

INTERNATIONAL JOURNAL OF LAW  
MANAGEMENT & HUMANITIES  
[ISSN 2581-5369]

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Volume 8 | Issue 3  
2025

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# Freedom of Speech and Expression vs Women's Right to Dignity

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## ABSTRACT

*Constitution of India guarantees to every citizen fundamental right to freedom of speech and expression but some beneficiaries of this right have been misusing them for long and it's about time something shall be done about them. They are infringing women's basic right to dignity under the garb of pushing their content as being constitutionally protected. The two of the biggest mis-users of this right are Ullu and AltBalaji. There are others that push the boundaries even further but in reality they end up pushing it too far and hence get caught. Whereas these two do it very efficiently and thus evade action. The gross violation of women's right to basic dignity committed by them shall be discussed in detail in this paper.*

**Keywords:** OTT, Content Creators, Pornography.

## I. INTRODUCTION

The constitution makers thought of the all round development of a human being and took the decision to put those rights in Part III of the Constitution of India which are fundamental for being considered a human. Right to freedom of speech and expression is one such right. There have been cases after cases over the years where the constitutional courts of this country extended the frontiers of this protection to speech and expression but today that has led to the mushrooming of content creators (if they can even be called so) which are not just pushing the boundaries of this right but are blatantly flouting it. These creators have been pushing out borderline pornographic material under the garb of artistic freedom.

When the work as a whole has an intrinsic value, exploring even the frowned upon corners would be considered reasonable but when the whole idea of the work is just to cater to prurient interests and to flout the rules and regulations of a country, their intention has to be questioned. It has long been held that what can't be done directly, should not be allowed to be done indirectly either. It's the substance that takes priority and not the form. Indian laws prohibit the making, storage and distribution of pornography in any form, be it available online or in the physical

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world. These creators have started to blur the line of what should be considered artistic expression as, barring one or two elements that are present in mainstream pornography, they have it all. From nudity to terribly written dialogues to fill the gap between the scenes showcasing nudity, they show it all barring maybe the actual act of penetration.

If we take examples of two *artistic expressions* (allegedly) where one is mainstream pornography with all the bells and whistles and the other which has 95% of the same elements, can we say one is targeting the prurient interests and the other isn't. Just because the sexual organs are not being showcased explicitly, is that enough to give it a green light when the other isn't afforded the same exception. Japanese pornography is notoriously famous for blurring men's sexual organ but that is still prohibited under Indian laws as it is very easy to figure out what is being blurred. In the same vein, just because those parts of human body are not properly shown in their full glory but are being showcased as properly involved in such activities, they should be given the benefit? On what grounds, just because the woman being showcased in the work has covered her chest with her hands which are hiding absolutely nothing but the nippular region be considered any different somehow on different pedestal from another work where everything is bared. Isn't this the epitome of following the law in form but not the substance?

## II. ALTBALAJI AND ULLU: THE BIGGEST MAINSTREAM VIOLATORS

### A. AltBalaji (now known as ALTT)

The online streaming platform, started on 16<sup>th</sup> April 2017, once churned out shows that were left field and challenged the norms of society and pushed boundaries, which the authors believe is the correct way of utilizing one's right to freedom of speech and expression as deviating from the path taken by every single person before is how one carves out a name for oneself. There are pressing issues in the society which stay hidden as everyone walking the already beaten path. Explorers are needed to bring to light issues that affect the society but no one is willing to acknowledge them and show it to the world. AltBalaji started as one such platform, where the content was not accepted by all but would have survived every challenge put in front of it as even though it was pushing the boundaries, it was still well within the limits of reasonability.

One of the worst human qualities is their inclination to do what has been prohibited. Consuming pornography has been prohibited and that has meant people became even eager to find such content. When the government pushed out regulations outlawing certain kind of pornography, people started to look for those even more. This innate human desire is the reason why leaked videos of couples are so openly looked for and transmitted online. Even a very recent video of woman who was raped and paraded bare couldn't create an exception for itself from this absurd

human desire.

