

CINEMATIC CENSORSHIP: AN ANALYSIS OF POWER DYNAMICS OF FILM
REGULATION AND ITS EFFECT ON ON-SCREEN SEXUALITY WITHIN HOLLYWOOD

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Abstract

The history of film regulation has undergone many changes, with the original form of regulation being that of the Hays Code, which directly prohibited specific topics, and our modern-day ratings system, which provides alphabet ratings to guide individuals on content warnings. Sexual content has often been at the forefront of these two forms of regulation, with suppression and censorship occurring in each regulatory form. The thesis explores the power dynamics at play with these two forms of regulation, examining these different forms of regulation through the lens of the three faces of power, introduced by theorists such as Dahl and Lukes, along with Foucault's understanding of power. This analysis highlights the ways in which power has, directly and indirectly, manifested in the suppression of sexuality through film regulation and explores why understanding these power dynamics is essential to establishing ways in which sexuality and representation are no longer suppressed in the modern age.

Introduction to Cinematic Censorship

The film industry in the United States of America is one of the most influential forms of media throughout the country and the world. Films have shaped public opinion on different matters, from how we view conflicts around the world to how we view the lives of various groups within our own country. Unfortunately, despite being in a country defined by the phrase "Land of the Free," there are countless violations of these principles of freedom, including within the film industry. In reality, industries like film have been subjected to censorship, both self-imposed and by outside actors. Throughout this thesis, the censorship within the film industry will be shown, specifically with the topic of sexuality within film.

In an age of increasingly divided polarization, one such issue that seemingly divides the United States is that of sexuality, whether that be sexuality in schools, sexuality in the workplace, sexuality in art, or sexuality in life. Some cry out whenever non-heteronormative people are showcased in our lives, and this outcry is particularly targeted at the film industry. Many of these individuals protest that films are now pushing “agendas” by showcasing more diverse individuals onscreen. Despite these loud objections by certain groups, the systems in place demonstrate a different story, one in which sexuality has been suppressed and diverse stories have been hidden from the public eye throughout film history. Understanding these changes by shifting to a perspective that acknowledges sexuality suppression is not only crucial to combating the false information perpetuated but also for making lasting change.

This thesis will analyze the power dynamics within Hollywood from two different time periods: the 1930s following the establishment of the Hays Code, the first regulatory apparatus in the film industry, and the 1990s to the mid-2010s with film regulation by the MPAA rating systems. These two regulatory periods will be examined through the lens of the Three Faces of Power, first proposed by Robert Dahl but expanded upon by individuals like Steven Lukes, along with Foucault’s understanding of power through his work on the *History of Sexuality*. By analyzing these two seemingly varied ways in which the industry has been regulated by, we can better understand the ways power has manifested and manipulated content shown on screen throughout the history of American cinema and understand how sexuality has been censored and suppressed, even today.

History of Film Regulation: The Hays Code and the Establishment of the MPAA

The history of film regulation is tumultuous when examining the United States film industry. The first sign that regulation was on the horizon came in 1915 in the case of *Mutual Film Corp. v. Industrial Commission of Ohio*. This case ruled that the First Amendment did not apply to films, stating:

“The exhibition of motion pictures is a business, pure and simple, originated and conducted for profit, like other spectacles, not to be regarded or intended to be regarded... as a part of the press of the nation or as organs of public opinion” (Pondillo).

Following this decision, many within the industry saw regulation on the horizon. Prior to the establishment of the Hays Code in 1934, film regulation was almost nonexistent, which allowed Hollywood creative freedom on many themes, including those considered taboo by some more conservative members of society at the time. In the book *Pre-Code Hollywood: Sex, Immorality, and Insurrection in America Cinema, 1930-1934*, author Thomas Doherty gives insight into these conservative beliefs at the time, saying that pre-Hays Code Hollywood’s lax censorship allowed for violations of morality within the US. He states:

“[During pre-Hays Code Hollywood], sexual liaisons unsanctified by the laws of God or man in [a variety of films]; married ridiculed and redefined in [a variety of films]; ethnic lines crossed and racial barriers ignored in [a variety of films]; economic injustice exposed and political corruption assumed in [a variety of films]; vice unpunished and virtue unrewarded in [a variety of films]—in sum pretty much the raw stuff of American culture, unvarnished and unveiled” (2).

Such lack of regulation led to an outcry from various conservative groups in this period, with many religious groups at the forefront with a call for censorship of the film industry. The industry, fearing retaliation from government actors, worked to censor itself—establishing the

Hays Code, which had roots going back to 1922 when film executives first reached out to then Postmaster General of the administration of Warren G. Harding, William H. Hays. Hays was the architect of the new Production Code adopted in 1934, aptly nicknamed the “Hays Code,” and he was the face of film censorship from the 1930s onward as the president of the Motion Picture Producers and Distributors of America for around a quarter century (Doherty 6).

Hays, although most known as the architect of the Hays Code, worked closely with several religious figures for the creation of said Code. The two prominent figures who assisted in writing the Hays Code were Father Daniel Lord, a Jesuit priest, and Martin Quigley, “a prominent Roman Catholic layman and editor of the influential exhibitors’ journal *Motion Picture Herald*” (Doherty 6). The Hays Code worked to impose the “deeper lessons of the Baltimore catechism” on the film industry, being a document that upheld “deference to civil and religious authorities, insistence on the personal responsibility, belief in the salvific worth of suffering and resistance to the pleasures of the flesh in thought, word, and deed” (Doherty 6). In short, the Hays Code worked to impose the fundamentalist interpretations of Christianity, specifically Catholicism, on the film industry and, by extension, the public.

