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The Indecent Representation of Women (Prohibition) Act, 1986: Role of Media

AANCHAL GUPTA¹ AND VAIBHAV ARORA²

ABSTRACT

With the continuous change in society, there is also a constant change in the lifestyle of the people. Decency differs from person to person and from place to place. This paper will mainly talk about how the media is portraying women in an indecent way which harms their dignity. It is seen that media is playing a very vital role in development of the society but the merits, also comes the demerits of the same. Despite so many laws and provisions enforced in India to control the crime against women, still they tend to be insufficient to control them. This study will describe how various laws and provisions are keeping a check and preventing the indecent representation of women and are trying to control the same and punish the offenders.

Keywords: Media, Indecent, Women, Obscene, Representation.

I. INTRODUCTION

As new communication technology has been introduced in the country, the role of media has grown rapidly and dramatically. Media plays a very important part in everyone's life in today's time. The rapid growth of mass media like television, magazine, film, newspapers has shaped our lives in numerous ways like our attitude towards life and other people, our beliefs, way of living and understanding, perceptions and social reality. Mass media now has a far-reaching audience - young and old, male, and female. On an average, children throughout the world spend around 3-4 hours a day on the internet or television which plays a very influential role in the life of the children. The violence, revolt, sex has a harmful effect on the minds of young and immature people whether consciously or unconsciously which they learn and imitate. Like every field has two faces, media also has its own merits and demerits. According to the statistics, the media is the 4th estate of Indian democracy which has increased the growth rate excessively and people depend on it completely. Media may have many advantages to it but it has its own disadvantages too. One of the main and burning subjects today is the indecent representation of

¹ Author is a student at Gitarattan International Business School Affiliated To Guru Gobind Singh Indraprastha University, Delhi, India.

² Author is a student at Gitarattan International Business School Affiliated To Guru Gobind Singh Indraprastha University, Delhi, India.

women by the Media.

II. INDECENT PORTRAYAL OF WOMEN BY MEDIA

As mentioned under the 1986 Act, the meaning of the term indecent representation of women has been described as the depiction of women in any manner of the figure of a woman, her form or body or any part thereof in such a way to have the effect of being indecent, or derogatory to, denigrating or as is likely to deprave, corrupt or injure morals or public morality.

In India, Manu smriti directs that the highest and most regard and respect should be given and complete protection should be extended to the women throughout their life. Decency differs from person to person and from place to place. With the changing of time, the meaning of the term decency kept on changing and the degree of decency and morality took a new face.

Where on one hand, women are portrayed in the highest respectable manner, on the other hand, women are pictured as the victims of vulgarity, indecency, and obscenity. Since the beginning of time, women have been pictured as the ones who stayed within the sphere of their homes and men used to go outside and work. It is seen that in present times, the media has been presenting women in a very indecent way and has become a crucial exploiter of women in the present times. There is an overload of vulgarity and nudity of women in the media. It is also seen that in the field of media, women are treated as goods, for the sale and promotion of goods. The specialists say and believe that the depiction of women in advertisement of goods are against the morals and social status of women and is mainly set based on the level of exposure of their physical form to the public. Some advertisements which are displayed in media shows and presents women in a bad light. They are made to wear revealing clothing even when it is irrelevant with the good so advertised. In doing such a thing, it is seen that women are used as if she is the commodity and not the goods which are advertised. It was seen in the previous times that the role of the media was to develop and modernise the social societies but now they are playing a very negative role in depicting women which are highly objectionable and offensive.

Due to the high level of obscene and vulgar depiction of women and indecent representation of them, issues relating to gender and their problems are not getting much importance. Mostly all the space in the media is given to famous heroines, cinema programmes, beauty pageants, promotion of upcoming films and discussions and debates relating to fashion. Women are rather used for the entertainment of consumers and have emerged as a commodity.