This very desire is what AltBalaji and others like it cashed in on. They realized that there is a huge demand for this content and since mainstream pornography involves a person taking risk to watch it, they created a different genre of content where everything is showcased openly with the exception of human genitalia. Any and every imaginable prurient topic and storyline is covered in such content. One underlying theme running throughout them all, degrading women. Women's right to dignity has gone for a toss. From underage persons to non-consensual acts are pushed out in the online space under the garb of content.

AltBalaji is not the biggest violator as it atleast keeps the clothes on, although barely, unlike the other violator which shall be discussed later on in this paper, but it definitely is the biggest in the sense of it being the most mainstream platform. AltBalaji has other *normal* content too and that means it has the highest viewership. This ultimately means that the *not so normal* content gets the highest number of eyeballs too.

### **B. Ullu**

Launched on 25<sup>th</sup> December, 2018 Ullu is an over-the-top (hereinafter referred to as OTT) media streaming platform. They do exactly what their name suggests. They are fooling everyone by pushing out softcore pornography by giving it a color of mainstream content. AltBalaji may be getting the highest views but atleast they publish other content too and that's the reason why they have the biggest audience, whereas Ullu does one thing and one thing only, create borderline pornographic content. Hiding a very tiny percentage of human body, doesn't as per author's understanding, be the deciding line to not call their content pornography. Women being showcased as being involved in amorous activities with their hands cupping their breasts or the other person involved doing so for her; is that all which is needed for not considering it pornography?

Women's dignity is nothing for such content creators, if they should even be called that. Showing women in such degrading situations and calling it content is a mockery of women's rights. The female actors are constantly and repeatedly shown in non consensual activities. They are showed as drugged or cheated or forced during those activities. Their storylines are always created around such scenarios. Dialogues are a mere after thought as that formality is needed to atleast hide it under freedom of speech and expression or else even this faint cover of theirs would be blown wide open. There are worse violators than Ullu too where they show every single element but they also get banned by the authorities and can't be accessed as mainstream platforms. AltBalaji is the biggest mainstream violator in terms of viewers and Ullu is the

biggest mainstream violator for the kind of content it pushes out.

### III. A CLOSER LOOK AT THEIR CONTENT

One element is common to both the platforms and is present in every show highlighted below, which is excessive sexualization. Every relationship, every human emotion is given sexual color in these shows. This element has not been explicitly mentioned for every content mentioned below but the same is implied.

#### A. AltBalaji<sup>3</sup>

The catalogue at AltBalaji is quite large with varied genre of shows. The shows listed here target young demography and majorly has a common thread running through them. The episode series that caught the authors' eyes were:

##### 1. Gandi Baat<sup>4</sup>

The entire web series is filled with episodes that form a storyline which is very similar to pornography. From showcasing a middle aged woman who meets with her son's friend on a train and makes sexual relations with him to a bus travel service which is basically a hotel on wheels for couples fulfilling their sexual desires and swapping out their wives with those of others, one would be hard-pressed to find any shred of women's dignity here. What sort of hidden redeeming value such shows carry is a mystery for the authors. There surely has to be some present or shows like these would not be allowed, right?

##### 2. Utha Patak<sup>5</sup>

The show revolves around a book describing various acts of sexual nature. The finder of the book starts imagining those scenarios as if they are happening to themselves. But the common line among these shows appears very quickly. Women are treated as commodities; as pieces of meat. They are represented in a very degrading manner being involved in ridiculous to fathom relationships. Underline redeeming value – none.

One close look at these shows and one can decide for themselves and that too in an instant as to what mindset lies at the back of these shows. If keeping some piece of cloth on is all it takes to put them in a different category from what is banned or atleast regulated by the government, then it's a loophole every content creator would start to exploit.

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<sup>3</sup> Welcome to Altt (no date) ALTT. Available at: <https://altd.co.in/> (Accessed: 16 May 2025).

<sup>4</sup> Welcome to Altt (no date a) ALTT. Available at: <https://altd.co.in/shows/gandii-baat-padosan-season-1-threesome/3169> (Accessed: 16 May 2025).

