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# **REPRESENTATION OF WOMEN IN MEDIA; A PERSPECTIVE**

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## **Abstract:**

The representation of women through various artistic mediums like literature, movies and other audio video contents etc. are subject to restrictions by law for protecting them from exploitation through all these. Indian culture gives prime importance towards the modesty of women along with its moral values. Dignity and modesty of a woman gets attacked through their indecent representation through publications and media. A legislation intended to regulate this was enacted in 1986, THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT. It prohibits the indecent and obscene representation of women through publications, media and bans the commercialisation of such products and services. The interpretation given to this has evolved over the time and what all constitute as obscene needs to be thoroughly understood before completely banning it. In the name of protecting from exploitation the freedom of expression of a woman shouldnt be restricted. A wider interpretation of the terms to ensure this subject to reasonable restrictions is required. This article reviews the interpretation of obscenity in different circumstances and the flexibility of the act.

**Keywords:** Indecent representation, Obscene, Objectification

## **Introduction:**

The portrayal of women in the media, more specifically cinema and movies is a rivetic topic, since it gives an outlook of society's eyes towards women, how they are treated, rather how they are understood. It's not much of a discussion that women are given a specific space or treatment in the name of respect. Dignity of a woman and obscenity in movies is connected through a controversial relationship as the majority of laws prohibiting obscenity in movies tries to put a veil on women. These laws have been laid down for a long time and society might have gone through an evolution process. So it opens a discussion on the relevancy of laws

relating to the representation of women.

The representation of women has many terms and conditions to comply with. These were executed in order to suppress actions objectifying women. But what people grasp as objectification and obscenity has changed over the time. The laws regarding the representation of women in cinema are, INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986, THE CINEMATOGRAPHERS ACT, 1952 part 4, Section 294,295&296 of the BHARATIYA NYAYA SANHITA, Section 67 of the INFORMATION TECHNOLOGY ACT, 2002. Representation of women is restricted in a way to protect them from exploitation through these legislations. Society should be more liberal and open to ideas that will also create a space for expression of womanhood without boundaries in the name of protection. The representation through literature and art defines the values accepted by society, the characteristics and responsibilities wanted and it gives a review about the society itself. So what is depicted through all these influences the trends and behaviour of the people in the society.

### **Representation of Women in Ancient Literature:**

Vedas, Purans, Smrities, and other texts authored by dharma masters were all published in print media in ancient India. Women were portrayed in those days as property that belonged to fathers, husbands, and then their sons. A phrase in the Manusmriti turns women into a male's property. It states that a woman is subservient to her father during childhood and her spouse during her youth. It also makes it very evident that a woman cannot be independent. The phrase "Let a female child be born somewhere else, here let a man child be born" appears in an Atharva Vedic poem. According to a verse in the Righ Veda, women are referred to as hyenas and are compared to them. Many Puranas teach men to control women and that a husband is a woman's god and that she must serve him until the end of her life and pass away once her husband passes away. These works of literature constantly equate women to objects, animals, and money, never considering them to be human. Many Indians believe that Chanakya neeti is one of the best books ever written in Indian history. All it does is tell you that women are the biggest distractions a man can have in his life; if a man falls in love with a woman, his ability to think clearly is destroyed, and he becomes a slave to her.

### **Depiction of Women in Movies and Advertisements:**

The women characters represented in visual media through movies, advertisements etc. not only draws the gender roles like the ancient literature, it also classifies them into different categories according to their physical characteristics. According to the depiction of a good homely wife in these movies and advertisements, they should be dressed well and do chores, should obey their husbands etc. Mostly women dressed in sarees and traditional attires are shown as the idol character in Indian soap operas. Whereas the woman who lives according to their choices, who prefers western attires are shown as the evil characters.

The content published through media is for entertainment purposes. Further it defines the characters of a society as a whole, creates awareness about social issues and pushes people to think about the content published and influences them to apply that in real life. Now the media includes OTT platforms too, which has a wide range of content including movies, documents, series etc. And these can be accessed by even people below the age of 18. The inclusion of sexual content without censoring through these questions the meaning of indecent representation of women. Or that it interpreted the meaning differently by giving the artistic idea more focus rather than staring at nudity and concluding it as indecent and obscene. The interpretation of these terms have changed over time.