The high level of vulgarity and obscenity in Indian cinema has led to a threat to the base of Indian society and its cultures and morals. The vulgar scenes in the Indian cinema depicting

sexual acts and violence against women might have huge impact on the minds of children and youth which will spoil the cultures of the Indian society. The world which is shown in the television seems very real to the viewers but the audience is unable to distinguish between the world which is staged up on television from that of the real world. The impact of such depictions on television mainly impacts the minds of youth and children who sit in front of the television for hours and grasp in their minds whatever is presented and displayed in front of them by the media.

A BJP leader, Ritu Tawde, came up in the headlines where she proposed the ban of mannequins in showrooms and shops in Mumbai. According to her, displaying a woman's body for commercial purposes is not right. She also added that it is a conscious choice of people to watch a film or log into a particular website but in this case people of all age groups have no escape but to look at the scantily clad mannequins displayed in the shops and showrooms.

Exploitation and discrimination against women in society has become a worldwide situation. Poverty and deprivation of essentials of life have and an ever-growing compulsion of changing from traditional to modernisations has exasperated the inequalities that women stand with in developing countries, like India, to tolerate to a point where it becomes unbearable and their existence is lowered to an ongoing struggle and fight for survival.

III. LAWS RELATING TO OBSCENE AND INDECENT REPRESENTATION OF WOMEN

(A) Article 21

Article 21 is considered as the heart of Indian Constitution and Indian legal framework. It is also said to be the Magna Carta of human lives, and their dignity and liberty. The term “life” stated in Article 21 does not merely connote animal existence. Article 21 of the Indian Constitution states that “no person shall be deprived of his life or of personal liberty except according to procedure established by law”.³ This means that every human being in our country has the right to live and to live with dignity and not just have a mere existence close to that of animals. Also, it means that every person is given the right to good hygienic conditions, livelihood as well as good standard of living. This right is also included in the directive principles of state policy. This article can be well understood with the help of some case laws.

In the case, *Bandhua Mukti Morcha v. Union of India*, it was understandably stated by the respective court that it is the fundamental right of every⁴ citizen of India to follow an exploitation free and a dignified life; and it was the duty of the state to guarantee that. This

³ INDIA CONST. art.21.

⁴ *Bandhua Mukti Morcha v. Union of India*, 1997.10.SCC.549(India).

means that every woman is a citizen of the country and she has the right to live a dignified life as mentioned under this article of the constitution.

Also, in the landmark case, *Chandra Raj Kumar v. Police Commissioner Hyderabad*, it was held that organising a beauty pageant is abhorrent to dignity or decency of women and it also gives offence to Article 21 of the Constitution only if its intention is to portray women as indecent, obscene and if it is intended for blackmailing.

In, *Maneka Gandhi v. Union of India*,⁵ it was stated that the right to life does not only mean mere physical existence on this earth but it also means that a human follows a dignified and meaningful human life.

(B) The Indian Penal Code, 1860

Under the Indian Penal Code, 1860, section 292, 293 and 294 deals with laws to control obscenity. It also deals with the sale of obscene books, pamphlets, inter alia representation which shall be deemed to be “lascivious or appeals to the prurient interest” which includes obscene advertisements.⁶

The terms like indecent, vulgar and obscenity are hard to define as they are closely interlinked to the moral principles of the society, we live in. The test to check the obscenity is whether the material charged with obscenity will influence the minds which are open to such moral influence and corrupt them with such material and information. The most important thing needed to be done is to control the material of such sort from flowing in the society which might harm the society and to ensure the right to freedom of expression. There should be balance between the two.

Despite all the provisions which are so introduced, there is still a rapidly growing indecent representation of women in the media.

(C) The Indecent Representation of Women (Prohibition) Act, 1986

For the prevention of Indecent representation of women in multiple ways, parliament passed the Indecent Representation of Women (Prohibition) Act, 1986.

