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# COMPARATIVE STUDY OF LAWS ON SEX TOYS IN INDIA & THE WORLD

AUTHORED BY - AMAR KUMAR PANDEY  
& RISHI KUMAR SINGH

## *ABSTRACT*

*According to Pierre Eliot Trudeau, former Prime Minister of Canada, State cannot interfere in the bedroom of its citizens. World Health Organization (WHO) and the Declaration of Sexual Rights by stimulating items tells that people have the right to sexual pleasure. Sexual Pleasure can be obtained in manual or electronic form. Sex toys used by Indians are controversial. Various legislations declare many types of sex toys as obscene. At present times, India does not have any specific law that criminalizes the use of sex toys. However, imports, export, and advertisement are considered to be obscene as per Section 292 of IPC. The state has no right to interfere in consensual sexual relations. But if these devices are used without the consent of a partner, then legal intervention is required. Countries like U.A.E, Maldives, Kuwait, etc. ban the use of sex aid while the U.S.A partially allows the sale of sex aid. In this paper, the focus was on throwing light on the admissibility of sex devices in India and other parts of the world. Also, various cases regarding sex toys have been explored. The idea of Indian obscenity law has been also put forth in the paper. At last, suggestions have been incorporated into the paper.*

**KEYWORDS:** Obscenity, sex- toys, market, privacy, patent, obscenity, etc.

## **INTRODUCTION**

India is a trailblazer in the field of sexual intentions, education, and idiosyncrasy. Even the Kamasutra<sup>1</sup>, the holy book of sex and intimacy, has its birth in India. Indian culture is seen from the

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<sup>1</sup>Doniger, Wendy (2003). Kamasutra - Oxford World's Classics. Oxford University Press. p. i. ISBN 9780192839824. The Kamasutra is the oldest extant Hindu textbook of erotic love. It was composed in Sanskrit, the literary language of ancient India, probably in North India and probably sometime in the third century.

lens of gender equality<sup>2</sup> and sexual liberalism<sup>3</sup> from the past. Even in ancient times, records point out that there is extensive application of sex toys for the consumption of marriage in India. Couples used to indulge in numerous sexual acts using various toys. Couples enhance their bond through these toys. These toys were believed to be a tool to explore one another. Toys were also used as a medium to explore one another and they helped to enhance the bond between them. As per Google Trends, the search for “sex toys shops” and methods to “make sex toys” has been constantly jumping up.

The former has climbed up in the search list in former five years in contrast to the latter has come into the limelight because of the unprecedented pandemic. However, sex toys are seen with a glass of aversion in Indian Society. Sex Toys are considered to be taboo. People skip these topics. These toys which are a medium of more sexual satisfaction during sex are accused to be the bane of society. Doctors usually suggest these toys to a person who suffers from sexual dysfunction or sexual incapacity 63.2% portion of sex toys are recorded to be made or purchased by women globally.<sup>4</sup>

The most known toys in Indian Society are vibrators. Just like the name this toy vibrates and gives genital pleasure to the individual. Some people also call it Personal Massagers. This toy is used by both men and women. It came in various shapes and sizes. Some are big while some are small. The female vibrator is used to put inside the vagina. Then vibration button is pressed to stimulate sexual pleasure. Male genitals are usually placed in this vibrator and the vibration button is pressed for enhanced pleasure. Still, the market share suggests that women use this toy in large portion compared to men globally.

Dildos, Anal Devices, Sleeves, Genital rings, pumps, Ben Wa Balls, Packers, Harnesses, etc. are some other sex toys available in the market. Dildos are artificial penis that is placed in the mouth, anus, and vagina. They usually used to make the connection with G- Spot. Indian market is sensitive to these toys because of the stigma attached to these toys. People prefer to purchase these toys from

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<sup>2</sup> I. Sivakumar's 'Masculinity and Challenges in Indian Culture', <<https://vc.bridgew.edu/cgi/viewcontent.cgi?article=2461&context=jiws>>, Last Visited 10 May 2023. See Also 'Gender Equality' (UNICEF) <<https://www.unicef.org/gender-equality>> Last visited 10 May 2023.

