



## Indecent Representation of Women : Role of Media and Law

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Indecent representation of women' means the depiction in any manner of the figure of a woman; her form or body or any part thereof in such way as to have the effect of being indecent or derogatory to or denigrating women or as is likely to deprave, corrupt or injure public morality or morals.

Decency varies from place to place, person to person. With the progress of the society and change in the lifestyle of the people, standard of propriety etc. keep on changing. So with the passage of time, the meaning of decency kept on changing, the degree of morality and decency also took a new look. The 21st century is known as the age of the information and scientific development. In the traditional society exposure of women through advertising, painting, publications or otherwise was not accepted but today it has become a fashion. In the present era, Women, instead of being portrayed as sex objects or glam dolls should be projected in a proactive and empowered manner, which can have maximum impact on the society and bring about an attitudinal/ behavioral change among people towards women.

### **Indecent Portrayal of Women by the Media :**

In the modern world, the importance of the media cannot be underestimated. Media is

the radar that captures the mood, pulse and ideologies of the age; it is the beacon light that illuminates the pathways of democracy especially in conflict situations. In this sense, it helps the civil society cohere. An enduring feature of public life in the recent years has been an enhanced interface between media and ordinary people. The media today matters more than at any other time. It is known as the Fourth Estate<sup>1</sup>. Yet it's a very mixed bag, with enormous variations. It is true that the media plays the magic multiplier role in the process of development. The communication media accelerates the process of development by involving, persuading and transforming people. Media has proved to be one of the important instruments of social change in Indian society. In the corridors of the social change institutions, it is observed that media promotes consumer tastes and values, often alien to Indian culture and traditions. There is far too much sex and violence, portrayal of women is sexist and stereotypical<sup>2</sup>.

In recent years it has been observed that the media has emerged in a big way as the major exploiter of woman, with changing times new ways of expression social power have been fashioned which target the weaker components of society. The most vulnerable target are women. In last few years, a large section of the media and particularly the leading ones have taken liberty to



flout all norms related to obscenity. A systematic overdose of nudity and vulgarity is being forced into the brain of common viewer through Newspapers, Television, Films, Magazines, Hoardings and Posters. Cable and satellite television have grown rapidly throughout the developing world. Of all the popular means of mass media, television has the greatest mass appeal and acceptance. The portrayal of gender as a product and the accompanying body politic in the media is well documented. The impact of visual media as a very powerful vehicle for communicating idea and images is known to be tremendous. Television creates a world which seems very real and viewers are unable to differentiate between the contrived world and the real one. The impact of television is more on the young children and adolescents, who sit in front of the television and for hours, the succession of pictures become imprinted on minds and are still impressionable.

#### **Relevant Laws protecting the dignity of women:-**

The expression 'life' assured in article 21 of the Constitution does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to livelihood, better standard of living, hygienic conditions in the workplace and leisure." quality of life covered by article 21 is something more than the dynamic meaning attached to life and liberty. Right to life includes right to human dignity right to live with human dignity enshrined in article 21 derives life breath from the directive principles of state policy. In *Maneka Gandhi v Union of India*<sup>3</sup>, it was ruled that right to life is not merely confined to physical existence but also includes within its ambit the right to live with human dignity. In *Francis Coralie v Union of Territory of Delhi*<sup>4</sup> it was held that means something more

than just physical survival and is not confined to protection of any faculty or limb through which life is enjoyed or the soul communicates with the outside world, but includes 'the right to live with human dignity' women are human beings. so every right pertaining to human beings is not alien to women. Women have right to live a dignified life. In *Chandra Raja Kumari v Police Commissioner, Hyderabad*,<sup>5</sup> it had been held that right to live includes right to live with human dignity or decency and therefore holding of beauty contests is repugnant to dignity or decency of women and offends art 21 of the Constitution. The Universal Declaration of Human Rights, International Covenant on Civil and Political Rights has recognized that human beings have dignity inseparable from them.