<sup>5</sup> Welcome to Altt (no date a) ALTT. Available at: <https://altd.co.in/shows/utha-patak-season-1-bhabhi-kapoor/201364> (Accessed: 16 May 2025).

## B. Ullu<sup>6</sup>

Just a single read through their show catalogue would indicate to the reader what this channel is all about. A very small sample size has been highlighted below to bring to the unaware readers what the platform is all about.

### I. Ankhiyon Se Goli Maare<sup>7</sup>

Showcases a man, owing to his inability to pay off the debt, pawns his wife to the moneylender,. Wife is forcibly made to engage in carnal activities with the money lender. Isn't this rape? One who is willing to give the showmakers the benefit of doubt may think that the show is trying to bring to light something that happens in real life. That defence would however be short lived. The show brings in a twist. It turns out the husband had the money to settle the debts and yet he chose to pawn his wife. Wife after coming to this realization does everything that she was forced to do earlier; only this time with consent and all the vigor. Does this show have any redeeming value? What about the woman who being pawned as is she is someone's property. No one bats an eyelid that she literally gets raped in the earlier part of the show.

### 3. Daal Chawal<sup>8</sup>

Another show to which glorifying concepts like voyeurism, stalking and exchange of wife as a part of property transactions are dearer than women's dignity. Two men, involving the husband of the female lead, come to an agreement to exchange the woman in exchange of a house. Again, one may try to look for bonafide intentions of the maker only to fail miserably again when the show makers try to belittle this degradation even further by showing that the husband agrees to this simply because he needs another property to cheat on his wife. See a pattern emerge?

### 3. Kundi Mat Khadkao Raja<sup>9</sup>

Another show, same storyline – degrade women. A newly graduated boy from school gets admission into college and needs extra help with his academics. This brings in the female lead, as the home tutor, with whom he gets infatuated. The woman slaps him for having such intentions to straighten his head and yet in the very next scene feels bad for doing so and gets sexually involved with him. What exactly are the makers trying to showcase. It doesn't end here though, the guardian of the boy finds out the same and blackmails the woman to have illicit

<sup>6</sup> Ullu (no date) ULLU. Available at: <https://ullu.app/> (Accessed: 16 May 2025).

<sup>7</sup> Ankhiyon Se Goli Maare | Part - 01 | Official Trailer | Ullu Originals (no date) YouTube. Available at: <https://www.youtube.com/watch?v=8wOVOOEVOAA> (Accessed: 16 May 2025).

<sup>8</sup> Daal Chawal | Part - 01 | Official Trailer | Ullu Originals (no date) YouTube. Available at: <https://www.youtube.com/watch?v=CHnOUWgOuKE> (Accessed: 16 May 2025).

<sup>9</sup> Kundi Mat Khadkao Raja | Part-I (no date) YouTube. Available at: [https://www.youtube.com/watch?v=EgOauGdnB\\_c](https://www.youtube.com/watch?v=EgOauGdnB_c) (Accessed: 16 May 2025).

relations with him or he would send the boy away and the woman does so because supposedly she has fallen in love with him. Dignity of a woman is mocked by shows like these repeatedly and yet somehow they are allowed to be showcased freely on mainstream channels like YouTube?

#### IV. ROLE OF REDDIT AND YOUTUBE

Reddit itself deserve a deep dive for such a deep rabbit hole it is. But for the purposes of this paper, the authors have looked at Reddit's role in giving the prohibited content a safe haven. Watching content on the two mentioned OTT platform requires subscription. This is where free to view platforms come in. Those who don't want to spend money can simply search for such content on Reddit. Finding entire video playlist may not be possible but those who want to satisfy their prurient interests can do so on the ample amount of content available for free on Reddit. Watching pornography requires using VPNs, watching them on Telegram runs the risk of downloading virus ridden media, such OTT platforms require money for subscription; but Reddit covers it all. No such risks involved and the content seeker can do it all on one single platform.