<sup>3</sup> Guerra, V.M., Gouveia, V.V., Sousa, D.M. et al. Sexual Liberalism–Conservatism: The Effect of Human Values, Gender, and Previous Sexual Experience. Arch Sex Behav 41, 1027–1039 (2012). <https://doi.org/10.1007/s10508-012-9936-4>. See Also, 'Sex Toys Market Expected to Garner \$45,767.2 Million By 2026, At A CAGR of 7.9%' (Research Dive March 2020) <<https://www.researchdive.com/158/sex-toys-market>> Last Visited 10 May 2023.

<sup>4</sup> Statista Research Department, 'Sex Toy and Contraception', <<https://www.statista.com/statistics/587109/size-of-the-global-sex-toy-market/>> Last Visited 10 May 2023.

e-commerce websites. They prefer to maintain the privacy of the purchased product. E-Commerce also gives a variety of options regarding these toys which people hesitate to ask for in public shops.

IMBeshram, Snap deal, Lovetreats, Thatpersonal, and Kinkpin are some of the renowned sex toy e-companies<sup>5</sup>. These companies are growing day-by-day still they are finding it difficult to raise funds to grow further. This online shop points out that people are willing to purchase sex toys but because of the taboo attached to sex, they cannot buy it from the local shop or start any local shop.

## **INDIA'S OBSCENITY LAWS AND SEX TOYS MARKET**

In India, sex toys of every kind cannot be purchased. Some toys are considered to be obscene. This is the reason some toys like lifelike sex dolls fall under the dark shadow of obscenity laws. Obscenity legislation further encircles sex toys in dark clouds of uncertainty. One cannot say whether a toy is obscene or not. This makes keeping and selling these toys illegal in India. As per §11(1) of the Customs Act<sup>6</sup>, not all goods that have been imported into India can be used for the same purposes as mentioned in § 2<sup>7</sup> of this same act. This section is made to maintain decency and uplift the moral values in society. The two terms “decency” and “morality” is nowhere defined in the act. Authorities gain a broad sense of interpretation and can ban the import of anything that they assume to be immoral and indecent.

Also, all these toys have to pass through various obscenity legislations. § 292 of the Indian Penal Code points out those selling obscene things in public places can attract punishment. § 292 points out that anything lascivious, appeals to the prurient interest of a man or corrupts the mind of youth can be considered to be obscene. The term “lascivious” and “prurient” has not been defined in Indian Penal Code (I.P.C.), 1860, giving these two terms broad interpretation. As per the Oxford Dictionary the term “lascivious” can be defined as anything that arouses sexual desire. Similarly, the term “prurient” has been defined as anything that increases the graph to those things that are associated with sex.

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<sup>5</sup> 'India's Appetite for Erotic E-commerce', Your Story, <[India's appetite for erotic ecommerce grows, but sex toy market gets no love from investors \(yourstory.com\)](https://yourstory.com/2023/05/india-appetite-for-erotic-ecommerce-grows-but-sex-toy-market-gets-no-love-from-investors)> Last visited 10 May 2023.

<sup>6</sup> Custom Act, 1962, § 11(1).

<sup>7</sup>Custom Act, 1962, § 2.

The verdict of the Calcutta High Court on July 29, 2011, in the landmark case of *Kavita Phumbhra V. Commissioner of Customs (Ports)*<sup>8</sup> held that every sex toy and adult game cannot fall under Section 292 of the Indian Penal Code. The products that were purchased were accused to be sold to any minor. They can be used for immoral or indecent purposes. The Calcutta Court after going through Section 292 gave its judgment in favor of Kavita Phumbhra saying that § 292 is vague. There is no straight formula to say whether one thing is obscene. It corrupts the mind of people or not.

Further, the Calcutta High Court propounded the idea that customs officers allow the import of erotic movies so this good should be treated the same as the erotic movies. Whenever sex toys are packed in obscene boxes or are advertised obscenely, they may be considered to have violated the obscenity legislation of India<sup>9</sup>. Numerous tests have been invented by judiciary across the globe to decide whether a book, a toy, an item, etc. is obscene or not. Hicklin Test, Roath Test, The Likely Audience Test, The Literary Merit, And Social Pre-Pondering Test, the Aversion Test, etc. are the tests for obscenity.