The above said act penalizes the indecent representation of women, which means “the depiction in any manner of the figure of the women; her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to, or denigrating women, or is likely to deprive, corrupt or injure the public morality or morals. It states that no person shall publish or

⁵ *Maneka Gandhi v. Union of India*, 1978.S.C.R 631 (India)

⁶ The Indian Penal Code 1960, Act No.45 Imperial Legislative Council, 1860 (India)

cause to publish or cause to be published or arrange to take part in the publication or exhibition of any advertisement which contains indecent representation of women in any form. 'In the act, advertisement' includes any notice, circular, label, wrapper, or other document, and includes any visible representation made by means of any light, sound, smoke, or gas.⁷

Even after the passing of this act, there were still advertisements showing indecent representation of women which aired day to day and no action was taken for it. After this, the National Commission of Women (NCW) recommended that certain modifications had to be done in the Act and they also suggested many ways to strengthen it and make it practicable so that the purpose of the Act can be attained.

The society in which we live is running ahead by leaps and bounds to showcase obscenity and vulgarity by way of unfair and ugly representation of women by several means which gives rise to immorality in the society. This Act was brought into force to keep a check on the immoral presentation of women in the film industry, advertisements, and other means for the purpose of increasing business by unfair means. This Act kept the record of the offenders who committed such crimes and punished them for the same.

(D) National Human Rights Commission (NHRC)

NHRC alongside the State Human Rights Commission has the authority to analyse into protecting the dignity of women in advertisements by way of the media. Under the said act, section 2(d) states that the human rights mean the rights associated with liberty, life, dignity, and equality of the citizen as mentioned under the Constitution or incorporated in the international covenants and which are executed by the courts in India. In view of this section, NHRC has taken cognizance of established violations connected with the dignity of women that has taken place under this law.

(E) The Information Technology Act, 2000

Section 67 of the said Act is the most significant legislative course of action in case of pornography. This section states that: Whoever publishes or transmits or causes to be published in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all the relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and fine which may extend to one lakh rupees and in the event of a second

⁷ The Indecent representation of Women Act, Act No. 60, Act of Parliament, 1986 (India)

or subsequent conviction with imprisonment of either description for a term which may extend to ten years and also with fine which may extend to two lakh rupees. The principal ingredients of an offence falling under section 67 of the act are transmitting or publishing, or causing to be published pornographic content in the form of electronic. The phrasing of the section 67 is extensive in nature to cover all offenders of cyber pornography.

(F) Young Person's (Harmful Publications) Act,1956

Harmful publications are categorized as any book, magazine, pamphlet, newspaper, or similar publications which includes stories depicted with the help of the pictures or without the help of pictures or wholly with the help of pictures any of the stories which depicts wholly or majorly:

- The commission of offences;
- Acts of violence;
- Incidents of horrible or repulsive nature.

Also, the above-mentioned Act has been acquired from the Children and Young Person harmful Publication Act,1955; an English act. The sexual violence against women and children showcasing rape, sexual acts and like crimes are covered under this Act. This specified act also has a very certain characteristic of making it an offence of advertising any information prohibited by this Act.

IV. SUGGESTIONS

(A) The importance of awareness and education

Every civilized society's priority should be to empower women via education. To combat this social disease of society, indecent representation of women, we can only strengthen this weaker segment of society with the aid of education.

Due to their ignorance, women themselves might occasionally be victims of such offensive portrayals. The negative indecent depiction of women, which has grown so pervasive in our daily lives that instances of indecent representation of women are being accepted, albeit reluctantly, needs to be brought to the attention of women.

(B) Rights of Women as Human Beings

The human right to be a woman belongs to women. She is entitled because she is a human being, she has the right to live in dignity and with respect. She needs to have a strong sense of purpose or willpower if she truly wants to lead a respectable life.

(C) High thinking and simple lifestyle

The days when women adhered to the adage "Simple living and High thinking" are long gone. She formerly resided in Pardah, where there were less crimes against women. However, modern women dress provocatively and scantily as a mark of modernity and expectation. It is important to provide new, original representations of women that are based on the unique culture and society of India. While acknowledging the dynamic process of globalization, western culture should not be emulated.