After its implementation in 1934, the Hays Code was widely-sweeping in its regulations. It states that movies, as entertainment, have two differing consequences on the human race: that it can “improve the race,” or it can “degrade human beings,” with these two separate interpretations coming from the two different outcomes: “correct entertainment raises the whole standard of a nation” and “wrong entertainment lowers the whole living condition and moral ideals of a race” (Doherty 348). Therefore, the whole attempt of the Hays Code was to ensure that “No picture should lower the moral standards of those who see it,” which is taken from Line I of the “Working Principles” section of the Hays Code. This enforcement of moral guidelines

was done by stating that films should not have themes or content in which “evil is made to appear *attractive*, and good is made to appear *unattractive*,” with these themes of good and evil being based on Christian doctrine (Doherty 351). The Hays Code gives further details on the details of these restrictions with a number of other working principles:

“II. Law, natural or divine, must not be belittled, ridiculed, nor must a sentiment be created against it.

III. As far as possible, life should not be misrepresented, at least not in such a way as to place in the minds of youth false values on life” (Doherty 351).

These are the overarching themes presented throughout the rest of the Hays Code, which give plot principles that outline the specifics of these vague ideals. Various plot ideas are stated to need “careful handling” or should be avoided, including love triangles, adultery, and vulgarity. However, other elements were outright banned, such as full nudity (semi-nudity was permitted on a case-by-case basis), “sexual perversion¹,” or interracial relationships.

The banning of “sexual perversion” is crucially important to understanding censorship of sexuality in the 1930s onward. While we can acknowledge that all sexuality was censored following the establishment of the Hays Code, as the section on *Sex* within the Hays Code states that “the sanctity of the institution of marriage and the home shall be upheld. Pictures shall not infer that low forms of sex relationship are accepted or common thing,” meaning the ban on sexual perversion was by far the most restrictive (Doherty 362). The specifics of this ban were straightforward, as the Hays Code on line 4 of the section on *Sex* states that “SEX PERVERSION or any inference to it is forbidden.” Although the films with non-heteronormative

¹As the term “Sexual perversion” has had many varying definitions, this thesis uses this term to refer to non-heteronormative forms of sexuality to reflect the attitudes and opinions of some in this era.

characters were sadly not often presented in a positive light before the Hays Code, as *The Celluloid Closet* states

“During the brief period of explicit reference to homosexuals in pre-Code films of the early 1930s, gay characters were psychologically ghettoized by their routine regulation to a fantasy world or an underworld life. In films like *Just Imagine* and *The Warrior’s Husband*, they are freak products of imaginary worlds gone haywire, the result of tampering with the natural order” (Russo 35),

non-heteronormative individuals still maintained some representation on screen. This one line, with its sweeping declaration of “is forbidden,” attempted to remove all individuals deemed to be “sexually perverse” from film and collective consciousness. Unfortunately, due to the religious basing of the Hays Code, this erasure was sadly the purpose and effect.

From its inception, the Hays Code was a controversial document. Hays himself was often the face of criticism of the regulation until 1968 when it was finally replaced with the first "alphabet ratings systems." This original alphabet ratings system was the first of many attempts to loosen the guidelines on what could be shown to audiences while still having restrictions for differing age groups. Although a step in the right direction following the Hays Code, the ratings system's effect has not always been clear-cut and has contributed to the censorship of different depictions of sexuality within film.

The first of the ratings systems consisted of the following ratings: G, M, R, and X. As stated by the article, *G-PG-R-X: The Purpose, Promise and Performance of the Movie Rating System* by Bruce A. Austin, the system was designed and ran like so:

“Films [were] submitted to the MPAA voluntarily by their producer. Based on four criteria (theme, language, nudity and sex, and violence) a seven-person rating board—the Classification and Rating Administration (CARA)—assigns a rating by majority vote.

Producers of a given picture may appeal a rating and/or re-edit their film in order to qualify for a different rating. The MPAA classifies a film submitted to it into one of four categories: G for general audiences, all ages admitted; PG for parental guidance suggested, some material may not be suitable for children (this symbol was originally M and then GP before becoming PG); R for restricted, under 17-year-olds (originally 16) require accompanying parent or adult guardian; X for no one under 17 years (originally 16) admitted” (53).

Yet, this format was not the final version of the ratings system, as demonstrated by the different ratings one sees when they go to the cinema today; despite this, the process of rating films remained similar. According to the MPAA website, “[b]y the 1980s, special effects and other aspects of blockbuster Hollywood films with broad audience appeal created a need for a middle ground between PG and R ratings,” and the PG-13 rating, meaning some material may not be suitable for children under 13 years old, was created July 1, 1984 (“G is for Golden: The MPAA Film Ratings at 50”). Furthermore, the X rating remained, in principle, the same but was changed to the label of “NC-17” following the “co-opting” of the X branding by the pornography industry.