- **Hicklin Test** – This test points out that any book, decorative item, magazine, etc. shall be considered to be obscene if they arouse a lustful feeling in the mind of the vulnerable sections of society. According to Justice Cockburn, those items can be classified as obscene if they deprave or corrupt the mind of the people who are unfolded to these immoral influences.
- **Roath Test** – This test is also known as the “Community Standard Test”. In this test it was held that an average person, going through the accused obscene material, observes its dominant theme as a whole and applies present community standards; then finds it lascivious and prurient, it can be classified as obscene.
- **The Likely Audience Test** – Also known as “the target audience test.” In this test, it was emphasized that the book, items, etc. can be termed obscene if they arouse lascivious and prurient interest in the mind of those for whom these items are made. This test is not open to sections of society. This test is for a specific section of the society.

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<sup>8</sup>Kavita Phumbhra v. Commissioner Of Customs (Port),2011 SCC OnLine CAL 2378.

<sup>9</sup>VageshwariDeswal, ‘Sex Toys: An Ethico-legal conundrum’, <[Sex Toys: An Ethico-legal conundrum \(indiatimes.com\)](http://www.indiatimes.com)>  
Last Visited 10 May 2023.

- ***The Literary Merit And “Prepondering Social Purpose*** - When obscenity and art are presented together, art overpowers obscenity. The art, ideas, items, etc. may tilt toward the freedom of speech and expression rather than obscenity laws. A biology book depicting naked women is not considered to be obscene but an economics book depicting naked women can be termed as obscene.

In the landmark case of *Navtej Singh Johar. Union of India*<sup>10</sup>, the Hon’ble Apex Court pronounced that carnal intercourse is unconstitutional. It was also emphasized that it was against the order of nature. Also, in this landmark case, while pronouncing the judgment in *Ratio*, the Hon’ble Apex Court upheld the Right to Privacy. The court held that the State cannot discriminate based on sexual orientation. It was in derogation with the norms of Article 14 of the Constitution of India guaranteed under Part III.

From this judgment, it can be safely assumed that adult toys can be bought from the market. Any restriction can be imposed only on the ground of decency and morality. These grounds are not strong enough to prevent two individuals from having sex. There is a need for legislation to mention the term sex toys in Section 292 of the Indian Penal Code. The law is vague and silent on this topic. Sex toys are manufactured for sexual pleasures, not for the lascivious or prurient interest of society. Also, various e-commerce companies have understood the market capacity of sex toys. They use unique packing and advertising techniques to protect themselves from obscenity laws. For example, vibrators are presented as massagers. Dildos are presented as bananas rather than real male genitals. They also tell the customer that they would pack in such a way that it would not appear to be lascivious and prurient.

## PATENT LAWS AND SEX TOYS

The word “patent” has been taken from the Latin term “patent”. Patere means to “bring out.” Also, it means to make a product available for public assessment. The patent is an absolute right of the inventor. They are entitled to manufacture, sell or use their patent product for the specified period. The main idea behind patent law is to motivate inventors to contribute to society. The Indian Laws are unpredictable and vague on laws for sex toys. Different offices of the government have different policies regarding these toys. Patent offices and Custom Offices have different approaches regarding

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<sup>10</sup>Navtej Singh Johar&Ors. v. Union of India, Through Secretary, 2018 AIR SC 4321.

patent laws for these toys.

Indian patent office presumes that the law is silent on sex toys. Obscenity laws have not grown in a positive environment with the term “sexual pleasure.” Further, these toys are accused to be obscene and are against the law of the land. For example, Standard Innovation Corporation<sup>11</sup> invented a new vibrator. They applied to the patent office for their authority over the product. The main concern of the Corporation was that patenting the product would prevent further production of any copycat vibrators. The patent office refused to grant patent rights to this product. Sex toys fall under obscenity laws and are immoral were two justifications given by the patent authority.

In the words of the office, these toys are useless and immoral. They are likely to deprave and corrupt the mind of youths. Indian Laws see sex toys with gloomy eyes. Indian offices have a negative presumption associated with sexual pleasure. Further, Section 377 of the Indian Penal Code is used as a defense by these authorities. Section 377 is a 155-year-old colonial law. This law declares sex between two males as well as sex that is not natural is illegal in India. Also, the moral obligations mentioned in obscenity laws make it difficult to grant patent rights by the offices. The employees of the patent offices are trained in technical science. They are not jurists. They cannot decide what is moral and what is immoral.

Chapter 2 of the Indian Patent Act 1970 hit at inventions that cannot be patented. § 3 and § 4 of the Indian Patent Act, 1970 name all those items that cannot be patented. § 2(l) of the Patent Act points out that the product that is claimed to get patent rights should not be used in any part of the world. § 2(ja) of the Indian Patent Act, 1970 also points out that the invention should be new and should not be known to persons skilled in the same field. § 2(ac) of the Patent Act mentions that invention should have any utility in the industrial world.

