



## BACKLASH: DEFENDING S&M IS DEFENDING INDIVIDUAL FREEDOM

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### An Introduction to Backlash

On behalf of a number of organisations—the Society for Individual Freedom (SIF), the Libertarian Alliance (LA) and the Campaign Against Censorship (CAC)—in the latter half of 2005 I became involved in the Backlash campaign. This was formed in response to a joint Home Office and Scottish Executive consultation document *On the possession of extreme pornographic material* (to quote from the document) “proposing to strengthen the criminal law in respect of possession of a limited category of extreme material featuring adults.” Primarily, if not exclusively, “extreme material” refers to pornographic images of a sado-masochistic (S&M) nature.

Nominally at least, these proposals came as a result of a campaign led by the mother of a woman who had been murdered by a man who had visited websites featuring asphyxiation. This was an appalling crime. However, what we have seen is a knee-jerk reaction of “something must be done”

allied with the mistaken beliefs that (a) people are not and cannot be *personally* responsible for their actions and (b) if only we have enough laws we can legislate away the wickedness of this world.

S&M is not my cup of tea, although I am sufficiently worldly-wise to have a genuine knowledge of what is sometimes involved. In any case, as a libertarian I utterly condemn any restrictions on the creation, distribution and possession by willing adults for willing adults of “extreme pornographic material”. What consenting adult men and women, in any combination of sex, sexuality and numbers, get up to in private is none of my business. And it is none of yours. And it is certainly none of the state’s. Furthermore, if we accept this, then logically there cannot be anything wrong in photographing or videoing such activities and then passing them on to other consenting adults whether free or commercially.

As the Backlash mission statement says, “Law enforcement agencies around the world already

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have powers to prevent and punish actual crimes... We condemn any acts where the participants did not give their consent. Viewers should not be penalised for looking at... images of consenting actors." Quite.

Formal responses to the consultation document such as the one prepared by the CAC were constrained by the document itself. However, going into a little more detail, there are numerous reasons why I support the Backlash campaign and why I believe that other members of the SIF should do so too. Here are some of them.

### The Ongoing Assault on Freedom of Speech

I would support the Backlash campaign even if it stood alone. But it does not. 2005 witnessed a frenzy of censoriousness from the Labour government. Even before the proposals that sparked off Backlash there was the *Racial and Religious Hatred Bill*. Whatever its alleged aims, in reality it was a transparent attempt by Labour to recapture "the Moslem vote" that may have been lost due to aspects of the government's foreign policy. However, it also means the prospect of individuals being convicted—or cowed into silence by the risk of being convicted—for pointing out that some religious beliefs and practices are vile and wholly incompatible with the mores of Western society. Ask Theo van Gogh, the Dutch film-maker who was murdered in November 2004 after his film *Submission* highlighted the abuse of women in Islamic society.

We also had the *Terrorism Bill* which has, as but one of its proposals, the ludicrous aim of outlawing "glorifying terrorism". This could mean that almost any strongly expressed ideological view would be illegal if anyone else anywhere in the world uses violence in support on that ideology: democracy in Zimbabwe, for example.

But we should not be surprised. After all, "New" Labour is the party that made the fascistic claim in its 1997 general election manifesto that it was "the political arm of none other than the British people as a whole". Having won on such a terrifying platform, nearly a decade down the line we live in a country where "insulting" the Prime Minister by wearing an admittedly childish "Bollocks to Blair" t-shirt can get you arrested.

Having mentioned the relevant provisions of the *Racial and Religious Hatred Bill* and the *Terrorism Bill*, there is the obvious point about consistency. It is intellectually and tactically right and more persuasive to oppose censorship full stop, irrespective of what one's view is about what is being said or published. For example, if one opposes censorship in one area but supports it in another one's position is immediately weakened because the principle has been conceded. (As an aside, it is *not* censorship to decline to provide someone with a

platform to air views that one finds silly or repugnant. Censorship is a "positive" phenomenon whereby someone is silenced by force—violence, imprisonment, fines and so on—or the explicit or implicit threat for force. However, one has no obligation to "subsidise" the opinions of others.)

### Ignoring Their Own Evidence and the Spurious "Harm" Argument

Returning to Backlash, it notes that "The Home Office admits in its consultation document that there is no evidence that demonstrates a link between the type of material under discussion and unlawful activity." So what is the point of it? Law for the sake of it? Evangelical nannyism? Regarding the last, Backlash has noted the ardent Christian views held by some of those in the government most strongly advocating the proposed censorship. Paul Goggins, a Home Office minister, is a particularly good example. (Indeed, the British Humanist Association has described this present Labour government as "the most religious government for decades.") I have no objection to religious people—including many good friends of mine and of course members of the SIF—peacefully trying to persuade me—at least for as long as I am prepared to listen to them—that doing or not doing this or that imperils my immortal soul. But, in the end, I demand the right to make my own way to Hell.