(D) Self-regulatory authorities' function

The self-regulatory organizations, such as the Press Council of India, the Central Board for Film Certification, and the Advertising Standards Council of India, must scrupulously abide by their regulations on the obscene depiction of women. They must implement awareness-raising campaigns to inform the general public, authors, publishers, internet and mobile service providers, filmmakers, lyricists, advertisers, etc. about these representations and the penalties that may be imposed on them for breaking the law.

(E) Position of the Media

The use of mass media communication is necessary to educate women about this threat. Many women are unaware of their legal rights. Their fundamental right to live in dignity should be instilled in them. One of the key roles that the media can play is to educate people about the regulations and to raise awareness. Since the media is regarded as the Fourth Estate, it serves as a watchdog for the general public and a custodian of the public interest. Therefore, the media authorities must assume equal responsibility with parents in fostering environments that allow for the respectable, dignified, and promotion of violence-free programming. The models that pose for commercials should also be aware of what the general public may deem offensive and steer clear of such portrayals. It is crucial to engage the cooperation of lawmakers and policy-makers for the best media policy and guidelines to guarantee that women are not portrayed negatively.

V. CASE LAWS**(A) Union of India v. Ajay Goswami**⁸

This case, which challenged obscene content in newspapers, drew provisions from the Indian Penal Code, the Indecent Representation of Women (Prohibition) Act, and other related laws.

⁸ Writ Petition (civil) 384 of 2005

A review of the Press Council's censure authority was also indicated.

The petitioner's complaint was that children's protection from harmful and upsetting items when reading the newspaper, which may corrupt their morals, was not balanced with the freedom of speech and expression enjoyed by the newspaper industry.

However, the Court denied Goswami's request because it failed "to establish the need and requirement to curtail the freedom of speech and expression" because the publication had no purpose of appeasing immoral or immoral interests damaging children. Additionally, there are some regulatory safeguards in place to guarantee that no undesirable content is released.

(B) Hyderabad's Chandra Raja Kumari v. Police Commissioner⁹

According to the ruling in this case, the right to life also includes the right to live in dignity or decency, hence holding beauty pageants is offensive to women's dignity or decency and violates Article 21 of the Constitution.

The decision was made as a result of a petition opposing beauty pageants in general on the grounds that they violate Articles 51 A (e), 21 and 14 of the Indian Constitution as well as numerous international conventions, covenants, and United Nations and conference resolutions on women. They are abhorrent to Indian culture, customs, and social norms and are contrary to women's decency, public morals, and dignity in general and in Indian society in particular. These competitions aim to profit the sponsors at the expense of the indecent representation of women by utilizing women for commercial gain.

(C) State of Maharashtra v. Ranjit D. Udeshi¹⁰

One of the four partners in a business that ran a bookstore was Ranjit D. Udeshi. The partners were charged for violating section 292 of the IPC by selling copies of DH Lawrence's supposedly pornographic book *Lady Chatterley's Lover*. According to Udeshi, section 292 violates the Indian Constitution's article 19(1)(a) right to freedom of speech and expression because when taken as a whole, the novel is not pornographic.

The Hicklin test was used by the court to determine that *Lady Chatterley's Lover's* text was obscene. Thus, the appeal against the conviction was denied.

VI. CONCLUSION

In the present times, it is seen that there is a need to level out a balance between that of morality and decency in the society we are living. We cannot stay silent in the matter when women are

⁹ 1998 (1) ALD 810, 1998 (1) ALD Cri 298, 1998 (1) ALT 329

¹⁰ 1965 AIR 881, 1965 SCR (1) 65

portrayed indecently in the media by the media. We should think of it as our duty to take authority of the actions that harm the very base and foundation of our Indian culture and society. When there will be a limit imposed on indecent advertisements, literature and actions in society, there will be great development which will take place.

The women in our society should be empowered and educated so that they know what is wrong and what is right. They should be educated so that the weaker section to which they belong to can be strengthened. There should be a mass awakening to change the attitude of advertisement towards women in the society. Upgraded and innovative decent representation of women should be encouraged in the society which is based on Indian Culture. A strong legislative initiative and effort should be combined for the social awareness to fight against this menace so that women are not seen as a commodity but as an Individual who has its own dignity.

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