## **PRIVACY AND CURTAILING POWER OF STATE.**

In India, sex is considered to be a taboo. Any talk on this topic agonizes everyone. A feeling of fear, hatred, and disgust is felt by everyone. Talking about sex is assumed to be outside Indian Culture.

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<sup>11</sup> ‘BBC News’ ‘India Rejects Patent Plea’ <[India rejects patent plea for 'immoral' sex toy - BBC News](#)> Last Visited 10 MAY 2023.

Various numerous things are considered to be not discussed in public including sexual health, erectile dysfunction, menstrual cycle, etc. The Ministry of Information and Broadcasting has also warned Television Channels not to put condom ads on Television before 10 p.m. and after 6 a.m.<sup>12</sup>. The indecent and immoral content presented in the advertisement was used as justification by the government.

These advertisements can corrupt the mind of youths. It is believed that restricting these advertisements can fire back the government. It can lead to unwanted pregnancies, sexual diseases, and illegal abortion cases. Many youths indulge in sexual activities in India. In 2015, an advocate of Delhi who was practicing in The Supreme Court of India filed a complaint regarding sex toys that were being openly sold by e-commerce giants like Snapdeal.com and Ohmysecret.com. He scrutinizes the selling of accused products like anal lubricants and massagers. These products resemble to shape of male genitals. The advocate further accused the products were violating § 377, § 292, § 292A, § 293, and § 294. These sections criminalize the sale of these books, papers, pamphlets, items, etc.

Martin O'Malley, a former politician, and American Lawyer, has said once that the state cannot interfere in any person's bedroom. It is the individual's choice of the person what they are using for sexual pleasure. It may be a lubricant, toy, etc. These things are of no concern to the state. As long as sexual activities are happening with consent in a private place between two individuals, State has no right to interfere with their privacy. This might appear to be unrealistic but in the landmark pronouncement in the case of *K S Puttaswamy (Retd) V. Union of India*, the Hon'ble Court observed that sexual orientation, giving birth to offspring, consumption of marriage and the sanctity of family life fall under the umbrella of right to privacy.

It can be inferred that personal intimacy can also include the use of sex toys. These things are common and affect every section of society irrespective of their social and economic position in the society. The key to happiness can be obtained from autonomous sexual life. Also, the rights of LGBTQ were upheld by the very judgment of Justice Puttaswamy. The Indian Constitution also ensures rights for LGBTQ. They have an entitlement to life. The right to life includes the entitlement to dignity and

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<sup>12</sup> I & B Ministry, <[Condom ads can be shown on TV only between 10p.m. and 6a.m.: I&B ministry | Latest News India - Hindustan Times](#)> Last Visited, 10 May 2023.

privacy. The right to privacy can be considered to be a sacrosanct right with certain restrictions. This right can be claimed by anyone regardless of gender orientation. Sex toys used in any way should not be of anyone's concern.

## **AID TO PEOPLE WITH SEXUAL INCAPACITY**

There is a device that is called a "sex aid" which is used to enhance sexual pleasure. Even archaeological discoveries suggest that sex toys were used 30,000 years ago. They have smooth surfaces and resemblance to genital shapes. This discovery was the beginning point in the innovation of sexual aid devices. Data also suggests that olive oil was being used as a lubricant for sexual acts since 350 B.C<sup>13</sup>. Males again and again experience sexual dysfunction which diminishes their quality of life<sup>14</sup>. Kamasutra also gives evidence of various types of devices for the medication of sexual disorders.

In India, Food and Drug Administration (FDA)<sup>15</sup> certifies the devices that can be used as "sex aid". Constriction Bands are used to improve the stiffness of penile erection. Dildos are used as a penetrating device. Medical Science classifies Dildos into two categories. They are Dildos for Anal and Dildos for Vagina. This device is used by patients suffering from genitourinary injuries. They are also used by patients suffering from penile cancer. Penile vibrators are used by those who suffer from Spinal Cord Injuries. Vibrators are used in case of female sexual dysfunction.