This set of labels (G, PG, PG-13, R, and NC-17) is the final set of ratings that exist in our current format and are determined by a rating board that includes a panel of eight to thirteen raters, with three considered "senior raters." The identities of these panelists are secretive, with only the identities of the Chair (Joan Graves) and the three senior raters (Tracy Downs-Berle, Mario Moogan, and Scott Young) being known to the public (“G is for Golden: The MPAA Film Ratings at 50”). As for the rest of the board's identity, our information is limited. The board's purpose is to "provide guidance to parents," so the information given on the other raters is that there are five moms and four dads from California, New York, Illinois, Ohio, Maryland, and Hawaii. Other than that, their identities are anonymous to ensure "they won't be subjected to any activism from interest groups or lobbying by filmmakers who seek to influence them" (“G is for

Golden: The MPAA Film Ratings at 50"). Additional information on things like the selection process is limited, with some of the only accurate information on this process found being that "member[s] of the Rating Board must be a parent and may not have any other affiliation with the entertainment industry" ("Classification and Rating Rules.") This further lack of information presents severe problems for accountability and clarity and leads to additional discussions on how this lack of transparency effects power dynamics in the film industry.

Ultimately, the MPAA works to guide parents specifically on the films being shown to general audiences. Within this regulatory framework, the board works to "reflect standards" of the society, not "set them" ("G is for Golden: The MPAA Film Ratings at 50"). Nonetheless, as will be discussed later in this paper, the ability to control the ratings system with near anonymity and near absolute power, while being a "voluntary" regulatory body, effectively allows the board to "set" standards of what is appropriate or not for children.

The Three Faces of Power

Political theorists and society at large have been obsessed with the idea of power. Wars have been fought, revolutions have been waged, and lives have been lost over this idea of having "power." However, this term is often thrown about with little understanding of how power works and what exactly constitutes power. The use of this term includes discussions within the film industry, where regulation has been a significant point of contention. As discussed in the previous section, the film industry has had a turbulent and controversial history of regulation, and power has manifested in different ways throughout. Due to this, it is essential to recognize and define the power dynamics at play to recognize how on-screen depictions of sexuality have been affected.

Modern understanding of power can be tied back to the political theorist Robert Dahl, who first proposed that the idea of power can be conceptualized into a face or lens. In years since, other theorists have expanded on his original work, leading to three faces of power, each examining a different facet of how power can be manifested and used within conflicts. Dahl initially proposed the first face of power: "the direct ability to influence others openly." As Dahl stated, "For the assertion 'C has power over R,' one can substitute the assertion, 'C's behavior causes R's behavior.'" In simpler terms, Dahl's view of power is rooted in the idea of causal relationships, where the actions of agent C influence the actions of agent R. When individuals think of power, this face is the one most recognized, as it is the clearest to those analyzing power relations in which individuals are making these decisions and the outcomes.

Despite the broadness of the first face, not all decisions are made directly, which is where the second and third faces of power come into play. The second face of power, as political theorists Bachrach and Baratz proposed, discusses the power of "agenda-setting." In their work, "Two Faces of Power," they state that "To the extent that a person or group - consciously or unconsciously- creates or reinforces barriers to the public airing of policy conflicts, that person or group has power" (Bachrach & Baratz, Two Faces of Power, 948). These two theorists argued that if one can control the topics on the agenda, particularly in a political setting, one can have power over others. This face of power can be shown through both what institutions choose to place on their agenda and what they choose to omit. This dynamic cannot be observed in such a direct way as the first face of power, and it can be understood that one of the two parties involved in decisions may not know about what is happening.

Lastly, there is the third face of power, proposed by theorists Lukes and Gaventa, which states that an agent has power over another when they are able to influence their decision in a

way that negatively impacts the other. In other words, “A exercises power over B by prevailing in the resolution of key issues or by preventing B from effectively raising those issues but also through affecting B’s conception of the issues altogether” (Gaventa, Power and Participation, 12).² Lukes and Gaventa’s belief is that one may not even know there is another option or outcome, as their decisions have been influenced to ensure that they are limited to the options presented before them. In comparison to the second face of power, the third face would be if one thought that the only options to choose from were the options listed in the set agenda. This third face may be the most abstract of the three faces of power, and the more common examples of this face are things like propaganda and censorship—agents to change the overall frameworks in which individuals think and act.

These three differing faces of power compound one another and ultimately present a more in-depth definition of power that we can analyze. Even so, there is another worthwhile analysis of power, one that some call a fourth face of power, introduced by Michael Foucault in his famous work on the *History of Sexuality*.

“*The Fourth Face of Power:*” *Foucault and the History of Sexuality*

Michael Foucault was a French philosopher in the 20th century well known for his work analyzing Queer theory and power relations. His most famous work is his *History of Sexuality*, which explored the power dynamics of sexuality and is where the idea of a “fourth face” of power came to be. Along these lines, despite the fact the title states that the work is a “history,” the work instead investigates something arguably deeper:

²Much of this work on the three faces of power comes from a series of essays written by the author of this thesis for POL 428, “Politics of Resistance,” a course at the University of Arizona taught by Dr. Suzanne Dovi during the Fall semester of 2021.

“The *History of Sexuality* is not a history of sexuality. Rather, as its French subtitle, *La volonté de savoir*, suggests, it is a history of how we came to want to know about sex, or how we came to think that sex was such an important thing to know about” (Taylor 9).