### **INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986, (2012 AMENDMENT):**

The act pertaining to the protection of women from indecent or vulgar representation in cinema is the INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986. The introduction of the Rajya Sabha Bill against Women's Indecent Representation in 1986 was in response to a women's movement which called for a legislative action against the negative depiction of women in the country. The bill was introduced by Margaret Alva in the Rajya Sabha and became law in October 1987 by way of enactment. The action was made in response to the arguments spurred over the portrayal of a nude image of the former player Boris Becker, and of his fiancée at Sportsworld, in May 1993 against the publisher of Anandabazar Patrika and its editor Aweek Sarkar.<sup>1</sup>

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<sup>1</sup> International Journal of Novel Research

The evolution of this act contributes to the elements of the Hicklin test by the English Law. The test was established in the case of R v. Hicklin in 1868. It testifies whether a material is obscene or not by considering whether it could corrupt and deprive those who are open to immoral influences. The rule was applied regardless of the artistic and literary value of the material. Indian courts used the rule till 2014 when the Supreme Court abolished the rule through the case of Aweek Sarkar & Anr v. State of West Bengal & Anr<sup>2</sup>. Since then the community standards were used by the courts to testify obscenity, which is a bit of a task since India is a diverse state with a number of cultures with different morals and values. The act was amended in 2012 to include provisions which will satisfy the objectives of regulating media content to promote gender equality and to protect women's dignity by preventing objectification.

The act defines indecent representation of women as the depiction in any manner of the figure of a woman, 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 deprave, corrupt or injure the public morality or morals in section 2(c).<sup>3</sup> Section 3 provides that no person shall publish, or cause to be published, or arrange or take part in the publication or exhibition of, any advertisement which contains indecent representation of women in any form.<sup>4</sup> Section 4 prohibits the publication or sending by post of books, pamphlets, paper, slide, film, writing, drawing, painting, photograph, representation or figure containing indecent representation of women.<sup>5</sup> Such a material which is in the interest of science, literature, art, or learning or other objects of general concern or which is kept or used bona fide for religious purposes, any representation sculptured, engraved, painted or otherwise represented on or in any ancient monument within the meaning of the ANCIENT MONUMENT AND ARCHAEOLOGICAL SITES AND REMAINS ACT, 1958 or any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose, are exempted from this prohibition and any film in respect of which the provisions of Part II of THE CINEMATOGRAPH ACT, 1952 (37 OF 1952), will be applicable.<sup>6</sup>

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<sup>2</sup> Aweek Sarkar & Anr vs State of West Bengal And Anr, AIR (2014) SCC 257

<sup>3</sup> THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986, Section 2(c)

<sup>4</sup> THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986, Section 3

<sup>5</sup> THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986, Section 4

<sup>6</sup> THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986, Section 4

### 2012 Amendment:

The act prohibits objectification of women through advertisements, other posts, books, pamphlets etc. The 2012 amendment has brought in mandatory clearance for advertising from the Advertising Standards Council of India (ASCI) and its prohibition through the introduction of section 5 A&B respectively. As per the provisions of the act any gazetted officer who is authorised by the state government within the local authority can enter and search at all reasonable times, with such assistance, if any, as they considers necessary, any place in which they has reason to believe that an offence under this Act has been or is being committed.<sup>7</sup> Has the power to seize any advertisement or any book, pamphlet, paper, slide film, writing, drawing, painting, photograph, representation or figure which they have reason to believe contravenes any of the provisions of this Act.<sup>8</sup> They are also entitled to examine any record, register, document or any other material object found in any place mentioned above and seize the same if there's a reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.<sup>9</sup> This is bound by certain exemptions that such an entry shall not be made into a private dwelling house without a warrant. The power of seizure may be exercised in respect of any document, article or thing which contains any such advertisement, including the contents, if any, of such document, article or thing, if the advertisement cannot be separated by reason of its being embossed or otherwise from such document, article or thing without affecting the integrity, utility or saleable value thereof.<sup>10</sup> A person who violates section 3 and 4 of this act shall be punished with imprisonment of either description for a term which may extend to two years, and with fine which may extend two thousand rupees, and in the event of a second or subsequent conviction with imprisonment for a term of not less than six months but which may extend to five years and also with a fine not less than ten thousand rupees but which may extend to one lakh rupees.<sup>11</sup> But such offences under this act should be considered cognizable and bailable.

