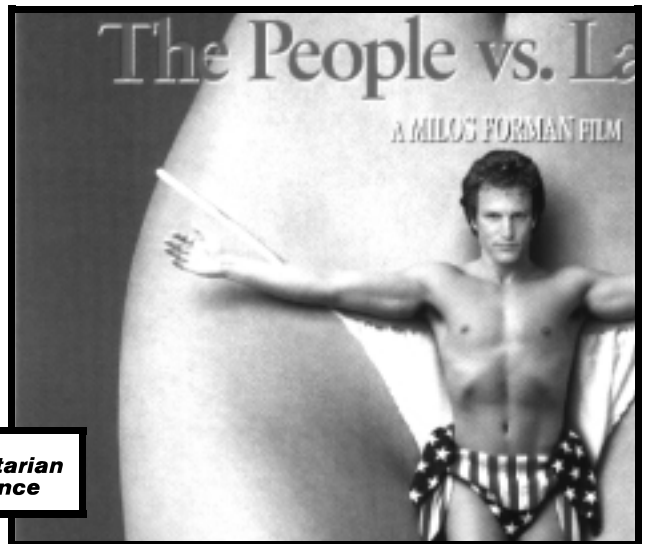


# FREEDOM OF EXPRESSION AND ITS ENEMIES: REFLECTIONS ON MILOS FORMAN'S *THE PEOPLE VS. LARRY FLYNT*

DAVID BOTSFORD



Given its vast output, and its domination of global markets since the first world war, the American film industry has provided remarkably few films which give an unambiguously libertarian political message. One thinks of *Destination Moon* (US, 1950), based on the novel by Robert Heinlein, in which a private company launches a rocket to the moon against the attempts by the state to prevent it. And of course we have all seen the film version of Ayn Rand's novel *The Fountainhead* (US, 1949), directed by King Vidor, the story of the architect Howard Roark who destroys his building rather than allow it to be distorted by state planners. However, it is significant that Rand repudiated the film because of interference with the script by the studio executives, such as the removal — without her agreement — of Roark's line: "I wished to come here and say that I am a man who does not exist for others."<sup>1</sup>

Yet there have been several Hollywood films extolling the supposed virtues of Soviet-style communism. The most notorious, *Mission to Moscow* (US, 1943), directed by Michael Curtiz, and based on the memoirs of Joseph Davies, the first US ambassador to the Soviet Union, is a shameful exercise in adulation of Stalin's bloodthirsty tyranny. It seeks to justify, among other things, the purges and the Moscow show trials, the Hitler-Stalin Pact and the invasion of Finland. *Reds* (US, 1981), directed by Warren Beatty, is a hagiography of the American communist John Reed, author of *Ten Days That Shook the World*, and the only American to be buried within the Kremlin's walls, who is shown helping Lenin and the noble Bolsheviks to liberate the oppressed Russian workers and peasants and establishing a "worker" state". *Havana* (US, 1988), shows two noble Americans helping the admirable Fidel Castro to free the Cuban masses from the evils of capitalism.

There are several reasons for this gross political bias. First, the Hollywood of the 1930s and early 1940s was intellectually dominated by the Communist Party, who exercised a form of censorship over what films were produced. While the communists lost their hegemony in the post-war period, Hollywood has been a bastion of statism and collectivism in American life, and a major source of revenue for anti-libertarian campaigns ranging from opposition to nuclear power to stricter gun control. The exceptions tend to be figures involved in making action films, such as Clint Eastwood and Arnold Schwarzenegger, who are more sympathetic to libertarian ideas. Second, Hollywood has always emphasised popular entertainment rather than the exploration of intellectual issues. Third, the studios are reluctant to upset the sensibilities of powerful political lobbies, and tend to defer to the perceived wishes of these lobbies rather than produce challenging and controversial films which may provoke the hostility of these lobbies in the form, for instance, of boycotts of companies sponsoring the film when it is broadcast on television.

