

IN THE MATTER OF

The Films, Videos, and
Publications Classification
Act 1993

AND

IN THE MATTER OF

an application for review
under s47 by the Hoyts
Distribution NZ Ltd of a film
entitled:

The Passion of the Christ

SUBMISSION OF THE OFFICE OF FILM AND LITERATURE CLASSIFICATION

1. Tena koutou, tena koutou, tena tatou katoa. Kia piki te ora i roto i nga whakataou o te ra.
2. The Office of Film and Literature Classification (the "Office") has received a copy of the application for review lodged by the applicant ("Hoyts") on 3 March 2004, and copies of parts 1 and 2 of undated submissions to the Board of Review from the Society for the Promotion of Community Standards (the "Society"). The Office also received an e-mail on 10 March 2004 from the Board's Secretary that parts 3, 4 and appendix 2 of the Society's submission are yet to come. The Office's submission is made without benefit of the applicant's submission and the remainder of the Society's submission.
3. Section 52(2) requires every review to be by way of "re-examination of the publication ... without regard to the decision of the Classification Office." It is not the function of the Board, therefore, to review the decision of the Classification Office, and this submission will not address the Society's criticisms of that decision or of the Chief Censor. This proceeding is instead a fresh look at the film by another classification body with the purpose of producing an independent classification.

DESCRIPTION OF THE FILM AND APPLICATION OF S3

4. The film has a running time of 126 minutes and 24 seconds. It is a dramatisation of the last 12 hours of the life of Jesus Christ directed and co-written by Mel Gibson. The story is derived partly from the accounts of the apostles Matthew, Mark, Luke and John. It also contains events not found in those accounts. The film begins with the arrest of Jesus in Gethsemane, shows his trial, conviction and death, and ends with his resurrection. Most of the film,

however, focuses on his scourging, his enforced passage through the streets and his crucifixion. Flashback sequences show Jesus giving sermons, meeting Mary Magdalene, as a little boy being comforted by his mother, and dining with his disciples the evening of his arrest. Satan is frequently shown passing through crowds, observing and taunting Jesus, sometimes carrying a hideous child. Many presentations contain strong Roman Catholic symbolism. All dialogue is spoken in Aramaic and Latin. English subtitles are used, but do not appear to interpret everything said.

5. The Classification Office submits that the film fits through the horror, cruelty and violence “subject-matter gateways” of s3(1).
6. Horror is occasionally conveyed through images of gargoyle-like demons associated with Satan and eerie sound effects, lighting and music. In one scene, possessed children harass and pursue Judas Iscariot. A demon is shown lunging at him. Judas is eventually shown hanging himself from a tree beside a fly-blown rotting camel corpse. Satan is shown to produce a snake, to have a worm in his nose, and is last seen screeching in a barren supernatural landscape when Jesus is dead. While these presentations are frightening and likely to upset children, they are presented in the manner of the horror genre and will be recognised as such by adults. They also detract from any claims to historical accuracy the film makes. More viewers are likely to be horrified by the graphic violence which is discussed below.
7. Nothing in this film falls within s3(2). Of particular relevance in s3(3) is the extent and degree to which, and the manner in which, the film depicts acts of torture, the infliction of serious physical harm and acts of significant cruelty in s3(3)(a)(i). From the moment of his arrest Jesus is assaulted, tortured and humiliated. At times it seems that he is walloped by every passer-by. Most of the brutality is contained in three segments of approximately 20 minutes each.
8. In the first segment Jesus is systematically caned then scourged by Roman guards. After being repeatedly caned by two Roman soldiers to the extent that his back is covered with bleeding wounds, Jesus is then scourged with a cat-o-nine tails with hooks and blades attached. In the most horrifying sequence the hooks and blades of this instrument of torture stick into his flesh before being ripped away for a new blow. His body is torn and bloodied by numerous repeated blows. The guards count each stroke. The impact of the blows is conveyed by the resulting bloody lacerations that cover the back, legs and chest of Jesus. The graphic impact is often interspersed with cut-away shots of horrified onlookers, Jesus' anguished expressions and the swinging arms of the powerful and leering guards. Jesus is finally dragged away leaving a viscous trail of his own blood. All of this is witnessed by his mother Mary, Mary Magdalene, the apostle John, and Pontius Pilate's wife Claudia who gives Mary fresh white towels out of pity.
9. The second segment of concern begins with Roman soldiers hammering a crown of thorns onto Jesus' head and taunting him before he is forced to carry a heavy cross through the streets accompanied by two other convicts and numerous Roman guards. On the way he is stoned and berated by onlookers.