The 2012 amendment includes digital media such as the internet, social media, and mobile phone within the acts scope. A publication, storing indecent material for distribution, causing or facilitating the publication and distribution are all offences punishable under the act. Thus it has helped in tackling the online harassment and cyberbullying cases. It has provided awareness

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<sup>7</sup> THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986, Section 5(1)(a)

<sup>8</sup> THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986, Section 5(1)(b)

<sup>9</sup> THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986, Section 5(1)(c)

<sup>10</sup> THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986, Section 5(2), 5(3)

<sup>11</sup> THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986, Section 6

to the society in respecting the dignity of women and protecting them from exploitation. But it also has confused the idea of dignity of women with their material representation. What and how a woman is represented should be free of any consignments and it should flow with individuality and uniqueness. A mere perception of a nude picture being obscene cannot prohibit it, if it is introduced with a different meaning. A semi nude picture of a mother feeding her baby may seem obscene to some while it can be also seen as an expression of motherhood and its divinity.

### **Conflicting Provisions & Issues:**

Commitment to freedom of expression necessitates that it cannot be restricted unless the situations created by it permitting freedom are pressing and the communal interest is endangered.<sup>12</sup> The judgment of the case *Ranjit. D. Udeshi v. State of Maharashtra*<sup>13</sup>, the constitutionality of IPC section 292 which punishes the sale of obscene books and hicklin test was upheld. The case was against the publishers of the book 'Lady Chatterley's Lover' stating that it is obscene. Even though the parties contested the application of freedom of speech and expression under Article 19(1)(a) of the constitution of India, the court upheld the restrictions to these under Article 19(2) and observed that the book can be restricted under these provision which is a restriction on the above rights on the ground of public morality and decency. The freedoms of speech and expression must be relinquished when a work significantly violates public morals and decency. In India, there is no protection for "obscenity without a preponderating social purpose of profit." It is obscene and disrespectful to decency and modesty to treat "sex in a manner appealing [or tending to appeal] to the carnal side of human nature."<sup>14</sup> However, each case must be evaluated to determine the scope of such an appeal. After reviewing the text of *Lady Chatterley's Lover*, the Court determined that it was obscene in accordance with the hicklin test. In 2022, the book was released as a movie through the online platform Netflix, screening in India. The content is the same and the interpretation has changed with the pace of time and it has been accepted as morally decent or artistic allure.

In 2018, a case was filed under the provisions of this act against the magazine 'Grihalakshmi' for publishing the picture of a breastfeeding woman, with a caption "Mothers tell Kerala- Dont stare, we want to breastfeed", in its cover page. The outrage against the picture took the issue

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<sup>12</sup> *Ajay Goswami v. Union of India* (2007) 1 SCC 143