Another such platform is YouTube. The saving grace nowadays that YouTube has is it's difficult to post nudity on it now as it's monitoring process has become much more rigorous than what they used to be in the past. That however doesn't mean that YouTube is all clean. If Reddit is where people go to watch such content, YouTube is where they get to know about such content. The two mentioned OTT platforms have their YouTube channels with millions of subscribers and use these channels to post teasers and trailers on them. YouTube is being used to advertise their content so openly that YouTube's entire check comes into question.

The problem lies in the how loopholes are used so brazenly to bypass the regulation. If one enterprise is in the business of making tobacco products, the advertising of which is banned, they'll market their enterprise by running advertisements showing non-tobacco products which are targeted at no one but the tobacco consumers. This allows them to reach their customer base and also evade restrictions. Such very element is being followed by these platforms too. Ullu even has a channel for music, *Ullu Music*<sup>10</sup>, which showcases much more than just music. This habit of making mockery of the rules has to be put a stop to.

Showcasing women taken advantage of in their sleep, by having them drugged or tricked or straight up forced and selling such content should be falling under the ambit of the right to

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<sup>10</sup> *Ullu Music* (no date) *YouTube*. Available at: <https://www.youtube.com/@ullumusicco> (Accessed: 16 May 2025).

freedom of speech and expression. If underage and non-consensual sexual activities are prohibited from being showcased, what is the reason for giving such channels and platforms an exception to this? How are these shows not offending the basic tenets of obscenity when the country has such strict laws on it?

## **V. STEPS NEEDED TO BE TAKEN**

The Constitutional right to freedom of speech and expression is one that is considered fundamental not just in India but in every civilized nation currently. It has long been established that since there are a catena of rights, the overlapping (and sometimes conflicting as well) are to be balanced against each other. Therefore, the Constitution of India places restrictions on this right under Article 19(2) to 19(6). The women's right to basic dignity is one such right that is getting violated by unchecked exercise of this right.

The particular context of indecent representation of women by OTT platform has been discussed in this paper. We can be hopeful that maybe these platforms will one day realize their duty towards the society, which is collateral with their rights, but can the authors find that to be not misguided and not feasible at all. These organizations are in a business of making money and would continue to sell such content as long as they are profitable. It can also be said that these platforms are just catering to the demand of their subscribers but this demand and supply is a closed loop and would be as much true is stated in an opposite manner, i.e., the supply of such content is creating a demand for even more of such content. Thus trying to find a particular actor to put the blame on is an irrelevant exercise as the blame clearly lies on both sides. Audience needs to keep their libido in check and the content creators need to make sure that they are not encouraging it.

The only solution to curb both is for the government to outlaw them. Substance and not just the form shall be taken into account. Clearly, there is a dire need to put a check on this unregulated sphere as it is proving extremely damaging to the women's basic right to be treated with dignity. Such representations can't be said to have any underlying beneficial value. They are not highlighting any plight of women; it's not a satirical representation either. A content to please the lascivious minds is all it is.

Showing the elements which have clearly been outlawed in the country as a part of OTT content is just bypassing the rule. When the Supreme Court of the India has also issued directives to such platforms to clean up their acts, clearly they must be doing something wrong<sup>11</sup>. Many of

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<sup>11</sup> Uday Mahurkar and ors. v. Union of India and ors., W.P.(C) No. 313/2025.



such platforms have already been banned by the government. If these two don't want the same fate to befall upon them, they should get in line. AltBalaji may have some saving elements but Ullu has none. Given that not much, if anything at all, would be lost by banning Ullu, the government should do it right away.

YouTube needs to tighten up its policy around what content should be available for open access to anyone and what needs to be restricted. Putting an age restriction is not enough, stricter measures are needed. So far as Reddit is concerned, it needs an in depth enquiry of its own as it is turning into a safe haven for such unlawful and prohibited elements. Government needs to come up with regulations covering the OTT space as mushrooming of such channels cannot be allowed to continue unchecked. Banning few such channels was the right move but that should also be applied to these platforms which are hiding behind a very thin cloak.

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