In 2011, the penile vibrator was approved for the patient with Spinal Cord Injuries in India. This therapy is also helpful for patients with abnormal diabetes, congenital spinal cord problems, and Multiple Sclerosis. Vacuum Pump Devices were also approved for the patient suffering from erectile dysfunction. DVDs are also used for the treatment of Erectile Dysfunction. Also nowadays, a variety of sex robots are being manufactured for people with sexual incapacity.

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<sup>13</sup>David Rivera, 'Sex Toys Through The Ages' (Daily Ojo) <<http://dailyojo.com/articles/sex-toys-through-the-ages.html>>Last Visited 11 May 2023.

<sup>14</sup>Marita P. McCabe et al., 'Incidence and Prevalence of Sexual Dysfunction in Women and Men: A Consensus Statement from the Fourth International Consultation on Sexual Medicine 2015' (2016) 13(2) The Journal of Sexual Medicine<<https://www.sciencedirect.com/science/article/abs/pii/S1743609516000795>>Last Visited 11 May 2023.

<sup>15</sup> Food and Drug Administration, <https://www.fda.gov/food>, Last visited May 11, 2023.

## LEGALITY OF SEX TOYS IN OTHER NATIONS:

Sex toys are readily available in sex shops across the United States, where a wide selection of products can be found, including realistic or brightly colored dildos and cock rings with vibrating attachments resembling tongues. Despite the taboo surrounding the topic, sex toys are prevalent in the country. Sex toys are considered to be a product that can enhance sexual pleasure, which is increasingly recognized as a basic human need worldwide, despite the ongoing stigma surrounding it. The modern concept of sexual health acknowledges the importance of sexual pleasure, and even the World Health Organization's (WHO's)<sup>16</sup> interpretation of sexual health incorporates the possibility of experiencing sexual pleasure<sup>17</sup>.

Research conducted in the United States of America reveals that fifty percent or half of all men have experienced a vibrator. Women who are heterosexual in nature have also experienced vibrators<sup>18</sup> in the same proportion. Sex toys are extensively widespread in the LGBTQI+ community with a record of 78.5% of gay or bisexual males per se who have experienced any type of sexual devices whereas approximately 79.7% are using vibrators for sexual pleasure.<sup>19</sup> However, there is no explicit record of the expenses done by the consumers on these devices annually but some sources have given evidence that precisely North Americans are spending \$500 million-\$15 billion every year on sex toys<sup>20</sup>.

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<sup>16</sup> World Health Organization. <https://apps.who.int/iris/handle/10665/62429>.

<sup>17</sup><https://www.who.int/teams/sexual-and-reproductive-health-and-research/key-areas-of-work/sexual-health/defining-sexual-health>.

<sup>18</sup>Herbenick D, Reece M, Sanders SA, Dodge B, Ghassemi A, Fortenberry JD. Women's vibrator use in sexual partnerships: results from a nationally representative survey in the United States. *J Sex Marital Ther.* 2010;36(1):49-65. doi: 10.1080/00926230903375677. PMID: 20063237.

<sup>19</sup>Herbenick D, et al., supra note 3, at 55

<sup>20</sup> Regina Nuzzo, [Good Vibrations: U.S. Consumer Web Site Aims to Enhance Sex Toy Safety - Scientific American](#) (10 May, 2023).

# **CLASSIFICATION OF SEX TOYS AS CONSUMER GOODS UNDER THE GARB OF THE CONSUMER PRODUCT SAFETY COMMISSION'S JURISDICTION (CPSC) IN THE UNITED STATES OF AMERICA**

The (CPSC)<sup>21</sup> is one of the self-supporting supervisory authorities in the United States of America which is primarily responsible for the regulation of the well-being of end-user products in the pan USA<sup>22</sup> and could be an adept and most pertinent option for the regulation of sex toys. The main concern is to provide immunity to the end-user against the annoying menace of injury or departure from life.<sup>23</sup> At present, FDA is the single body which is exercising its control over the regulation of sex toys in the market in the USA, and it classifies sex toys as medical devices<sup>24</sup>.

Despite meeting the definition of a consumer good according to the Consumer Product Safety Commission (CPSC), sex toys are not currently protected under this classification. This means that the industry is not subject to CPSC's regulatory standards, unlike other consumer goods. If sex toys were classified as end-user goods under CPSC's sovereignty, the agency would be able to establish industry standards without requiring products to undergo approval as medical devices, which is currently mandated by the FDA for the three FDA-approved sex toys on the market<sup>25</sup>.