Foucault, in his work on the *History of Sexuality*, rails against the idea of the “repressive hypothesis,” which is “the story according to which sex was once free, but ‘twilight soon fell upon this bright day’ (Foucault, 1978, p. 3) at which point – first with Christianity and then again with Victorianism – sex was repressed and we are still struggling to free ourselves of this repressive heritage” (Taylor 12). However, Foucault argues that despite censorships and restrictions on sexuality throughout history, sexuality has not been repressed, which he argues is particularly evident in the way in which we talk about sex and how much we talk about it, as one analysis puts it: “It is odd, for Foucault, that we believe in the ‘repressive hypothesis,’ because it is clear that we live in a society inundated with sexual discourses” (Taylor 17). Instead of using the repressive hypothesis as a crutch to maintain the idea that sexuality has been restricted, Foucault argues that even with censorship and prohibition, the power relationship between sex is much more complicated. He even argues that this sexual prohibition, in some instances, may produce positive effects, such as increasing the curiosity of the population that seeks to consume it.

Moving past the repressive hypothesis, in the *History of Sexuality*, Foucault analyzes a shift in power from what he considered to be ‘juridico-legal’ or ‘sovereign’ power to now new, modern forms of power, which are discipline and biopolitics, which are “a shift from a right of death to a power over life” (Taylor 42). However, with biopower, one holds the power “to *foster* life or *disallow* it to the point of death (Foucault 1978, p. 138, emphasis in original):”

““[I]n the classical theory of sovereignty, the right to life and death was one of the sovereignty’s basic attributes... The right of sovereignty was the right to take life or let live. And then this new right is established: the right to make live and to let die’ (Foucault, 2003b, pp. 240-1)... Discipline (or anatomo-politics) may be seen as biopower that targets the individual body, therefore, while another level of biopower (biopolitics) targets the species body... These two levels of power are necessarily intertwined, since bodies make up populations and populations are made up of individual bodies” (Taylor 42-47).

Biopower, in essence, is how societal norms inflict power on one another. By marking this shift from things like sovereign power to biopower, Foucault states that individuals in society fail to recognize how power is manifested, stating:

“We therefore fail to see power as power when it does not come in the form of sovereign power or the law... When we are disciplined to behave in certain ways, and have internalized this discipline, we may feel that, far from being subjected to power, we are acting of our own volition... Disciplinary power is not recognized as power because it is experienced as coming from within rather than without us, or as our own habits or desires... Neither disciplinary power nor biopolitics is characteristically legal or juridical; although they may have infiltrated the law, they nevertheless do not operate primarily through law codes and the shedding of blood but, rather, through the *administering of life* and its *normalization*” (Taylor 51-55).

Understanding these new forms of biopower that manifest within society is essential to Foucault as it is the reasoning behind why institutions have become increasingly more interested in sex and sexuality. Foucault believed that the state thought that sex actually became a “public issue:

“At the heart of this economic and political problem of the population was sex... It was essential that the state know what was happening with its citizens’ sex, and the use they made of it... Between the state and the individual, sex became an issue, and a public issue no less” (Foucault 26).

When exploring this reasoning behind why institutions became more interested in sex and sexuality, one can expand this to an understanding of the regulation of the film industry. As

outlined in the section on the history of film regulation, the Hays Code, and subsequently, the regulation of sexuality in film was proposed in response to potential government regulation. When this issue of sex became a “public” one, it became entangled in the power dynamics of regulation at play. As this is what Foucault proposed, these historical regulation events make sense.

However, Foucault expanded beyond biopower. After examining biopower and the shift in how power manifests, Foucault expressed some general principles of power that went beyond discussions of sexuality. He lists seven main principles revolving around power, listed below:

1. Power is Everywhere.
2. Power is War.
3. Power is Relational.
4. Power is Immanent.
5. Power Comes from Below.
6. Power Relations are Intentional.
7. Power Produces Resistance (Taylor 56-62).

Theorists such as Lukes, who worked to create the third face of power, believed that Foucault went too far with his definition of power, particularly with his belief that "power is everywhere" ("Steven Lukes Explains the Third Dimension of Power"). Regardless of that view, Foucault ultimately believed that power existed in all interactions and that nothing we do is without the influence of power. That being said, when comparing Foucault's work to the theorists behind the three faces of power, it is essential to recognize that Foucault focused more on the "why" behind the forces of power at play. In contrast, one can argue that the three faces of power focused more on the "how." In the *History of Sexuality*, Foucault seeks to explain and understand why sexuality has been a focus of power dynamics instead of just painting the history of these dynamics for the reader.

Despite these differences, understanding both frameworks leads to a deeper understanding of power dynamics. By analyzing the work of the number of theorists who produced the Three Faces and the work of Foucault, we can analyze the regulation of the film industry and begin to understand how power has influenced how sexuality has been presented on-screen.

The Three Faces of Power and the Hays Code

As mentioned within the section analyzing the history of film regulation, the Hays Code worked to restore “morality” within the film industry. It ultimately was one of the most restrictive pieces of censorship for an art form in the history of the United States. When analyzing this period and piece of regulation through the lens of the three faces of power, we can understand how sexuality was limited by the regulation at the time.

The first face of power is the direct ability to influence others openly or the power in direct casual relationships. In the context of the film industry during the Hays Code, the document of the Hays Code functioned to tell individuals what could not be shown on screen directly. For example, the restriction against “sexual perversion” on-screen could be seen as “A,” the film industry, directly restricting “B,” non-heteronormative populations, with a direct causal relationship.

