or wrong” (qtd. in Pitman 15). Disputes over taste should not be written off as trivial. They involve “complex contests of values” both moral and aesthetic (Marr, *The Henson Case* 134). David Marr, Australian journalist, author and social and political commentator, believes that “Australia seems caught in these confusions: of personal taste and public danger; of passionate difference and pleas for punishment; of decent concern and bullying restrictions” (*The Henson Case* 134-135). This chapter explores the concepts embedded in Australia’s classification guidelines and code which infringe on the individual’s freedom of choice. Throughout this thesis I will be arguing that our civil liberties, specifically our right to choose what we watch, are being restricted by a classification system which places little value on the individual. In the coming chapters it will become apparent that the Review Board use terms like “community concerns” and the “reasonable adult” to justify banning films of which they disapprove. Under the guise of being “offensive” films that have been released all over the world have been banned in Australia. This chapter aims to explore these terms in greater depth in order to highlight their contentious nature.
When making classification decisions the Review Board is asked to determine the appropriate rating of a film, including whether or not it should be banned, according to criteria set out in the Act, Guidelines and Code. The need to take into account “community concerns” regarding sexual violence is highlighted as is the requirement to refuse the classification of films containing material that may offend the reasonable adult. Section 11(a) of the Act, under ‘Matters to be Considered in Classification’, states that when making a decision regarding the classification of a film the board must take into account “the standards of morality, decency and propriety generally accepted by reasonable adults.” Similarly, part 3 of the Code reinforces that films which contain material that the reasonable adult may find offensive should be banned. Item 1(a) of the classification table states that the RC rating applies to films that:

depict, express or otherwise deal with matters of sex . . . crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified.

The Code also provides four principles which the Review Board must take into account when making classification decisions. The fourth principle is where the concern of the community is first expressed as a concrete concept. Here it states “the need to take account of community concerns” about “depictions that condone or incite violence, particularly sexual violence.” At no point do the documents specifically outline who the reasonable adult is or what materials transcend their boundaries of offensiveness. Nor do they specifically express who the community encompasses or exactly what are their concerns relating to violence and sexual violence. Accordingly, when a film comes before the Review Board they are at liberty to decipher these issues for themselves. It is within their power to determine what the reasonable adult would find offensive and what
community attitudes are in relation to sex and violence. Based on these determinations, the Review Board has the authority to ban a film.

Three ambiguous but nevertheless readily enforced concepts are explored in this chapter: morality, the reasonable adult and community concerns. The Review Board, through the implementation of these concepts, is responsible for determining whether a film should be banned or released. The overwhelming principle at stake here is the right of Australian adults to watch what they choose. Every time the Review Board uses “community concerns” or “offensiveness” to justify banning a film, this liberty is crushed. Simply put, our freedom of choice is being restricted. The first section of this chapter deals with why people are concerned by representations of violence and sexually explicit images. The main findings of research into the effects of screen violence and sexually explicit material are briefly outlined. In the second section morality and its association to the notion of protection from harm is discussed in relation to offensive material. The third section explores the concept of the reasonable adult while the fourth considers “community concerns” and its impact on the individual’s right to choose. Both the reasonable adult and “community concerns” are terms employed by the Review Board to justify the banning of films and yet neither are true entities. Utilising these terms the Review Board aims to legitimise its position by dismissing any opposing views as representing the minority. This implies that if you object to the banning of a film you are neither part of the community nor reasonable.

Why Are People Concerned by Violent and Sexually Explicit Images?

In The Porn Report Alan McKee, Katherine Albury and Catharine Lumby state that “there is widespread public concern in Australia about violence, not just pornographic material but also more widely in films and television” (51). Marr puts it accurately when he says that “many of us instinctively feel [that there] ought to be [a
link] between horrors on the screen and horrors in life” (The High Price 125). There are a number of reasons why there is a fear around the representation of violence in film. Numerous studies have identified an association between violence in the media and aggressive behaviour, but none of these have been able to prove that the portrayal of violence in film and television causes violent behaviour in real life (Brown 1; Savage 1132; Marr, The High Price 124; Barwick 38). Likewise, academic William A. Fisher and psychologist Guy Grenier found that while numerous researches have confirmed the association between exposure to violent pornography and “antiwoman” behaviour, just as many have disconfirmed the association (24). Nevertheless Melanie Brown, Australian Institute of Criminology researcher, states that studies suggest exposure to media violence “enhances the risk that the viewer will engage in subsequent aggressive behaviour” (1). As will be discussed below the research into the effects of pornography has drawn similar conclusions. It is important to outline the findings of these studies as they are sure to influence public opinion and impact on policies around sexually violent images in film. As a thorough discussion of this research is beyond the scope of this thesis, this section will only briefly summarise the main findings of these studies.

The public anxiety over violent images is understandable as research has drawn some concerning conclusions about violence in the media. Studies have found that screen violence is associated with increased aggression, can lead to a desensitisation to violence and may reinforce the behaviour of already aggressive people. It has also been suggested that people who watch violent films may imitate or mimic the violent behaviour, therefore contributing to an increase in violent crime (Brown 2).

The most widely cited research linking sexually explicit material with sexual aggression in consumers is Edward Donnerstein, Daniel Linz and Steven Penrod’s work on pornography (Harris 38). In the late eighties Donnerstein, Linz and Penrod published a number of articles based on their laboratory studies into the effects of sexually violent
images on male viewers (see for example Donnerstein; Linz; Donnerstein and Linz; Donnerstein, Linz and Penrod; Linz, Donnerstein and Penrod). Despite its age, their research into the effects of sexually explicit material on consumers is still drawn upon today. Their studies suggest that violent pornography can reinforce aggression towards women. Their general findings indicate that exposure to “aggressive pornography” (i.e. sexually explicit violent films) increases levels of aggression; males who are exposed to aggressive pornography display more aggressive behaviour towards women specifically (Donnerstein 78-79); and repeated exposure to sexually violent (but not explicit) films leads to the desensitisation to violence against women (Linz, Donnerstein and Penrod 142-144). Research into the effects of sexually violent films has also suggested that they increase men’s acceptance of rape myths and self-reported likelihood of raping a woman. Furthermore they indicate that men who are exposed to sexually violent films are more likely to accept violence against women (Fisher and Grenier 24-25).

With research suggesting that there is, at the very least, a slight association between violent images and aggressive behaviour, it is understandable that the public are concerned over representations of violence in the media. However, it is important to note that where a relationship between violence in the media and aggressive behaviour has been established, the link is “very, very small” (Savage 1127).

**What’s Moral?**

As established earlier the Review Board has the power to ban films that they do not deem suitable for adult consumption. Essentially then, the Review Board is taking on the role of paternal guardian, treating all adults as children who need “protection” from being exposed to “offensive” material. Andrew Koppelman, American professor of law and political science, states in his article “Does Obscenity Cause Moral Harm?” that “it is not a light thing to treat adult citizens as if they were children” (1679). In this section
ideas about morality and public harm will be discussed. As psychology scholar Peter W. Sheehan says, “the notion of protection from harm is linked directly to . . . [concerns] about the negative effects of viewing violence” (166).

As cinema became more successful in reaching mass audiences, a growing fear over what detrimental effects a lack of sufficient regulation would have on public morality emerged. Academic Tanya Krzywinska states that representations of sex and sexuality have long been considered to have the “potential to destabilise dominant mores about sex and desire because of their strong seductive power” (Sex and the Cinema 2). In addition sexual representations also have the ability to show the spectator imagery and ideas that may influence their own sexual expectations and fantasies (Krzywinska, Sex and the Cinema 2). Because of these reasons sexually explicit material is constantly scrutinised and discussed in terms of whether or not it is acceptable for public consumption.

In her article “Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality,” US feminist Gayle Rubin says that most social or political groups seek to draw a line between acceptable and unacceptable sexual behaviours by creating a value system of sexual practices. These groups, through the use of this system demand that certain rules of sexuality be observed. Rubin states that:

Any sex that violates these rules is ‘bad’, ‘abnormal’, or ‘unnatural’. Bad sex may be homosexual, unmarried, promiscuous, non-procreative, or commercial. It may be masturbatory or take place at orgies, may be casual, may cross generational lines, and may take place in ‘public’, or at least in the bushes or the baths. It may involve the use of pornography, fetish objects, sex toys, or unusual roles. (152)
One of the main functions of the law is to protect and preserve the moral code that orders the society that abides by that law (Dwyer 5). The influence cinema has, alongside the law and other discourses, on moral standards is why there is constant upheaval as to how screen sex should be managed and regulated (Krzywinska, Sex and the Cinema 83). However, as clinical psychologist and researcher Victor B. Cline explains, “[t]he government should not enforce widely held moral or religious beliefs” which speak against sexually explicit material “merely on the ground that it is evil, bad, or wrong” (6). “This is a private morality and is not the province of governmental intrusion or interference” (Cline 6). Whether ultimately banned or released, all the films that I discuss herein, were controversial due to the conflict that arose each time between what was considered entertainment and what was seen to diminish public morality.

Susan Dwyer is an academic whose research is primarily focused on moral psychology and philosophy. In “Constructing the ‘Problem’ of Pornography,” Dwyer outlines the traditional moralistic claims against the distribution of pornography. She explains the argument anti-pornography campaigners’ use in the following terms: “Because (i) pornography is immoral, and (ii) the purpose of the law (including the criminal law) is to protect the moral well-being of society, then (iii) the state should prohibit the production, display, and sale of pornography” (6). Although Dwyer is speaking specifically about pornography here, this line of reasoning is still useful to my discussion of sexually explicit films more generally. As much of the writing on sexually explicit material relates to pornographic films and not sexually explicit films per se, the arguments surrounding pornography are a necessary starting point. Moreover, the logic behind prohibiting sexually explicit films, like Salò, Baise-Moi and Ken Park, is much the same as that proscribing pornography.

Sexually explicit material and sexually violent material, including fetish activity, bondage and sadomasochism, are argued to be immoral and harmful in two ways.
Firstly, it is said to objectify and repress people within society, especially women. Secondly, any audience with a weak moral conscience may be negatively affected by the imagery, influencing them to imitate the immoral sexual behaviour and violent sexual activity depicted. Sexually explicit and sexually violent material is said to be immoral and harmful in the first instance because it objectifies and represses people within society, especially women. Recognised for her research in the philosophy of science, social epistemology, and feminist philosophy, Helen Longino in her chapter “Pornography, Oppression, and Freedom: A Clearer Look” defines immoral behaviour as that which causes other people to suffer injury or be violated as a result of that behaviour (35). Immoral acts included are those which are exploitative, cause physical or psychological pain and degrade or misrepresent others. Alternatively, there are examples of sexually explicit films which Longino believes are not morally objectionable. These films portray sexual activity as being between adults who share a mutual respect for each other and the material acknowledges human dignity and personhood (Longino 36).

Central to Longino’s position on immoral materials is the context in which those images are portrayed. Importantly, Longino does not believe that all representations of sexual abuse and degradation are automatically pornographic, but rather that where these violent depictions do exist in film, they must be justified by context. Only when these representations of exploitation, abuse and degradation are contextualised within the film’s narrative, that is to say that the film does not appear to approve of or encourage the immoral sexual behaviour, can the material be deemed morally acceptable.

Similarly, legal academic Bede Harris in his study “Censorship: A Comparative Approach Offering a New Theoretical Basis for Classification in Australia,” emphasises the importance of context in identifying whether a film which combines sex and violence is harmful. Drawing on the work of Donnerstein, Linz and Penrod, Harris
explains that it is not actually explicitness that has an aggressive effect. In their research, Donnerstein, Linz and Penrod found that films which depicted violence in a sexual context produced the same level of aggression in the viewer as films which depicted violence in a sexually explicit context (Harris 43). Therefore material which combined sex and violence was shown to have an aggressive effect on the viewer, irrespective of sexual explicitness (Harris 43). In other words we can identify objectionable materials as those which sexualise violence rather than those which simply depict violence in conjunction with sexual explicitness. But, as stated above in order to distinguish whether or not a film sexualises violence it needs to be determined whether the material condemns or endorses the violent behaviour (Harris 43). Once again we can see that it is the context in which the violence is portrayed which signifies whether or not a film will be determined as being harmful to the consumer and on a larger scale to society.

It is undeniable though that sexual explicitness when combined with violence is exactly what the Review Board finds most objectionable. This is clear in their findings on the rape sequences in Baise-Moi and Irreversible. While the rape in Irreversible was considered “restrained in its portrayal of a deeply offensive act,” the rape scene in Baise-Moi was according to the Review Board “prolonged, detailed and gratuitous,” despite actually being shorter in length. It was precisely the sexual explicitness of the scene, namely the close-up shot of vaginal penetration, that the Review Board found most disturbing, offensive and objectionable. In the Classification Board’s report on Baise-Moi it states that “the manner in which the scene is edited detaches the explicit scene from the scenes of violence. The purpose of this graphic portrayal is to convey to the viewer the ugliness and horror of rape.” However, despite the obvious context in which this scene was portrayed, the Review Board found that “the insertion of the penis was in itself the act of rape and therefore was an act of violence and of sexual violence.” Therefore, it was precisely because of the sexual explicitness of the images that the
material was seen as unacceptable. We can infer then that while sexual explicitness may not be the determining factor as to whether or not violent materials cause aggression in the viewer, it certainly determines whether or not the Review Board will be offended and proscribe the material on moral grounds.

These statements show that in certain circumstances scenes of sexual violence can be warranted if they occur infrequently, are justified by context and are not represented in a way that is approving or encouraging of the behaviour. If the elements of respect, dignity and personhood are not a characteristic of the material being represented, or the degrading and abusive sexual depictions are not justified by context, then according to Longino it is pornographic and therefore immoral (36). Hence it is clear that sexually explicit and violent films that objectify and degrade people within society will be deemed immoral and harmful, unless the material is justified by context.

The second argument, which we have already touched on, used to support the theory that sexually explicit material is immoral and harmful, is that any audience with a weak moral conscience may be negatively affected by the imagery, influencing them to imitate the immoral sexual behaviour and violent sexual activity depicted. This argument commonly utilised by anti-pornography activists, states that pornography has dangerous effects on the spectator that may result in them committing sexual violence. On the one hand there are films which depict acts of bondage, dominance and sadomasochism using conventional techniques that indicate clearly to the spectator that the scenario is fictional or a fantasy sequence (Krzywinska, *Sex and the Cinema* 188). On the other hand there are films in which these acts are represented more realistically. It is these more realistic depictions that some worry may be misunderstood by those unfamiliar with the bondage, dominance and sadomasochistic cultural codes and rules, as being “real” rather than theatrically constructed representations (Krzywinska, *Sex and the Cinema* 187-188). This raises concerns that spectators of these films who lack an understanding of the
complexity and nature of “real” bondage, dominance and sadomasochism, may be aroused by the sexualised violence and encouraged to imitate the violent behaviour with unconsenting victims. The assumption is that men who watch sexual violence will imitate the behaviour in their real lives by raping and abusing women (Willis 173).

Krzywinska states that to the inexperienced spectator acts of bondage, dominance and sadomasochism may be misinterpreted as abusive if the consensual aspect of the erotic play is not fully understood (Sex and the Cinema 187). If this were so then it would stand to reason that sexually violent material does interfere with one’s moral judgment. The problem is that the scientific research that has been carried out on the relationship between the consumption of violent pornography and sexual aggression is filled with simplistic assumptions about what is being researched and are far from conclusive (Barwick 18; Kipnis 177; Koppelman 1664; Segal 65-66). These studies almost always assume the consumer of pornographic material to be male (McCormack, qtd. in Segal 65). Accordingly the academic literature on pornography and its harmful effects use these studies as evidence that pornography causes men to act violently towards women (Koppelman; see MacKinnon; Donnerstein, Linz and Penrod).

Koppelman notes that this body of research has only been able to establish a strong causal link between pornography consumption and sexual aggression in less than one percent of men (1671). Furthermore, it is nearly impossible to generalise the results of these studies carried out in a lab, to the behaviour of men in a real life setting (Barwick 18; Koppelman 1664; Segal 66; Vnuk, Snatched 101), or rely on self-reporting techniques (Kipnis 177). Again it is important to note that these studies are largely concerned with violent pornography rather than more generally with films containing sexual violence such as those films I discuss here. Nevertheless, the argument that there is a strong causal link between sexual violence in film and violent behaviour is one that
is commonly put forth to support the censoring of sexually violent films whether pornographic or not.

If these claims that violent sexual imagery causes sexual aggression were ever concretely supported, anti-pornography activists may indeed have a case in justifying censorship of so-called harmful sexually explicit materials. But as these claims are unsubstantiated, as was discussed in the previous section, there is no justifiable reason to allow governmental bodies to have the ability to prevent, restrict or censor what sexually explicit materials individuals within the community are consuming. It is obvious too that the members of the classification boards, who have to watch each film in order to make appropriate classification decisions, do not believe they will suffer any harm because of its content. This tendency that people have to believe that others will be influenced by certain materials while they themselves will be unaffected by it is called the third-person perception (Gunther 27). The censors obviously do not believe that their own moral fibre has been harmed by watching these films (Cline 7). The fear always seems to be that the public, and not those members of the classification boards, will be affected by sexually explicit and sexually violent images. As Cline states, “It’s always ‘they’ who get damaged” (7).

What must be remembered is that sexually explicit materials whether they appear in pornography or art films are fantasies and fantasies, including those of a sexual nature, cannot be simply translated into reality. According to psychologist and psychoanalyst Michael Bader, sexual fantasies are just “manifestations of the mind attempting creatively to construct a scenario in which pleasure can be pursued safely” (qtd. in Koppelman 1660). They should not be oversimplified as “wishful thinking…about some concretely desired experience” (Segal 67). Just because a spectator enjoys watching a film containing sexually violent imagery does not mean that they wish to re-enact the scene in real life. The spectator understands that there is a
distinction between their fantasy projected onscreen and reality. Desire in any fantasy
genre has no straightforward connection to the satisfaction we sought after in real life
(Segal 67). As health researcher and academic Cindy Patton says in her book *Sex and
Germs* “fantasy and actual practice are separate and different” (105).

Former editor of Australian Women's Forum Helen Vnuk raises an important
dilemma and flaw in Australia’s censorship system in relation to the controversy
surrounding *Baise-Moi*. She notes that before the film had been viewed by the Review
Board, it had already been screening in cinemas for more than two weeks and continued
to screen after the decision was made in the weekend before its official ban date (Vnuk,
*Snatched* 212). Originally the Review Board had classified *Baise-Moi* R18+ and as such
the film began screening in Australian cinemas in mid April 2002. Before its subsequent
ban anybody who was interested in seeing this film therefore could have, and because of
the controversy surrounding it ticket sales for the film dramatically increased. Close to
50,000 people did in fact see the film despite the Review Board’s conclusion that
nobody in Australia should be allowed to watch it (Vnuk, *Snatched* 213). Interesting to
note is that of these thousands of viewers the Office of Film and Literature Classification
only received two complaints about the film (Vnuk, *Snatched* 232). Chris Schacht,
Labor senator from 1987-2002, stated after the Review Board banned *Baise-Moi* that,
“Of the 50,000 people who went to see *Baise-Moi*, two complained, and no-one can tell
me that the other 49,998 were all perverts” (Schacht, qtd. in Vnuk, *Snatched* 233). And
who could even begin to count the number of people who would have seen *Salò* during
the five years that it was released.

This presents a significant dilemma in terms of the supposed public harm that a
film might incur. If people were able and did see this film before it was banned and
suffered any harm because of it, is the Board responsible for releasing it with an R18+
classification in the first place and thereby permitting its cinematic screening? On the
other hand if nobody was affected or suffered any harm as a result of their exposure to the sexually violent film should it be banned at all?

Even Koppelman who concurs that pornography can cause moral harm, does not believe that it necessitates censorship (1679). Koppelman contends in his exploration of obscenity law that some pornography is morally harmful because it “encourages the reader [viewer] to regard other people as mere objects of sexual interest, whose feelings and desires do not matter” (1635). However, he states that it is impossible to define moral harm with “enough particularity to authoritatively determine whether any particular fiction does or does not convey bad fixed norms” (Koppelman 1675). Therefore, Koppelman argues that as the law is unable to specify the details of moral harm, it is ill-equipped to deal with it. “[F]or legal purposes, moral harm should be understood at a very high level of abstraction – so high that the law should not try to decide whether it is present in any particular publication” (Koppelman 1676). So although pornography may cause moral harm to some individuals, it is beyond the competence of the law to determine whether a particular work of fiction is in fact morally harmful. Accordingly, the state should refrain from censorship.

Furthermore, the risk of being banned increases the likelihood that the film will attract audiences that it was perhaps not expected to appeal to, such as children. The controversy and media attention that these films draw certainly brings them to the attention of members of the public that would never have known of their existence otherwise. This is particularly significant considering the ease in which these films can be downloaded. While an uncontroversial film with a limited release will attract a considerably small market, the same film if surrounded by controversy may stir up curiosity in a larger audience especially if banned encouraging downloads of the film, as was the case with Ken Park. The internet’s ability to make everything available to anybody who seeks it means that banning a film can no longer prevent people from
watching it. That being said, there is no viable reason why adults should not be given legal access to all films (except those of a criminal nature i.e. child pornography and snuff).

Even if we were to accept that “moral harm is a coherent concept that describes a real evil,” it does not mean that the law can or should necessarily do anything about it (Koppelman 1647). As Koppelman simply and accurately states, the “government should not be able to decide for us...what our sexual fantasies should be” (1678). By classifying Salò, Baise-Moi and Ken Park RC and thereby banning their release in Australia, the Review Board ultimately decided that the sex and violence in these films would be too offensive to this imaginary person, the reasonable adult. Therefore they had justifiable cause in hindering the right of every adult to watch these films. It is my position that the Government should not have the power to interfere with our individual rights as consumers based on assumptions about community concerns and the reasonable adult.