## **REGULATION OF THE SEX TOYS INDUSTRY BY WAY OF PETITION**

The sex-toy industries rarely bring any petition, unlike other industries where manufacturers as well as other stakeholders desire to initiate a petition to be regulated by CPSC<sup>26</sup>. Interested parties have

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<sup>21</sup> <https://www.cpsc.gov/About-CPSC>.

<sup>22</sup> <https://www.cpsc.gov/About-CPSC/Consumer-Ombudsman>.

<sup>23</sup> [U.S. Consumer Product Safety Commission - Strategic Plan 2018-2022 \(cpsc.gov\)](https://www.cpsc.gov/Strategic-Plan-2018-2022).

<sup>24</sup> Genital Vibrator for therapeutic use, 21 CFR §884.5960.

<sup>25</sup> 21 C.F.R. § 884.5960(a).

<sup>26</sup> In industries where consumers can easily access information about products, there is a need for regulation to ensure that all industry players adhere to the same standards, which would ensure that they bear similar costs in protecting consumers.

the option to petition the CPSC to initiate rulemaking activities aimed at establishing industry standards for sex toys<sup>27</sup>. Individual consumers must bring a petition about the regulation of the sex toys industry because they are unaware of the fact that sex toys possess a danger to their sex life<sup>28</sup>.

## SEX TOYS SALES IN OTHER NATIONS

In the Netherlands, one of the districts of Amsterdam popularly known as the Red-Light district is a well-known area where the sex industry operates openly without moral condemnation. There exist hardly any restrictions regarding purchasing and selling of sex toys to adults, and the only limitation is that they cannot be sold to minors in nearby sex shops<sup>29</sup>. Thailand maintains a constant ban on the selling and purchasing of sex devices, despite having a thriving sex industry. Sex devices are observed as indecent products and are included in the country's list of restricted items. A punishment for imprisonment of three years or a fine of up to 60,000 Thai Bhat that is equal to \$2000 or both can be imposed on the proven guilty person if he or she is caught selling, buying, and possessing sex toys. Sex toys are perceived as being “contrary to the values of Thai society,” which is why their sale and use are prohibited in the country.

The sales of sex toys are legal in Australia<sup>30</sup> and in 2018, sexual wellness products have been subjected to safety regulations established by the International Standardization Organization (ISO)<sup>31</sup>. Moreover, the UK has also permitted the selling of sex toys. If any individual who wish to run a shop for sex toys, he/she only needs to procure a permit from the local authorities. Whereas, in the USA there are many states and provinces where they have their local laws about the regulation of the sex toys industry or sales of sex toys in the local market. For instance, there is a place namely Alabama where the sale as well as possession of sex toys are explicitly prohibited but with an exception which is made or purchased for medical purposes<sup>32</sup>.

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<sup>27</sup> 16 C.F.R. § 1051.2(a).

<sup>28</sup> Pamela Madsen, Dangerous Sex Toys, <https://www.psychologytoday.com/intl/blog/shameless-woman/201108/dangerous-sex-toys-what-you-need-know-now-about-phthalates>.

<sup>29</sup> “Sex Toys shops in Amsterdam”, <<https://www.amsterdam.info/shopping/sex-shops/>>, Last visited, 11 May 2023.

<sup>30</sup> Caitlin Fitzsimmons, ‘The Sydney Morning Herald’, 08 December 2019, <<https://www.smh.com.au/business/consumer-affairs/made-cheaply-in-huge-quantities-sex-toys-to-get-safety-standards-for-the-first-time-20191205-p53h9a.html>>, Last visited, 11 May 2023.

<sup>31</sup> International Organization for Standardization. (2018). Occupational health and safety management systems— Requirements with guidance for use (ISO Standard No. 45001:2018). <https://www.iso.org/standard/63787.html>.

<sup>32</sup> ‘Sex Toy Drive in Alabama’, <<https://www.cbsnews.com/news/alabama-sex-toy-drive-thru-business-on-the-rise/>>, Last visited, 11 May 2023.

Furthermore, in Texas, the government has prohibited by way of Texas Obscene Device Law from owning more than six dildos,<sup>33</sup> and likewise, the Hon'ble Apex Court in New York State had vehemently overruled the guidelines of the year 2015 and in the year 2017 in *obiter* highlighted that the number of sex toys stores must be limited<sup>34</sup>.