## A FILM EVERY LIBERTARIAN SHOULD SEE

A recent American film, however, has successfully broken through these barriers to provide an explicit and inspiring defence of what is perhaps the most important right of them all — the right to freedom of expression. *The People vs. Larry Flynt* (US, 1996), directed by Milos Forman, tells the story of Larry Flynt, founder of the pornographic magazine *Hustler*, which was the first nationally distributed American magazine to feature "open crotch" shots of nude models, and his conflicts in the American legal system against several attempts, inspired by the "religious right", to prosecute him for obscenity. He obtains the services of a young lawyer

## Cultural Notes No. 38

ISSN 0267-677X ISBN 1 85637 380 0

An occasional publication of the Libertarian Alliance, 25 Chapter Chambers, Esterbrooke Street, London SW1P 4NN

www.libertarian.co.uk email: admin@libertarian.co.uk

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The views expressed in this publication are those of its author, and not necessarily those of the Libertarian Alliance, its Committee, Advisory Council or subscribers.

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interested in civil liberties, who helps him fight his cases, always successfully. After one such case, a sniper shoots him, leaving him paralysed below the waist. Then he is sued by the Reverend Jerry Falwell, leader of the Moral Majority, over a satirical feature describing Falwell's supposed first sexual experience — with his mother in an outhouse. Flynn took the case all the way to the Supreme Court, which handed down a unanimous decision in Flynt's favour. It is a film which every libertarian should take the trouble to see. Both Forman and Woody Harrelson, who plays Flynt, have been nominated for Oscars, and the film has been given the top award at the Berlin Film Festival. It has been savagely attacked in the US, both by the "religious right" and by "left-wing" feminists, for its supposed glamorisation of a pornographer and supposed misogynist, and has grossed only \$20 million.

In a recent interview with the British *Daily Telegraph*, Forman said:

The film's about an American desire for freedom and tolerance, which in my opinion are much more important for the quality of life than all the dirty magazines put together. It's a story of events which led to a crucial and noble decision of the Supreme Court about freedoms. The subject of the movie is not pornography. It was never intended to be.<sup>2</sup>

The well-known feminist Gloria Steinem argued in a *New York Times* article that the film glorifies a pornographer who has made a fortune from exploiting and degrading women. The highly influential National Organisation of Women supported Ms Steinem's position, and an advertisement appeared in the Hollywood newspaper *Variety*, reprinting her article and urging Academy members not to award the film any Oscars. Forman comments:

It's a hate ad. What's depressing is that I don't know how to argue all this, based on something the film is not about. I'd expected controversy from the extreme right. I didn't expect attacks from the left.<sup>3</sup>

In the interview, Forman explains the reasons for his passionate commitment to individual freedom. He was born in Czechoslovakia, which was taken over by the German National Socialists when he was a boy. When he was ten, his parents, both Czech patriots, were arrested by the Gestapo and taken to Nazi concentration camps, where they died. He was a school friend of Vaclav Havel, who later became a dissident dramatist and the first post-communist president of Czechoslovakia after the "velvet revolution" of 1989. Under the communist dictatorship, he became a film director of international distinction, despite struggles over censorship. "I twice lived in a society which denied people freedoms,"<sup>4</sup> he said, referring to Czechoslovakia under both Nazi and Soviet occupation. By the time of the Soviet invasion of 1968 he was already in the United States, building a career as a film director. His experience of American film-making was a good one:

I was dazzled. The only thing I had to argue was how much money they'd give me to make my movies. But I was left 100 per cent responsible for my work, what I said and how I said it. No one ever interfered. And that still seems remarkable.<sup>5</sup>

He selected Flynt's life story as an example of the sort of disreputable "outsider" whose right to freedom of expression must be defended. He explained:

Limiting free expression always starts with the perverts. Because everyone applauds. It provokes laws which sound noble: "Yes, we want freedom, but not for those people who want to destroy the moral fabric of society." But then it extends to blacks, to Jews, to gypsies. About 80 per cent of Shakespeare's plays were never performed in Czechoslovakia during Communism, because they were not thought politically correct. Eventually everyone who doesn't conform with official ideology and taste is an enemy of the state.<sup>6</sup>

The interviewer pointed out that Flynt could afford to take his case all the way to the Supreme Court only because of his wealth. "I agree with you," Forman replied. In answer to the claim that Flynt's pornography has coarsened American culture, he remarked: "I agree with that too. But it's a price you pay for freedom."<sup>7</sup> Then the interviewer comments that:

Since the fall of Communism, the advent of Forman's beloved freedoms has scarred many Eastern European cities like Prague. Garish American fast-food franchises disfigure historic squares; prostitutes prowl everywhere; violent mobsters thrive on the black market.<sup>8</sup>

Forman responds:

Sure, under Communism there was no pornography, no prostitutes. Gay people were suppressed — in closets with double locks. But the quality of life was pathetic.