#### **The Indecent Representation of Women (Prohibition) Act, 1986:**

The Act punishes the indecent representation of women, which means "the depiction in any manner of the figure of a woman; her form or body or any part thereof in such 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 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 also includes any visible representation made by means of any light, sound, smoke or gas. The amendment suggested by the National Commission for Women suggests to amend the definition to "advertisement' includes any notice, circular, label, poster, wrapper or other document and also includes any visible representation made by means of any laser light,



sound, smoke, gas, fibre, optic electronic or other media” it states that no person shall produce or cause to be produced, sell, let to hire, distribute, circulate or send by post any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women in any. The NCW recommended that Section 2(b) of the Act be modified to read as “Derogatory representation of women means the depiction in any manner of the figure of a woman, her form of body or any part thereof in such a way as to have the effect of being derogatory to or denigrating women and is also likely to deprive, corrupt or endanger public morality or morals.” As per the above definition depiction in any manner of the figure of a woman, her form or her body or any part thereof would amount to indecent or derogatory representation if it has:

- \* The tendency to present a women as a sexual object.
- \* The tendency to present a women as a sexual commodity for man’s pleasure, or
- \* The tendency to glorify woman’s subordination to man as an attribute to womanhood or
- \* The tendency to glorify ignoble servility as an attribute to womanhood, or
- \* The effect of being indecent or being derogatory to or denigrating women or;
- \* It is likely to deprave, corrupt or injure public morality or morals.

In spite of the law, gender concerns in the media is a serious concern today as the problems of women’s portrayal in the media, have been agitating the mind of the Civil Society and an attempt is being made to curb this growing problem continued incidences of obscene depiction of women in television and in the media

in general call for a debate on the need for effective laws against them and proper implementation of the existing legal provisions.<sup>6</sup>

In Section 6 on penalty, the words ‘and with fine which may extend to two thousand rupees’ shall be substituted with the words ‘and with fine which may extend to ten thousand rupees’ and the words ‘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’ shall be substituted with the words ‘in the event of 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 fifty thousand rupees but which may extend to five lakh rupees’.

In the Kamasutra advertisement, Milind Soman and Madhu Sapre too had faced similar mix of charges. Similar charges were raised against the editor of Anandabazar Patrika, Aweek Sarkar, and the publisher in a trial court in Kolkata relating to the reproduction of a nude photograph of former tennis player Boris Becker and his fiancée in sports world magazine, published by the group in may 1993. According to the national crime records bureau claims a decrease of cases of indecent representation of women -decreased by 46.5% (from 2,917 in 2005 to 1,562 in 2006). While it is Andhra Pradesh that has recorded 86.2 per cent of cases at in the national level under the act in April 2006, a Madurai court issued non-bailable warrants against Sen and Shilpa Shetty for “posing in an obscene manner” in photographs published by a Tamil newspaper. The report stated that the two actresses had failed to comply with earlier summonses for the same reason, hence the issuance of the warrants. The petitioner submitted that the paper had published “very sexy



blow-ups and medium blow-ups” in its issues December 2005 and January 2006 issues, and which allegedly violated the indecent representation of women (prohibition) act 1986, young persons (harmful publications) act 1956, and the Indian penal code section 292 (sale of obscene books). The petitioner further demanded that the images should be confiscated under the terms of the press and registration of book act 1867.

### **The Indian Penal Code 1960**

S. 292 which deals with the sale of obscene books, pamphlet, inter alia representation which shall be deemed to be “lascivious or appeals to the prurient interest”, which can include obscene advertisements. I am including Indian Penal Code as safety legislation to prevent the indecent representation of women in advertisements, because of one logic:

“indecent representation of women can be obscene’, which means that a law curbing obscenity can come of help.

*“The word, obscenity as the dictionaries tell us, denotes the quality of being obscene which means offensive to modesty or decency; lewd, filthy and repulsive. It cannot be denied that it is an important interest of society to suppress obscenity. There is, of course, some difference between obscenity and pornography in that the latter denotes writings, pictures etc. intended to arouse sexual desire while the former may include writings etc. not intended to do so but which have that tendency. Both, of course, offend against public decency and morals but pornography is obscenity in a more aggravated form”*

In *Ranjit D. Udeshi vs State of Maharashtra*,<sup>7</sup> the test of obscenity was established. The appellant, a bookseller, sold a

copy of the unexpurgated edition of “lady chatterley’s lover”. He was convicted under s. 292, Indian Penal Code, it was ruled that “ in judging a work, stress should not be laid upon a word here and a word there, or a passage here and a passage there. Though the work as a whole must be considered, the obscene matter must be considered by itself and separately to find out whether it is so gross and its obscenity so decided that it is likely to deprave and corrupt those whose minds are open to influences of this sort. In this connection the interests of contemporary society and particularly the influence of the impugned book on it must not be overlooked. Where, obscenity and art are mixed, art must so preponderate as to throw the obscenity into a shadow or the obscenity so trivial and insignificant that it can have no effect and may be overlooked. It is necessary that a balance should be maintained between “freedom of speech and expression” and “public decency or morality”; but when the latter is substantially transgressed the former must give way.” and in *Chandrakant Kalyandas Kakodar v. State of Maharashtra and others*, it held that there was no fixed rules to determine obscenity, “the concept of obscenity would differ from country to country depending on the standards of morals of contemporary society”.