**Aren’t I Reasonable?**

Every adult in Australia should have the right to freely choose what films they watch regardless of their content and themes. One reason for this is simply that the literature around sexually explicit images has not been able to establish any strong causal links between watching pornographic images and violent or aggressive behaviour. As discussed there is large body of research into the effects of violent pornography but the results of these studies have often been contradictory and highly inconsistent (Padgett, Brislin-Slutz and Neal 479; Fisher and Grenier 24). As researcher Helena Barwick concludes in her report *A Guide to the Research into the Effects of Sexually Explicit Films and Videos*, after over thirty years of research trying to establish what effect sexually explicit material has on men’s attitudes to or behaviour towards women...
“we are no closer to having a definitive answer” (38). Many acts are prohibited by law because of their detrimental effects but there is no conclusive evidence that sexually explicit and sexually violent films are harmful to the public. As such, the state should refrain from restricting our civil liberties and freedom of choice.

While our system predominantly functions as a method of classification, it can function as a means of censorship and whenever there is censorship our individual choices and freedom to make those choices is restricted. Unlike classification which arranges films into suitable categories based on their content and themes, censorship is largely about suppression and control. Classification markings and consumer advice help parents identify if a film is suitable for their child to watch and help the individual decide if the themes a film deals with are of interest to them. Censorship is not about providing helpful information to aid consumer decisions; rather it is about making decisions on behalf of the individual as to what materials are appropriate for their consumption. Ernest B. Ferguson argues that “[t]here is no way a court, a legislature, or an attorney-general can decide for an entire state what is acceptable to see or read and what is not. Nor can they do so for a city, a ward, and particularly not for an individual” (qtd. in Cline 1).

Jeff Brand is an Australian academic and researcher on the effects of electronic media on audiences. In his comparative analysis of ratings around the world, Brand found that most national schemes provide for the prohibition of content in “unique circumstances” (17). However as Brand’s study shows, most of these are government controlled schemes (5-6). This suggests that in those nations where the governing body of a rating system is the government, the prohibition or censorship of particular images is more likely to be permitted. Comparatively, in the United States where the film rating scheme is governed by an industry body, the Motion Picture Association of America (MPAA), films are not “approved” or “disapproved.” The sole purpose of the MPAA is
to “give advance cautionary warnings to parents, so that they can make informed
decisions about which films their children see” (Motion Picture Association of America).
Needless-to-say the American system is not without fault but the point here is that the
MPAA does not dictate to adults in the United States what they can and cannot watch.
Unlike in Australia, the MPAA does not concern itself with the viewing pleasures of
adults and therefore has no need to proscribe certain materials (unless it breaks the law
i.e. child pornography). The MPAA therefore does not get in the way of individual
freedom of choice. It is only when a legal body has the authority to outlaw films or
certain materials that the freedom of those individuals within the community is lost. In
Australia the Classification Board together with the Review Board control what films
adults can legally watch while suppressing others they deem “inappropriate.” Therefore
our individual claim to freedom of choice is at best limited.

The three classification documents in Australia, the Act, the Code and the
Guidelines, which govern the representation of sexually explicit material in film, are
more preoccupied with trying to uphold majoritarianism than embracing individuality.
Rather than trusting the personal moral judgments of citizens and honouring their
individual rights, these laws and documents set out to comply with community concerns
about acceptable representations. Section 11(a) of the Act states that when classifying a
film the Board must consider “the standards of morality, decency and propriety
generally accepted by reasonable adults” (13).

In The Money Shot: Cinema, Sin and Censorship, film scholar Jane Mills states
that who the classifiers believe the reasonable adult to be is slowly taking shape and
becomes clearer every time they make the decision to ban a film in our country (129).
She says “[i]creasingly, it appears that gays, feminists, political radicals and those who
like their culture more visual than verbal are not included in their definition. . . .” Mills
also discusses the classification process Salò encountered in Australia in relation to the
notion of closure and the reasonable adult (The Money Shot 119-120). Mills states that
the classification process revealed “how the notion of closure within dominant cinema
produces a consistent morality, one that is acceptable to the notional ‘reasonable adult’
in Australian censorship legislation” (The Money Shot 129). According to Mills, the film
which does not provide a “feel-good” ending and leaves the moral decision-making up
to the spectator, may shock audiences who are accustomed to mainstream cinema.
Mainstream narratives tend to provide a sense of closure for the spectator, in which all
problems are solved, all questions are answered and on the whole the spectator is left
with a morally resolved story (Mills, The Money Shot 129). The reasonable adult, used
to mainstream narratives, would not be able to comprehend a film like Salò and find the
lack of resolution so confronting that it would offend against their standards of morality,
decency and propriety. As Salò was intentionally amoral and did not overtly condemn
the behaviour of the four male fascist abductors, the material was seen as “gratuitous”
and therefore likely to offend the reasonable adult.

Community Versus the Individual

The fourth principle of the Code highlights the “need to take account of
community concerns” about depictions of sexual violence (1). Community concerns are
measured through Community Assessment Panels. These panels “test the degree to
which the decisions of the Classification Board are in line with community standards”
(2004 Community Assessment Panels). The panels which consist of members of the
general community watch films which have been rated and provide feedback on what
they believe to be appropriate classification labels and consumer advice for each film.
These Community Assessment Panels have generally found that the classifications
assigned by the Panels are consistent with those assigned by the Classification Board
(Dunstan 147). However, Michael Dunstan questions the validity of the results (147). He
reveals that the Panels have only viewed one R18+ film back in 1998 and more surprisingly, they have never been asked to assess any RC material (Dunstan 147). Dunstan correctly states: “Given that the banning of materials invokes the most controversy, and does indeed deserve attention, this oversight must be questioned” (147).

Basing classification decisions around “community concerns” about violent imagery does not reflect individual choice. Instead it lumps individuals into one of two groups. The consumer either belongs to the socially acceptable group representing the reasonable majority, otherwise known as the “community,” or if the consumer belongs to the minority, their individual rights cease to exist. The individual right that an adult has to watch what they want is affirmed by the very first principle of the Code. However this right is continuously denied to adults in Australia every time community concerns are privileged above the individual. This undermines the reasonability of adults whose opinions do not reflect the (assumed) collective majority.

McKee, Albury and Lumby state that “violence is one of the major concerns about pornography in Australia” (58). Clearly then the community is concerned with sexually violent images. However, McKee, Albury and Lumby also point out that the public is also concerned about pornography that objectifies, demeans or degrades women (58). The problem is that objectification is defined by different people in different terms. For some of the people McKee, Albury and Lumby surveyed casual sex between two people who do not love each other objectifies them. Others believe that when women are shown performing particular sex acts they are being objectified because acts such as having anal sex are demeaning. Some found women’s sexual passivity in pornography objectifying while others thought that when women are depicted as sexually active they are being objectified. For other people sex between those who do not have an equal social status objectifies the person in the less powerful
position. The last group of people thought that all representations are objectifications because once you film someone they become an object (McKee, Albury and Lumby 58-59). So while the community is concerned with “the portrayal of persons in a demeaning manner,” it is clear that how the community defines demeaning differs considerably. This demonstrates that community concerns are not one and the same.

In *Bound and Gagged: Pornography and the Politics of Fantasy in America*, cultural theorist and critic Laura Kipnis states that pornography is a “theatrics of transgression… dedicat[ed] to crossing boundaries and violating social strictures” (164). The pornographic genre is dedicated to locating societal taboos, prohibitions and proprieties and transgressing them all (Kipnis 164). We can apply this idea across sexually explicit material and fetish activity in film more generally. It is offensive because it transgresses popular notions about sex and socially acceptable sexuality. It confronts society with sexual behaviour that goes against our mainstream culture and political discourse (Kipnis 164). The two minute scene in *Ken Park* depicting auto-erotic asphyxiation was thought by the members of the Review Board to be so socially unacceptable in the public domain, that the sexual abnormality of the image would greatly offend against the standards of morality, decency and propriety of the reasonable adult. Fear of the unfamiliar is not a satisfactory reason to violate the individual rights of adults by banning and censoring films.

Furthermore, the representation of minority sexualities and ‘deviant’ sexual behaviour through film, particularly sadomasochism and fetish activity, gives sadists, masochists and people who engage in other various fetishes, a voice in which they can challenge ideas about normalised sexual behaviour. Every adult should have the freedom to watch any film they desire whether sexually explicit, sexually violent or both. Likewise, every adult has the right not to watch these films. Neither group should interfere with the choice of the other. The first has no right to force the latter into
watching sexual activity they may find disturbing like those depicted in \textit{Salò, Baise-Moi} or \textit{Ken Park}, just as the latter should have no right to forbid the first from watching the same acts. But as long as the Review Board is able to justify prohibiting certain materials based on “community concerns” and the morality, decency and propriety of the reasonable adult, the second group will always interfere with the rights of the first to choose.

In 2007 Galaxy Research were commissioned by the Commonwealth, State and Territory Censorship Ministers to assess whether or not the classification decisions being made in Australia reflected current community standards. The research aims of the \textit{Classification Decisions and Community Standards 2007 Report} were to assess whether:

(i) classification decisions on films and computer games generally reflect community standards; and

(ii) whether classification decisions on films appropriately apply the R18+ classification guidelines, particularly with respect to actual sex and the level of violence. (1)

What the findings indicated was interesting considering that the Review Board is supposedly considering community concerns when making their classification decisions. The research found that the community is actually split on the issue of whether or not actual sex should be allowed in films rated R18+ (Galaxy Research 56). In fact community attitudes reflected a slight preference towards allowing non-simulated sex in R18+ rated films, with 48% of respondents believing that actual sex should be allowed in the R18+ category while a slightly less 46% believed that actual sex should not be allowed.

The existing Guidelines for R18+ films are out of touch with community concerns around the representation of sex. The general rule “simulation, yes – the real
thing, no” does not reflect current community attitudes of Australian adults concerning actual sex in film. On the contrary this research suggests that the community actually believes non-simulated sex should be permitted within the R18+ rating. That being said, it stands to reason that the Review Board, when making classification decisions based on these Guidelines, are doing so with no regard for current community attitudes towards actual sex in R18+ rated films.

Conclusion

Even if the offensiveness of material in films could be measured according to the opinions of the wider community, it does not stand to reason that these films should be banned. While depictions of sex, violence and sexualised violence may offend people within the community and may indeed offend the majority of the community, offensiveness is not a legitimate reason to prohibit certain materials. As Tony Pitman says in his article, “What’s Wrong with Seeing Sex? Offensiveness and the Flawed Australian Censorship System,” it is possible that “offensive material serves a positive role in the evolution of society” (15). Materials that offend often push people to question their own moral beliefs by asking themselves why they are so offended in the first place. It is not necessarily a bad thing to question the moral sensibilities of the dominant group in the community, as only by challenging the ideas of the majority can change occur. If everything that the majority of society found offensive was proscribed nothing would ever change, knowledge would never develop. Moreover, Pitman believes that “offensive material is ‘literally’ harmless” and therefore should never be used as a justification for banning films (15).

All adults in Australia should have the freedom to watch what they choose as is intrinsic to our Code which specifically states that “adults should be able to read, hear and see what they want.” The problem with implementing the Code is that the fourth
principle regarding community concerns about violence, particularly of a sexual nature, and the requirement not to allow materials that offend the reasonable adult within the R18+ classification, are given precedence over the rights of individuals. All adults should share the same freedom of choice without a governmental body infringing upon those rights by making judgments about a film’s acceptable content. The Guidelines in our country and the implementation of those guidelines by the classification boards breach this principle by hindering our personal freedom of choice.

Banning films based on community concerns and perceptions about what the reasonable adult would find offensive, only allows the assumed social majority a voice and largely ignores the wishes of the minority and individuals within society whose opinions are wide and diverse. As author and historian Geoffrey Dutton wrote in 1970, “a democracy must not restrict itself to allowing only what the majority wants” (102). The majority of Australians may not want to watch and may even be shocked or find films such as Salò, Baise-Moi and Ken Park offensive. But in a democracy this is no reason why a minority should not be allowed to watch them if they so choose. Dutton’s statement only reflects one view of what a democracy is. Others may believe that the ability of the majority to restrict the actions of the minority is consistent with a democratic society. However, while there is no single fixed definition of democracy, any thorough discussion of the term is beyond the scope and not the focus of this thesis.

There are many valid reasons why Australia should classify films before they are released but very few which support censoring them. What is certain is that community concerns and offensiveness to the reasonable adult are not valid reasons for banning films in our country. “Ultimately it is better to live in a world where everyone is free than a world where no one is offended” (Pitman 19).
Chapter Two

Cruelty, Sexual Violence and Fetishes:

Why Pasolini’s Salò is Now Banned

Pier Paolo Pasolini’s film Salò or The 120 Days of Sodom (Salò o le 120 giornate di Sodoma, 1975) was released in Australia with an R18+ classification for five years before having its classification revoked in 1998. The film which was released in Australia in 1976 was initially banned and it was not until 1993 that Salò was given an R18+ rating, making the film legal for adult consumption for a brief time, before it was once again banned by the Review Board in 1998. According to Bertrand in her chapter “What We Are Allowed to See: Censorship in Australian Cinema,” Salò was able to be released in 1993 because “Australian society had changed, Australian audiences had changed - and Australian censors had changed too” (68). However, in 1998 there was a new government and a new Review Board, both more conservative than they had been five years prior. Less than two years later, Catherine Breillat’s 1999 film Romance too experienced the unpredictability of the Australian classification system when it was banned by the Classification Board in early 2000, only to be permitted an R18+ rating upon appeal to the Review Board two weeks later.

This chapter considers why Pasolini’s film was deemed too offensive for the reasonable adult and consequently banned by the Review Board in their 1998 decision. Throughout this study Breillat’s film will be used as a point of comparison. The aim of this chapter is to decipher why the Review Board found that Salò would be so much more offensive to the reasonable adult than Romance. Their principle concern in both cases was the films’ depictions of sexual violence and sexual activity with fetishes. It will become apparent throughout this chapter that while the Review Board is required to
make decisions that take into full account the first principle of the Code, which states that “adults should be able to read, hear and see what they want” (1), their decision to refuse *Salò* a classification reflects a different imperative. Increasingly obvious is the Review Board’s conviction that their obligation lies, not in protecting this fundamental principle, but rather in ensuring that above all else “community concerns” about violence and sexual violence as well as the “standards of morality, decency and propriety generally accepted by reasonable adults” are upheld. This suggests the Review Board is more preoccupied with making sure that the preconceived “community” is not offended than they are with defending the rights of real Australian adults.

**Salò and its Classification Decision**

*Salò*, an adaptation of the Marquis de Sade’s infamous novel *120 Days of Sodom*, is the last and most controversial film made by Italian director Pier Paolo Pasolini (Tropiano 215). The acclaim Pasolini received throughout his career made him one of the most famous modernist directors of his time. He is generally acknowledged as one of “the most sophisticated directors not just of his period but of all film (Salvage 86). During his life Pasolini won numerous awards including: Best Screenplay at the Cannes Film Festival in 1958 (*Festival de Cannes*); three Silver Ribbons – 1960, 1965, 1976 – from the Italian National Syndicate of Film Journalists; the Special Jury Prize at the Venice Film Festival in 1964 (*la Biennale di Venezia*); the Silver Bear in 1971 and the Golden Bear in 1972 at the Berlin Film Festival (*Internationale Filmfestspiele Berlin*); the Jury’s Special Grand Prix at the Cannes Film Festival in 1974 (*Festival de Cannes*) as well as winning the Jussi Award, Kinema Junpo Award and Sant Jordi awards including a Career Award. The banning of *Salò* makes it difficult for anyone in Australia to undertake thorough analysis of Pasolini’s work.
Salò is set in 1944 in Italy under the Nazi occupation during World War II. Here sixteen young men and women are abducted by four powerful men and imprisoned at Salò where they are subjected to inconceivable torture and humiliation. These acts of cruelty were intended by Pasolini to be a metaphorical statement about the corrupting effects of fascism, absolute power and exploitation (Reports of the Classification Review Board Salò 150; Lane; Indiana; see also Pasolini). According to Pasolini, Salò was his “first modern film about the modern world” (qtd. in Salvage 91).

Salò has been released for public exhibition in Britain, US, France and Japan as well as being screened in Australia prior to its ban (Reports of the Classification Review Board Salò 150). However, even though the film is widely distributed in the US and Europe (Browne) it has not been without controversy. Cries for censorship by those who consider Salò to be gratuitously graphic and offensive have followed the film around the world. In 1994, an American book shop owner was prosecuted for selling the film in his store. While in Britain Salò has rarely been shown uncut and did not receive a video distribution certificate until 2000 (Mallett 84). Upon its release the film was briefly screened in Germany in Frankfurt and Stuttgart but was closed after protests by the Catholic Parents Association and of course there is Australia’s own censorship saga discussed herein. As the boundaries of acceptable cinematic representations go, “Salò goes to the extreme of propriety” (Mousoulis). It is such extremity which has made the film such a controversy around the world and guaranteed its notoriety.

Critics of the film have called it immoral and irresponsible, accusing Pasolini of both provocation and of glorifying rape and violence by creating a film that is gratuitously graphic and shocking (Mallett 84; Mousoulis). Robert Mallett, in his review of the film, believes that these shocking depictions in Salò were “designed to awaken a slumbering society and to warn them of past horrors” (87). Pasolini does not apologise for his confronting and unforgiving portrayal of human degeneracy. Nor does he
compromise his work for mainstream sensibilities. Like Mallett there have been many others willing to defend Pasolini’s work and the importance of his final film. Watch on Censorship is a community organisation which was established in 1995 with “the goal of protecting and promoting the rights of adult Australians to freedom of speech and expression in all media” (Watch on Censorship). The group is also dedicated to protecting the rights of adults to see, hear and watch what they choose. The writers, filmmakers, journalists, academics and activists that the group comprise speak and write about censorship in Australia as well as liaise with the media, government, administrative and industry organisations on censorship issues. Watch on Censorship has been extremely vocal in their position that Australia’s classification system is experiencing a “censorship creep” (Mills, “Film Censorship”). Their concern is with the increase in censorship legislation and guidelines that are further restricting the freedom of adults in Australia to read, hear and see what they choose (Mills, The Money Shot 65).

Committee member David Marr, in an article written for The Sydney Morning Herald entitled “Art vs Innocence,” has stressed Salò’s importance calling the film a “study of extreme human degradation.” Another advocate of the film is Mark Spratt, director of Australian distributing firm Potential Films. Coincidently Potential Films was the Australian distributor for Romance and appealed the film’s original RC classification. Spratt, a distributor for over ten years, when asked in an interview with Bill Mousoulis about the potential harmful effects of Salò had this to say:

> It carries with it a great deal of intellectual thesis and stylisation. It may be disturbing or disgusting, but that’s its point! I think you’d have to hypothesize a film in which state brutality, intolerance, racism, child abuse and inhumanity were in some way not disturbing or an acceptable alternative to our values to call it potentially harmful.
Those who saw Salò during the five years it was released would know that it certainly has some confronting scenes, to say the least. Nevertheless it has been well established as an important film by one of the twentieth century’s most significant Italian filmmakers (Reports of the Classification Review Board Salò 150). Even the majority of the Review Board acknowledges the importance of Salò to anyone studying Pasolini’s work (Reports of the Classification Review Board Salo 149). Despite this recognition Salò has been subjected to more censorship battles than any other film that has come before the Australian classification system (Mills, *The Money Shot* 127; Browne; Marr, “Art vs Innocence”). This chapter asks, why?

The re-submission of Salò to the Review Board in February 1998 came about at the request of Queensland Attorney-General and Minister for Justice at the time, Denver Beanland. Beanland urged then Commonwealth Attorney-General Daryl Williams to apply for a review of the film’s then current classification. Beanland described Salò as a “depraved and disgusting film that should never have received an R rating in the first place” (qtd. in Marr, *The High Price* 194). Although he is apparently a firm believer that adults are mature enough to choose what they watch, Beanland believed that Salò’s “outright brutality and pedophilia” was not acceptable (qtd. in Marr, *The High Price* 194). Gary Indiana says that while “theatres and video stores of the Western world offer a glut of more violent, more sexually explicit, more frankly disgusting movies that hardly anyone objects to” Salò remains proscribed and unacceptable. He believes this is because Salò has the “power to disturb something buried very deep in each of us” (90).

Having been originally banned from its release in 1976, Salò received an R18+ rating with the consumer advice “Adult themes of high intensity, Strong depictions of violence, Strong sexual references” subsequent to the release of the film in 1993. For the five years prior to the Attorney-General’s application for review in 1998, this was the status of Pasolini’s Salò, unbanned and unrestricted, free to be screened in Australia and
consumed by all adults choosing to watch the now notorious film. It is hard to say exactly how many Australian adults saw *Salò* during the five year period it was screened. However, by the mid nineties the film had “exhausted its small audience” in Australia (Marr, *The High Price* 90). Marr believes Christian politicians targeted the film simply as “a gesture of power” (*The High Price* 90). This section looks closely at the Review Board’s report on *Salò*, specifically detailing the reasons and rationale behind their ultimate decision to refuse classification (RC) of the film and thereby re-ban it.

Interestingly enough, the Review Board agreed with many of the decisions made by the Classification Board in regards to their report on *Salò*, considering that many of the scenes and themes discussed by the Board could in fact be accommodated by an R18+ rating (Reports of the Classification Review Board *Salo* 146). However, where the opinions of the two boards seemed to differ strongly was in their view of what distinguishes depictions of violence from those of cruelty. While the majority of the Classification Board believed that the questionable scenes in the film portrayed acts of violence that could appropriately be accommodated by an R18+, the majority of the Review Board believed otherwise. They held that many of the scenes in *Salò* not only depicted violence and sexual violence, but went one step further depicting cruelty and persons in a demeaning manner (Reports of the Classification Review Board *Salo* 147). The Review Board stated that their understanding was that “violence is usually defined as physical force inflicted with the intent to seriously hurt or kill, or the outcome of such. Cruelty, on the other hand, involves delight in the infliction of, or indifference to another’s pain” (Reports of the Classification Review Board *Salo* 147). Moreover, they found that in addition to depicting acts of cruelty, these scenes were of high impact and, crucial to this thesis, they were offensive.
As the ban on this film may never again be lifted and the reader therefore may not have had or have the opportunity to see Salò, it is essential that I outline the material in the scenes that the Review Board felt was offensive. I think that it is necessary that I do so for the reader to have a firmer grasp on exactly what kinds of depictions the Review Board is referring to and the controversial nature of the material being discussed herein. The Review Board concluded that the scenes listed below are ones of offensive cruelty with high impact:

31 mins: prolonged scene of boy being whipped

32 mins: girl eats cake with nails in it, screams, and blood runs from mouth

63 mins: girl forced to crawl across the floor and eat faeces

71-73 mins: all in the dining room are forced to eat faeces as meal

102 mins: girls tied up in a vat of filth (faeces and urine)

105-111 mins:
  > boy has penis burned with candle
  > girl has nipple burned with candle
  > boy has tongue tip cut off
  > girl endures forced anal sex and is hanged
  > boy has eye gouged out

> girl endures forced anal sex

> girl is scalped

> girl and others are whipped

> boy is branded with branding iron

(Reports of the Classification Review Board Salo 147)

The Review Board considered the age of the young people being portrayed in the film. The majority believed that the apparent youth of some of the teenagers should be
considered given the portrayal of the sexual abuse of young people throughout the film.
The Review Board thought that the young people could have been under the age of 16 years which was further emphasised by the scenes in which they were dressed as school children (Reports of the Classification Review Board Salo 147). However, in their opinion, although the age of the young people being abused was important it could not alone warrant an RC classification. Still they held that it should be taken into account when considering the overall offensiveness of the film (Reports of the Classification Review Board Salo 147-148). Later it will be made evident that the apparent age of the young characters was a significant factor impacting the decision to ban the film.

