

THE X-RATING AND VICTIMLESS CRIMES

Democratic Government is sometimes spoken of as though it were a voluntary arrangement which clearly it is not. Its laws are as binding as those of any despotism and often display even less regard for non-conformists. The tyranny of the majority is no less tyranny.

There is a tendency among people in authority to want to add to the Ten Commandments. Everybody knows that gambling, smoking, pot and porn are bad for people and would have been proscribed by additions to the Ten Commandments if either Moses or the Lord had thought of them.

The Burke Government is banning X rated video tapes. It would have been wise to hasten slowly, realising that at least it was faced with a conflict of principles - a conflict between public morality and individual liberty. Although nothing to my knowledge has been said about it, the Government should have realised that banning pornography might involve authority in a nightmare similar to that once caused by prohibition and the inevitable bootlegging in the United States, or the less widely remarked circumstance of marijuana in New South Wales.

If by "public morality" nothing more obscure is meant than "the morality of the public", I doubt that this can be advanced by public ordinance any more than the Spanish Inquisition produced convinced devout Christians. Morality is a matter of the heart and mind - of attitude - to which people can be led but I don't see that they can be forced.

If the concern is not "morality" but "behaviour", then the Government must weigh against the benefits of supposedly superior behaviour not only its right or mandate to enforce conformity but also the price of enforcement. Can the government afford to create yet another victimless crime? Can our society afford yet another law which too many people will feel no moral compunction to obey, and which will by its existence offer high rewards to people who facilitate other people's wish to enjoy (or experience) X rated video tapes? A law banning these tapes will make access to them more costly but it will not stamp them out, and it will place those in authority in the way of temptation.

The Government does have a mandate to protect people from coercion by other people. In effect it is sometimes argued that since certain films incite some people to violate others' liberty, the government should step in with a pre-emptive violation. That is the line of reasoning, somewhat disguised, employed by all tyrannies. Further, we must ask whether the trade off is in the intended direction. Will society be safer if some people are denied a victimless means of escaping their sexual frustrations, if people form the habit of ignoring laws which to them seem pointless, and our police are needlessly put in the way of corruption?

The silliest argument for banning Blue Movies (even if one could) is that they "exploit" women and children. I hope this newspaper doesn't stop exploiting me because it will probably then stop paying me. The fault lies with involuntary exploitation. Children are assumed to be below the age of discretion and hence to act involuntarily. To treat women as though they were children is the ultimate unwarranted sexual discrimination.

I suspect that, irrespective of the banning, the reason that most of us will hardly ever see an X rated video tape is that we don't enjoy them.