A more prosaic reason stemming from this same Home Office admission is to refuse to give credence to the "junk science" claims used by *some* of those calling for greater censorship of sexually explicit material. As the LA's press release on the issue notes, "There is no proven connection between pornography and sexual violence. There have been dozens of reputable studies. Not one has shown any connection. Indeed, the evidence is that access to pornography reduces sexual violence by providing an alternative release. Even if there were a connection, it is only a prompting. Between prompting and action, there must still be some process of deliberation. Anti-porn campaigners accuse adults of being robots who cannot resist any external impulse. In any event, if there is a connection between pornography and sexual violence, there is exactly the same kind of connection between reading the Koran and letting off bombs on the London Underground. Are we to censor the Koran on that argument? No, the anti-porn campaigners are anti-sex fanatics who will use any excuse to make other people as unhappy about sex as they are themselves."

Along similar lines, the CAC's submission argues that if the "harm" argument were to be taken seriously, "all crime films and some newsreels would have to be banned." For example, would the photographs of the atrocities committed by US troops in the Abu Ghraib prison in Iraq be able to be shown?

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### Where is the "Victim"?

Then, as the CAC's submission also notes, there is the whole issue of "victimless crimes". Aside perhaps for those poor souls who are indisputably deranged, it is not the job of the state to protect people from themselves. Yet the consultation document goes out of its way to say that it wishes "to discourage interest in... aberrant sexual activity." And who decides what is "aberrant"? That ought to be for the individual and his or her willing partners, not the government. An S&M practitioner would say that there is nothing for them to be protected from. As for those who would argue that S&M practitioners are indeed "sick", it is worth recalling that homosexuality was regarded as a classifiable mental disorder by the American Psychiatric Association until 1973, the World Health Organisation until 1992 and, quite remarkably, by the UK government until 1994. How foolish this now seems! No, being "odd", "unusual", "eccentric", "rebellious" or even, of one takes this view, "disgusting" does not qualify one as "mad".

### Real Crimes for Real People!

The Home Office's consultation document refers in numerous places to "pseudo-photographs", i.e. "an image, whether made by computer graphics or otherwise howsoever, which appears to be a photograph" (*Criminal Justice and Public Order Act 1994*). Criminal law ought to refer to what real people do or do not do to other real people. One may well accept that the making of some types of material involving actual people ought to be illegal: child pornography is an obvious example. However, whatever one might think of the subject matter that the consultation document concerns itself with, literally no one is hurt—indeed, even involved as such—in the creation of pseudo-photographs. We have here entered the realm of Orwellian "thought crime" and however disturbing some of those thoughts might be, they are not "real".

### More Public Sector Jobs

Make no mistake, there will be jobs for the boys (and girls) at the end of this. Any extension of the state's powers produces "job opportunities" both for an expanded public sector and the (nominally) private sector that provides them with (say) the technical wizardry needed to catch those newly criminalised. All at the taxpayer's expense, of course. In the meantime, existing police personnel will have to be diverted from tackling what most of us would consider "real crime" of (non-consensual) violence, robbery, vandalism and so on. And let's face it, raiding a house in the suburbs or a cottage in the country believed to be the scene of S&M gatherings or trawling through someone's computer in the comfort of a warm office is a rather more inviting prospect than deal-

ing with drunks on a cold and wet Friday night.

### Increasing the Powers of an Already Unfriendly State

We ought also to be mindful of what, quoting Martin Niemöller, might be termed the "First they came for the Communists" attitude of shrugging the shoulders. For it is often true that repression starts first against those least favoured in society. For someone leading a quiet life and who might well regard S&M with disgust—which I suspect will include some readers of this article—it is tempting to say, "It's nothing to do with me." But think again. Are you a Euro-sceptic, or do you support fox hunting, or do you oppose unlimited immigration into the UK of criminal gangs and unassimilable thousands or do you hold the view that two homosexual men wishing to adopt should not have a boy placed with them in the same way that two heterosexual men should not have a girl placed with them? If so, then you could soon be skating on very thin ice. Don't think that it will happen? Well, of course, the last item in my list—adoption—got one Lynette Burrows into trouble in December 2005 when she mildly expressed exactly that opinion on BBC Radio Five. The police, no doubt having run out of burglars to catch, thought it worthwhile ringing her up the following day to say that an illegal "homophobic incident" had been reported against her. (And shame on the politically correct zealots who "reported" her.)

Many of us have a decidedly mixed view about the police. Go to the February 2005 issue of *The Individual* and SIF chairman Michael Plumbe's report to the 2004 AGM. Writing about what he witnessed at a protest mainly by "'middle-English' protesters"—i.e. the sort that makes up most of the SIF's membership—against proposals to ban hunting with dogs, he reported that, "I was quite near the police group which rained blows on a small section of the crowd. It was frightening to be there and to watch." Or the incident involving SIF's webmaster and myself when we attended the SIF's luncheon at the House of Commons in November 2005 (see the editorial in this issue). And as for HM Revenue & Customs...

Taken to an extreme, the LA's press release notes of the proposals that they give "another opportunity for the police to plant evidence" since mere possession will be a crime.