The Review Board next considered the film’s depictions of sexual violence and fetishes. They felt that the in several scenes these depictions were offensive. The scenes of concern which they held to contain sexual violence or sexual violence accompanied with fetish activity were:

- 29 mins: girl forced to urinate on face of male sexual aggressor
- 49-52 mins: girl forced, with screams, on to all fours, for extended (with some scene cutting) anal intercourse with soldier
- 62 mins: girl cries, is stripped under extreme duress, with the dialogue “the little slut’s howling is the most exciting thing in my life”
- 77 mins: girl forced to urinate on face and into mouth

(Reports of the Classification Review Board Salo 148)

These scenes according to the Review Board would cause “outrage” or “extreme disgust” to most people and therefore had again established the film’s likely offensiveness to the reasonable adult. Furthermore, these scenes of sexual violence and sexual activity with fetishes were demeaning to the young people involved in the acts being portrayed. Thus, the film was considered all the more offensive and as such
As required by Section 11 of the Act, the Review Board considered the film’s artistic and educational merit before making their decision. In their report the Review Board claimed to have taken into account the fact that Salò was Pasolini’s last film and therefore vital to any study of his life work. However, this did not appear to be of great significance to the majority of members on the Review Board. Their report stated that “the film is said to have been intended as a serious work of art” (emphasis added) (Reports of the Classification Review Board Salo 149), the importance of which was clearly outweighed by the supposed offensiveness of the material. The Classification Board in their original decision was conversely of the opinion that the film was “of considerable artistic merit” and that the depictions throughout it justified by the “context of a defensible story line” (Reports of the Classification Review Board Salo 146). The justifiability of such depictions was certainly not maintained by the Review Board who felt that the intention of the film to make a statement about the abuses of power could have been achieved “without the overall depth of offensiveness” (Reports of the Classification Review Board Salo 149). Moreover, they did not believe that the film had effectively made any connections between fascism and the horrifying abuses of power being depicted. Consequently, the frequent portrayals of young people forcefully participating in activities involving cruelty and sexual violence with offensive fetishes could not be justified by context and the defence that the film is intended as a serious work of art.

The Review Board acknowledged that in making their decision they were required to take into account the first principle of the Code that “adults should be able to read, hear and see what they want,” but this was quickly followed with the qualification that they also must consider community concerns (Reports of the Classification Review
Board *Salo* 149). A principle that obviously as far as they were concerned, overrides any other principle and right Australian adults may have.

Conclusively, the Review Board overturned the R18+ classification that the film had maintained for the last five years and re-classified it RC. This decision was made with the presumption that the film’s depictions of cruelty, sexual violence and fetishes would “offend against the standards of morality, decency and propriety generally accepted by the reasonable adult.” *Salo* was deemed just too offensive for Australian adult audiences. Marr believes that “no film director, local or foreign, can claim such an impact on the politics and the arts in Australia now as the poet, communist and homosexual, Pier Paolo Pasolini, dead now for more than 20 years” (“Art vs Innocence”).

**Romance and its Classification Decision**

French director Catherine Breillat is a “[n]otorious *provocateur*” (Brinkema 147). Her work has often been dismissed as “pornography dressed up as art” (Horeck, “Shame and the Sisters” 196). Breillat started her career as a writer, publishing her first novel *L’homme facile* at 17. The book received an over-18 classification in France for its sexual content, meaning that Breillat was not able to legally purchase her own novel (Brinkema 148-149; Price). In 1975 Breillat made her first film *Une vraie jeune fille* about the sexual awakening of an adolescent girl. Its subject matter was deemed too explicit and was not released in France until twenty-five years after its production (Price; Horeck, “Shame and the Sisters” 196). Breillat quickly gained herself “a reputation as the female de Sade, the new Bataille – a purveyor of transgressive sexuality” (Price). Her films which include *36 Fillette* (1988), *Parfait Amour!* (1996), *A ma soeur!* (2001), *Sex is Comedy* (2002) and *Anatomy of Hell* (2004) are preoccupied with female sexuality, desire and sexual identity (Price; Brinkema 147; Best and Crowley 56). Sex is
always depicted explicitly and non-simulated giving Breillat a reputation, misleading as it may be, as “the auteur of porn” (Price; Brinkema 148). Breillat’s status as auteur and international recognition for her art cinema has not prevented her films from being labelled pornographic (Best and Crowley 55). Her refusal to represent sex in a more conventional “Hollywood” style has meant that controversy has followed Breillat throughout her career.

Breillat’s 1999 French language film Romance is “a bleakly intelligent, indulgently high-brow, but provocative and explicit exploration of the dark side of female sexuality” (Mills, The Money Shot 130). When the film’s protagonist Marie is sexually rejected by her partner Paul she has a series of sexual encounters with other men. The audience joins Marie on her journey of sexual exploration and masochistic fantasies. The film, which includes sequences of bondage, an anal rape and a sex scene involving Italian porn-star Rocco Siffredi, was most controversial for its depictions of non-simulated sexual activity.

Although Romance was Breillat’s sixth film, it was “the first to bring her wide-scale notoriety in France, the UK and the US” (Wilson 146). Like Salò, Romance was controversial for its depictions of non-simulated sex and had its share of censorship issues. Internationally Breillat’s film was either banned or restricted to those over the age of 18 due to its sexual explicitness. Romance sparked world-wide debate concerning pornographic imagery, with many even going so far as to accuse Breillat of being a pornographer (Price). However, despite these unwarranted accusations and the controversy that erupted after the film’s release, Romance was passed by respective classification boards around the world. It was released in France, the UK and even our neighbouring New Zealand, but was initially banned in Australia. This is hard to imagine given Breillat’s credentials as a filmmaker and the film’s artistic merit. Spratt
says that the vibe at the world premier screening of the film, at the Rotterdam film festival, was that it was an “important, provocative, break-through film.”

Spratt told Mousoulis in an interview for *Senses of Cinema* that he felt *Romance* “would be worth fighting for if there was any censorship trouble.” There certainly was trouble and Potential Films did have to fight for an R18+ classification, appealing the decision of the Classification Board to ban the film. A decision that may be indicative of Spratt’s view that “the current [Howard] government from the word go has tried to define into existence a new conservative “community standard” which does not exist in public reality.” Fortunately, common sense prevailed and the Review Board overturned the RC classification, meaning that Australian adults are legally able to watch the film, should we choose to do so.

In January 2000 *Romance* was banned in Australia by the Classification Board despite the consensus of its members that the film was “a serious artistic work” (Classification Board Report *Romance*). The Board refused classification for this film because of its explicit depictions of actual sexual activity, implied depictions of sexual violence and adult themes of a very high intensity (Classification Board Report *Romance*). Furthermore, the Board found that the film exceeded the limits of acceptability generally accepted by the reasonable adult for an R18+ film and as such should be banned. However later that month Potential Films, the Australian distributors of *Romance*, appealed this decision. The Review Board overturned the original RC classification given to the film by the Board and instead classified the film R18+ with the consumer advice “High Level Sex Scenes.” The Review Board found that although the graphic depictions of sexual activity would probably offend some people in the community, the scenes of explicit sexual material were integral to the film’s plot and theme and has serious intent and artistic merit. Additionally, despite the fact that the Review Board considered that the material in this film would undoubtedly offend certain
people in the Australian community, they did not believe it was likely to cause outrage or extreme disgust to most people. Interesting was their view that “a majority of reasonable adults (even if some would choose not to see the film themselves) would not be offended by other adults being able to do so if they chose” (Classification Review Board Romance sec. 6).

In their report the Review Board outlined and discussed a number of potentially problematic sequences concerning sexual depictions in the film which I have summarised below. The first occurs at 11 minutes:

Marie and Paul are in bed and are discussing their relationship. Towards the end of the scene, Marie pulls back the bed sheet and appears to place his flaccid penis in her mouth. The scene is brief and the implied fellatio is partly obscured by the bed sheet. (Classification Review Board Romance sec. 5.2)

At approximately 30-36 minutes Marie and Paolo, a casual pickup, have met in a club and gone back to his bedroom. They are shown lying together naked on the bed, he with an erection. The following sequence explicitly depicts Paolo rolling a condom on to his erect penis. After Paolo has masturbated, Marie explicitly fondles his penis. This is followed by a scene of realistically simulated thrusting intercourse and an explicit removal of the condom. (Classification Review Board Romance sec. 5.2)

At approximately 39 minutes and 80 minutes there are brief explicit scenes of Marie manually arousing Paul, and in at least one instance of Marie performing seemingly explicit fellatio on him. (Classification Review Board Romance sec. 5.2)

At 53-58 minutes and 73-77 minutes there are scenes of sexual bondage in which Marie consents to being tied up with ropes by a male. The sequence includes a
scene where the man cuts her panties with scissors and it is implied that he digitally manipulates her. . . . (Classification Review Board Romance sec. 5.2)

The Review Board considered these two sequences to be prolonged and as such constituted an adult theme, namely bondage in a sexual context, with a very high degree of intensity. However, they did not believe that either of these sequences was exploitative or gratuitous as Marie consented in both instances and the scenes were determined to be “integral to the film’s plot and theme” (Classification Review Board Romance sec. 6). We may infer that the Review Board did not find these two bondage sequences objectionable as they are more in line with Hollywood or mainstream representations of fetish activity. Films such as 9 ½ Weeks (Lyne 1986) and television shows such as Secret Diary of a Call Girl often depict sadomasochistic imagery like bondage in a highly stylised and therefore nonthreatening way. The sequences discussed above too are highly stylised and therefore interpreted more artistically.

At approximately 66 minutes, a man approaches Marie as she is walking back to her flat at night and offers her money if he can “ea”t (sic) her. She agrees and is shown sitting on the stairs in the building with the man’s head between her splayed legs. She objects when the man orders her to turn over and tried to free herself from him. He roughly turns her onto her stomach and thrusts aggressively at her, in implied rear intercourse. . . . (Classification Review Board Romance sec. 5.2)

Specifically in relation to the sexual violence depicted in this scene the Review Board stated that although it is of high intensity, the assault is not detailed and the sexual violence is implied rather than graphically shown (Classification Review Board Romance sec. 6). Further, they did not believe this scene was gratuitous or exploitative and because this was the only instance in the film which depicted non-consensual sexual
violence, the majority held that it could be accommodated within the R18+
classification.

At 84 minutes after Marie has been internally examined by a number of medical
students to establish pregnancy, she has a fantasy in which the lower halves of
women’s bodies are seen protruding from holes in a wall while a number of
naked men engage in a variety of sexual activities including masturbation.

(Classification Review Board Romance sec. 5.2)

Originally Romance was refused classification because of its explicit depictions of actual
sexual activity, implied depictions of sexual violence and adult themes of a very high
intensity. The Board stated that the explicit depictions of actual sexual activity between
consenting adults, including scenes of fellatio, masturbation, ejaculation and penetration,
exceeded the limits of an R18+ classification. However, the Review Board found that
although the graphic depictions of sexual activity would probably offend some people in
the community, the scenes of explicit sexual material were integral to the film’s plot and
theme and had serious intent and artistic merit. They stated that the sexual activity in the
film is for the most part simulated, albeit very realistically, and that the only occurrence
of the real thing may possibly have been the fellatio scene and the masturbation scenes.
As the rule in the R18+ guidelines states that the “general” rule is simulation, it is
implied that there may be exceptions (Classification Review Board Romance sec. 6).

In reaching their decision the Review Board considered Section 11 of the Act
and concluded that the film was:

(a) of serious intent and considered by many to have artistic merit.

(b) not exploitive or gratuitous.
(c) generally a thought provoking discourse on the role and experience of a woman in a couple relationship from a radical feminist perspective and that it contains few popular entertainment values.

(d) likely to appeal to a relatively sophisticated section of the public with some familiarity with the issues it raises. (Classification Review Board Romance sec. 6)

The Review Board thus concluded that an R18+ rating with the consumer advice “High Level Sex Scenes” would be consistent with the Code and effectively balanced the rights of adults to watch what they choose; the rights of minors to be protected from harmful and disturbing material and everyone’s right to be protected from offensive material.

Comparison: Why Salò?

Marr says in The High Price of Heaven, that liberty was not the issue in the nineties; it was the problem (80). Publicly defending the liberty of the screen was considered bad politics, even though polls suggested that around 70 per cent of Australians at the time believed that adults should be able to see, hear and read what they choose (Marr, The High Price 76). Despite this statistic, Marr explains that politicians discovered it was not the typical Australian that decides who runs the country, but the “anxious, at times vindictive, often militantly Christian 30 per cent” (The High Price 77). The success of the Howard administration came down to its ability to use “family values” as a means of obtaining the Christian, conservative vote (Maddox 71-106). Back in 1996 Howard had promised to tighten film and video censorship in Australia (Maddox 75). One way to ensure this happened was to rid the classification boards of all the “experts and city types” currently appointed, and replace them with “real” Australians (Marr, The High Price 184).
Terry Lane revealed, in his article for *The Sunday Age*, that Beanland urged Williams to appeal *Salò*’s R18+ rating on the basis that the new Classification Board was known to be “full of normal people, as opposed to film critics” and out-of-touch academics. These “normal people” supposedly were selected as they would be more representative of the Australian community than those members of the 1993 board. The Howard government regarded “experts” are unrepresentative of ordinary Australians and therefore out-of-touch with the community (Kampmark 355). Dunstan argues that the favouring of “ordinary citizens” over “experts” allows for political manipulation (149). He explains that the criteria for selecting “ordinary citizens” is far less objective than that for selecting “experts” which requires professional qualifications or industry experience (149). Howard’s position that the 1993 board members were out-of-touch with the community, allows his administration to change appointees for political reasons (Dunstan 150).

The decision of the reformulated Review Board to ban *Salò* is indicative of a classification system that reinforces and normalises mainstream Hollywood cinema (Mills, *The Money Shot* 128). A film that strays too far from the codes and conventions of dominant and acceptable representation is at risk of being ostracised as certainly was the case with *Salò*. The six members of the 1998 board are meant to represent normal Australian adults, who are naturally deeply offended and disgusted by the kind of gratuitous violence and offensive and abhorrent sexual activity portrayed in *Salò*. Those conservatives who triumphed at the re-banning of this film could not possibly have considered the negative implications such a decision would have. Allowing any film to be banned because of its possible offensiveness is as Lane calls it “an intolerable affront to civil liberties” (Lane).

In the sixties art was a defence to obscenity, it was the key (Marr, *The High Price* 183). However, in 1995 when the Classification Act was implemented, art was no longer
a defence to obscenity. Art was “downgraded” to being just a consideration that the boards must take into account when classifying a film (Marr, The High Price 183). This meant that a film like Salò could no longer be excused from being banned simply on the grounds of its artistic merit. The 1993 Review Board released Salò because they believed that although the film was brutal, revolting and hard to watch, it was still a great work of art by a great filmmaker (Marr, The High Price 185). That art could redeem an offensive, immoral and dangerous film like Salò made Christian groups throughout Australia furious (Marr, The High Price 185). So began the religious right’s fight to ban Salò. Marr says that Pasolini’s film was “stalked by the forces of censorship ever since its release” (The High Price 193). It became a “rallying point for everything the conservatives thought was wrong with the Office of Film and Literature Classification” (Brown, qtd. in “Deliver Us From Evil”). They were adamant that Salò’s release set new low standards of extreme sexuality and violence (Marr, The High Price 197). In line with the 1995 Act and the social agenda of the Howard government, the conservative 1998 Review Board did not put artistic merit on as high a pedestal as the former board members had. The previous board of film critics had according to some, such as Liberal party Senator John Tierney and National party Senator Julian McGauran, placed too much emphasis on Salò’s artistic merit. Senator McGauran said blatantly, “I’m actually over the moon that the artists have been pulled back into line . . . artistic merit doesn’t mean much to me” (qtd. in Lane). The 1998 banning of Salò was a victory for the repressive Christian right (Lane).

Artistic merit and context were central forces as to why Salò was banned by the Review Board while Romance received an R18+ classification. For any image to possess this “magical quality” (Vnuk, Snatched 209) of artistic merit, its aesthetic value must prevail over its perceived threat to morality. Krzywinska contends that context is an integral element necessary for non-simulated sex in art films to be regarded as higher in
status and to be understood as meaningful (Sex and the Cinema 217). The presence of non-simulated sex in art films must then be contextually qualified in order to legitimise it as having artistic merit. Linda Williams, who has written a number of publications on pornography, says in “Cinema and the Sex Act” that Romance is sexually explicit but “not pornographically obsessed with close-ups of genitals” (22-23). Rather, L. Williams contends that it is about complex “sexual negotiations.” She believes that Breillat’s film proves that sex can coexist alongside philosophy, sexual politics and emotions (“Cinema and the Sex Act” 22-23). The inclusion of elements such as character engagement and narrative context makes the experience contemplative for the spectator, situating Romance within the realm of the artistic. The Review Board supports this claim maintaining that the scenes of sexually explicit material were indeed integral to the film’s plot and theme. It is clear that the film’s “artistic merit” was fundamental in warranting Romance an R18+ classification.

By contextualising the explicit sexual imagery within a film’s narrative and using artful cinematography a film can be placed within the culturally acceptable category of art. This is evident in the reviewed decision for Romance. Furthermore, because the sex in Romance is framed within a psychosexual context, it is given what Krzywinska calls “an emotional and philosophical colouring” (Sex and the Cinema 221). As such, the occurrence of explicit sex is convincingly portrayed as more than a mere superficial spectacle of naked bodies. Romance was legitimised within the realm of the artistic because of its psychologically-based narrative. Romance places “real sex in a thematic psychological minefield of reflections, refractions, mis-connections, social, personal and inter-personal contradictions and transgressions.” These psychological narratives are incompatible with the “untroubled sexual spaces of hard core” (Krzywinska, “The Enigma of the Real” 228).
However, critics of Breillat’s work often discuss her films with reference to pornography (Best and Crowley 55). The visual display of sex in her films means that there is a tendency to focus on this aspect of her work, despite Breillat’s insistence that she is making art (Best and Crowley 61). Breillat herself says: “I feel as if (pornographers) have taken these images and stolen them away from the rest of us . . . So that if anyone else wants to use them, they have to apologise for it or justify themselves” (Breillat, qtd. in “Director Walks Thin Line”). Art films that are preoccupied with sex and contain explicit sexual content are often deemed inferior as artworks because of the pornographic expectations that come with the display of sexual imagery (L. Williams, Screening Sex 260). The sexual frankness of Breillat’s work makes it difficult for some critics to accept her as an artist rather than a pornographer.

For most people what distinguishes an art film from other cinematic genres is that it performs some kind of function for society; that it is not merely entertainment. Insistent is the premise that art must be of value in that it either inspires us or acts as a form of cathartic therapy. “Art in the form of a violent film has too hard a time hauling itself out of the gutter for some critics to even allow it to enter the portals of acceptable culture” (Mills, The Money Shot 102). Mills says it is no accident that the films banned or censored in Australia have been those valued by both political and sexual libertarians (The Money Shot 117).

Let us recall Longino’s definition of immoral behaviour discussed previously in Chapter One. She defines immoral behaviour as that which causes other people to suffer injury or be violated as a result of that behaviour (35). Among her list of immoral acts are those which exploit others, cause physical or psychological pain to others and degrade or misrepresent others (35). However Longino accepts that there are instances when representations of sexual abuse and degradation and other violent depictions are justified by context. In order for these representations to be contextualised, the film must
not appear to approve of or encourage the immoral sexual behaviour. The Review Board stated in their findings on *Romance* that the rape scene which takes place is of a high intensity. In this scene Marie is raped on the staircase of a building by a stranger who has rear intercourse with her forcefully and aggressively. The Review Board stated that although this violent scene was one of high intensity, the sexual violence is implied and not graphically shown. More importantly they stated that “the context is not gratuitous or exploitive” and that because it was the only scene in the film that contained non-consensual sexual violence it could be accommodated within the R18+ classification (Classification Review Board *Romance* sec. 6).

On the other hand, in their findings on *Salò*, the Review Board stated that many scenes in the film not only depicted violence and sexual violence but depicted cruelty and persons in a demeaning manner. The depiction of young men and women being forced to eat faeces and urinate on the faces of their oppressors was one scene which was found to debase in a sexual nature the young characters. Although the Review Board did not dispute that the film was anti-violence and therefore did not condone these acts, they held that these acts of cruelty were not contextualised. In their opinion these acts were offensive because they were not seen to be justified by context and as such were excessive and gratuitous.