Ultimately, the second face of power is where one may argue that the Hays Code pulls most of their power from. The Hays Code explicitly outlines what can be shown onscreen (i.e., the first face of power); it effectively sets an agenda of what types of movies can be shown to the public. As mentioned before, “sexual perversion,” which included all forms of sexuality beyond that of heteronormativity, was forbidden to be shown onscreen. This prohibition effectively sets

a “barrier” to what can be shown to the public through film, which is a crucial part of Bachrach and Baratz’s work, as they state in the “Two Faces of Power:”

“To the extent that a person or group - consciously or unconsciously- creates or reinforces barriers to the public airing of policy conflicts, that person or group has power” (Bachrach & Baratz 948).

The Hays Code, in this case, had the power to remove what they deemed “sexually perverse” from their agenda—which in turn created a power to control sexuality on-screen.

And lastly, the third face of power, may be the most insidious one of all. This third face is the one that affects one’s “conception of the issues altogether.” In this case, the issue of the Hays Code is that it removes certain themes from the consciousness of their audience altogether. As mentioned before, the Hays Code removed aspects of film that were considered “sexually perverse,” and this third face of power ensures that the average heteronormative individual in the audience does not even think about the existence of individuals whose sexuality differs from their own.

Furthermore, although the Hays Code has been controversial from its inception, its regulations help reinforce this third face of power. As mentioned before, pre-Hays Code Hollywood allowed for much more creative freedom in their material, including on the topic of sexuality. After the implementation of the Hays Code, these themes were hidden, and for many Americans, the removal of these various forms of sexuality did not occur to them. This lack of knowledge is the main difference between the second and the third face of power. In the second face of power, specific topics may be left off an agenda, but these left-off items may not be forgotten. With the third face of power, the population affected by this power is effectively ignorant of these items they cannot consume.

The Three Faces of Power and the MPAA Ratings System

The removal of the Hays Code as the favored regulatory system in Hollywood to that of an alphabet rating system marked a massive shift in what themes were allowed to be presented in films and how the three faces of power manifested within film regulation. As mentioned above, there have been several changes to the alphabet ratings system, but the current-day rating system has the following labels: G, PG, PG-13, R, and NC-17. Although this modern-day ratings system allows for more diverse themes to be presented to differing audiences, there is still censorship in the form of which audiences are being shown different materials.

As stated by Caroline H. Miller in her paper on eXplicit Content: A Discussion of the MPAA Rating System and the NC-17 Rating, “Although there is seemingly unlimited creative freedom, the success of a film depends on its marketability, and so this freedom is curbed by two intertwined factors: how much money a film can make, and how many people can see the film” (3-4). With a rating system, as shown above, the higher the ratings go, the more restrictive the film accessibility is toward general audiences. In particular, the R and NC-17 ratings drastically limit the audiences that can see them. For R-rated films, only individuals below the age of 17, when accompanied by their parent/guardian, can see the film; for the NC-17 rating, no one under 17 can see the film. Due to these audience restrictions, R-rated films have a more limited release than the other ratings, and the NC-17 rating severely limits what the film’s theatrical release will look like.

Understanding these barriers to accessing certain films is important when we look at the breakdown of film ratings. Of the almost 30,000 films reviewed and rated by the MPAA, only 524 have been rated NC-17 (“G is for Golden: The MPAA Film Ratings at 50”). In contrast, over half of all films have received an R rating, a total of 17,202 total films (“G is for Golden: The

MPAA Film Ratings at 50”). Despite the R rating containing the largest share of total rated films released, these films report some of the lowest returns on profit. According to an article titled “Ratings and revenues: evidence from movie ratings” from 2013 in the Contemporary Economic Policy, “The results...show that G films have the highest average revenues (\$80 million). PG and P0-13 films have about the same average revenue (around \$65 million) and R movies have the lowest average revenue (\$35 million) [from data between 1996 and 2009]” (Palsson et al). The data is further corroborated by articles like “Profitability Study of MPAA Rated Movies” from Grand Valley State University that shows the average rate of return (ROI) from 2000-2003 for R-rated movies to be the lowest of the four major rating groups sitting at 28.7% (Sundaram et al. 3).

These data points show a clear gap in the profitability of a film. Although a film can go through an appeals process, the MPAA still holds all the ability to determine what a film’s rating should be. According to Miller’s paper:

“[T]he ratings board examiners “never tell a filmmaker how specifically to cut a film, [and] only describe in the most general terms the offending moment[s] or scene[s].” Should the director and/or distributor choose to make an appeal rather than make edits to their film, they then go to the Appeals Board which, like the ratings board, is also shrouded in extreme secrecy and is composed of eighteen to twenty-four anonymous individuals. About the appeals process, director Wayne Kramer states in *This Film is Not Yet Rated* that the process is “not like a legal proceeding where you can quote precedent” to provide context, and ultimately it is their decision that is final. Finally, if the producer is still not satisfied with the rating, he or she can choose to instead release the film as unrated which, like in the case an NC-17 rating, will also impact the film’s distribution and ultimately its ability to generate profit and critical acclaim” (5).