## ***LAWS IN MALDIVES***

The Maldives strictly prohibits sex toys and considers them obscene under the country's pornography law. The ban extends to tourists, including celebrities, who visit the country. It is illegal to buy, sell or possess sex toys in the Maldives, and anything that imitates such obscenity is also prohibited. The country follows *Sharia law*, which forms the basis of the ban. Hence, tourists are advised not to carry sex toys while visiting the Maldives, even though it is a popular tourist destination enjoyed by people from all over the world.

Sex toys are banned in the Maldives due to the country's adherence to Islamic law and the presumption regarding sex toys as being obscene and against the moral values of society. The Maldives is an Islamic nation, and the Islamic legal system governs all aspects of life in the country. Under Islamic law, any object or activity that is considered to be contrary to moral values is strictly prohibited. In the Maldives, the sale, purchase, or possession of sex toys is considered a violation of the country's pornography laws, which classify anything that imitates obscenity as being banned.

## ***LAWS IN SAUDI ARABIA***

The buying and selling of sex devices are strictly outlawed by the State. These devices attract severe legal punishments. Islamic laws bar the utilization of sex toys during sexual activities between two individuals or even during masturbation<sup>35</sup>. Sex devices fall in the categorization of 'pornographic materials'. These devices can be seized if they are discovered in public places.

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<sup>33</sup>TonnyDunne's, '10 Strange Sex Laws in the USA', <<https://www.mentalfloss.com/article/641817/strange-sex-laws-united-states>>, Last visited, 11 May 2023.

<sup>34</sup> Stemple's 'NY Court remark on the constitutionality of opening sex stores', <<https://www.reuters.com/article/us-new-york-adultentertainment-idUSKBN18X2A1>>, Last visited 11 May 2023.

<sup>35</sup> SOBERANIA MAKING DECISIONS THAT COUNT, <https://soberania.org/legality-of-sex-toys-in-different-countries-where-are-they-banned/>, (last visited May 5,2023)

## ***LAWS IN THAILAND***

Thailand is renowned for its sex industry. It is also the epicenter of illegal sex workers.<sup>36</sup> The state has also relaxed its laws associated with the sex industry in Thailand since this industry is blooming. But sex devices fall under the categorization of restricted goods under the country's law. Importing sex devices or ordering them online can attract legal consequences.

## ***LAWS IN VIETNAM***

Vietnam is a tourist hotspot place. People across the globe visit here. But the country's law severely restricts purchasing or use of sex devices in their country. These devices fall in the specification of obscene products in their country. In 2011, the country banned importing sex devices in their country against the law.

## ***LAWS IN MALAYSIA***

According to this country's penal code, sex devices are outlawed. Possession of any product whatsoever that authority assumes to be indecent can fall in the category of obscene objects. The law even includes bringing these devices from foreign countries. Wide power is given to authority associated with obscenity laws.

## **THE RISK INVOLVED IN USING SEX-TOYS**

Since there is no regulation at present, consumers are using sex-toys without knowing the risk involved in it. As per the dearth of research conducted on American consumers from 1995 to 2006, it was found that approximately 6,800 consumers aged above or twenty or years faced serious injury and sought emergency room care in the USA<sup>37</sup>. *Inter alia* most of the injuries were caused by the vibrating devices as well as personal massagers. Precisely, (73.5%) were due to vibrating devices, (12.9%) were due to dildos and approximately 11.7% of injuries were caused due to other unspecified devices, and 1.9 % were due to rings.<sup>38</sup>

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<sup>36</sup> The Full Story, [https://foreignpolicy.com/2023/02/15/thailand-is-a-global-capital-of-illegal-sex-work/#:~:text=Estimates%20of%20sex%20work's%20contribution,the%20country's%20GDP%20that%20year,\(last visited May 5, 2023\)](https://foreignpolicy.com/2023/02/15/thailand-is-a-global-capital-of-illegal-sex-work/#:~:text=Estimates%20of%20sex%20work's%20contribution,the%20country's%20GDP%20that%20year,(last%20visited%20May%205,%202023).).

<sup>37</sup> Russell Griffin's, *Sexual Stimulation Device-Related Injuries*, 35 *J. Sex and Marital Therapy* 253, 255 (2009).

<sup>38</sup> *Id.* at 257.