This is curious since so many others have defended the film’s violent and sadistic representations on the grounds that the film is intended as a metaphorical statement against fascism and absolute power. The depraved imagery was conceived as an attack on corrupt, bourgeois capitalist society (Tropiano 216). Pasolini’s own intentions are clear in this comment he made to Bachmann in an interview during the filming of *Salò*:

*My film is planned as a sexual metaphor, which symbolizes, in a visionary way, the relationship between exploiter and exploited. In sadism and in power politics*
human beings become objects. That similarity is the ideological basis of the film ... there you have two basic dimensions: the political and the sexual. (40)

Even the minority of the Review Board disputed the majority’s opinion arguing that the depictions in question were not gratuitous as they were not excessively prolonged or detailed and were within the context of the storyline (Reports of the Classification Review Board Salo 150). For the minority, as with many others who have defended Pasolini’s work, Salò is a “powerfully realised political statement on the violation of innocence and freedom” (Reports of the Classification Review Board Salo 151). Furthermore, the minority held that although the film may cause outrage or extreme disgust to many people, it would not have this effect on “most” people electing to see the film (Reports of the Classification Review Board Salo 150). Therefore, the minority concluded that the film was not offensive under the intended definition of offensiveness outlined in the Code and should be given an R18+ rating on the ground of its artistic merit. Sue Milliken, former Chairman of the Australian Film Commission and one of Australia’s most experienced film producers, discusses the complex relationship between violence, classification, the cinema and its social responsibilities in her address to The Sydney Institute. Milliken, who resided on the old Review Board which released the film with an R18+ rating, says that perhaps violence in film is necessary when the filmmaker uses the imagery justifiably when making a statement about the human condition (77). Of course this address was given in 1994 and Salò was yet to be re-banned by a newly constructed Review Board, but her comments illustrate the problem with context.

Alyce Mahon, academic and twentieth century art and critical theory specialist, argues in Eroticism and Art that “social and moral limits are imposed on [us] by society as the body is regulated and codes of appropriate behaviour laid down ... [H]uman sexuality is restricted by social customs, by taboos that deem certain acts forbidden or
unlawful” (13). It is clear then that the Review Board found that the sexual imagery in *Salò* exceeded the boundaries of social and moral acceptability. In her paper entitled “Violence in the Cinema,” Milliken says that the images of violence, torture and sadism in *Salò* are prolonged and shocking but integral to Pasolini’s purpose and are neither erotic nor titillating (75). Similarly, Stephen Tropiano has said of *Salò* that there is “nothing remotely erotic about all this debauchery” (216). In fact several critics have observed that there is nothing “scabrous or titillating” about the film (Salvage 92). Psychiatrist David Salvage argues that the sexual acts in *Salò* lack elements of cinematic foreplay or the “strip tease” (Salvage 92). These elements are often what make portrayals of sexuality erotic (Salvage 92). The sexual acts in *Salò* are “presented as brutal, sudden eruptions that occur without modulation, seduction, or the traditional elements of building cinematic tension” (Salvage 92). In other words, *Salò* does not arouse the spectator because unlike Hollywood depictions of sex, it lacks elements of seduction.

Film critic Keith Connolly was the deputy convener of the 1993 Classification Review Board. In recalling the decision to classify *Salò* R18+, he told Marr that although the members of the board were shaken up by the film, they understood that Pasolini was a great filmmaker and that “serious film-goers shouldn’t be deprived of the opportunity to see his work” (Marr, “Art vs Innocence”). They believed that it was vital to take into account the film’s artistic merit. Every member of the Review Board considered *Salò* to be “a serious work of art pursuing a serious political purpose” (Marr, “Art vs Innocence”). In saying so they considered Pasolini’s images depicting the degradation and abuse of young people at the hands of the powerful authority figures integral to the film’s intentions. The imagery used in *Salò* is what Krzywinska calls political bondage, domination and sado-masochism. Films characterised in this way “use BDSM imagery and themes to comment on broader power relations or politics.” [They]
actively set out to disturb the erotic gaze by aligning sex and desire with . . . power” (Sex and the Cinema 196). Pasolini uses sadism as “a sexual metaphor for class struggle and power politics” (Pasolini 39). Catholic priest, Father Michael Elligate, who was on the Review Board at the time, remarks that the film is “perhaps the most powerful modern critique of the whole issue of fascism and the totalitarian state” (qtd. in Marr, “Art vs Innocence”). While Milliken and the old Review Board found Pasolini’s cruel and sadistic depictions justifiable, the new board did not and this was a major contributing factor which led to the film being refused classification.

Mills believes that “in a world fearful of ideas, the biggest threat to an open, democratic society is not the portrayal of violence and evil, but the zipping up of the lips that want to express ideas – some of which take the form of perverse stories” (The Money Shot 84-85). Filmmakers like Pasolini make sense of the violence and corruption that exists in the world. We may be shocked and offended by the imagery in his films but as Janet Strickland, Chief Censor 1979-1986, asks “If we have nothing that makes us feel shocked, how do we know what our value system is?” (qtd. in Guilliat and Casimir) She insists that it is good to feel shocked and offended as it is only when we experience these emotions that we know we can still feel and we are able to create a value system. Those responsible for banning films containing graphic, gratuitous or offensive depictions of violence, like those found in Salò, should be wary of the effects it may have on our so-called free society. As Mills points out “the results of suppressing screen violence may be infinitely worse than anything its depiction might do” (The Money Shot 85). When screen violence is banned, we are forbidden the images we need in order to make sense of our inhumanity and the inhumanity of others. “Cultural and political isolation is ensured as we are left ignorant of how other societies and their cultures do or don’t make sense of inequality, degradation, exploitation and power struggles when
moving images are sanitised or banned” (Mills, *The Money Shot* 93). As Mills argues, depictions of violence in films can help us understand actual violence in the real world.

Marr believes that the youthfulness of Pasolini’s actors is what would “eventually bring *Salò* undone” (*The High Price* 201). While the 1993 board barely mentioned the age of the young people being depicted, the new Review Board paid careful attention to whether or not the young people looked as though they could be under the age of 16 (Marr, *The High Price* 201). Elligate had said five years earlier when he was on the board that Pasolini used young people, not children, stating: “Whatever this was, it’s not pedophilia” (Elligate, qtd. in Marr, *The High Price* 201). However, since 1995 there have been new guidelines and a code which instructs that films should be refused classification if they “depict in a way that is likely to cause offence to a reasonable adult a person who is, or who looks like, a child under 16.” The Review Board found that some of the young characters in *Salò* “could” have been under the age of 16 (Reports of the Classification Review Board *Salo* 147). Marr explains that “[o]nce the film was declared an artistic failure, the question of the age of the actors became crucial” (*The High Price* 204). Interestingly the Classification Board found that the actors “did not” appear to be under 16 (Reports of the Classification Review Board *Salo* 146). Even the Review Board was clearly not convinced of their own position as later in their report they state that the offensiveness of *Salò* was increased by the “involvement of young people who, if not clearly under 16 years, nevertheless looked like persons under the age of 18” (148). The Review Board had made up their own guidelines. In stating that the young people nevertheless looked under the age of 18, the Review Board was implying that they were still represented as children. The Review Board could then argue that any reasonable adult would find the depiction of children in a demeaning manner offensive. Even the terminology used by the Review Board in their report evokes images of children. They use the terms “boy” and “girl” rather than male and
female when describing the victims. This is clearly a tactic to infantilise the young people being depicted. Elligate says that the Review Board sensationalised the depictions in *Salò* into children being abused (Marr, *The High Price* 204). The Review Board used the youthfulness of the actors to justify banning *Salò*.

The statements made by the Review Boards in relation to *Romance* and *Salò* show that in certain circumstances scenes of cruelty, sexual violence and fetishes can be warranted but only if they occur infrequently, are seen to be justified by context and are not represented in a way that is approving or encouraging of the behaviour. If these elements of respect, dignity and personhood are not a characteristic of the material being represented, or the degrading and abusive sexual depictions are not justified by context, then like *Salò* they are at risk of being interpreted as gratuitous and offensive. Above all else it was the interpretation of these violent acts as contextually unjustifiable that led to the film being refused classification. Had the Review Board accepted that these cruel depictions were integral to the narrative and Pasolini’s intended metaphorical statement about fascism and the abuses of power, an R18+ rating could have just as easily been granted on the basis of the film’s artistic merit. Artistic merit then does not always guarantee that a film will be given a classification. Even when a film is seen to exist within the realm of art, the Review Board can still refuse its classification by labelling it offensive to the reasonable adult of whom they are supposedly representative of.

Vnuk asks in her book *Snatched: Sex and Censorship in Australia* whether there is a sliding scale which measures how much artistic merit a film has, and whether a film which has more artistic merit can get away with showing more gratuitous and exploitive scenes than a film with less artistic value (209). Vnuk makes an interesting point. Artistic merit is something that the boards are asked to consider when making a classification decision but as was pointed out earlier it is no longer a defence to obscenity. Therefore, it is not enough for a film to be labelled art. All the films discussed
in this thesis have some claim to art, yet half of them were refused classification. The Review Board has to decide whether the artistic value of a work is enough to warrant a classification, or whether a film’s offensive depictions outweigh any artistic value the film may have. In the first instance films like Romance get away with gratuitous and exploitative depictions because they are considered artistic. However, there seems to be a boundary of acceptability where even artistic merit does not excuse the representation of certain material. The imagery in Salò, for instance, was considered so offensive that even its artistic status did not save it from being banned.

The hypocrisy that lies at the core of our classification system is that it vows to ensure that all adults “be able to read, hear and see what they want,” while at the same time restricting that very freedom by banning certain materials from adult audiences. Margaret Pomeranz, respected film critic in Australia and member of Watch on Censorship, has said of the ban: “I can’t stand the idea of this nanny state, which says, ‘We’re not going to let you see something, it’s too revolting.’ This is outrageous” (qtd. in Browne). Lane calls the Review Board’s decision to ban Salò “a triumph of stupidity and anti-intellectualism.” He believes that it “marks a regression into the infantilism and paternalism of the past” (Lane). What essentially has become our censorship system treats children and adults alike, where legislation is created to prevent both sectors of our society from exploring the ideas represented in a film like Salò as well as the possibility of making their own moral judgments (Mills, The Money Shot 93). When the Review Board bans a film that has been labelled offensive, it suggests that Australian adults are incapable of making a rational choice about whether or not a film is appropriate for them to see. Rather than infantilising the whole community, steps should to be taken to help Australian adults make a more informed decision about the films they watch. If the Review Board believes that people may be offended by the content of a film, measures
should be taken to prevent this that do not impede on the rest of the community. A better solution may be simply to provide more detailed consumer advice rather than forbidding the film outright.

**Conclusion**

In 1998 the Review Board banned *Salò* because they were uninterested in the film’s artistic or political value; *Salò* was refused classification simply because the Review Board did not like it. As this chapter has illustrated art is not only subjective but so too is the value one places on art. *Romance* was classified despite containing depictions of sexual violence, fetish activity and explicit sex because the Review Board believed these scenes were justified by context and as such would not offend the reasonable adult. Because these otherwise problematic scenes were accepted as being integral to the film’s narrative, they were excused on the basis of artistic merit and the film exempt from being banned. It is important to reiterate here that while the sex scenes in *Romance* were real, that is the actors were actually having sex, the sexual activity in *Salò* was not. Despite this *Salò* was banned.

Section 11 of the Act which exempts films from being refused classification if they have artistic merit could have been applied in the case of *Salò*. Unfortunately for those of us who value artistic freedom, it appears that the standards of morality, decency and propriety generally accepted by the majority of the Review Board prevailed. It is also undeniably clear that the first principle of the Code that “adults should be able to read, hear and see what they want” is of little importance. In any decision where the Review Board deals with offensive material, they need only to point to the third and fourth principles of the Code. These require that the Review Board take into account that everybody be protected from unsolicited material they might find offensive, as well as
community concerns about violence, particularly sexual violence. In the end these latter principles will always triumph the right of adults to watch what they want.

**Afterword**

During the writing of this thesis, there was a surprising turn of events; *Salò* was released on DVD for the first time in Australia (Hawker, “Sodom Revisited”). In May 2010 the Review Board classified the DVD version of the film R18+ with the consumer advice “Scenes of torture and degradation, sexual violence and nudity” (Classification Review Board *Salo*). The two-disk DVD includes three hours of additional documentary material and behind-the-scenes footage. These extras, according to film writer and reviewer for *The Age* Philippa Hawker, are what made *Salò*’s release possible (“Sodom Revisited”). The Review Board states in its report that the additional footage contained in the DVD “facilitated wider consideration of the historical, political and cultural context of the film, and this would mitigate the level of potential community offence . . .” (7). There is no guarantee that anyone who buys *Salò* on DVD will actually watch the extensive additional footage and so it is curious that this had such a bearing on the Review Board’s decision to classify the film. Interestingly, the Review Board also determined that “the impact of *Salò*, now 35 years old, is reduced by its age, its dated and sometimes technically unconvincing visual effects and construction of the film’s narrative through mostly obscured long or extreme long shot visuals and editing techniques” (7). *Salò*’s censorship battle in Australia is unusual, unprecedented and probably not over but it does highlight one of the problems with our classification system. There are discrepancies that exist between the boards and inconsistencies in their interpretation of the guidelines and code. So after having been banned, released and banned again, *Salò* can now be purchased from your local JB-Hi-Fi store.
Chapter Three

Rape, Gratuitous Violence and Explicit Sex: Why the Depictions of Sex and Violence in *Baise-Moi* exceed R

[In the 1960s every] film had to be classified, cuts were demanded, some films were banned . . . We’ve come a long way since then and in line with the rest of the world where most films like *Baise-Moi* and *Ken Park* are free to screen, Australia becomes the only country to ban them. (Spratt, Potential Films Director, qtd. in Carbone)

*Baise-Moi* and *Irreversible* are films about rape and revenge. Both contain gratuitous scenes of realistic violence and are particularly controversial for their depictions of sexual violence. Having received R18+ classification from the Classification Board, *Baise-Moi* and *Irreversible* were, in 2002 and 2004 respectively, brought before the Review Board upon appeal. With their extreme depictions of violence and sexual violence, it seemed that a censorship battle was predictable for both films from the onset. This chapter investigates why *Baise-Moi* was banned upon review, whilst *Irreversible* was released uncut with an R18+ rating. Discussion will focus on the film’s depictions of gratuitous and sexual violence. Both films contain graphic violence, instances of actual sex and a lengthy rape scene of each film’s central character. In the case of *Baise-Moi* the rape scene is 4 minutes in length, while the rape scene in *Irreversible* is 9 minutes. However, while the Review Board considered the shorter rape scene in *Baise-Moi* to be disturbing, gratuitous and degrading, they found the longer rape scene along with the other graphically violent depictions in *Irreversible* to be
justified by context. Therefore *Irreversible* was considered appropriate for adult consumption while *Baise-Moi* was not.

These two recent French films are what film critic James Quandt describes as the “New French Extremity,” a cinema that is “determined to break every taboo, to wade in rivers of viscera and spumes of sperm, to fill each frame with flesh, nubile or gnarled, and subject it to all manner of penetration, mutilation and defilement” (127-128). Quandt explains that the New French Extremity may be a response to “the collapse of ideology in a society traditionally defined by political polarity and theoretical certitude” (132). In films such as *Baise-Moi* and *Irreversible* sex and violence are inextricably linked, providing for an important and relevant case study. In reaching their classification decision for both of these films, the Review Board had to determine the limits of acceptability when it comes to depictions of realistic violence and sexual violence. Furthermore, the Review Board had to consider what kinds of representations of rape are permissible in an R18+ film. *Baise-Moi* was banned because of its unrelenting, gratuitous and exploitative violence, while the realistic yet “restrained” manner in which the contentious scenes in *Irreversible* were shot meant it could be accommodated and released with an R18+ classification.

**Baise-Moi and its Classification Decision**

*Baise-Moi* is a French language film based on Virginie Despentes’s first novel of the same name. Despentes, who is also the film’s director, has been accepted by the literary community winning a number of literary awards in France. In 1998 she won the Prix de Flore, an award given out each year to a young talented and promising author, for her novel *Les jolies choses*. Despentes was awarded the Prix Renaudot 2010, an annual literary prize, for her novel *Apocalypse bèbè* (*Prix-Litteraires.net*). She was also nominated for the prestigious French literary award, the Prix Goncourt in the same year
(Académie Goncourt). Although considered controversial, she has been recognised as a serious writer. Co-director of Baise-Moi Coralie Trinh Thi and the film’s leading actors Karen Bach and Raffaella Anderson are French porn stars (Quandt 129; Beugnet 49). This adds a certain authenticity to the kind of world depicted in the film where prostitution, petty crime and drug use are part of everyday existence. Film scholar Martin Barker found that it is the personal experience of these women in the porn industry that “enables and indeed drives their passionate combination of hatred of sexual domination with celebration of women’s real sexual desires” (158). Rather than cheapening the depictions in the film, the experience that these women have in the porn industry adds credibility to the story being told. Quandt describes that story as “an extreme vision of women driven to limits of compulsion, sexuality, or violence in their rejection of a world that attempts to constrain or degrade them” (128).

The two central characters in Baise-Moi are Nadine, a prostitute, and Manu, a young porn star. Early on in the film Manu gets raped in an explicit scene of sexual violence. Manu and Nadine meet and embark on a “sexually charged rampage of violence as they attempt to deal with the violence and humiliation to which they have been habitually subjected” (Classification Review Board Baise-Moi). This justifies the definition of Baise-Moi as a rape-revenge film.

Having received an R18+ classification with the consumer advice “Strong Sexual Violence, High Level Violence, Actual Sex and Adult Themes” from the Classification Board in October 2001, Baise-Moi was brought before the Review Board in May 2002 upon appeal. Attorney-General at the time Daryl Williams applied for the review as he felt it was arguable whether the Classification Board had classified the film in accordance with the guidelines. This was the first time Williams had brought a film before the Review Board “in his own right” despite admitting he had never seen Baise-Moi (Hawker and Douez). However, it has been reported that Williams only applied for
reconsideration after “anonymous private requests” lobbied him to do so (Rose). Elsewhere it is stated that members of the public had approached the Attorney-General expressing their concern about the film’s sexual violence, encouraging him to appeal the original rating (Hawker and Douez). Then South Australian Liberal MP Trish Draper and Queensland National Party MP De-Anne Kelly, had both written to Williams with complaints about the film’s sexual violence, actual sex scenes and high level violence, requesting the film be brought before the Review Board (Hawker and Douez; Johnson). Neither of these women had seen the film and both based their objections to it on “third-hand information” (Hawker and Douez).

*Baise-Moi* was banned due to what the Review Board found to be its “almost unrelenting violence,” exploitative and gratuitous violence, detailed and prolonged sexual violence as well as several scenes of actual sex (Classification Review Board *Baise-Moi*). The Review Board describes the violence in *Baise-Moi* as “unrelenting” because it is brutal and even cruel at times. There are few moments in the film where the audience is not confronted with merciless acts of violence. Below are the sequences which the Review Board found cumulatively made *Baise-Moi* a film of “almost unrelenting violence”:

At approximately 20 minutes Manu has an argument with her brother which escalates and he gets a gun and tells her to “Shut your big fucking mouth”, she responds: “Fuck you”. At 21.30 Manu fights with her brother and shoots him in the head. He is shown dead lying in blood on the floor, there is blood coming from the back of his head, there is blood on his face and the walls. She takes his money, bends over, kisses him and leaves with the gun and the money. (Classification Review Board *Baise-Moi*)
The Review Board believed this sequence to be a strong scene of realistic violence with high impact.

At 22 minutes Nadine and her flatmate are physically fighting. Nadine leaves her flatmate prone and unmoving on the floor. . . .

At 24.30 the men who have earlier been pursuing Nadine’s friend Francis shoot him. Nadine sees it happen. The scene is replayed in slow motion. There is blood over the car and over his dead body. (Classification Review Board *Baise-Moi*)

The Review Board stated that as is common in the pornographic genre, one of the techniques used in the film to increase the impact of this scene is the use of slow motion replays. The violent depictions in this sequence together with the editing techniques used by the filmmakers to increase the scenes impact, led the Review Board to be of the opinion that this was a strong scene of realistic violence.

Soon after [the previous sequence] Manu and Nadine meet outside a train station. After a short conversation they get into Francis’ car. Manu points a gun at Nadine and says: “I want to go to the sea and you’re going to take me there.”

At 39.56 The women rob a gunshop and shoot the owner.

At 48 minutes Manu shoots and kills a man in the street who has asked her: “Do you wanna feel my balls slapping your ass?”

At 55 minutes Manu shoots a police officer.

At 1 hour and 3 minutes Manu shoots a wealthy homeowner. He is shot several times and blood is spread through the room. At 1 hour 4 minutes Manu and Nadine are sitting outside the man’s house drinking beer and Jack Daniels and
eating Cadbury Fingers. His bloodied body is inside the house. (Classification Review Board *Baise-Moi*)

The Review Board noted that “the callousness of the women and their lack of remorse or concern is striking.”

At 1.08 Manu is shot by a service station proprietor and Nadine shoots him.

At 1.13 Nadine is sitting by a lakeside with a gun to her head. She is captured by the police and the film ends. (Classification Review Board *Baise-Moi*)

The Review Board also considered a number of scenes which they found to be strong depictions of realistic violence shown to be gratuitous. These gratuitous scenes of realistic violence are summarised below:

At approximately 34 minutes Nadine and Manu shoot a woman at an ATM. The scene shows the woman being shot, the blood spurting and the woman sliding down the wall with the blood sprayed over the wall as she collapses. Manu says: “First I felt bad . . . [now] I feel really great. So great I almost feel like doing it again”. (Classification Review Board *Baise-Moi*)

The Review Board felt that this scene was not only a strong scene of gratuitous and realistic violence but it was also of high impact.

At 38.50 The women steal a car and run over its owner. “Fucking bastard, let rip the mother-fucker”. Blood is shown coming out of the man’s mouth as he lies prone on the ground, apparently dying. (Classification Review Board *Baise-Moi*)

As was the case with the sequence at 24.30 minutes, the Review Board stated that the impact of this sequence was increased through the use of “repetitive editing techniques” and found the scene to be gratuitous.
At 43 minutes Nadine sniffs cocaine. Manu is with a man who wants to wear a condom to have sex. At 45 minutes Manu puts her head into a man’s groin area. He appears to believe she is going to perform fellatio. She vomits into his lap. Manu and Nadine laugh. He says: “Filthy little cunts”. Manu head butts him. Manu and Nadine then kick the man and tread on him with high spiked heeled shoes until he appears to be dead. He is shown with blood over his head and over the carpet. (Classification Review Board *Baise-Moi*)

The Review Board found this scene to be gratuitous with a high level of impact.