He recalls that food was scarce in winter, and people would wait decades for a flat.

Five families might share one kitchen, one bathroom. But hey, there were no prostitutes. Let's applaud.<sup>9</sup>

On a trip to Prague last year, he arranged a private screening of *The People vs Larry Flynt* to President Havel.

He said the film felt like a hammer blow to the head and he needed to think about it. But before I left I heard him on the radio addressing the people — all heads of state like to do that, you know — and he spoke wonderfully, very warmly about the film.<sup>10</sup>

Forman has achieved wealth in his successful career as an American director, which has included *Taking Off*, *Hair*, *One Flew Over the Cuckoo's Nest*, *Amadeus*, and *Valmont*. He says:

Americans make a lot of money, and money means freedom.<sup>11</sup>

He rejects involvement in politics:

Tie yourself to a political party, and you eventually find yourself saying things on their behalf you don't believe.

He continues:

... what I experienced and what was imposed on me in Czechoslovakia was to feel the conflict between an individual and institutions.<sup>12</sup>

His view of human beings is simple:

The world's divided into two types of people. Those who prefer the jungle and those who prefer the zoo. If you want to be protected, sheltered and not work hard, live in the zoo — where you're free to dream about the beauty of the jungle. Then the bars open, and everyone runs into the jungle. But it's dangerous. There are lions, tigers, leeches and skunks, so some people start to dream of the safety of the zoo. That's the dilemma.<sup>13</sup>

We all know which category Forman comes into.

## AMERICAN CHRISTIANITY VERSUS FREEDOM

*The People vs Larry Flynt* is a most perceptive view of American society, and could not be more relevant. It demonstrates the power — and intolerance — of the so-called “religious right” who several times attempt to bring Flynt down through the courts. The fact is that politically influential Christian religious fanatics have always been a threat to American freedom. A commonly expressed historical myth among Americans is that the thirteen colonies which achieved independence from British rule in 1776-81 became havens of unlimited freedom (at least for white people), and that the war of independence can be understood as a struggle of ideas between American libertarianism and British statism. The historical facts are very different. Many American states had laws far more restrictive of individual liberty than those which prevailed in Great Britain. In Maryland, for instance, it was an offence punishable by death to deny the truth of Christianity until 1826, and most of the New England colonies introduced compulsory attendance at state schools some 250 years before it was imposed in England and Wales in 1880.

The framers of the United States Constitution were aware of the threat to freedom posed by organised religious fanatics. They included the First Amendment — which both guarantees freedom of speech and prohibits the establishment of a state church — as a means of preventing these elements from achieving political power over the American people and their institutions. Contrary to what many people assume, many of the influential Founding Fathers of the American Republic, such as Thomas Jefferson and Benjamin Franklin, were outspoken opponents of Christianity, both politically and philosophically, and were in fact Deists or even agnostics. (So too was Abraham Lincoln.) Thomas Paine, a Deist, was a central figure in the American war of independence and also the author of *The Age of Reason*, a devastating *exposé* of biblical myths. As early of the 1790s there was an attempt by Calvinists to seize control over the new Republic, which was fortunately defeated. Ever since then, organised Christianity in America has, for the most part, been concerned with diminishing the freedoms of Americans and increasing the power of the state. A recent article in the *Independent on Sunday* notes that:

The Concerned Women for [*sic* — actually of] America, a conservative group with half a million members, voted to boycott all Walt Disney products because they believe the company promotes homosexuality and subverts family values, and thus joined the 15-million-strong Southern Baptist Convention who began their own holy boycott of the Disney conglomerate last month.