Although the R rating receives much lower levels of profit than the three ratings that proceed it, it is still widely considered preferable to the often-dreaded NC-17 rating. As mentioned above, only 524 films have received this rating, and much of the reasoning behind

this face is due to Miller's comments on accessibility and profitability. Although the MPAA is a "voluntary" rating system, the status of NC-17 films is enforced by law: no one below the age of 17 may watch these films with this rating, severely limiting the audience, even if a child's parents deem it appropriate. Furthermore, data on NC-17 films is limited, but many estimates state that it is improbable for an NC-17-rated film to make close to \$5 million, much lower than all other ratings, even that of R, if any money at all. According to Daniel Ellis and Brooke Conaway from Georgia College,

"Studios consistently refuse to release films with an NC-17 rating. The rating itself is associated with hard-core pornography films, but it also places a strict limit on ticket sales based on age. Warner Bros. chairman Terry Semel describes the situation, "We're not in the NC-17 business." He and other studio executives categorize films with NC-17 ratings as a separate market from feature films (Lewis, 2002, p. 168) ... the NC-17 versions rarely make it to theaters as they are considered an economic liability (Sandler, 2001)."

Due to this lack of information, these researchers omitted all NC-17 data from their research entirely.

This system has further had an adverse impact on films dealing with LGBTQ+, or non-heteronormative, subject matter. Bruce E. Dushel published a research paper entitled *Of Letters and Lists: How the MPAA Puts Films Recommended for LGBTQ Adolescents Out of Reach*, where he tackles this issue. In Dushel's paper, he showcased how, even in the 2010s, how rare queer characters were onscreen:

"Recent research has documented how rare queer role models in film are. A study by the Media, Diversity, and Social Change initiative at the University of Southern California's Annenberg School for Communication and Journalism found that, among 109 films released by the major Hollywood studios and their art film divisions in 2014 and among

305 scripted television and Internet series in the 2014–2015 season, just 2% of speaking characters were queer and just .06% were transgender (Coyle, 2016)” (Dushel 179).

Going beyond this alarming fact, researchers have also found that the depictions themselves of queer sexuality put to screen are alarmingly rare. Depictions of actual sexual behaviors among lesbian, gay, or bisexual characters in media were found to be just 4% of all sexual behaviors put forth by many types of media, and just dialogue on queer sexuality makes up only 6% of all conversations revolving around sex in media (Dushel 179).

Due to this limited representation in our media, many groups that support individuals in the LGBTQ+ community have created recommended film lists to help promote positivity within their own identity and have found many of their films to be in the crosshairs of the MPAA. In Dushel’s paper, Dushel examined seven different lists from 2007 to 2015 for a total of 150 films, and the results paint a stark picture. The author states that

“Nearly half of the films (71, or 47.3%) were released unrated by the MPAA/CARA, meaning the filmmakers either were independent of the major studios or did not submit their films for evaluation (for financial or philosophical reasons, or because they feared a restrictive rating, or both). Approximately one third (52, or 34.7%) were rated R, and one sixth (25, or 16.7%) were rated PG or PG-13. Two of the films, both appearing on the same list, were rated NC-17 (see Table 2)” (Dushel 181).

The researchers state that when one considers the R rating challenging to access and the NC-17 rating “inaccessible,” only 25 of the 150 films, or 16.7%, can be viewed on these lists. These statistics paint a very contrasting picture of the accessibility of films on more “mainstream” movie lists, which sits at a 51.8% accessibility percentage (Dushel 182).

When analyzing the three faces of power in this case of film regulation, one can glean more insight into how the MPAA has helped suppress sexuality on film. When examining how

our modern ratings system operates under the first face of power, we can see a less defined causal relationship than what was observed when analyzing the period of regulation with the Hays Code. The only clear causal relationship that can be observed with this rating system is the audience restrictions for different ratings, with the only apparent restriction being that of NC-17 due to the restriction on these films being enforced by law. All can see the ratings of G, PG, and PG-13 without restrictions, and R can be seen with the supervision of a parent or guardian, making a direct causal relationship here challenging to discern.

On the other hand, there is much to be said about the second and third faces of power. Under the second face of power, the MPAA board holds tremendous agenda-setting power. As an independent voluntary board with almost all anonymous members, the MPAA has the power to choose how films are rated with almost no oversight—meaning they have the power to control which people in the general population can see certain films. As mentioned before, films rated R and NC-17 have many more restrictions on who can see these types of films, further limiting a film's profitability. This lack of access and profitability with these age-restricted films is a self-cycling process, as lower returns on profit ensure that major film studios will try to limit the backing they give to content with higher ratings, leading again to lower audience turnout and lower profits overall.

To build on the information above, how the ratings are determined is related to the second face of power. When people see a film, they can look up the rating and read the descriptors written by the MPAA to determine why the film received the rating it did. However, when one looks at the process of determining how a film is rated, the criteria is incredibly vague. Although there is some criteria that the MPAA lists that receive an automatic minimum rating (for example, if a film has any drug use will “require at least a PG-13 rating”), most of the

decision-making process is all dependent on the subjective thoughts of the board on what themes or content is “too much” or “just enough” to warrant a specific rating, which may make or break a film’s profitability and access to general audiences (“G is for Golden: The MPAA Film Ratings at 50”). The agenda of ratings is controlled by the MPAA, from the actual rating to how these ratings are distributed and assigned to certain films, giving the organization extreme power over this medium.