At 1 hour 6 minutes a sex club is shown. Couples are having actual sex including fellatio and rear penetration. One man approaches Manu who says “Fuck off mother fucker, keep your hands off me”. Manu and Nadine then start shooting people. There is blood and bodies throughout the club. One man is having sex and has his trousers around his ankles. He tries to remove his erect penis from his partner’s vagina but has difficulty. He stands up and tries to run away but is hampered by his trousers. He is shot. (Classification Review Board *Baise-Moi*)

The Review Board describes this scene as “comical, cruel and degrading.” They found this sequence to be gratuitous in parts and contain elements which were very high in impact. The Review Board found that the “interaction between the scenes of actual sex, the degrading way the man with his trousers around his ankles is shown and the violence of the scene (the shooting, the blood, wounded people crying and screaming) increase its impact on a cumulative basis to that of a very high level” (Classification Review Board *Baise-Moi*).

In his submission to the Review Board, Williams said that he was particularly concerned about whether the Classification Board had accurately applied the guidelines in regards to the classifiable elements of sex and violence:
Of particular concern are those guidelines dealing with detailed, excessive, realistic and exploitative violence and sexual violence . . . I believe it would be appropriate for the Classification Review Board to consider whether the elements I have described are justified by context and artistic merit. (Classification Review Board Baise-Moi)

Potential Films’ contrary view of the film was that Baise-Moi “is an honest work deserving the protection of Section 11 of the Classification Act” (“Potential Films Submission” 1). While the Review Board noted Spratt’s “well-argued” submission, they nevertheless agreed with Williams’s position. The Review Board concurred that the Classification Board in their original decision neglected to apply the guidelines accurately.

The film’s treatment of sexual violence was of major concern to the Review Board when making their classification decision for Baise-Moi. They paid particular attention to the sexual violence portrayed in the rape scene which they found to be both detailed and prolonged. The rape scene which goes for approximately 4 minutes is considered of very high impact. This scene is so significant to the Review Board that a full page of their report on the film is dedicated to describing it.

At 9 minutes Manu and her friend are sitting on a park bench when approached by several men. They are taken in a car to a covered carpark and raped. The film cuts between the two women being raped. One [Manu’s friend] is violently resisting and is shown with blood on her legs and her face. She is screaming. Her breasts are exposed and she is crying. A close up shot of an erect penis in a condom is shown and is shown being inserted into the woman’s vagina. She continues screaming and struggling. Her bloodied face is shown again. She has been repeatedly hit across her face by the rapist. She is crying and sobbing.
Manu is shown as unwilling but completely unresisting. She demonstrates little emotion during the rape. She lies prone on the floor with her legs spread as one man rapes her. One man tells her to get on all fours. She does so. He spits on his hand and wipes the spit on his penis. Implicit rear penetration is shown. She shows no emotion and does not move, unless instructed, nor does she struggle. He says: “Shit it’s like fucking a zombie.” When berated (at approximately 13 minutes) by her still-crying friend as to why she did not resist the rapists Manu says: “I leave nothing precious in my cunt for those. . . .” (Classification Review Board Baise-Moi)

The Review Board found this rape scene to be both disturbing and of very high impact. This undeniably sexually violent scene portraying the rape of two women, “one with violence and visible and audible distress, one with complete absence of emotion” was described by the Review Board as being both prolonged and detailed (Classification Review Board Baise-Moi). Furthermore, they believed that the sequence where Manu is raped through rear penetration is degrading. Historian Joanna Bourke, in her article “Sexual Trauma and Jouissance in Baise-Moi,” describes this scene as being “raw and shot with excruciating realism” (187).

Another scene that the Review Board found problematic in regards to its depictions of sexual violence occurs a little over an hour into the film.

At approximately 1 hour 07 minutes Manu gives instructions to the man in the sex club who approached her. He is on all fours and she says: “C’mon grunt asshole. Drop your pants”. He removes his pants and is grunting and wiggling his bottom. He is shown with blood running down his face and is clearly frightened. Manu shoots him in the anus and the blood comes out of his face. The screen turns red. (Classification Review Board Baise-Moi)
The Review Board describes this sequence as a degrading scene which is “disturbing, gratuitous and of very high impact.” According to the Review Board’s report:

This scene was considered in relation to sexual violence because of the nudity of the man, the context of the scene taking place in the sex club where scenes of actual sex had been depicted earlier, the sexual position which he was forced to assume, [and] the cinematic reference to the earlier rape of Manu. . . .

(Classification Review Board Baise-Moi)

This scene was considered to be both offensive and demeaning. The Review Board argued that “whilst cinematically its intention may have been to reinforce the impact of the rape of Manu (who was also on all fours and asked to make noises and move), and her disengagement from reality during that scene . . . it went beyond what was necessary for the storyline” and was therefore gratuitous (Classification Review Board Baise-Moi).

The Review Board did consider the film to have significant cultural merit. In their report they stated that the film comes from the pornographic genre and uses many of the genre’s editing techniques to increase the impact of various scenes. Some of the techniques used by the filmmakers which the Review Board felt heightened the impact of the film were the lighting, editing and soundtrack (Classification Review Board Baise-Moi). The Review Board did recognise that this film was more than simply gore and sex, acknowledging that it shows the two leading female characters to have agency and direction. Further they found that the grainy quality of the film was in “keeping with its stark, realistic portrayal of the women’s lives” (Classification Review Board Baise-Moi). Moreover, the Review Board observed that:

Unlike many pornographic films it has a strong plot, good characterisation, compelling and believable performances by the actors Bach and Anderson, an outstanding musical score which enriches the visual elements and entertains the
viewer/listener with rich melody, rhythm and beat, and some integrity of cultural purpose given the directors’ aim of incorporating “a strong feminist warrior vision, while also [demonstrating] a cutting edge sense of provocation” which Despentes stated was important to them. (Classification Review Board *Baise-Moi*)

After this encouraging statement one would assume the Review Board held this film in high regard. However, despite believing that *Baise-Moi* had much to offer in the context of the pornographic genre, acknowledging the film’s artistic merit and finding significant cultural merit in the film, the Review Board found that its “merit was not sufficient to otherwise override the requirements of the Act, Code and Guidelines.”

Another important element for the Review Board to consider before making their classification decision on *Baise-Moi*, was whether there were depictions of actual sex in this film and if so, whether or not they could be accommodated within the R18+ rating. These were their findings in relation to the scenes containing actual sex:

At 14 minutes Nadine who is employed as a sex worker is shown with a client. The money is counted out. She is wearing leather underpants and stilettos. Actual fellatio is shown at approximately 15 minutes with the erect penis moving in and out of the actor’s mouth.

At 15.15 actual sexual intercourse is shown between Nadine and her client. She is watching TV with her head hanging over the bed during the event. At approximately 15.40 implied rear penetration is shown. The erect penis is shown. Nadine is watching a sausage being sliced on TV. She groans but shows no emotion. (Classification Review Board *Baise-Moi*)

Between 35.30 and 38 minutes a sex scene is shown. Both women are having sex with unnamed male partners in the same room. The scenes cut back and forth
between the two beds. Implied cunnilingus and actual fellatio are shown as well as actual sex with penetration. The women watch each other having sex with their partners.

At approximately 52 minutes to 54.30 is a further sex scene. Both women are shown having actual sex with different partners. Erect penises and obvious genital contact are shown, rear entry penetration, masturbation, fellatio are shown. A parted vagina is shown in close up. A man masturbates his erect penis as he rubs his partner’s underpants. The scene cuts to the other woman and her partner having sex and back to the first couple. (Classification Review Board Baise-Moi)

The Review Board stated that the impact of the scene at 52 minutes is heightened due to the technique of switching between the two sexual scenarios. They found that this scene was detailed and prolonged. The last scene discussed by the Review Board in regards to actual sex was the sex club scene described earlier (1 hour 06 minutes into the film). They found that the sex club scene contains “several instances of actual sex including prolonged and detailed scenes of fellatio (one with a mature couple and one with a younger couple), erect penises and rear penetration sex” (Classification Review Board Baise-Moi).

The Review Board concluded that Baise-Moi as a whole was a film comprised of “almost unrelenting violence” - scenes which contained gore and were of high impact. These violent sequences were not only frequent but were considered gratuitous and exploitative by the Review Board, particularly the sex club scene discussed previously. They found that the sexual violence in the film was detailed and that the rape scene was prolonged and of very high impact. Additionally, there were several scenes in Baise-Moi that contained actual sex including erect penises, obvious genital contact, and a close-up
shot of a parted vagina, actual fellatio and actual masturbation. The Review Board’s final position was that the film was one of unrelenting violence interspersed with non-simulated sex scenes. Because the sex and violence in the film are inarguably inextricably linked, the Review Board’s decision was that it could not be accommodated by the R18+ classification, giving them no other choice but to rate it RC.

In their report, the Review Board insisted that they considered Section 11 of the Act when making their classification decision. However, they found that the combination of sex and violence, the detailed scenes of sexual violence as well as the inclusion of actual sex, “meant that the film fell outside what was considered generally acceptable by reasonable adults” (Classification Review Board *Baise-Moi*). Section 11 of the Act states that when classifying a film the Review Board must take into account “the standards of morality, decency and propriety generally accepted by reasonable adults,” but it also includes the need to take into account the film’s artistic or educational merit and the general character of the film. Many have indeed acknowledged the film’s worthiness including New Zealand film scholar Harriet Margolis, who says of *Baise-Moi* that it has “without question . . . redeeming social/artistic merit” (qtd. in Townsend 3). *Entertainment Tonight*’s Brent Simon stated that:

*Baise-Moi* means to shock and it does. To actually see the degrading violence of a (staged but unforgiving) rape is both sickening - exactly what it’s meant to be - and oddly instructive. I don’t doubt for a second that if more people saw this harrowing scene and others like it instead of the flippant, inconsequential and otherwise candy-ass Hollywood representations of rape . . . sexual assault would decrease nationwide. (qtd. in “Potential Films Submission”)

However, as demonstrated previously the value of a film so often appears to be a matter of taste, particularly that of the Review Board. Often the controversial nature of films
like Baise-Moi makes it easy for the classifiers to label them unacceptable. If a film’s artistic, educational or cultural merit is not appreciated and its value overlooked, the Review Board may determine that it is unworthy of classification.

The Review Board also stated that they specifically considered the first principle of the Code that “adults should be able to read, hear and see what they want.” However in their opinion “the Code’s explicit statement of concern regarding sexual violence and the extensive nature of such sexual violence in the film would override the principle in this instance” (Classification Review Board Baise-Moi). Perhaps the first principle of the Code is not an explicit enough statement for the Review Board who once again has allowed community concerns to override the rights of adults to make their own choices. This case clearly demonstrates that the four principles of the Code are not given equal weight when a film is being classified by the Review Board. This same way of applying the Code can be seen in the Review Board’s report on Salò and as we’ll see in the next chapter, in their report on Ken Park.

_Irreversible_ and its Classification Decision

French film Irreversible directed by Gaspar Noè in 2002 was bound to be controversial. Like Baise-Moi it is a tale of rape and revenge and contains a considerably lengthy rape sequence. This scene which goes for approximately 9 minutes is violent and for many incredibly distressing to watch. Irreversible begins one frenzied night in Paris. We are lead into a sex club where two of the three main characters, Marcus and Pierre, are searching for a man. Marcus commits brutal acts of violence which are subsequently revealed to be motivated by revenge. In a crucial scene, the viewer learns that Marcus’s girlfriend, and the film’s other lead character, Alex has been raped and bashed. The scenes play out in reverse chronological order and so consequently the story unfolds in reverse.
In 2004 *Irreversible* received an R18+ rating from the Classification Board with the consumer advice “Strong Sexual Violence, Graphic Violence, Sexual Activity.” In that same year it was brought before the Review Board upon appeal as requested by then Commonwealth Attorney-General Phillip Ruddock. In a majority decision the Review Board agreed with the Board and upheld the original R18+ classification but changed the consumer advice to “High-level Sexual Violence, Graphic Violence, Sexual Activity” (Classification Review Board *Irreversible* 2).

Taking a common-sense approach the Review Board believed that while the classifiable elements of sex and violence were of high impact, they did not exceed high. As such the members of the Review Board could not justify refusing *Irreversible* a classification and thereby prohibiting it from adult audiences (Classification Review Board *Irreversible* 7). In reaching their decision they considered and accepted the submission from the film’s distributor, Accent Film Entertainment, that *Irreversible* is a “serious film of some artistic merit” (Classification Review Board *Irreversible* 6). Furthermore, after watching the film they believed that it takes a moral stance in regards to the violence and sexual violence depicted. Although the Review Board found material that would possibly cause offence to certain sections of the community, they stated that such material was allowed within the R18+ classification regardless of its artistic merit (Classification Review Board *Irreversible* 6-7). The Guidelines state under the heading “R18+ - Restricted” that “[s]ome material classified R18+ may be offensive to sections of the adult community” (11). Interestingly this was one of the arguments Spratt, on behalf of Potential Films, included in his submission to the Review Board on *Baise-Moi*, but one they nevertheless disregarded.

As sex is one of the classifiable elements listed in the Guidelines, the Review Board were also obligated to determine whether actual sex could be accommodated within the R18+ classification. The Guidelines state that the “general rule is “simulation,
yes – the real thing, no” (Guideline 11). The members of the Review Board felt that as this was only a “general” rule the scenes containing actual sex were in fact permissible. In this particular case they found that not only were the incidents of actual sex justified by context, but they were so brief and infrequent that an exception could be made to allow *Irreversible* to be released with an R18+ rating. Having maintained that the film did contain some potentially controversial scenes, particularly the rape scene, the Review Board considered whether these scenes were contextualised. The majority of the Review Board concluded that the various scenes of violence as well as those of sexual violence were justified by context and were neither gratuitous nor glamorised (Classification Review Board *Irreversible* 7). In regards to violence, the Review Board found the following:

At approximately 20 minutes Marcus threatens a man with a glass bottle saying he will bash the bottle in the man’s face – he repeatedly hits the man; at approximately 22 minutes a scene of high-level violence is shown where Marcus bashes Tenia’s companion with a fire extinguisher repeatedly – the man’s face caves in and the sound of bones crunching can be heard; at approximately 28 minutes Marcus hits the taxi driver, pulls him out of his car and steals his taxi; at approximately 36 minutes is a strong scene begins where Marcus threatens Concha a transgender sex worker – he threatens to “bash the tranny whore”; at approximately 41 minutes Alex is taken away on a stretcher – her face is bloodied and swollen, she appears to be in a coma; at approximately 44 minutes Tenia hits Concha; the high-impact scene involving the implied anal rape of Alex commences at approximately 46 minutes and continues until approximately 53 minutes – in addition to the implied anal rape Tenia threatens Alex with a knife, pulls her hair, explicitly hits her and explicitly and implicitly kicks her . . . . From approximately 55 minutes to approximately 56 minutes 28 seconds Tenia
implicitly hits and kicks Alex. Saying she is now “dead meat” he spits on her and walks away. (Classification Review Board *Irreversible* 4-5)

The Review Board was of the opinion that the implied anal rape of Alex, although of high-impact, was “restrained in its portrayal of a deeply offensive act” (Classification Review Board *Irreversible* 4). They felt that this scene was “restrained” because both Tenia and Alex are fully clothed for the most part, although Alex is partially naked at the end of the scene after her dress is torn; Tenia’s penis is not shown throughout the rape except for a brief glimpse as he rolls of Alex; the rape of Alex is implied (i.e. not real); and no penetration is shown. The Review Board felt that the sexual violence during the anal rape sequence was not only implied violence and justified by context but that the violence in the film as a whole was justified by context despite being high in impact (Classification Review Board *Irreversible* 5).

In regards to the classifiable element of sex in *Irreversible* the Review Board found the following instances noteworthy:

- at approximately 14 minutes two men are implicitly shown having sex, there is groaning; at approximately 15 minutes an erect penis is shown and a person is masturbating (actual sex) – the image is fleeting; at approximately 17 minutes two men are implicitly having sex, there are groans; at approximately 18 minutes two men are implicitly having sex, there are sounds of beating and groans; at approximately 19 minutes there is a projected image on a screen of two men having what appears to be actual fellatio; at approximately 19 minutes 40 seconds a man is shown in a S&M cradle asking passers by to “fist me”; at approximately 20 minutes, whilst Marcus is threatening a patron, a man is explicitly masturbating his penis in the background (actual sex) – the image is fleeting; from approximately 46 minutes to 53 minutes is the implied anal rape of
Alex. . . . Throughout the film are verbal references to homosexual and heterosexual sex ("suck me", "suck my big cock", "we make each other come", "I fucked like a rabbit") – cumulatively these references add to the high impact of the film. (Classification Review Board *Irreversible*)

The Review Board found that although there were instances in the film which they determined to be actual sex, these sequences were only fleeting. Additionally, they felt that the use of low light during these explicit sequences minimised the impact of these scenes (Classification Review Board *Irreversible*). The Review Board conclusively found that while these contentious scenes were shot in a realistic manner, they were restrained and neither gratuitous nor exploitative. Moreover, as previously mentioned, each scene was found to be justified by context and the overall theme of the film.

**Comparison: The Gratuitousness of Baise-Moi**

The problem for the Review Board with *Baise-Moi* was two-fold: firstly the sexual violence in the film is brutal, disturbing and even excessive (Bourke 186); secondly the close proximity the film has to pornography is concerning to the censors. From a feminist perspective the film can be read in two different ways. On one hand, feminists have argued that the violence carried out by Manu and Nadine is sexualised and therefore the message is that women’s sexuality is dangerous (Emerman 73). On the other hand, the film offers a feminine perspective of the experience of rape. Both of these feminist readings are equally valid interpretations of *Baise-Moi*. However what really prevented the film from receiving a classification in Australia was its sexual explicitness. *Baise-Moi* embraces the iconography that has typically been associated with pornography. The film contains close-up shots of vaginal penetration and genitalia, both conventions of the pornographic genre. However, as literary critic and academic Lisa Downing correctly states in her article “French Cinema’s New ‘Sexual Revolution’":

"
Postmodern Porn and Troubled Genre”, “[t]hese art films are not porn.” Rather, Downing, who has published a number of works on the history and politics of sexuality and perversion, argues that they:

offer a specifically cinematic intervention into wider, ongoing critical debates about sexuality and subjectivity in postmodern culture . . . [These films] problematise, plurise or undermine our habitual and lazy ways of looking at sex in a culture saturated with imaged of it (279).

Although the Review Board recognised that Baise-Moi was not intended as a pornographic film, the inability to clearly distinguish it from the pornographic genre outweighed its redeeming qualities.

The 5th annual Women in Motion Film Festival and Careers Forum was held in Victoria in May 1995. As part of the festival a public forum addressing sexual violence on screen was held at the Victorian College of the Arts. The panellists were asked to explore such questions as: Why do so many films and TV programs show sexual violence? Do these portrayals serve any purpose in our culture? Can sexual violence be depicted realistically and without exploitation? (A History of Women in Motion). In response to whether she believed portrayals of sexual violence served any purpose in society, film theorist and media commentator Barbara Creed talked about what she considers a sub-genre of film (Emerman 73). Characteristic of this sub-genre are films where women are raped in the first half and take revenge in the second half. Although she specifically discusses I Spit On Your Grave (Zarchi 1978) in relation to this, her analysis is applicable to most rape-revenge films and certainly in this instance to Baise-Moi. Creed says that the problem with these films is that even though the women who have been raped carry out their terrible revenge on their perpetrators, the scenes in which these women kill off their rapists are incredibly sexualised and eroticised (Emerman 73).
Because the rape scene itself is not treated in the same manner, that is it is neither sexual nor erotic, Creed argues that the meaning the spectator takes away with them is that “women’s sexuality really is dangerous” (qtd. in Emerman 73). Furthermore, she believes that this in fact justifies rape as it encourages the idea that the best thing for a man to do is beat up the woman before she gets you (Creed, qtd. in Emerman 73). Film scholar Martine Beugnet observes that while the rape scene in Baise-Moi is a “graphic and repulsive portrayal of absolute violation, the sequence that follows is endowed with an eerie sense of calm” (53). That the rest of the film is treated so differently to the rape sequence supports Creed’s claim.

In 1995, Mills wrote in her article “Screening Rape,” that “[c]entral to the myths and an analysis of the filmic representations [of rape] lies a gap, an elision, a silencing. It is, of course, the female voice, the feminine perspective that is silenced, missing” (39). It would seem to me that Baise-Moi fills this gap, offers a female voice and a feminine perspective of the experience of rape and sexual violence. Many films which deal with rape are made by men and as such are examined from a male perspective. Consequently, these depictions of rape “posit women as innately vulnerable and dumb” (Mills, “Screening Rape” 40), and sadly have become the norm in cinematic representations dealing with sexual violence towards women. The only way to combat these rape myths, where women are depicted as either asking for it or too helpless to stop it, is by allowing women to portray rape from their own perspective. Film scholar Tanya Horeck says that the women who are victims of rape in films like Baise-Moi do not run for help or report the crime. They do not talk to their friends and family about it and they do not hide themselves or stop engaging in sex afterwards either (“Shame and the Sisters” 199). The women in contemporary French female-authored art films “refuse any straightforward notion of victimhood in the wake of their violation” (Horeck, “Shame and the Sisters” 199). Censoring “offensive” imagery facilitates in keeping the real story hidden and the
male perception of reality dominant. What really is offensive is the kind of classification legislation we have in Australia, which makes it possible for the male perspective of what is essentially a female experience, to become naturalised through cinematic representation. Banning *Baise-Moi* denies Despentes and Trinh Thi a voice and in doing so silences women and their experiences of sexual violence at the hands of men.