In this segment the cruelty of the guards is emphasised as he is repeatedly whipped as he stumbles along the route. Their cruelty is partly offset by the introduction of sympathetic characters, such as Simon of Cyrene who helps carry the heavy wooden cross, and a woman who wipes the blood from his face.

10. The third segment depicts in detail the crucifixion process. The nails are shown in close-up hammered into his left palm. His shoulder is then pulled from its socket when his right arm is stretched to hammer nails into his right hand. His ankles are impaled before the cross is turned over to flatten the nails on the other side of the wood. Jesus' weight would be pulling his body from the three nails before being pressed into the ground by the cross. spurts of blood and Jesus' agony are shown throughout this scene. The three crosses are then raised. The previously passive Jesus is now more articulate. The convict to Jesus' left is promised entry to heaven, but the convict to his right has his eyes eaten out by a raven. This segment is of similar intensity to the preceding scenes but contains more religious imagery than the others. Mary, Mary Magdalene, John, Caiaphas and Satan are shown to be present at various times throughout these segments.
11. Turning to s3(4), the film is a provocative and gory focus on the persecution and suffering of Christ. It cannot be said to represent how all Christians view the crucifixion of Jesus, but it does obviously represent the view of its maker. The dominant effect of this film will vary from audience to audience. Some will undoubtedly have their Christian faith reaffirmed, others will be repulsed by the graphic depictions of torture and brutal violence, still others will bemoan how little of Jesus' teachings and how much of his suffering is shown. Its effect on children and teenagers is likely to be disturbing and possibly traumatising.
12. How something is depicted in any given film is much more important than whether or not the depiction is historically accurate. Historical accuracy and importance as censorship criteria are sufficiently uncertain to be of limited use in classification, but if argued, should be argued consistently. Historical accuracy cannot be argued to be irrelevant to the classification of *Bully* for example yet relevant to the classification of *The Passion of the Christ*. With varying degrees of success, older teenagers, adults and those possessing theological and historical knowledge will be able to place these depictions of violence into their historical and religious context.
13. The extent and degree to which, and the manner in which, violence is presented in this film would place it squarely alongside other films the Office customarily classifies R18. The Office submits that the availability of this film is likely to injure the public good by disturbing and traumatising children, teenagers and those without the knowledge required to place the depictions of extreme violence in their historical and theological context. Exposure to this level of brutality is also likely to contribute to the desensitisation of impressionable young minds to violence.

14. On the other hand, unlike most other films containing this level of violence, this film only depicts violence against a single person. Unlike most other films, the story told in this film is very familiar to the vast majority of New Zealanders, the more mature of whom will be able to place this presentation of violence in that context. The historical setting in which this violence takes place has little direct relevance to a modern audience. This could induce a level of detachment even amongst those few who are unfamiliar with the story. And there are few who would find the depictions of violence anything but repulsive. The film cannot be said to be entertainment in the ordinary sense of the word.