Further, this second face of power quickly bleeds into the third face. Despite the voluntary nature of the ratings system, the film industry has chosen to stand behind the model and subject themselves to the whims of the MPAA—due to the collective belief in Hollywood that this system is the only option. There seems to be only two main options presented for regulation: the current alphabet rating system or something more restrictive akin to the Hays Code. Despite countless other alternatives that the industry could adopt (or even alter their current alphabet rating system to one similar to other countries around the globe), the film industry stands firmly behind the current system, despite some criticism levied against it from certain outlets.

The system's anonymity lends itself to increasing the power of this third face. As stated within the details on the MPAA within the history of film regulation section, the general public has minimal information about the board. Knowing that it is overwhelmingly difficult to criticize someone you know nothing about, this lack of knowledge presents a severe problem. When it comes to government, a citizen may not know all the information involving how a piece of legislation came to be. However, they can call their representative if said representative votes for a bill the citizen disapproves of. In the case of the MPAA, a filmmaker is solely at the board's discretion. The filmmaker can try to appease the board and submit a revised edition, which has

happened for even major hits like *American Pie* and *Pulp Fiction*; the filmmaker can try to make the rating assigned work; or lastly, the filmmaker can try to release their film unrated (Conaway and Ellis 72). All three of these choices can have negative consequences—the first choice limits the creative scope of the story the filmmaker is trying to tell, and the second and third choices can potentially severely limit the audience and the film's profitability.

An Analysis of Power Through the Lens of Foucault on the Hays Code and the MPAA

As stated above, Foucault states that power is everywhere and explains various other attributes. This examination will focus on a few main factors: how biopower influences film regulation and how the ideas of “power is everywhere” and “power is relational” manifest within these structures.

When Foucault states that power is everywhere, he means it is “not because it embraces everything, but because it comes from everywhere” (93). This explanation of power is due to disciplinary power; as explained above, all individuals have power and constantly use it through social norms both on themselves and towards other individuals. However, if power is everywhere, what does that mean for film institutes that hold the power to regulate sexuality within film? Foucault, in his *History of Sexuality*, expressed thoughts on a different subject matter that also apply to film when he discussed the topic of gay marriage, stating that:

“Some gay couples then feel that they are transgressing social norms by getting married, and such marriages are widely celebrated as signs of social change, pacifying subjects politically, when in fact that the desire to marry arguably shows how subjected to power-to normalization-these subjects have already been” (Taylor 54).

The push for gay marriage legalization is a noble one, something that society should have allowed long before *Obergefell v. Hodges* in the US. However, this quote does question the conditioning that society has been subjected to. Although theorists like Lukes may disagree with Foucault on some points, Foucault's thoughts here echo similar sentiments to the third face of power, as individuals have been conditioned not to make lasting changes outside of societal expectations of change. This connection to societal power is why some argue that Foucault's understanding of power is a "fourth face"—the natural extension of the third face of power. The third face of power is often seen as institutional power, and one can examine Foucault's lens of power as societal power or the power of societal norms.

By understanding both this example and the history of sexuality in film, one can apply Foucault's lens of power to gain further understanding. In the case of the Hays Code, when sexuality was explicitly banned, many films attempted to work around these regulations by coding certain characters as homosexual or non-heteronormative without explicitly stating as such to skirt around the censorship of the Hays Code. These films felt that they were pushing the restrictive boundaries at the time by coding characters in their films such that the audience could infer certain characters' hidden sexuality. Despite the intentions of the filmmakers, the fact of the matter is that by adhering to and abiding by film regulation rules, filmmakers showed how "subjected to power" and "normalized" to these standards they were.

This similar dynamic is also present in the modern-day rating system. As mentioned before, filmmakers will submit their films to the MPAA to receive a rating that can then be used as guidance for such individuals as parents. If a film receives a rating that the filmmakers think is detrimental to its success, they can revise it for content that may have "pushed them over the line" to attempt to receive a lower rating. This normalization of the rating system by societal

expectations is reflected in actions such as submitting/resubmitting films to the MPAA for the rating; this censorship through these actions occurs because both general audiences seeing films and the filmmakers themselves are normalized to believe that that the rating systems ensure that young people see films that are appropriate to them and that this is the best model in place.

All of this, both the adoption of the Hays Code and the creation of the alphabet rating system in the first place, reflects the use of biopower. As mentioned, the Hays Code was first adopted to ensure no film “lowered the moral standards of those who see it” and used religious standards to reflect their perceived morality. As the United States had a (and still has to a lesser extent) majority religious population, the Hays Code was adopted to reflect one group’s view of the morality of the population (ignoring the differences in moral frameworks of even different sects within the Christian faith). After the abolishment of the Hays Code, certain members of society still felt the need to ensure moral standards were upheld within the population, and the rating system was created to ensure young people did not see films that were not “appropriate” to them.

As Foucault also stated, another feature of power is that it is relational and that, despite seemingly something that one can possess, power dynamics are complex, constantly evolving relationships where some individuals may have more privileged statuses due to the structure of a society. Within this idea that power is relational, Foucault states that

“I don’t believe that this question of ‘who exercises power’ can be resolved unless that other question ‘how does it happen?’ is resolved at the same time... [it is not about] ‘who exercises power’ but about the strategies, the networks, the mechanisms, all those techniques by which a decision is accepted and by that decision could not be taken in the way it was” (Taylor 61).