Spratt, in his submission to the Review Board on behalf of Potential Films, spoke of *Baise-Moi*’s depictions of sex, violence and unavoidably sexual violence. Specifically in relation to the controversial rape scene, Spratt points to the tendency of people objecting to the film’s release, to do so because the scene involves sexual violence. This simplistic reading of the Guidelines, whereby a film can be banned because it depicts sexual violence, does not take into consideration the specific reasons for the rape scene in *Baise-Moi*. Spratt says that the scene does not condone or incite sexual violence and does not depict the victims in a demeaning manner. Nor does he believe that it glorifies the perpetrators or gloats over the victims (“Potential Films Submission’’). In describing the rape scene Spratt stated:

This crucial scene depicts rape as an ugly, violent crime. It is not sanitised for a comfortable viewing experience nor presented as an erotic fantasy. It is an example of the skill and intentions of the filmmakers in confronting the audience with what is for women in many places [these suburbs, war zones] a ghastly, everyday reality. Virginie Despentes has defended her use of a close shot of sexual penetration during this scene as being vital to her intention to show that this scene is about the violation of one person’s body by another. This detail, in common with many other recent films that have dealt with war violence for example, is graphic but not, I believe exploitative or gratuitous. (“Potential Films Submission”)
Despite Spratt’s submission and the undisputed intentions of the directors, the Review Board found this scene to be prolonged, detailed and gratuitous.

Gordon Preece from the Ridley College Centre of Applied Christian Ethics believes that *Baise-Moi* should not be released as “there are some things we just shouldn’t think about or expose ourselves to” (qtd. in, “Potential Films Submission”). As Spratt says in response to this comment, suppressing films does not eliminate social problems. Rather, it denies a voice to those wishing to examine and more importantly expose to the public the social ills and disturbing behaviour that exists in the world (“Potential Films Submission”). In 2001 Margolis was asked by the New Zealand Office of Film Classification to analyse and assess *Baise-Moi*. In her concluding remarks she stated:

*Baise-Moi* addresses issues of equality in society, specifically as these inequalities affect the status of women . . . [R]ead in its entirety, *Baise-Moi* is a serious piece of social critique, and a useful antidote to both mainstream and porn films that more truly exploit their representation of women and violence on screen. (qtd in. Townsend 4)

Margolis’s comments highlight the uniqueness of the film in its critique of social issues, especially those relating to the inequality of the sexes, as well as the educational value of the film.

Genre identification played a large part in why *Baise-Moi* was refused classification. *Baise-Moi* saw art cinema and hard-core pornography “linked together more visibly than ever before” (Austin 93). Overtime audiences have come to identify certain visual motifs that “belong” to each film genre, be it the western, the gangster, the horror or the science fiction film. Pornography too has its defining criteria. For most people what differentiates pornography from other genres is the presence of sex acts.
Close-up shots of penetration and genitalia are easily identifiable as belonging to the genre of pornography. However, the New French Extremists and other filmmakers such as Larry Clark and Edward Lachman (discussed in the next chapter) are beginning to incorporate the iconography of pornographic cinema into their art films. Many critics have acknowledged this recent trend that has seen European art cinema merging with pornography (MacKenzie 159). Film scholar Scott MacKenzie has named this hybrid genre “pornartgraphy” (159), while L. Williams refers to non-simulated sex in art films as “hard-core art” (*Screening Sex* 259). The merging of genres to create a new hybrid genre is nothing new to cinema. We have seen romance merged with comedy and the musical with horror but these contemporary art films are quite different. The hybrid nature of these films is problematic for the censors as it sees the crossing over of an “illegitimate” cinema into a “legitimate” one.

In 2006 Barker conducted a research project for the British Board of Film Classification. He was asked to investigate audience responses to five films that the British Board had found problematic due to their depictions of sexual violence. Two of these films were *Baise-Moi* and *Irreversible*. The results of this study illustrate how the iconography that once belonged exclusively to pornography can influence the spectator’s reading of a film. When it came to *Irreversible* most respondents noted the reverse-narrative technique employed by the filmmakers (Barker 151, 156-58). However, what stood out about the responses made in regards to *Baise-Moi* was the categorisation of the film as pornography (Barker 151, 153-56). This suggests that when it comes to this type of hybrid genre it is difficult for audiences to distinguish between art films which incorporate pornographic iconography, such as *Romance* and *Baise-Moi*, and pornography itself. While the former uses explicit sexual imagery to explore sexuality and subjectivity in post-modernity (Downing 279); the latter genre uses sex merely to
arouse without the interruption of narrative, character development and political or cultural reflection.

What differentiates the rape scene in Baise-Moi from the one in Irreversible is the presence of genitalia and vaginal penetration. The Review Board seemed to have a real problem with genitalia being shown during the rape sequence in Baise-Moi. As no explicit penetration is shown in Irreversible the Review Board is able to justify the depiction of the rape. While the Review Board described Irreversible as “restrained in its portrayal of a deeply offensive act” (Classification Review Board Irreversible 4), they found Baise-Moi to be “prolonged, detailed and gratuitous” (Classification Review Board Baise-Moi). “Restrained” in this sense seems to mean that there is no nudity or actual penetration shown in the scene. The issue here clearly is the presence of genitalia and the close relationship it has with pornography. As you may recall, in their findings on Irreversible the Review Board explained that the rape scene is restrained in its portrayal for the following reasons: both Tenia and Alex are fully clothed for the most part, although Alex is partially naked at the end of the scene after her dress is torn; Tenia’s penis is not shown throughout the rape except for a brief glimpse of his penis as he rolls of Alex; the rape of Alex is implied (i.e. not real); and “no penetration is shown” (Classification Review Board Irreversible 5). Because of these factors the Review Board was able to justify the rape scene in Irreversible. The “restrained” manner in which the rape of Alex was represented detracted from its overall offensiveness.

On the other hand, the rape scene in Baise-Moi was considered by the Review Board to be disturbing and gratuitous. When the Classification Board originally viewed the film, they determined that the treatment of the rape scene detaches the explicit scene of vaginal penetration from the scenes of violence. In their report on Baise-Moi the Classification Board stated:
this sequence, shot in a bleak cinema verite manner, contains depictions of implied violence with no prolonged or slow motion visuals. Many camera shots are from a distance. The only close-up visual is of explicit penetration. The manner in which the scene is edited detaches the explicit scene from the scenes of violence. The purpose of this graphic portrayal is to convey to the viewer the ugliness and horror of rape. (Classification Board Report Baise-Moi)

However, despite the view of the Classification Board, the Review Board found that “the insertion of the penis was in itself the act of rape and therefore was an act of violence and of sexual violence” (Classification Review Board Baise-Moi). What seemed to be most “disturbing” to the members of the Review Board then, were not the film’s images of rape, but rather the explicitness of those images. What the Review Board seemed to be overlooking is that “the weapon in rape is the penis” (Russell 7) and that by eliminating the shot of violent entry, you take away some of the brutality of the act.

In 2000, the British Board of Film Classification approved Baise-Moi for cinematic release with an 18 restricted rating. However, this was only on the condition that the 10 second penetration shot was cut from the rape scene because the Board felt it drew a link between sex and violence. Horeck explains in Public Rape: Representing Violation in Fiction and Film, that like all media texts, the spectacle of cinematic rape may be open to various interpretations (140-141). It is this concern that Horeck believes may lie at the heart of the British Classification Board’s decision to cut the penetration shot from Baise-Moi. Horeck states that any rape scene in a film which may be interpreted as erotic or sexual is “an immediate candidate for censorship” (Public Rape 140). Although the British Board believed that the rape scene was “responsibly handled by the (female) directors, focussing on the horror and pain of rape from the female point of view, deliberately underplaying any sense of arousal,” they insisted that the 10 second
shot be deleted. The reason for cutting this sequence was according the British Board because:

the inclusion of such a pornographic image in the context of a rape scene could prove harmful to some viewers through its association of a sexually arousing image and violence . . . Without it, the Board believes that the sequence remains a compelling portrayal of the ugliness and horror of rape whereas, with it, the scene takes on a more explicit pornographic dimension. (Cumberbatch 34)

This statement reveals how problematic images of non-simulated sex become in determining an appropriate rating for a film which is not within the traditional pornographic genre. The sole purpose of pornographic material is to arouse or titillate the viewer. Although these films undeniably contain the sort of sexual imagery we have come to expect from pornography, the intention of the filmmakers behind these films is not to arouse their audience. Any number of images may be arousing to the spectator, from the rape itself to the actor’s feet. The notion that the rape would be any less arousing without the penetration shot is a determination that was made by the members of the British Board. They interpreted the 10 second shot as erotic and therefore made its place in the scene problematic; thereby justifying the removal of it.

Others have had similar reactions to the film’s controversial rape scene. In a study conducted in 2002 for the British Board of Film Classification, Where Do You Draw the Line?: Attitudes and Reaction of Video Renters to Sexual Violence in Film, Guy Cumberbatch, Director of the Communications Research Group, investigated public attitudes towards sexual violence in films. Although this study was specifically designed to explore what reaction video renters would have towards sexual violence in films for video release, and what kinds of images they felt went beyond acceptability, the sections on Baise-Moi are useful in analysing why for some people the rape scene is problematic.
This study revealed that after having watched the uncut version of *Baise-Moi*, most viewers agreed that the overwhelming problem with the film was the brief penetrative shot during the rape scene (Cumberbatch 44). They found that despite the graphic sex and violence depicted throughout the film subsequent to this early scene, “the close up genitalia during the rape scene clearly stood out as unacceptable” (Cumberbatch 44). The majority of participants involved in this study felt that at the very least, the explicit penetration shot during the rape scene needed to be cut in order to make it acceptable for video release (Cumberbatch 36). There was also strong agreement amongst the participants that this shot was pornographic. This suggests that participants identified genitalia and close-up penetration with pornography. In order for participants to understand *Baise-Moi* as an art film, the iconography of pornography needed to be removed.

Non-simulated sex, often authenticated in cinema through the representation of ejaculation and penetration, is largely associated with the pornographic genre and often used as a means to distinguish it from other legitimated cinemas (Krzywinska, *Sex and the Cinema* 217). However, contemporary art films are beginning to challenge this division between legitimate and illegitimate cinemas (Krzywinska, “The Enigma of the Real” 223). Films like *Baise-Moi* complicate this divide when they too use explicit sexual imagery within their portrayals. The common association people make between hard-core imagery and pornography helps to explain why the close-up penetration shot in *Baise-Moi* was considered unacceptable for an R18+ rated film. The image of an erect penis being inserted into a women’s vagina was problematic for the Australian Review Board and the British Board of Film Classification as well as the participants involved in the Cumberbatch study. The Review Board’s ability to distinguish between an artistic film containing actual sex, and a pornographic film which by its very nature is sexually explicit, is made a great deal harder if non-simulated sex no longer resides exclusively in
the domain of pornography. The Review Board in their decision on *Baise-Moi* said that although the film comes from the pornographic genre and uses editing techniques common to that genre to increase the impact, it is unlike many pornographic films in that it has a strong plot, good characterisation and compelling and believable performances. Despite this, the Review Board’s first concern was to “protect” the community from these pornographic images. They focussed on the actual sex scenes in *Baise-Moi* as justification to ban a film they did not find worthy of classification. In reiterating that “simulation, yes – the real thing, no” is a general rule only (Guidelines 12), the Review Board was able to stipulate that *Baise-Moi* was not one of those exceptional circumstances where non-simulated sex would be permitted. It is the actual sex then that is problematic rather than the graphic portrayal of sexual violence itself.

**Conclusion**

The original R18+ rating of *Baise-Moi* was set aside by the Review Board and consequently the film was banned in Australia. The Review Board determined that this rape revenge film contained “almost unrelenting violence,” exploitative and gratuitous realistic violence, detailed and prolonged sexual violence and several scenes of actual sex. As such the film was deemed to fall outside what was considered to be generally acceptable depictions of violence and sexual violence by reasonable adults. On the other hand, *Irreversible* was released with an R18+ rating allowing adult audiences to watch the film should they choose to do so. The Review Board felt that *Irreversible* took a moral stance towards the horrific act of rape. Moreover they found that its treatment of violence, including sexual violence, was justified by context, as were the actual sex scenes.

These decisions illustrate what kind of sexual violence the Review Board considers acceptable for adult consumption. There is a great deal of emphasis placed on
context but what seems apparent from these two cases is that the explicitness of the scene plays a major determining role. Being confronted with images of genitalia and real penetration is what pushes the boundaries of acceptability for the Review Board when dealing with the depiction of rape. Whereas the 9 minute anal rape scene in *Irreversible* was implied, the 10 second close-up shot of vaginal penetration during the rape scene in *Baise-Moi* was explicit. The latter was far more offensive to those who associate this kind of imagery with the pornographic genre.

There is a growing number of filmmakers, European and otherwise, who are incorporating real sex in their films. These contemporary hybrid films, essentially art films but borrowing from the pornographic genre, are likely to be censored in Australia. This is especially true when the sex act takes place during a scene of sexual violence, such as but not restricted to a rape. It is concerning that our current Code and Guidelines are unable to accommodate such depictions. If the current trend continues and the guidelines are not revised, films such as *Baise-Moi* will continue to be banned in Australia and our freedom of choice restricted.
Chapter Four

Sex, Violence and Child Sexual Abuse:

The Offensiveness of *Ken Park*

Karl Marx said in 1842 that “censorship makes every forbidden work, whether good or bad, into an extraordinary document” (*On Freedom of the Press*). The censorship battle *Ken Park* faced in Australia makes it a case worthy of study; *Ken Park* has become an extraordinary document. In 2003 Larry Clark and Edward Lachman’s *Ken Park* was refused classification by the Classification Review Board. This was due to its offensive depictions of child sexual abuse and sexualised violence, as well as the inclusion of scenes which depict actual sex and a fetish (auto-erotic asphyxiation). To say the least, this was a surprising move on the part of the Review Board, as the film has been screened at numerous film festivals around the world and has been sold in 33 countries (Pomeranz and Shelley). Two years later Araki’s *Mysterious Skin*, a film which explores a similar subject matter, child sexual abuse and its effects, was released with an R18+ rating. There was every possibility that *Mysterious Skin* would be banned by the Review Board but fortunately its high degree of artistic and educational merit saved the film. It is likely that the depictions of sex and violence in *Ken Park* were deemed too offensive for adult audiences because, unlike *Mysterious Skin*, they are portrayed in a gritty and naturalistic way (Tzannes, qtd. in Classification Review Board *Ken Park* 8). This together with the film’s scenes of actual sex and the portrayal of a fetish proved to be too much for the film to be considered acceptable for adult audiences.

These films and their classifications are of interest here because they deal with issues surrounding the depiction of a particular kind of sexual violence, child sexual abuse, as well as general issues relating to offensive depictions of sex and sexual
violence in film. The banning of *Ken Park* and the lobbying against *Mysterious Skin* demonstrates “how the cultural concept of the child is as conflicted as it has ever been . . . used and exploited, politically, culturally and aesthetically” (Best and Crowley 214). These cases also highlight the censorship battle many films face when they contain fetish imagery. Furthermore, it is apparent that one of the major contributing factors which led to one of these films being banned and not the other was once again this “magical quality” of artistic merit (Vnuk, *Snatched* 209). If we recall from Chapter Two, an image may possess what Vnuk refers to as a “magical quality” if the aesthetic value of that image prevails over its perceived threat to morality. We can assume then that what the Review Board believes is offensive to the reasonable adult are depictions of sex, violence and sexual violence that seem too realistic in their portrayal and are therefore too confronting.

Arts columnist Jane Rankin-Reid has called the decision to ban *Ken Park* representative of an “increasingly dangerous pattern in this country” where Australian culture is deprived of the opportunity to experience the artistic vision of directors like Larry Clark and Edward Lachman. Furthermore she says, rather poetically, that the censorship of *Ken Park* “drags Australia’s spiritual heart and intellectual mind into bigoted darkness” (Rankin-Reid).

**Ken Park and its Classification Decision**

*Ken Park* centres around four teenagers Shawn, Tate, Peaches and Claude, and their friends and family as they “negotiate their lives in a contemporary, and somewhat dysfunctional society” (Classification Review Board *Ken Park* 3). The film follows these four characters as they grapple with their fears and insecurities, abuse drugs and alcohol and engage in sexual activity with each other and others. The film has been described as bleak, sad and uncompromising (Pomeranz and Shelley; *7.30 Report*). It
shows the teenagers’ “success or failure to negotiate the obstacles that face them and their friends” (Classification Review Board Ken Park 3). Simply put, Clarke describes his film as being about parents and children; it is about families. His intention was to make a film that was not only emotionally honest but also visually honest (Clark).

When Ken Park was refused classification there was such an outcry by advocates of the film that there were illegal underground screenings of the banned film. One such screening was held in early July at the Balmain Town Hall in Sydney by Margaret Pomeranz (Kampmark 345). Pomeranz tried to show the film under the banner “Free Cinema” as she felt that the ban was a dangerous development in our classification system. Pomeranz stated that the ban on Ken Park reflected “potentially dangerous levels of national censorship” where adult Australians are being told what they can and cannot watch (“Censorship the Burning Issue”). The intentions of those holding the screening was to let the broader adult community experience the film because they so strongly disagreed with the Review Board’s decision to classify Ken Park RC (Pomeranz and Shelley). It was reported by the Sydney Morning Herald that over 450 people attended the illegal screening of Ken Park (“200 Go Underground”). Screening a film which has been refused classification is a federal offence and individuals who have broken the Commonwealth law can be fined $11,000 or face up to one year jail (“200 Go Underground”). Police shut down the event before the film could be shown. Police interference came as a result of the Reverend Fred Nile who objected to any showing of what he labelled a “hard-core child pornography film” (“Censorship the Burning Issue”). Nile is the leader of the Christian Democratic Party and former director of Festival of Light. According to the Christian Democratic Party website Nile believes: “Society has a moral duty to limit what can be conveyed by the media in order to protect children and the whole community from what is harmful, especially violent and pornographic content.”
Later that month another underground screening of *Ken Park* was held in a secret location in inner-Sydney. According to the *Sydney Morning Herald*, who interviewed a number of people who attended the event, there were over 200 people at the illegal screening (“200 Go Underground”). In a bid to avoid publicity, people were notified via email and word of mouth during the 24 hours prior to the event. This proved successful as the film which had been illegally downloaded from the internet was screened without police disruption, illustrating that “censors only enlivened the black market” (organiser of event, qtd. in “200 Go Underground”).

The original RC classification assigned to *Ken Park* was reaffirmed by the Review Board in 2003. The applicant was actually the Sydney Film Festival despite the review being for the sale and hire of *Ken Park* and not a film festival application. In Australia, unclassified films must be granted an exemption by the Director of the Classification Board in order to screen at a film festival (Film Festival Guidelines 1). That means that a film may be allowed to screen at a film festival, such as the Sydney Film Festival, without having been formally classified by the Classification Board. In May 2003 the Sydney Film Festival lodged an application for film festival exemption for a number of films that they wished to screen at the upcoming festival. The list included *Ken Park*. However, the Film Festival Guidelines state that the Director may not grant an exemption to a film which has already been classified X18+ or RC (2). Unbeknown to the Sydney Film Festival, MRA Entertainment, *Ken Park*'s Australian distributor had already lodged an application with the Classification Board to classify *Ken Park* for sale or hire (as a video) (Classification Review Board *Ken Park* 2). The Classification Board gave *Ken Park* an RC classification. As such the Director had no choice but to decline the exemption for *Ken Park* to screen at the Sydney Film Festival. This brings us back to the Review Board. The Sydney Film Festival was unable to apply for a review of the film festival exemption because the Review Board is limited to reviewing decisions of
the Classification Board and not the determinations of the Director (Classification Review Board *Ken Park* 2). Accordingly the Sydney Film Festival applied for a review of the sale and hire RC classification of *Ken Park*, as this was within the jurisdiction of the Review Board. The Sydney Film Festival was able to do so as the Review Board considered the applicant a “person aggrieved” by the original decision as it wished to screen the film at the 2003 Sydney Film Festival (Classification Review Board *Ken Park* 2). After having “exhausted all avenues of appeal” (Sydney Film Festival organiser, qtd. in “*Ken Park Won’t Screen*”), the RC classification for the sale and hire of *Ken Park* was confirmed making any screening of the film illegal.

Consequently a film which has screened at several big film festivals (Hawker, “Festival Movie Banned”), including the Venice Film Festival, Telluride Film Festival and Toronto Film Festival, and has been seen legally throughout the world, including New Zealand, the United Kingdom, United States, Austria, Spain, Greece, France, Moscow, Israel, Thailand, Hong Kong and Singapore, cannot be shown in Australia (Rankin-Reid; Sobot; Pomeranz and Shelley). The film depicts child sexual abuse and sexualised violence as well as fetish activity in the form of auto-erotic asphyxiation. Additionally, the film contains actual sexual activity involving characters depicted as underage, approximately 16 or 17 years old. Cumulatively, the film deals with sex and violence in a manner that the Review Board determined would offend against the standards of morality, decency and propriety accepted by Australian adults. In reaching their decision to refuse classification of *Ken Park*, the Review Board took into consideration Section 11 of the Act and paid particular attention to the classification table set out in the Code. It says that films which “depict, express or otherwise deal with matters of sex . . . [and] violence . . . in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified” are to be refused classification.
As I have done with the previous two case studies, the next part of this chapter will outline the contentious material in *Ken Park* which the Review Board determined was too offensive in regards to depictions of sex and violence. This is important for the reader as they may never have the chance to watch the film and therefore appreciate the scope of images deemed unacceptable for films released in this country.