Every one of the 50 state governments agreed to accept money from Washington to promote sexual abstinence among teenagers. A number of states are now planning billboard campaigns along the lines of Michigan’s “Sex Can Wait” and Maryland’s “Virgin: Teach your kid it’s not a dirty word”. The Concerned Women of America are also worried at the effect on children of the cartoon character Pocahontas sporting what they describe as sexy lingerie. ... The Christian Coalition — successors to the Moral Majority of the 1980s — are determined to push through an amendment that would introduce the word “god” into the US constitution, a document which has always remained steadfastly neutral on matters of religion.<sup>14</sup>

The US is a country where religion is far more important than it is in Britain. Surveys show that 94% of Americans believe in God, 86% believe in heaven, 69% in the devil, and that 68% belong to a church. 80% of Americans believe that religion is “very or quite important”: in their lives, compared to half that proportion in Britain, France, Germany and Italy. Christian anti-abortion fanatics regularly launch violent attacks on abortion clinics and their staff, even murdering two receptionists recently. Although the “tele-vangelists” are no longer quite as powerful as they were in the 1980s, after being hit by a series of financial and sexual scandals, they still rake in hundreds of millions of dollars a year from Americans. It is hardly surprising that the Christian Coalition’s proposed Constitutional amendment has gained 140 votes in the House of Representatives, including that of Newt Gingrich, the Republican Speaker of the House. According to the *Independent on Sunday*,

... the purpose of the amendment is to open the door to formal prayer sessions in public (state) schools, to allow religious objects like the crib at Christmas inside government buildings and to permit government funding for religious organisations. The Coalition would be able to ... infiltrate school boards everywhere and ensure that morning assemblies hum to the sound of “Our Father”. With time, creationism may legally replace the teachings of Darwin in schools.

At least two state legislatures — Louisiana and Kentucky — have already passed laws compelling the state schools to teach creationism along with Darwinism, along with numerous county school boards across the nation. And perish the thought of what might happen to the likes of Larry Flynt in such a society! Fortunately, the proposed amendment is facing strong opposition from many religious believers who value the heritage of freedom, as well as from opponents of religion. Congressman Chet Edwards (Democrat, Texas), a Methodist, told a recent Congressional hearing that religious freedom was already protected by the First Amendment:

If history has taught us nothing else, it has taught us that the best way to ruin religion is to politicise it.<sup>15</sup>

Ellen Johnson, head of American Atheists, recently told Congress that “the business of religion” should not be afforded special protection in “the free market of ideas”. She argued that the proposed amendment

presumes the existence of the god of monotheism and effectively establishes its existence by fiat of law, [thus granting] religion hegemony over non-religion. [The amendment] would be the first successful constitutional step in a centuries-long effort to make the United States a Christian nation.

In speculating about the nature of prayer, she wondered that a

... superintending, self-aware conscious force in the universe [could] upon whom grant or refuse certain supplications and, if need be, suspend the laws of nature to accomplish that which it would not have done otherwise. In other words, this divinity has an insatiable need to be entertained by the act of prayer before performing what it is requested to do.<sup>16</sup>

Ms Johnson’s arguments were considered so extreme that the American press did not report them. Had it done so, she might have been killed.

## BRITAIN IS LEGALLY MORE CHRISTIAN

In Britain, the role of Christianity in society is completely different from its role in the US. The discoveries of the 18th and 19th centuries relating to the history, archeology and philology of the Middle East, the nature and size of the universe, the development of life and the biological origins of humanity, which demonstrated the sheer nonsense of which the Bible was composed, had a far more profound impact on British thought than it did on American. Since the late 19th century, the Church of England has largely abandoned supernatural beliefs, and its pernicious evangelical and Anglo-Catholic wings are small minorities. In 1942, the distinguished Cambridge philosopher A. N. Whitehead carried out a study which demonstrated that less than a fifth of the British people were Christians in any sense. Since then, religious belief and church attendance have continuously declined. Today only about a third of British people believe in the existence of any kind of god, and only a tiny percentage could be described as believing and practising Christians. The Church of England, at least, has largely repudiated the more absurd claims of Christianity, and certainly His Grace the Right Reverend Dr David Jenkins, the Lord Bishop of Durham, who has recently retired, was one of the most outspoken debunkers of Christian mythology since the days of Charles Bradlaugh. Britain has no powerful religious lobbies comparable to the Moral Majority and the Christian Coalition in the US. Yet, legally at least, Britain is far more of a Christian country than the US. When Henry VIII made himself head of the Church in his own realm as a means of getting a divorce from Catherine of Aragon, England repudiated the separation of Church and state, and Anglican Christianity is the official religion of Queen and the government. The Education Act 1944 made Christian prayer and religious teaching compulsory in all state schools; more recently, as a result of widespread immigration, the teaching of several other religions, including Islam, Hinduism, Sikhism and Judaism, has been made compulsory in these schools. Non-religious philosophies are not included under any circumstances. The legal restriction of voluntary adult sexuality and pornography derives purely from Christian religious doctrine, which contends that these things are disapproved of by a supernatural being. Although, contrary to popular opinion, Britain has no law against pornography, "obscenity", which is defined as "the tendency to deprave and corrupt" is still illegal. Recently, James Brown, managing director of JT Publishing, publisher of the UK edition of *Hustler*, and his colleague Stuart Caley were acquitted on charges of distributing obscene or indecent material in the form of a fetish video. Brown has called for the law on pornography to be made clearer. He says:

The current definition is far too subjective and open to interpretation. I think people would be very surprised to learn that we actually police ourselves. We decide what we think is not obscene, but then a policeman or customs officer can disagree and we can be charged anyway. We need a clear set of rules telling us what we can and cannot do.<sup>17</sup>

The Campaign Against Pornography has supported these calls:

The obscenity legislation has been used to censor art and literature, to prosecute gay and lesbian material. It has been unable to deal with the increased production and circulation of violent and subordinating pornography.<sup>18</sup>

## OTHER RESTRICTIONS BEING DISCUSSED

Many Americans have little idea how fortunate they are to enjoy the protections of the First Amendment to the US Constitution, which consistently defends not only pornographers such as Flynt, but also the right to freedom of expression of the Ku Klux Klan and neo-Nazis, of magazines to publish articles on how to make your own illegal drugs, or how to build your own nuclear weapon, and of the Internet. The Supreme Court recently struck down as unconstitutional a law signed by Clinton which would have prohibited "indecentcy" on the Internet. In Britain, by contrast, freedom of expression has been subject to continuous erosion. Not only is "obscenity" subject to prosecution, but members of racist groups have been imprisoned merely for possessing — not even distributing — material deemed "liable to incite racial hatred". Publishers have also been prosecuted and convicted for distributing drug-related publications.

As I write, there are more threats to freedom of expression appearing almost weekly in the newspapers, especially from the dictatorship in Brussels which is now the highest law in the land. The government's proposed inclusion of the so-called "European Convention on Human Rights" [*sic!*] into UK law would introduce Continental-style "privacy laws" which would make it illegal for the press to expose corrupt politicians and officials. Last year, the EU governments made an agreement to prohibit Holocaust denial, and although the British government negotiated an opt-out from this, the Labour Party conference last year voted unanimously to introduce laws prohibiting the denial of the Holocaust. It is a regrettable fact that the Board of Deputies of British Jews last year called on the government to introduce laws making it a criminal offence to express this highly controversial historical opinion. This should be compared with the admirable position of prominent American Jews such as Professor Alan M. Dershowitz, of Harvard Law School, who have consistently defended the First Amendment, including its protection of the rights of anti-semites and other racists to express their beliefs. In addition the present Labour government is discussing the possibility of an extension of the law prohibiting blasphemy against Christianity to cover blasphemy against all religions practised in the UK. There are also discussions going on as to how to impose legal controls over the Internet, most of which involve further restrictions on freedom of expression.

At this time of increased threat to freedom in this area, *The People vs Larry Flynt* stands as a superb defence of the right of the individual — every individual — to freedom of speech and expression, and of the danger posed to that freedom by organised religious, political and feminist fanatics. Milos Forman deserves the thanks of every libertarian for directing a film which could not possibly be more relevant for the peoples of either Britain or the United States. This is a film which every libertarian will enjoy and ought to go and see.

## NOTES

1. Quoted in Barbara Branden, *The Passion of Ayn Rand*, first published 1986, W. H. Allen, London, 1987, p. 212.
2. Quoted in *Daily Telegraph*, magazine section, 15th March 1997, p. 54.
3. Quoted in *ibid*, p. 54.
4. Quoted in *ibid*, p. 54.
5. Quoted in *ibid*, p. 56.
6. Quoted in *ibid*, p. 56.
7. Quoted in *ibid*, p. 56.
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11. Quoted in *ibid*, p. 56.
12. Quoted in *ibid*, p. 56.
13. Quoted in *ibid*, p. 56.
14. *Independent on Sunday*, 27th July 1997, p. 16.
15. *Ibid*, p. 16.
16. *Ibid*, p. 16.
17. Quoted in *Time Out*, 6th-13th August 1997, p. 53.
18. Quoted in *ibid*, p. 53.