The injuries caused by using sex toys increased exponentially in the year 1999 because of a substantial increase in the use of sex toys by Americans<sup>39</sup>. Sex toys are designed in a flawed manner which causes grave injuries to the consumers for example sex toys that have flared ends i.e., wide enough are more prone to injuries because these are not sucked into the bodies and are lost resulting in serious injury to the consumer<sup>40</sup>.

Moreover, sex toys containing sharp edges result in causing serious cuts and tears in the consumer's body<sup>41</sup>. Around 78.1% of injuries are caused in the anorectal region which is regarded as the *inter alia* most common injury about sex toys.<sup>42</sup> Vibrators cause serious chronic numbness as well as pain in periods over the consumers' bodies.<sup>43</sup>

### USE OF CHEMICALS IN SEX TOYS

Apart from the flawed designs and serious warnings, various sex toys contain hazardous chemicals such as 'jelly plastic' that cause injury to the users' health<sup>44</sup> because it is made up of numerous chemicals to increase elasticity in plastic products<sup>45</sup>. Phthalates enter into the consumers' body orally, by way of food and water, inhalation or through absorption in an open atmosphere, especially by the absorption of the skin which includes mucous membranes (a place where sex toys effectively make contact with skin)<sup>46</sup>.

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<sup>39</sup> Adam and Eve, <http://www.adameve.com/t-what-are-rabbit-vibrators.aspx> (Last Visited May 11, 2023).

<sup>40</sup> Griffin and McGwin, *supra note 35*, at 255.

<sup>41</sup> Jennifer, Safety Related To Sex Toy, EDMONTON J. (March 21, 2008), <http://www.canada.com/edmontonjournal/news/ed/story.html?id=f3155009-ae6e-41cb-b1d-e3aee4a0671e>.

<sup>42</sup> Griffin, *supra note 35*, at 255.

<sup>43</sup> Nuzzo, Good Vibrations: U.S. Consumer Web Site Aims to Enhance Sex Toy Safety, SCI. AM. (May 11, 2011), <http://www.scientificamerican.com/article.cfm?id=goodvibrations-us-consumer-web-site-aims-to-enhance-sex-toy-safety>, "[Sex Toy Sales Per Capita Highest In These Ten States, According To Manufacturer | HuffPost Women](#)".

<sup>44</sup> Adam and Eve, [Vibrator Materials: Silicone, Metal, TPE & More | Adam & Eve's Guide to Sex \(adameve.com\)](#), Last visited May 11, 2023.

<sup>45</sup> *Phthalates*, CONSUMER PRODUCT SAFETY COMMISSION of USA, <https://www.cpsc.gov/info/toysafety/phthalates.html> Last visited May 11, 2023.

<sup>46</sup> THE NAT'L ACADS., PHTHALATES & CUMULATIVE RISK ASSESSMENT: TASKS AHEAD 2 (2008).

## ***CONCLUSION***

The laws associated with the sale of sex devices in India are hazy. Buying these devices fall under obscenity laws in India<sup>47</sup> whereas purchasing these products from an online source is free from obscenity laws. The seller has to be careful about advertisements and packing as well. There is no solid law in India that is in charge of the sale of these devices online. India is day-by-day adopting Western culture. The need of the hour is to legislate a law associated with the sale of sex devices online. At the peril of emerging cliché, it is time to remind us that India is the mother of “Kamasutra”<sup>48</sup>.

Now it is the need of the hour to enact such laws which regulate the industries pertaining to sex toys and it is upon the discretion of the legislation to amend the obscenity laws in India as the standard of society<sup>49</sup> is changing day by day due to the paradigm shift in the behavioral change in the 21<sup>st</sup> century generation. Indians need to modify their minds concerning sexual activities. There is high time to regulate the sale of these sex toys that are sold online. Shops in the market should also be allowed to sell these products.

Market products attract a large portion of society and diversify the economy. Proper care should be taken to protect children from these adult products. Many countries have banned the purchasing of sex- devices in their countries including Saudi Arabia, Thailand, Vietnam, and Malaysia. The U.S.A. has a liberal approach toward sex devices which are regulated by the authorities.

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<sup>47</sup> Sajjan Singh v. State of Rajasthan, 1991 Crimes 240.

<sup>48</sup> S Tamilselvan v. Perumal Murugan, 2016 SCC OnLine MAD 5960.

<sup>49</sup> Ajay Goswami v. Union of India, 2007 AIR SC 293.