Firstly the Review Board found that the film contained actual sex and depicted a fetish. There were two scenes that were of relevance in regards to these elements. The first scene occurs at 54-56 minutes and shows one of the characters, Tate, engaging in a fetish activity in the form of auto-erotic asphyxiation. The Review Board has adopted here the description of this scene given by the Classification Board in their report. They describe the scene as following:

54 mins – After having taken a bathrobe belt from the bathroom, Tate returns to his bedroom, where he has been watching women’s tennis on his television. He loops the belt around the doorknob and tests it around his neck before putting a pillow against the door, taking off his underwear, leaning back, and wrapping the belt around his neck. He then engages in explicit auto-erotic asphyxiation as he is aroused by the women’s tennis match in the background. The shots of Tate range from close ups of his genitals as he explicitly masturbates or his face to medium full length body shots. The tennis players are heard grunting as they play. At 55 minutes the camera focuses on his face as he implicitly orgasms and then pans down to his penis (which he still holds), with a semen trail. His eyes are closed. *(Classification Review Board *Ken Park* 4)*

It would be easy to think about this kind of material in black and white terms but as Clark says his film deals with “some very dark stories” and this scene depicts a “kid who
... is obviously very disturbed” (Clark). As this is one of the key scenes leading to the film’s ban, it is necessary to offer some insight into the character’s state of mind. Taken out of context this scene may seem gratuitous, so to offer another perspective I have included Pomeranz’s interpretation of the scene. In an interview for ABC’s news and current affairs program *Lateline*, host Tony Jones asked Pomeranz what she believed was the point of the scene in the film, and whether there was any artistic reason the filmmaker may have had for including it. Pomeranz explained:

It’s a pretty sad scene. . . . I think this is a child that feels . . . or child, teenager, 16, 17-year-old that feels totally alienated. He’s living with his grandparents. His parents aren’t around. He is the most unhappy creature. And this is what what (sic) he resorts to. I think there’s artistic merit in this. (Pomeranz and Shelley)

The second scene takes place at 83-87 minutes and involves depictions of actual sex between the characters Shawn, Peaches and Claude. The description given in the Review Board report describes this scene as:

83 mins – A four minute sequence involving Shawn, Peaches and Claude commences with the three of them lying naked on a bed, Peaches between the two young men [sic]. They fondle and kiss. At 83 minutes there is obscured fellatio and rear entry intercourse (the latter by Claude to Peaches, who is implicitly fellating Shawn) seen in a medium shot. The side view scene shows Claude thrusting and her [Peaches] head in Shawn’s lap. The scene is inter cut with their post coital ruminations as they lie back and chat. At 84 minutes there is an explicit shot of Peaches’ tongue on Shawn’s penis and then an obscured shot of Shawn giving cunnilingus to Peaches. At 85 minutes there is a shot of an erect penis in-between Peaches’ thighs, with some movement visible. The camera shot is only of her thigh area. Then there is a long shot of Peaches seated astride
Claude. They kiss as she moves up and down. Shawn is standing nearby at the kitchen counter, flipping through a magazine and watching them. At 86 minutes there is a medium shot focusing on Shawn’s buttocks as he thrusts, followed by Peaches’ hand over Claude’s penis as she explicitly fellates him. There is a saliva trail visible between her mouth and his erect penis as she lifts her head up. There is then a shot of Claude’s hand in slow motion masturbating Peaches, including some digital penetration. The camera pans up from her thighs up her body and ending in a three-quarter length shot. Shawn licks her nipples as Claude masturbates her. (Classification Review Board Ken Park 4)

As one of our closest neighbours and perhaps the country most comparable culturally, it is worth noting New Zealand’s discussion of the above scene. The New Zealand Office of Film and Literature Classification in their report on Ken Park stated: “Though the activity [sexual activity] is depicted explicitly, it is not shown in graphic detail or in close up but more as observational, and does not present as being choreographed merely for the sake of the viewer.” Contrary to this, the Australian Review Board found that this very same scene not only contained graphic and detailed sexual imagery (erect penises, semen trails, open vagina) of which close-up shots were in fact utilised, but that the scene as a whole appeared choreographed and romanticised (Classification Review Board Ken Park 4-5). Regardless of which interpretation one accepts, what is clear is that discrepancies exist across the classification boards and that the members of the boards are not objective viewers. This goes back to the subjective nature of taste. While one board found the scene graphic the other did not. Interestingly all the films discussed in this thesis have been released with an R18 classification by the New Zealand Office of Film and Literature Classification (see Film and Video Labelling Body).
Of equal importance is the Review Board’s finding that *Ken Park* deals with child sexual abuse and sexualised violence in an offensive manner. The Review Board found four scenes which cumulatively they believed dealt with matters of sex and violence in such a way that they would offend against the standards of morality, decency and propriety generally accepted by the reasonable adult. Moreover, the cumulative impact of these scenes was believed to be so high that they had no other alternative but to refuse classification of the film (Classification Review Board *Ken Park* 6). Two of these scenes occurred at 54 minutes and 83 minutes and were described earlier, the first for containing auto-erotic asphyxiation and the latter for containing actual sex. The two other scenes of concern to the Review Board occur at 69 minutes and 75 minutes and are described in the report as follows:

69 mins – Claude is asleep in his bed. His drunken father enters his room and crawls into bed next to him. He [the father] then gets up and sits at the end of Claude’s bed, at which point he starts stroking Claude’s calf and inside knee. His son’s sleep is disrupted and he stirs restlessly at the contact. The father puts his hand up the left leg of Claude’s boxer shorts and puts his head down, either implicitly fellating or attempting to fellate. The angle is from behind the father’s head. Claude wakes and struggles, throwing him [the father] off the bed. His father says “it’s okay Claude, it’s just me Dad”, before he [the father] falls to the ground. He comments “nobody loves me” as his son leaves the room. (Classification Review Board *Ken Park* 6)

This scene undeniably depicts child sexual abuse as Claude’s father is clearly attempting to fellate his sleeping son who is depicted in the film as a teenager. According to the Review Board this scene is both prolonged and gratuitous (Classification Review Board *Ken Park* 8). The actual age of the actor is not relevant here. If we recall, the 2003
Guidelines state that a film must be refused classification if it depicts child sexual abuse involving “a person who is, or who looks like, a child under 16.” As the character of Claude is depicted as a teenager this scene is reprehensible regardless of whether the actor is legally an adult.

75 mins – In a flashback sequence Tate walks, naked, to the kitchen, where he cuts a piece of cake and eats it as he walks into his grandparents’ bedroom with the cake knife. As they lie asleep, he implicitly stabs his grandfather twice. The motions are seen and there is some blood spray and blood visible on the grandfather’s face but there is no visible entry wound. He [Tate] comments that “the skin was thick, like leather. He twitched a little, like a chicken”. He then implicitly stabs his grandmother, again with no injury detail. Before he kills her she says “I love you Tate”. He comments “she’s a passive aggressive bitch who doesn’t respect my privacy.” After he kills them he is heard in voice-over saying “then I saw them like that, I started to get an erection. Then Legs started barking and I went soft”. (Classification Review Board Ken Park 7)

This flashback sequence is one of sexualised violence as Tate’s erection is represented here as being linked to the action of him stabbing his grandparents.

Ken Park was refused classification by the Review Board because it found that the way in which the film dealt with sex and violence would “offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that [it] should not be classified.” When a film is found to represent matters of sex and violence in such an offensive way, the Code states that it should be given an RC classification. Additionally, the Guidelines state that for a film to be classified R18+ “sexual activity may be realistically simulated” but generally not the real thing. As Ken Park contains actual sex the Review Board found that at least in regards to the sex
element it could not be accommodated by the R18+ classification. Although as previously mentioned this is only stated in the Guidelines as a general rule and as such can be overridden. The Guidelines were cited frequently in the Review Board’s report to justify its RC decision for the film. The Review Board refers to the Refused Classification section of the Guidelines which lists various elements which will lead to a film being refused classification, including “depictions of child sexual abuse” and “gratuitous, exploitative or offensive depictions of: (i) sexual activity accompanied by fetishes or practices which are offensive or abhorrent.”

The Review Board did in fact agree that the film had, albeit some, “artistic merit and potential educational merit in facilitating debate or discussion upon important issues” and later that it was a film “making a serious attempt to grapple with issues facing many teenagers and [has] significant artistic merit” (Classification Review Board Ken Park 8). However, overall they found that the film was too gratuitous in its depictions of sexual activity, particularly in reference to the prolonged masturbation scene containing a fetish, the incidences of actual sex including a close-up vaginal shot during digital penetration and the child sexual abuse scene. Cumulatively, they found that the material in these scenes exceeded what could be accommodated in an R18+ classification but above all else the film was clearly considered to be too offensive for the reasonable adult.

**Mysterious Skin and its Classification Decision**

Like Ken Park, Mysterious Skin has screened at numerous film festivals around the world including the Venice Film Festival in 2004. The film won the Jury Award at the Bergen International Film Festival in the same year and has been screened in cinemas without incident in both the United States and Britain (Maddox and Moses). According to the film’s director Gregg Araki, Mysterious Skin has not caused
controversy in any other country (“Mysterious Skin’s”). From my own research Australia does seem to be the only country where the film has been contentious.

*Mysterious Skin* is based on Scott Heim’s first novel of the same name. It is about the horrific consequences of child sexual abuse and the effect the traumatic experience can have on the lives of its victims. The film tells the stories of two teenage boys, Neil and Brian who were sexually abused by their Little League coach when they were eight and the different ways they dealt with the trauma. Brian has totally repressed any memory of the sexual abuse he suffered as a child. Instead, now the introverted 18 year old believes he was abducted by aliens. On the other hand, cocky and cool Neil is now a gay prostitute longing for a relationship as loving as the one he had as a child with his Little League coach. The boys’ paths cross and together they discover how the sexual abuse they suffered as children shaped their lives.

In an unsuccessful attempt to ban the film, *Mysterious Skin* was brought before the Review Board in August 2005 at the submission of the Commonwealth Attorney-General at the time, Philip Ruddock. The request was made by the South Australian Attorney-General at the time Michael Atkinson. The film which was originally given an R18+ classification with the consumer advice “Adult Themes, Strong Sexual Violence, Medium Level Sex Scenes,” did however have its consumer advice altered. The decision of the Review Board was that *Mysterious Skin* could be released with an R18+ classification but that the consumer advice warn more specifically about the child sexual abuse themes that the film deals with. The new consumer advice read “High-Level Child Sexual Abuse Themes, High-Level Sexual Violence, Paedophile Themes.”

Apparently, the request by Atkinson to have the decision reviewed came after he was lobbied by the Australian Family Association who disapproved of the Board’s classification decision. The Australian Family Association is a non-profit Christian organisation which promotes the idea of the family – father, mother and children – as a
“social institution” (Australian Family Association). They are a conservative pressure group representing the religious right in Australia. Another organisation relevant here is Festival of Light (now named FamilyVoice Australia). As highlighted in the Introduction, Festival of Light is a conservative Christian pressure group which has been active since the seventies and since that time has continued to be a powerful force in the fight for stricter censorship. As a Christian ministry dedicated to promoting “true” family values, Festival of Light believes that pornography harms marriage and the family “by developing unrealistic expectations that often promote dissatisfaction, frustration and infidelity;” and that pornography hurts children because if it is seen by young people in the home or family marketplace, it will give them a “distorted understanding, a wrong expectation, and a twisted appreciation of human sexuality. It [will increase] the likelihood of early sexual experimentation, including abuse of siblings and other children” (D’Lima).

The Australian Family Association together with Festival of Light asked the Office of Film and Literature Classification to waive the $2,820 fee to have the classification decision of Mysterious Skin reviewed, but their request was denied (Urban; Maddox and Moses). Not willing to pay the fee, the Australian Family Association went to Atkinson who requested the appeal at the taxpayers’ expense (Urban). Section 42 of the Act states under the subheading “The persons who may apply for review” that if a participating Minister makes a request in writing to the Minister for the review of a classification decision, the Minister must do so. Therefore, Ruddock was obligated to apply for a review of the film’s R18+ classification. Not surprisingly, none of the parties involved had even seen the film. But as was pointed out in the last chapter on Baise-Moi, one does not necessarily have to have watched a film to request a review of its classification. The Australian Family Association made their complaint based entirely on the synopsis given of the film. Still Richard Egan, spokesman for the Australian Family
Association, felt he had enough authority on the film to suggest it was a How-To guide for paedophiles where they can use the film:

for their own satisfaction or to help them groom children they were planning to abuse. Being able to get hold legally of a DVD where they can play the scene over and over again, showing the adult baseball coach fellating an eight-year-old boy . . . could prove very helpful to some pedophiles. (Maddox and Moses)

The Australian Family Association clearly used the figure of “The Paedophile” as a way to gain support for their crusade against Mysterious Skin. Marr believes that “Paedophiles . . . have been recruited to achieve censorship’s same old ends: a more controlled and modest society” (The Henson Case 67). The Review Board however disagreed that the film could in any way be used as a How-To guide for paedophiles and in a majority decision released the film with an R18+ classification. They stated in their report that any suggestion that Mysterious Skin could be used in such a way was “misguided and incorrect” and that the film provided in no way instruction or guidance in paedophile activity (Classification Review Board Mysterious Skin 12).

The Review Board classified Mysterious Skin because they felt that the depictions of child sexual abuse were neither offensive nor gratuitous and that the sexual activity in the film was implied rather than explicit. This is in contrast to Clark and Lachman’s Ken Park which had been banned only two years prior for the way it dealt with themes of a similar nature. In the case of Mysterious Skin the Review Board determined that a film which has such a high degree of artistic merit would not cause offence to the reasonable adult despite dealing with the horrific nature of child sexual abuse. The next section will outline the Review Board’s findings relating to the depictions of sex and violence in Mysterious Skin.
The Review Board determined that the following five incidences of sex could be accommodated within the R18+ classification as they show implied rather than explicit sexual activity.

(i) In a scene of approximately 30 seconds commencing at around 7 minutes, Neil watches his mother having sex with another man. She is seen to undo his belt. Neil, through an adult voice-over, recollects how as an 8-year-old he had masturbated, while watching his mother's boyfriend being sexually aroused. There is no nudity in the scene. (Classification Review Board Mysterious Skin 8)

The majority of the Review Board said that because this scene comprised mostly of verbal descriptions rather than being more detailed in its visual imagery, they did not consider it to be exploitative or gratuitous. Therefore they did not believe it would be offensive to a reasonable adult.

(ii) In a scene commencing at approximately 23 minutes, Neil, as a 15-year-old rent boy, is taken to a motel room by an older man. The older man rubs Neil's pants and pulls them off, places his hands on Neil's chest and face and implicitly performs oral sex on Neil (out of shot). Neil's head is seen lying on the bed, upside down, throughout the scene. His face seems to contort and he says “I'm gonna come”. There is a swallowing sound. There is no nudity in the scene. (Classification Review Board Mysterious Skin 8)

The majority said of this image that it was not offensive as the spectator’s inability to see any visual detail of the act “substantially mitigated the impact of the scene” (Classification Review Board Mysterious Skin 14).

(iii) In a scene at 48 minutes, Neil, as an 18-year-old, is commentating for a baseball game. Underneath the table, another person is implicitly performing oral
sex on Neil, although this person is not visible. Neil is fully clothed.

(Classification Review Board *Mysterious Skin* 8)

(iv) In a scene commencing at approximately 61 minutes, Brian's friend Avalyn unbuttons 18-year-old Brian's pants on his bed in a sexual manner. Brian is disturbed by this action. He pushes her away. There is no nudity in this scene. She apologises for her actions and leaves the room, embarrassed. (Classification Review Board *Mysterious Skin* 8-9)

(v) In a scene commencing at approximately 62 minutes, 18-year-old Neil is with a customer. The customer takes Neil's shirt off. The client states “fuck me up the arse with your teenage cock”. He tells Neil to put on a condom. The customer's back is visible and he is groaning as Neil implicitly has anal sex with him. The sexual activity is implicit. (Classification Review Board *Mysterious Skin* 9)

In the previous chapter I discussed how images of genitalia were problematic for the Review Board. In light of this it is interesting to note that the Review Board makes specific mention of the lack of nudity in the above scenes of sexual activity. In scenes i, ii and iv they observe that “there is no nudity in the scene,” in scene iii they state that “Neil is fully clothed,” while in the fifth scene only the “customer’s back is visible” (Classification Review Board *Mysterious Skin* 8-9). It is clear that the Review Board finds graphic detail and explicit imagery most problematic when it comes to matters of sex.

Concerning the classifiable element of violence, including sexual violence, the majority of the Review Board found three scenes which although depicted violent acts could still be accommodated by the R18+ classification.

(i) In a scene at approximately 18 minutes, Neil and Wendy as 8-year-olds kidnap a boy with an apparent intellectual disability, who wears glasses. Neil
puts fire crackers into the boy’s mouth and lights them. The fire crackers explode and are seen to cause cuts and marks on the boy's face. Remnants of the fire crackers protrude from his face. Neil, as an 8-year-old, apparently realises that he has done a terrible thing. Neil says that he knows how to make things “all better”. He is implied to take the boy's pants down, and his head disappears below the screen, implicitly in the region of the boy's groin. There is no further visual detail or sound effects. The camera pans to Wendy's shocked face. The scene ends quickly. The scene, coming shortly after it is revealed that Neil has been molested by the coach, demonstrates the impact of the abuse on Neil. Neil is shown as a troubled and disturbed boy who has been corrupted by his own experience of child sexual abuse. (Classification Review Board *Mysterious Skin* 9)

In regards to this particular scene, the majority view was that although it depicted a very cruel act, the impact of the firecrackers was only shown briefly. The inappropriate sex act was not explicitly shown in that it included no visual, verbal or aural detail. The scene is only brief and its depictions of violence and sexual violence were once again not considered by the majority likely to cause offence to the reasonable adult, as they were not exploitative, offensive or gratuitous.

(ii) In a sequence commencing at approximately 81 minutes, Neil, as an 18-year-old, is with a customer who behaves in a very aggressive manner. The customer forces Neil to snort a substance and demands that Neil strip. The customer states “open wide and suck it”. Neil performs implicit fellatio on the man. The customer grips Neil's head and pulls him towards what is implicitly his groin area. The customer spits on Neil's face. Neil races to the toilet and latches the door. The man cuts upon the latch and enters the bathroom. He hits Neil across
the head with a metal implement. Neil falls into the bath. The man grabs Neil's legs and screams “you're getting fucked slut, whether you like it or not”. The man hits Neil in the head a number of times with a shampoo bottle. Neil starts bleeding in the bath. The scene cuts between Neil's head and the implicit anal rape. The rape is implicit and contains no nudity. Afterwards, Neil is shown lying outside on the pavement. Later, at approximately 85 minutes, he is shown injured in his own bathroom, covered in blood and bruises. He cries. There is brief buttock nudity during this scene. The scene is depicted as the nadir of Neil's life and, for the first time, Neil is confronted with the reality that he is not in control of his own life. (Classification Review Board *Mysterious Skin* 9-10)

Undisputedly the above rape scene is one of sexualised violence. However as the Review Board found this depiction of rape to be justified by context, they did not believe it to be exploitative, gratuitous or offensive, despite being “distressing” (Classification Review Board *Mysterious Skin* 10). Further, they did not consider that it would offend against the standards of morality, decency and propriety generally accepted by reasonable adults.

(iii) The final scene in the final scene in the film, at approximately 95 minutes, comprises verbal descriptions of child sexual abuse. The 18-year-old Neil and Brian are sitting in the Coach's old house as Neil recounts the story of what happened when they were 8-year-olds. The visuals of the boys as 8-year-olds are presented in flash-back and are inter-cut with depictions of the young adults discussing the events. 18-year-old Neil recounts that he put his tongue in Brian's mouth and how the Coach kissed Brian “watching big lips sucking your face … going to swallow your head whole”. 18-year-old Neil describes that Coach's mouth was “around your dick, balls and everything . . . I tried to do it, but my
mouth was too small”. At approximately 98 minutes, the Coach is shown looking back over his shoulder at the camera. The top of his back is seen to be uncovered. The 18-year-old Neil recollects: “I ran my little fist up his arse, all the way to the elbow . . . His whole body trying to suck me in.” The adult Brian then recollects: “Then I did it, too.” The 18-year-old Brian’s nose starts to bleed. He starts crying and shaking. The only visuals of the 8-year-old boys in this sequence are of their faces. There is no nudity in the scene. The 8-year-olds are never in the same scene as the coach in the flashback. (Classification Review Board Mysterious Skin 10)

This last scene, according to the majority was presented in a very discreet and restraint manner. The Review Board felt that this scene was “highly relevant and justified by context.” They describe it as “powerful and tragic” (Classification Review Board Mysterious Skin 10). Again the Review Board notes that there is no nudity in the scene and there is no contact shown between the children and their Coach or between the child actors. The Review Board describe the depictions as “overwhelmingly verbal” and state that the visual descriptions are only brief (Classification Review Board Mysterious Skin 10). According to the Guidelines, the impact of a scene may be lessened where reference is made verbally rather than visually. As no visual detail is shown, the Review Board did not believe that this scene would cause any offence to a reasonable adult. The impact of this content is certainly lessened through verbal descriptions, but as cinema is a visual medium it seems odd that a film needs to deal with adult content verbally, rather than visually, if it is to be released.

The Review Board found that Mysterious Skin was a film with “a very high degree of artistic merit,” which explored the disturbing, confronting and often taboo topic of child sexual abuse in a “genuine and legitimate” way (Classification Review Board Mysterious Skin 11). The majority of the Review Board also believed that the
realistic depictions in the film of the horrors of the crime would have “significant 
educational merit in informing adults of the consequences of child sexual abuse” 
(Classification Review Board Mysterious Skin 12). Conclusively, the majority of the 
Review Board classified Mysterious Skin R18+ because the sexual violence in the film 
was implied and importantly justified by context. Further, they did not consider the film 
to contain any offensive depictions or descriptions of child sexual abuse. They also did 
not accept that the film contained any gratuitous, exploitative or offensive depictions of 
sexual violence. In line with the abovementioned, Mysterious Skin was able to be 
accommodated by an R18+ classification and so it is legal to own a copy of this film in 
Australia. Despite receiving an R18+ rating in the end, the fact remains that Mysterious 
Skin opened in numerous other countries throughout the world with no issues or 
problems with censorship. Araki said of this conundrum: “I have always thought of 
Australia as a very . . . progressive, sophisticated, cosmopolitan place. So to run into this 
roadblock is surprising” (“Mysterious Skin’s”).

**Comparison: The Offensive Depictions of Ken Park**

When Ken Park was refused classification by the Australian Review Board, 
director Larry Clarke was astonished. He said in an interview with Maxine McKew, on 
ABC’s 7.30 Report, that the six members of the board who are censoring the film “are 
putting themselves on a pretty high pedestal to tell all of Australia what they can see and 
what they can’t.” John Schwartz, senior lecturer in media and communications at 
Swinburne University, believes that the banning of Ken Park reflects the new 
conservatism of the Review Board and further the “social agenda of the Howard 
Government” (qtd. in Carbone). In the Introduction I explained that former Prime 
Minister John Howard was backed by the Lyons Forum, a Christian faction of the 
Federal Coalition. His “family values crusade” (Maddox 30) was influenced by extreme
conservative religious right pressure groups, such as the Lyons Forum, and encouraged by others, such as the Australian Family Association and Festival of Light. At the 2003 Sydney Film Festival Censorship Forum, Marr said:

We tend to forget that the advocates for censorship never stop, they never admit defeat. Many of them, of course, are on a mission from God . . . All that happens from time to time is that politicians listen more closely to them, and we’re living in a time when politicians listen closely to these people. And they’re so skilful at morphing into the fears of the community. So, 15 years ago they suddenly became feminists, they were intensely concerned with issues of rape. Now of course they’re the child protection brigade. (qtd in Various)

Howard’s policies were reflective of a government that had embraced a pro-censorship attitude towards films specifically and the arts more generally. This goal for harsher censorship was realised as Howard remoulded the Review Board in his own image. New members were appointed who reflected a liberal conservatism in line with the policies of his own administration (see Maddox; Fitzgerald; Graham “Classification (Censorship) Boards”). It was the demand for harsher censorship by the Lyons Forum and other influential pressure groups such as the Australian Family Association that lead to the banning of Ken Park.