<sup>13</sup> *Ranjit. D. Udeshi v. State of Maharashtra*, AIR 1965

<sup>14</sup> *Ranjit. D. Udeshi v. State of Maharashtra*, AIR 1965

to court. The complainants said that using a model for the picture was against the rights of the infant and it sexualized the breasts. The Kerala High Court refused to entertain the petition observing that beauty lies in the eyes of the beholder and stated that “one man’s vulgarity may be a lyric for another.”<sup>15</sup> A similar incident occurred in 2006, when Madurai court issued non-bailable warrants in photographs published by a Tamil newspaper against Reema Sen and Shilpa Shetty for posing in an obscene manner. The petition includes that the paper had published “very sexy blow ups and medium blow ups” which infringed the Act of 1986. In his previous court petition, attorney T. Dhakshinamoorthy claimed that the Tamil Murasu, a regional Tamil language daily, had deceived young people by publishing "very sexy blow-ups" of Bollywood sirens in its December and January issues, blatantly violating the Indecent Representation of Women Act. Shilpa Shetty, however, categorically refutes the accusations. She claims that the particular snapshot is actually a freeze-frame from a Tamil movie in which Shilpa starred. On publicity hoardings, the filmmakers used it to promote the "censored" version of the film. A Tamil evening paper named 'Tamil Murasu' lifted it from here. The picture in question is the one showing no nudity, only a part of the navel of the actresses is uncovered and showing. The terms used by the petitioner to describe this as an indecent representation infringes upon the right to freedom and expression under Article 19 of the constitution of India and such interpretations to the provisions of the act should be discouraged. The court quashed the case on the grounds that the parties did not participate in any act that violated the provisions of the INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986.

Obscenity, exploitation were prohibited through this act but what constitutes obscenity of a woman to man and woman seems different. A mere expression of themselves is tangled through these provisions stating it is exploiting the dignity of the woman. If such a material is published with the consent of the woman then it should be assumed that they consent to what is being published, hence it does not come as an undignifying act. Since the act only states about the material published about women, shouldn't a woman be deciding what is violating their dignity and objectifying them? The act was intended to protect women from indecent representation through media, while the term itself has evolved through time and it holds different meanings to different people, a more precise and flexible provision needs to be adopted. Nudity cannot always be caged as sexual which is not always obscene. And an expression of body and gestures of a woman which signifies their individuality in artistic sense shouldn't be restrained by these

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<sup>15</sup> Felix M.A vs P.B Gangadharan, (2018) Ker HC, 7778

provisions.

It all moves towards one point, how a concept is conceived and perceived. A woman with a bigger body is more objectified than a woman who is physically smaller. Where the woman in question will not be trying to act in an indecent manner, it might have been just how genetically they were built which is beyond their control. So their representation which is perceived in different meanings by different people cannot be connoted as indecent, it will be against their right to life and expression. Even an infant born, is sexualised and abused hence what constitutes obscenity of a material will be hard to decide. But it should be considered that the dignity of a woman should be decided by them, their individuality and not by the length of their dress or the size of their bodies. The expressions of obscenity should be regarding acts that are against the moral turpitude and objectifying women as to mere materialistic nature. Portrayal of pictures of woman bodies with their consent not in any manner that sexualizes and degrades their value shouldnt be connoted as obscene and indecent. The act has improved the condition of society by prohibiting the use of books, pamphlets etc. that depict stories, comments and pictures of women in an indecent manner. The portrayal of a picture decides whether it is decent or indecent. Such derogatory materials should be restricted but the ones which have more meaning than just an indecent comment shouldnt be restricted on such grounds.

### **Conclusion:**

Indecent representation of women is prohibited through many provisions but sometimes it also ended up prohibiting the expression of womanhood. It is always the eyes that perceive a concept, which gives a meaning to it. And the things seen by society will be criticised over conflicting meanings grasped by different eyes. The act only prohibits what seems to be derogatory and obscene which is likely to harm public morality. The light always flashes on the body of a woman. Rather it should fall on the eyes that are looking into these bodies. Before giving interpretations to what is indecent, demeaning etc. why it is indecent should be analysed. How the dignity of a woman is always decided by the society, how their depiction always ends up hurting the morality should be analysed.

THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT,1986 (2012 Amendment) has indeed contributed to the awareness created in society to respect women and to protect them from exploitation. The time has changed and now rather than protecting women the focus should shift towards respecting their personal life and individuality. The act should

be able to teach society how to perceive a woman. It can start by not protecting them too much that their own expressions are outlined as indecent. Indecent representation should mean the representation of women objectifying them without their consent and without context and materialising for other commercial purposes.