In both the case of the Hays Code and the MPAA rating system, there is a complex relationship between the power dynamics of audiences and the industry that impacts which films are created and seen by the general population. Even if one believes that one group or set of individuals controls the outcomes of the film industry, the reality is much more complex. With the Hays Code, it would be straightforward to point at William Hays, as his name is forever associated with this regulation. However, several different factors were also at play, including groups like the Roman Catholic Church and societal norms. As mentioned before, although queer characters were not always represented in the best light before the introduction of the Hays Code, they were still visible. Despite this, in the 1930s, there were large segments of the population that were against sexuality that did not fall into the heteronormative point on the spectrum, and these societal norms were reflected in the power relationships that led to the creation of the Hays Code.

The complexity of these power dynamics is also present in the MPAA rating system. One may point to the MPAA and the voters who decide on the ratings as holding the power in this equation. Despite this inclination, one fails to see the complete picture by pointing solely at the MPAA. Each one of the parents has the societal constraints put on them from the background they come from (for example, each one comes from a different state), the fact that the MPAA is under the societal expectation that parents know best for young people (which is why only parents exist on the board), and external factors such as pressure from significant studios (as there is some evidence pointing to the fact that films released by major studios get more favorable ratings).

The Intersection Between the Three Faces of Power and Foucault

This paper has explored the impact of film regulation on sexuality in movies through the lens of the Three Faces of Power and Foucault's view of power. Although some theorists, including Lukes, the architect behind the third face of power, may have issues with Foucault's all-encompassing view of power, when comparing them side by side, there are a number of similarities.

As mentioned in the section analyzing regulation through the lens of Foucault, many of his ideas, including the idea of power through societal normalization (biopower), echo many of the same ideas of the third face of power. Both deal with the power to impact the frameworks in which we think. The third face of power says that many individuals and groups have subjected themselves to the various rating or regulatory systems throughout film history since people have been conditioned to believe we need systems such as the two different forms of film regulation discussed. The Foucauldian view states that this conditioning comes from societal normalization and that the shift from the Hays Code to something like our current alphabet rating system was not a transgressive step in the right direction but rather working within the current system already in place. As quoted by Foucault: "[this] shows how subjected to power-to normalization-these subjects have already been."

Ultimately, these two different lenses to explore power are not opposite, but rather Foucault's understanding is an extension of the theorists behind the three faces; the three faces of power can help explain how power manifests in certain situations, and Foucault's lens helps answer the questions of how these power dynamics may have come to be through societal normalization. Both the theorists behind the Three Faces of Power and Foucault tackle these issues from different directions, one starting at the level of the conflict and one starting at the

level of society. This latter point is why Foucault's view of power can be seen as a fourth face reflecting societal power. Without both lenses, neither paints the complete picture. By examining the issue of power through both, particularly power within film regulation, one can grasp a greater understanding of the issues at hand.

Conclusion: An Extrospective Analysis of Power Relations in Film and Why it Matters

As mentioned at the start of this thesis, sexuality within the United States remains a divisive issue, particularly in film. There are many today who argue that "gay" characters are "over-represented" on-screen, with organizations such as *The Christian Institute* publishing articles titled "LGB individuals 'over-represented' on TV." Many from this more conservative, Christian mindset now argue that these trends towards more diverse characters in our TV and movies do not "reflect" the demographics of the population and that Hollywood is seemingly pushing an "agenda."

This thesis paints a different story, one where Hollywood has censored sexuality for decades, removing the existence of non-heteronormative characters from our screens. The original push towards erasure with the Hays Code is a reflection of groups similar to today, showcasing that the power dynamics then are not so different from what they are now. This lack of difference in power dynamics should be no surprise, as, despite differing forms of regulation in the film industry over the decades, the different faces of power manifested and promoted censorship of sexuality both with the Hays Code and the MPAA.

Further, despite recent trends towards more diverse characters on-screen in recent years, one cannot ignore the decades of censorship and societal normalization against non-heteronormative forms of sexuality ("Where We Are on TV Report 2021 – 2022"). Both during

the Hays Code and during MPAA rating regulation, LGBTQ+ voices were hidden, either by restricting what themes could be presented in all films or by restricting who could see specific themes in certain films. As demonstrated by Bruce E. Dushel, queer characters are still underrepresented in film through the 2010s, and when they are shown, they can be hidden behind ratings that restrict the audiences that see these films.

Furthermore, as discussed in this thesis, the power dynamics at play are fundamental to understanding the idea of censorship in film. One must turn to Foucault's view of power to understand why understanding these dynamics matters. As mentioned above, Foucault examines why we care about sexuality and the biopower that has influenced how we view and interact with sexuality. Within Foucault's analysis, he explains the social normalization that restricts how people view issues, such as in his example of gay marriage. The conversation about representation in our media falls into a similar situation. Much of these conversations in society surround this idea of over or under-representation, ignoring the power dynamics and historical implications at play. Both sides have been socialized into believing that representation on-screen is the solution to the issue at hand. Through this socialization, society cannot find effective solutions to the issue of sexuality on film.

To fully tackle the issue of the issue of queer erasure in film, we must do more than focus on representation. To break down the decades of societal normalization, we must ensure that representation on-screen is positive and work to break down the current ratings system that has actively worked to limit the audiences that can see LGBTQ+ content on-screen. As shown by the various lenses of power explored in this thesis, power relations are complex, and situations can rarely be boiled down to only causal relations. Through knowledge and education of the

historical and modern power dynamics, we as a society can work to tackle this censorship of sexuality and work past our own societal normalizations.

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