CLASSIFICATION

15. Considering all of these factors, the Office submits that the availability of the publication is unlikely to be injurious to the public good if it is restricted to an audience aged 16 or 18 years and over, depending on the degree to which the Board feels the religious and historical context of the film reduces the impact of the violence on audiences. A classification below 16 would set a new benchmark for depictions of violence permitted in films on general release, exceeding that established by *Saving Private Ryan*. A classification below 16 could also be seen to privilege one religion ahead of others on the basis that the film's depictions are historically accurate, a basis that is in fact contested. In this instance, a classification of 16 or 18 represents the minimum interference with the freedom of expression consistent with preventing injury to the public good.
16. As of 10 March 2004, the film has received the following overseas classifications:

- (a) Jurisdictions requiring adult accompaniment for persons below a certain age:

| | | |
|-----------------------|--------------|---|
| Canada(except Quebec) | 18A | Persons younger than 18 years must be accompanied by an adult. Note: Brutal violence; Gory scenes. |
| United States | R | Under 17 requires accompanying parent or adult guardian. Note: Sequences of graphic violence. |
| Ireland | 15PG | While the film is, in the opinion of the Censor, suitable only for people over 15 years of age, a person under that age may be admitted to see this film if he or she is accompanied by a parent or guardian. Note: explicit cruelty |
| Australia | MA15+ | Persons under the age of 15 must be accompanied by a parent or adult guardian. Note: Graphic violence. |

18. Christian reviews have been mixed as well. David Sterritt writes in *The Christian Science Monitor*:

But the film contains little to learn from, unless one is unfamiliar with basic Christian history. And it presents even less to be inspired by, unless one regards Jesus' earthly suffering as momentous for its own sake, rather than a precondition for his triumph over death, which occupies only the last few seconds of the film. The highly selective screenplay includes only a few of Jesus' words, spoken in occasional flashback scenes.

"The Passion of the Christ" is at once a well-crafted film, a merciless excursion into motion-picture ultraviolence, and a regrettably cramped historical account that stays doggedly on the surface of its overwhelmingly important subject.

<http://www.rottentomatoes.com/click/movie-1129941/reviews.php?critic=columns&sortby=default&page=5&rid=1254293>

Brian Hughes of the *Preview Family Movie and TV Review* ("for over 20 years your trusted source for movie and TV reviews from a Christian and family perspective") likes the film but writes:

This reviewer feels that children of any age should not see this film. The harshness of the crucifixion and the scourging scenes in all of their gruesome reality are too intense for a child's mind to process. Even the children in the film have their eyes turned away by their parents as they witness the torturous events that Christ endures.

<http://www.gospelcom.net/preview/passion.html>

A GENERAL 'ACCOMPANIED CHILD' CLASSIFICATION OR A SPECIFIC EXEMPTION?

19. Both the applicant and the Society appear to argue for a restriction below R16, the Society variously arguing for a restriction equivalent to the old RP16 (no one under 16 admitted unless accompanied by a parent or guardian) (submission Part II, p1); an R15 (restricted to persons 15 years of age and over) (submission Part II, p2); and an R13 (restricted to persons 13 years of age and over) (submission Part II, p2).
20. The Office submits that if the Board finds that the film is likely to injure the public good by disturbing or traumatising children and young persons, then the Board should consider how the presence of someone 18 years of age or over viewing the film with a child or young person will address that injury. Even if the Board feels the presence of an older person will address that injury, the Board will have to find words that would sufficiently warn, in advance, parents or older friends and siblings about the nature of the repeated and extreme violence they were about to take their children or younger friends and siblings to view.
21. The Office submits that an R classification, that is one allowing children and young persons to view the film with an older person, is inadequate because it has no floor. Both the 18A classification in Canada and the MA15+ classification in Australia would allow a 6 year old to see the film. The only difference is that the 6 year old can see it with a 15 year old guardian in Australia and with an 18 year old brother in Canada. An R classification in

(b) Jurisdictions forbidding persons below a certain age:

| | | |
|----------------|-----|--|
| United Kingdom | 18 | No-one younger than 18 may see an '18' film in a cinema. No-one younger than 18 may rent or buy an '18' rated video. Note: Contains extended scenes of strong violence. |
| New Zealand | R16 | Restricted to persons 16 years and over. Note: Brutal violence, torture and cruelty. |
| Netherlands | 16 | Not for children and young people under 16. Note: Violence and fear. |
| Quebec | 16 | Le film ne peut être vu, acheté ou loué que par des personnes de 16 ans et plus. Note: Violence. |
| Germany | 16 | Freigegeben ab 16 (sechzehn) Jahren. |

These classifications, their wording, and the notes are taken from each authority's official website. Note that the Society has not stated the correct Quebec classification.