### A Waste of Time

Returning to the proposals, bizarrely any such restrictions may be illegal even before they reached the statute book. According to those knowledgeable about such things—e.g. the human rights lawyer Rabinder Singh QC—they might be incompatible with the European Convention on Human Rights (which, by the way, is a

"Any extension of the state's power produces "job opportunities"... for an expanded public sector..."

child of the Council of Europe and *not* the European Union). More work—and money—for the lawyers. It would be fascinating to see that other well-known human rights lawyer, Cherie Booth QC, taking up the challenge...

### Above All: The Defence of Individual Freedom

But, of course, the most important reason to oppose these proposals is the right of consenting adults to do whatever they like in private. That one might not be personally involved in or even like what they are doing is neither here nor there. I have no time for those who, like the Conservative peer Baroness Buscombe in a House of Lords debate on this very subject on the 13<sup>th</sup> October 2004, start by saying, “I would be the first to defend our civil liberties, freedom of speech and expression” and then fling an almighty “*but*” into the debate. As that great liberal Herbert Spencer said, and which is prominently featured on the back cover of this journal, “Every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man.”

Laws exist that allow those who commit real crimes against others to be prosecuted. In the case of any “entertainment” material which involves real crimes such as the so-called “happy slapping” incidents recorded on mobile phones the perpetrators should be prosecuted for this crime. The fact that images may have been created is incidental except as evidence of a crime. Images created with the assistance of willing actors with or without special effects, or images formed by the manipulation or creation of photographs on a computer, should not be prohibited.

### A Bit More About Backlash

Many sorts of people are involved in Backlash. Some like myself are from comprehensive libertarian groups such as the SIF and the LA or more targeted anti-censorship groups such as the CAC, the National Campaign for the Reform of the Obscene Publications Acts and Feminists against Censorship. Others come from “pro-sex” groups such as Unfettered, the Spanner Trust and the Sexual Freedom Coalition. Others are simply private individuals, often but not always personally involved in the activities under threat.

With such a wide range of people involved there are sometimes differences about how best to proceed. Unsurprisingly, those organising most of Backlash’s work sometimes experience the “herding cats” problem. This is common to anyone involved in libertarian-inclined politics. Not for us the “discipline” of the political authoritarian or religious fundamentalist!

One problem comes from the fact that many S&M activities are themselves (disgracefully) cur-

rently illegal in the UK and so the matter of material depicting them is neither here nor there. At the first Backlash meeting in September 2005 there was a difference of opinion between those who said that at least for now Backlash had to work within the law as it stood and those who said that any response ought to tackle head on the illegality of certain S&M practices. I can see merit in both sides of the argument but I am more sympathetic to the latter. I am not sure how much one protects reciprocal individual liberty by conceding the state’s restrictions on it from the start.

It is also true that not everyone involved in Backlash is totally committed to civil liberties generally. Some are perhaps concerned with protecting their own “thing” but might not be so bothered about defending someone else’s. That said, many are rightly concerned about “not frightening the horses” or accidentally giving fuel to the already emotive claims of the pro-censorship lobby, particularly when the latter use the reason-destroying “protecting the children” tactic.

But these are quibbles. It has been inspiring to see the level of motivation and sheer hard work of many of those involved. Up and down the country messages have been written and sent, meetings attended, shows performed and—rather importantly—money raised. The sad truth is that if one is a well-to-do and “law abiding” member of the SIF and whose “hobbies” are not the sort to attract the attention of the state, then no matter how much one might sigh at (say) the possibility of compulsory ID cards things just don’t seem quite so personal and urgent. They are.

### Conclusion

I can do no better than refer to the end of Backlash’s mission statement. “We believe that adults can make up their own minds about what they view in private, even if those things may be distasteful to others. Backlash urges anyone who thinks that it is not the business of the state to criminalise the possession of images that the government considers to be “abhorrent”, to contact their MP and to respond to the Home Office’s consultation, stating their objections to these proposals.”

The CAC’s submission to the consultation exercise went in before the deadline of the 2<sup>nd</sup> December 2005 along with many others (some of which, of course, will *support* these proposals). We await developments but in the meantime Backlash is keeping active with a view to action if anything comes of it.

### Relevant Websites

Backlash  
<http://www.unfettered.co.uk/backlash/index.html>

“It has been inspiring to see the level of motivation and sheer hard work of many of those involved.”

Libertarian Alliance  
<http://www.libertarian.co.uk>

Campaign Against Censorship  
<http://www.dlas.org.uk>

Home Office and Scottish Executive Consultation Document

<http://www.scotland.gov.uk/Publications/2005/08/30112423/24254>

This is a link to the Scottish Executive version but the Home Office one is the same. It might not work by the time that this article goes to press. There have been persistent problems with

accessing the relevant literature on the Home Office and Scottish Executive websites, something that has led to complaints to these bodies from Backlash supporters quite besides responses to the actual consultation document.



*Nigel Meek is the editor and membership secretary of the Society for Individual Freedom and the Libertarian Alliance and a member of the national council of the Campaign Against Censorship. Thanks to Ted Goodman (CAC) and Christian Michel (LA) for their comments and suggestions regarding an earlier draft of this article.*



**Resting from their labours: SIF editor & membership secretary Nigel Meek and SIF webmaster Howard Hammond-Edgar en route to Gatwick Airport, October 2005. Photo by Joe Peacott.**