The Review Board found the way Ken Park dealt with sex and violence particularly offensive because the predominant characters in the narrative were teenagers depicted as being of school age. The Review Board noted in their findings as to why the film could not be classified, that the characters are “shown getting on to the school bus with their schoolbags. They are intended to represent teenage schoolchildren . . . none of the teenage characters was depicted as an adult” (Classification Review Board Ken Park 7). Defenders of the film have said in regards to the actual sex being shown in Ken Park
that although the characters are depicted as minors, the actors themselves are adults. Advocates have also pointed out that the age of consent in most Australian states is 16 and so there is nothing wrong with showing 16 and 17 year olds engaging in sexual activity and sex play (Vnuk, “Adult Enough To Do”; see Pomeranz and Rigg, qtd. in Various). Julie Rigg of the Film Critics Circle of Australia points out that it is “extremely bad policy to ban representation of actions not in themselves illegal” (qtd. in Various). Furthermore, the current Code in 2003 stated that a film should be refused classification if it depicts in an offensive manner “a person who is, or who looks like, a child under 16.” Then Convenor of the Review Board Maureen Shelley describes the character Tate as being “probably around 16 or 17” (qtd. in Various). That being said the 2003 Guidelines and Code do not prohibit the depiction of children who look like they are 16 or 17 years old. Despite this, the fact remains that it was precisely the depiction of 16 and 17 year olds engaged in sexual activity that the Review Board found objectionable and offensive. One of the main issues with Ken Park was clearly that the characters seen having sex appeared to be teenagers of school age, regardless of the actual age of the actors.

In their chapter entitled “The Uses and Abuses of Children: Thinking Infantile Eroticism,” literary critic Victoria Best and French academic Martin Crowley state that “many texts treat this issue [infantile sexuality] sensitively and creatively, but some, in their use of graphic detail . . . blur the borderlines between a detailed and provocative exposure of child abuse, and a collapse into the pornographic” (212). This had to underlie the Review Board’s decision to ban Ken Park but release Mysterious Skin. While the latter unquestionably dealt with the matter of child sexual abuse in a sensitive, moving and artistic manner, the former was deemed to overstep the boundary of acceptable representation. The depictions in Ken Park were obviously too overt and too graphic; therefore the Review Board felt comfortable labelling them gratuitous and
offensive. The film was so shocking in its honesty that it assaulted their senses, in a way frightening the members of the Review Board. Christopher Dare says that “the idea of the sexual abuse of children . . . is so assaulting that all of us want immediately to evacuate it and push it away so we don’t have to think about it” (qtd. in Best and Crowley 212). By banning Ken Park, the issue could be forgotten until it was presented more artistically with Mysterious Skin two years later. This is problematic because it means the Australian public is only permitted to see a certain kind of representation of child sexual abuse. If the six members of the Review Board believe that the depiction of the abuse is inappropriate then that filmmaker is denied a voice. It also means that rather than the film prompting a discussion around child sexual abuse, it sparks a debate around censorship as was the case with Ken Park.

President of the 2003 Sydney Film Festival, Cathy Robinson, believed that the Review Board “deliberately introduced the issue of ‘child sexual abuse’ to confuse debate over the film” (qtd. in Phillips). Spratt also believed that “very dubious justifications” were used in order to ban the film (qtd. in Carbone). Watch on Censorship and the Film Critics Circle of Australia held a Censorship Forum at the Sydney Film Festival in 2003, in place of the screening of Ken Park. Panellists included Margaret Pomeranz and David Marr from Watch on Censorship, former Deputy Chief Censor, David Haines and then Convenor of the Review Board, Maureen Shelley. Shelley was asked specifically about including “child sexual abuse” in the Review Board’s description of the film. She explained that the character, Claude, is sexually abused by his father and the sexual activity is not consensual. Claude, Shelley states, is under 18 and so legally a child under Australian law (Various). Objections were raised by other panellists as to whether anybody in the community would actually consider a 16 year old a child. Shelley maintained that child sexual abuse was evident in Ken Park as a child by law is someone under 18 (Various). Marr pointed out that the guidelines object to
depictions where the person appears under 16 and not 18, but Shelley insists that the age requirement does not relate to depictions of child sexual abuse. Haines calls this an “interesting anomaly” (qtd. in Various) and I too was puzzled at first. The 2003 Guidelines state that “[d]epictions of child sexual abuse or any other exploitative or offensive depictions involving a person who is or who looks like a child under 16 years” (emphasis added) must be refused classification. You would be forgiven for missing it but the placement of the word “or” separates the first statement from the second. This truly points to the ability of the Review Board to interpret the guidelines as they see fit. The word “child” is not defined in the guidelines nor is “child sexual abuse” so there is no clear definition of what constitutes a child. Shelley and the Review Board interpreted this statement as meaning that the depiction of child (under 18) sexual abuse is prohibited. Therefore labelling this film as containing “child sexual abuse” was justifiable.

Of course there are those who agree with the banning of Ken Park, describing the film as “sexploitation” and “kiddie porno” (Vnuk, “Adult Enough To Do”; Clark). However Agnès Tricoire, spokesperson for culture for the League of Human Rights, makes an interesting point about the fictional nature of such narratives. Tricoire argues that “just as detective novels did not promote murder, so texts dealing with paedophilia did not equate to an apologia for child abuse” (qtd. in Best and Crowley 214). Still, national president of the Australian Family Association, Bill Muehlenberg supported the decision of the Review Board to refuse classification for the film. He believes that society has a big enough problem with child sexual abuse and does not need a film depicting it (qtd. in Carbone). Muehlenberg says that “[i]f people think their civil liberties are being curtailed, well, there are plenty of other things they can watch” (qtd. in Carbone). This comment seems to reflect a real lack of concern over our civil
liberties. The fact that other films exist and are legally available does not subvert our right to choose in this particular case.

Vnuk believes that “[t]he bad old days of censorship are here now,” and that the right of adult Australians to read, hear and see what they want is even “more restricted now than it has been for decades” (“Adult Enough To Do”). Similarly, others such as Spratt, Strickland and film critic and journalist Tina Kaufman have said that the classification boards have become more conservative in recent years, regressing to the restrictive 1960s (Carbone; Guilliat and Casimir; Kaufman). Kaufman reiterates a point made earlier that this is the result of a federal government that “enthusiastically supports such conservatism.” The Review Board felt that *Ken Park* dealt with matters of sex and violence in a manner that would be offensive to the reasonable adult. When asked in an interview why Australian adults should not be able to make their own judgments about the material in the film, Shelley said that:

> The Australian community has very strong concerns about sex, and violence and the depictions of minors. That’s reflected in the act and the code and the regulations that we administer. The film clearly fell outside of that system and it was required to be refused classification. (Pomeranz and Shelley)

Shelley neglects to say exactly what the Australian community’s concerns are. Presumably, she is referring to fears over the representation of children in the media. Marr says in *The Henson Case* that these fears for children are “so boundless and vague that they put in doubt old ideas of what is safe and decent for the public to see” (37).

With the emergence of the internet there has been growing anxieties around images of children becoming more sexual and explicit. This concern over the welfare of children in an increasingly fast-paced technological world is genuine. Children need protection but these fears were exploited by the censors in order to gain support for their banning of
Ken Park. Marr goes so far as to say that these fears have been “hijacked” in order to maintain Australia’s “oddly prudish and in many ways sexually conservative society” (The Henson Case 134).

Shelley insists that our classification system works and works effectively (Pomeranz and Shelley). However the concern here is not with the process of classification in Australia, but with the system that allows the practice of censorship. Ken Park has been released in numerous countries throughout the world, so why does it get banned in a country like ours? Shelley states that contrary to the decisions of other countries in relation to the film, our Review Board was “applying Australian laws to Australian conditions” (Pomeranz and Shelley). What is unclear however is whether or not the Review Board is in actual fact reflecting community standards or trying to bring them into line. Contrary to its views on Ken Park, the Review Board felt that because Mysterious Skin deals with child sexual abuse from the victim’s perspective, its treatment of the issue of child sexual abuse would help educate audiences about the consequences of the abhorrent crime (Classification Review Board Mysterious Skin 12-13). Shelley says that “[t]he subject matter is handled sensitively and the film unambiguously condemns child sexual abuse” (qtd. in “Mysterious Skin’s”).

After Pomeranz attempted to screen Ken Park in July 2003 she stated, “[t]he legislation is against us. So what do you do? What do you do to galvanise attention or passion about this issue [censorship]?” (Pomeranz and Shelley). Had the film been released with an R18+ rating the emotional response to this case and the publicity it received would have been unremarkable. However now “[i]t has become an event!” (Sobot). Regardless of whether or not the film is good or bad, artistic or educational, now people are curious and more so interested in a film they would never have heard of had it simply been released. According to Gaele Sobot, Sydney writer and filmmaker, if Ken Park had been permitted to be screened at the Sydney Film Festival, there would
not have been so much controversy around the film. It would have just been one of many films shown at the festival. Some viewers would have liked it and others would have found its treatment of sex and violence objectionable, but other than perhaps getting a limited release thereafter to a few art cinemas, the film would not have caused much fuss (Sobot). However, because it was banned it received far more media attention than it would have had it been screened. This in turn fed the debate that circulated around sexually explicit images rather than the more important issue of child abuse.

**Conclusion**

One question which lies at the heart of this thesis is what is wrong with the visual representation of sex and violence in film? As a visual medium should not filmmakers be able to explore issues such as child sexual abuse through visual representation without their films being objected to? It is a question Pomeranz asks of Shelley in their interview together on the banning of *Ken Park*. As the actors in the film are all adults, why is it that we are not being allowed to confront these serious issues relating to sex and violence? A film such as *Ken Park* which deals with matters of sex and violence in a way that may be offensive to some, but on the other hand is serious and honest in its treatment of these issues, would be a positive step towards understanding. Regardless of whether the film is successful as an artistic work, it has the ability to shock. Through its portrayals it has the power to stir debate and discussion about important problems that teenagers in our very own country face. Now, because of its ban an aura of notoriety encompasses the film overshadowing any educational value that it may have had.
Conclusion

Australian artist Bill Henson opened the Melbourne Art Fair in August of 2010 with his commentary on the current state of censorship in Australia:

We need a politics that makes the world safe for art. Art itself of course can never be entirely safe. Either in its origins or as it's experienced, because it's a form of truth. And truth is a wild thing for us to tame. . . . We see a new growth in censoriousness and the impulse to constrict the conditions under which art is produced. . . . (qtd. in Fitzsimmons)

The Review Board’s decision to ban *Salò, Baise-Moi* and *Ken Park* clearly demonstrates that art in Australia is not safe from censorship. Through the analysis of six recent classification decisions in Australia, my research has demonstrated that the Review Board has the power to decide what is suitable for adult consumption and does so in a manner that is entirely arbitrary. *Salò, Baise-Moi* and *Ken Park* were refused classification because they contained sexually explicit imagery that the Review Board considered objectionable. The sexual imagery in these films was deemed so “offensive” that the Review Board took it upon them to forbid any other adult from watching and judging these films for themselves. The offensiveness of these depictions was determined based on assumptions about community concerns regarding sexual violence and the standards of morality, decency and propriety generally accepted by the reasonable adult.

The predominant factor leading to the banning of *Salò, Baise-Moi* and *Ken Park* was the films’ depiction of sex, sexual violence and sexualised violence. These films, which inextricably link sex and violence, were deemed to be too offensive. The Review Board determined that this sort of sexually explicit imagery would be likely to offend the
reasonable adult. This together with assumptions about community concerns regarding sexual images formed the basis of the Review Board’s justification to ban these films. Moreover, the banning of *Salò*, *Baise-Moi* and *Ken Park* shows that violence alone does not warrant a film being refused classification. When considering the portrayals of sex, sexual violence and sexualised violence, the Review Board placed a great deal of emphasis on context. However, what is apparent in all of these cases is that the explicitness of the scene, rather than the sexual violence itself, plays a major determining role. In other words it is unlikely that these films would have been banned had they not contained actual sex, irrespective of the level of violence.

The power bestowed upon the members of the Review Board to make decisions on behalf of all individuals in Australia impedes upon our freedom of choice. The intention of my thesis has not been to argue that *Salò*, *Baise-Moi* and *Ken Park* are “good” art films and therefore the Review Board should have made an exemption for them. On the contrary, the merits of these films are irrelevant in the context of civil liberties. All films, good or bad, should be made legally available to adults in Australia. The censorship of any film restricts the right of adults to read, hear and see what they want.

“Democracy is about choice . . . we are consenting adults, we should be able to make up our own minds,” said one of the organisers of the mid July underground screening of *Ken Park* (“200 Go Underground”). Sobot notes in “Censorship: ‘Let Us Choose the Good From the Bad!’” that in Australia the protection of public morals is one area where those in a position of power feel “quite justified to advocate censorship in righteous defiance” of the fundamental principles of democracy. Rather than acting as the agency that defines what a filmmaker can or cannot depict in his or her own film, the Government “acts against opinions it does not like” through the actions of the censor (Sobot). What is really occurring is that particular opinions are being censored for what
the Government calls the protection of public morals. Dutton once said that “[c]ensorship remains the most absurd and unnecessary forms of all our restrictive forms of moral protectionism” (97). All citizens should have the ability to participate in their own society. To do so requires that they have “the capacity to read/view all media texts critically” including those texts we do not necessarily agree with (Sobot). The Government should have enough faith in its citizens to trust them with exercising their own critical judgment.

Furthermore, according to Schwartz, the banning of any film is useless in this technological age as everything is so readily available on the internet (Carbone). He may be right. As McKew points out, according to reports made in July of 2003 when Ken Park was banned, illegal copies of the film downloaded off the internet were circulating around high school students as young as 13 and 14 (Clark). This is an age bracket the film was certainly not intended for but with the moral panic that was generated from its ban, one it reached nonetheless. It is true that the wide accessibility of the internet makes it easy for people of all ages to access any material whether banned or not. One of the arguments that arises in opposition to censorship is that censoring something gives it a “special ‘forbidden fruit’ aura; you make it tempting and prurient . . . You artificially create a desire for it” (Cline 5). Films such as Salò, Baise-Moi and Ken Park are unlikely to have appealed to most audiences (or even have been heard of) had there not been so much controversy and debate over their ban and sexually forbidden imagery.

Our current system is paternalistic and treats Australian adults as children who need to be protected from certain kinds of materials, when it should be protecting and defending the right of adults to see, hear and watch what they want as it claims it is doing. Those responsible for enforcing Australia’s classification legislation have conceptualised the reasonable adult as the unreasonable child who needs to be protected from grown up material. This process of infantilising through the banning of films like
Salò, Baise-Moi, and Ken Park, conjures up old emotions of being sent to my room when my parents wanted to watch a film that they did not consider appropriate for my innocent eyes and immature sensibilities. As an adult I believed I would have the power to make these decisions for myself; that no one would have the authority to prohibit me from watching certain films. What is truly offensive is that as an adult I am denied the opportunity to decide what material is appropriate and denied the right to freely make choices as to what films I watch. As Dutton wrote in 1970, “[o]f course children need protection, and always will. But Australia is not a nation of children” (104). The Review Board in Australia acts as a parental guardian, infantilising adult audiences by “protecting” them from exposure to material they may find offensive. The Review Board does not seem to believe that the reasonable adult is rational enough to choose films based on their own judgments and appropriate for their own tastes. The ability that the Review Board has to ban films demonstrates a certain lack of trust in the Australian consumer.

Classification is a necessary tool for the adult consumer on two levels. Firstly, classification labels and consumer advice help adults determine whether or not a film is appropriate for the viewing of children. Secondly, the consumer advice provided alongside the R18+ classification label, aids the adult consumer in making an informed choice as to whether that film is suitable for their own viewing pleasure. However, the right of Australian adults “to read, hear and see what they want,” established by the National Classification Code, is fundamental to a free society. This freedom of choice assured to adult audiences is not a right that should ever be restricted, but as my thesis has argued, it already has been.
List of Terms

The definitions of the words below have been taken from the Guidelines for the Classification of Films and Videotapes 1996. This list remained the same until the Classification of Films and Computer Games came into effect in 2003. The List of Terms in the new Guidelines was significantly smaller but the terms that remained were given the same or very similar meaning.

Abuse: Maltreat or assault, especially sexually.

Adult themes: Issues dealing with aspects of adult life that are potentially harmful to minors, or disturbing. Adult themes may include verbal references to and depictions associated with issues such as suicide, crime, corruption, marital problems, emotional trauma, drug and alcohol dependency, death and serious illness, racism, religious issues.

Coercion: The use of threat or power to force agreement to sexual activity.

Demean: A depiction or description, directly or indirectly sexual in nature, which debases or appears to debase the person or the character depicted.
Depiction: Representation, portrayal on screen.

Detail: The amount of verbal or visual information in the representation of a subject. Detail can include close-up visuals, repeated, prolonged or slow-motion visuals, and accentuation through lighting.

Discreet: With little or no detail and generally brief.

Disturb/disturbing: Cause emotional trauma.

Elements: Classifiable elements include violence, sex, coarse language, adult themes, drug use and nudity.

Excessive: Treatment which exceeds reasonable limits, especially in terms of detail, duration or frequency.

Exploitative: Appearing to purposefully debase or abuse for the enjoyment of others (viewers), and lacking moral, artistic or other values.

Fetish: An object, an action or a non-sexual part of the body which gives sexual gratification.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Gratuitous:</td>
<td>Material which is unwarranted or uncalled for, and included without the justification of a defensible story-line or artistic merit.</td>
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<td>Impact:</td>
<td>The strength of the effect of the viewer.</td>
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<td>Implied:</td>
<td>Depiction/s of a subject in which an act or thing is inferred or indicated without actually being seen.</td>
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<tr>
<td>Intensity:</td>
<td>Strength of the treatment or subject matter; strength of engagement or involvement.</td>
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<tr>
<td>Material:</td>
<td>The content of films or videos.</td>
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<tr>
<td>Nudity:</td>
<td>Nudity can consist of frontal or rear above and below waist visuals, full frontal or full rear visuals for both sexes, or breast nudity for females. The amount of detail is determined not only by the content of the nudity shown, but by other factors including closeness and duration of visuals, repetition, and clarity.</td>
</tr>
<tr>
<td>Offensive:</td>
<td>Material which causes outrage or extreme disgust (to most people).</td>
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<tr>
<td>Term</td>
<td>Definition</td>
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<td>Real:</td>
<td>Actual</td>
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<td>Reasonable Adult:</td>
<td>Possessing common sense and an open mind, and able to balance personal opinion with generally accepted community standards.*</td>
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<td>Sexual Activity:</td>
<td>Matters pertaining to sexual acts, but not limited to portrayals of sexual intercourse.</td>
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<td>Sexual Violence:</td>
<td>Sexual assault or aggression, in which the victim does not consent.</td>
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<tr>
<td>Sexualised Violence:</td>
<td>Where sex and violence are connected in the story, although sexual violence may not necessarily occur.</td>
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<tr>
<td>Sexually Explicit Material:</td>
<td>Real sex on screen.</td>
</tr>
<tr>
<td>Simulation:</td>
<td>Simulated sexual activity is not real, but looks realistic.</td>
</tr>
<tr>
<td>Suggested:</td>
<td>Mild, discreet treatment of a subject in which an act or thing is hinted at.</td>
</tr>
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*The term Reasonable Adult was omitted from the List of Terms in the 2003 guidelines.*
<table>
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<tr>
<th>Suggestion:</th>
<th>Mild, discreet treatment of a subject in which an act or thing is hinted at, generally through discreet focus on part of, rather than the whole picture.</th>
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<tr>
<td>Tone:</td>
<td>The quality or feeling of material, such as its sadness, humour, menace, lightness, or seriousness.</td>
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<tr>
<td>Themes:</td>
<td>Social issues such as crime, suicide, drug and alcohol dependency, death, serious illness, family breakdown and racism.</td>
</tr>
<tr>
<td>Treatment:</td>
<td>The way in which material is handled or presented; the artistic handling of a scene or a film, especially with regard to style. In a realistic treatment, the material appears real to the viewer. It may be close to real life, and feel authentic. In a stylised treatment, the viewer is conscious of the unreality; examples include musicals, horror films, animation and fantasy.</td>
</tr>
<tr>
<td>Violence:</td>
<td>Acts of violence; but also the threat or effects of violence.</td>
</tr>
</tbody>
</table>
Works Cited

Classification Instruments
Classification (Publications, Films and Computer Games) Act 1995 (No. 7) (C’th)
Crimes Act 1958 (No. 6231/1958) (Vic.)
Guidelines for the Classification of Computer Games 1996 (C’th)
Guidelines for the Classification of Films and Computer Games 2003 (C’th)
Guidelines for the Classification of Films and Computer Games 2005 (C’th)
Guidelines for the Classification of Films and Videotapes 1996 (C’th)
Guidelines for the Classification of Films and Videotapes 1999 (C’th)
National Classification Code 1995 (C’th)
National Classification Code 2005 (C’th)

Government Publications


---. ---. Commonwealth of Australia Gazette. No. GN 22. ACT, Austral: Attorney-
General’s Department, 2 Jun. 1999.

Bevis, Arch. Commonwealth. Parliamentary Debates. House of Representatives. 15
search.w3p>.

Explanatory Statement. Issued by the Authority of the Attorney-General. National
Classification Code 2005 (C’th).


**Classification Board and Review Board Report**


Books and Articles


Websites


Filmography