17. Although reviews are of limited use in reaching a classification, they are occasionally helpful in assessing artistic merit, and useful when they comment on classification. It is fair to say that *The Passion of the Christ* has received mixed reviews. Leon Wieseltier, for example, gives the film an unfavourable review in *The New Republic*:

The only cinematic achievement of *The Passion of the Christ* is that it breaks new ground in the verisimilitude of filmed violence. The notion that there is something spiritually exalting about the viewing of it is quite horrifying. The viewing of *The Passion of the Christ* is a profoundly brutalizing experience. Children must be protected from it. (If I were a Christian, I would not raise a Christian child on this.) Torture has been depicted in film many times before, but almost always in a spirit of protest. This film makes no quarrel with the pain that it excitedly inflicts. It is a repulsive masochistic fantasy, a sacred snuff film, and it leaves you with the feeling that the man who made it hates life.

(<http://www.nr.com/doc.mhtml?i=20040308&s=wieseltier030804&c=1>)

Roger Ebert of the *Chicago Sun-Times*, on the other hand, gives the film a positive review, but concludes:

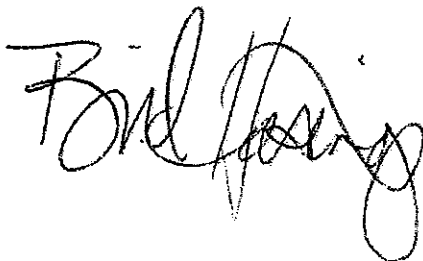
I said the film is the most violent I have ever seen. It will probably be the most violent you have ever seen. This is not a criticism but an observation; the film is unsuitable for younger viewers, but works powerfully for those who can endure it. The MPAA's R rating is definitive proof that the organization either will never give the NC-17 rating for violence alone, or was intimidated by the subject matter. If it had been anyone other than Jesus up on that cross, I have a feeling that NC-17 would have been automatic.

(<http://www.suntimes.com/output/ebert1/cst-ftp-passion24.html>)

New Zealand would also allow this 6 year old to see the film, accompanied by an older person.

22. If there is a concern that 15 year old students in year 11 (fifth form) should be able to see the film, reducing its classification to R is broader than necessary to remedy that concern and insufficient to protect the public good from injury. An R classification would allow 15 year olds to see the film, but it would also allow 10 year olds and anyone else accompanied by a guardian, to view the film in the classroom, or outside the classroom in a commercial cinema.
23. Section 44 of the Act allows anyone to apply for an exemption from the provisions of the Act in respect of a publication. On receiving such an application, the Office may exempt a person or a class of persons from the provisions of the Act with respect to the publication after taking into account the matters in s3, and if it is satisfied that the publication should be made available for educational or other purposes.
24. A section 44 exemption, provided the application was accompanied with evidence of how the likelihood of injury (the central concern of s3) might be mitigated, is no broader than is necessary to address the Society's year 11 concern, and protects the public good from injury. Unlike a general classification, a s44 exemption prevents accompanied 6 year olds from seeing the film on general release, ensures the film is discussed in the context of a curriculum, and ensures that it is viewed only by year 11 students with parental consent, in class, and in the presence of a teacher. Although an application fee of \$100 has been set by Parliament, an applicant may apply on behalf of others.
25. Na reira kati ake mo tenei wa. Tena ano koutou e whakarongo mai nei ki nga take e pa ngakau ana ki a matou. Tena koutou, tena koutou, tena tatou katoa.

DATED at Wellington this 11th day of March 2004.



W K Hastings
Chief Censor of Film and Literature