### **The Information Technology Act, 2000:**

Section 67 of the IT Act is the most serious legislative measure against pornography. The section reads as under: 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 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 with fine which may extend to one lakh rupees and in the event of a second 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 important ingredients of an offence under section 67 are publishing, or transmitting, or causing to be published, pornographic material in the electronic form.

The wordings of section 67 are wide enough to cover all perpetrators of cyber pornography, be it the internet service providers, web hosting entities or the persons behind the actual website. The act prescribes imprisonment of either description for a term which may extend to 5 years and with fine which may extend to Rs.1 lakh in the case of first conviction and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to 10 years and also with fine which may extend to Rs.2 lakh. S.67 thus, aids in the control of advertisements which has found its life in the new media- the internet. Other female friendly laws include the PNDT Act, s.22 reads thus- s.22. prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention.- (1) No person, organization, genetic counseling centre, genetic laboratory or genetic clinic shall issue or cause to be issued any advertisement in any manner regarding facilities of pre-natal determination of sex available at such centre, laboratory, clinic or any other place.

(2) No person or organization shall publish or distribute or cause to be published or distributed any advertisement in any manner regarding facilities of pre-natal determination of sex available at any genetic counseling centre, genetic laboratory, genetic clinic or any other place.  
(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be

punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.

In **Young Person's (Harmful Publications) Act, 1956**, harmful publications "means any book, magazine, pamphlet, leaflet, newspaper or other like publication which consists of stories told with the aid of pictures or without the aid of pictures or wholly in pictures, being stories portraying wholly or mainly-

(i) the commission of offences; or (ii) acts of violence or cruelty; or (iii) incidents of a repulsive or horrible nature in such a way that the publication as a whole would tend to corrupt a young person into whose hands it might fall, whether by inciting or encouraging him to commit offences or acts of violence or cruelty or in any other manner whatsoever. Liability is on all who sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, any harmful publication, or for purposes of sale, hire, distribution, public exhibition or circulation, prints, makes or produces or has in his possession any harmful publication, or advertises or makes known by any means whatsoever that any harmful publication can be procured from or through any person, he shall be punishable with imprisonment which may extend to six months, or with fine, or with.

**Cable Television Networks (Regulation) Act, 1995:** The Cable Television Networks (Regulation) Act, 1995 prohibits the transmission of advertisements on the cable network which are not in conformity with the Advertisement Code. The Advertisement Code is set out under Rule 7 of the Cable Television Network Rules, 1994. Contravention of these provisions attracts liabilities. The Advertisement Code states that no advertisement shall be



permitted which derides any race, caste, color, creed and nationality. In Rule 7 (2) (vi) it states that no advertisement shall be permitted which, “in its depiction of women violates Constitutional guarantee to all citizens. In particular, no advertisement shall be permitted which portrays a derogatory image of women. Women must not be portrayed in a manner that emphasizes passive, submissive qualities and encourages them to play a subordinate, secondary role in family and society. The Cable operator shall ensure that the portrayal of the female form, in programmes carried in his cable service is tasteful and aesthetic and is with well established norms of good taste and decency.”

The Act further states that no advertisement which exploits social evils like dowry and child marriage must be permitted.

#### **SUGGESTIONS:**

##### **Role of education and awareness**

Empowering of women through education should be the primary concern of every civilized society. It is only with the help of education that we can make this weaker section of society a stronger one, to fight against this social evil of society, i.e., Indecent Representation of Women. Women themselves sometimes fall prey to such wrong and indecent portrayal due to their lack of awareness. Women specifically need to be made aware about the adverse indecent representation of women which has become so rampant in our everyday life that instances of indecent representation of women are being accepted although with reluctance.

##### **Human Rights to be a Woman**

Woman has the human right to be a woman. She has right to live with dignity and respect because being a human being, this right cannot be alienated from her. A strong

determination or will power is needed on her part if she really wants to live a dignified life.

##### **Simple living and high thinking**

Gone are the days when women used to believe in this famous saying, “Simple living and High thinking”. In order days she used to live in Pardah and there were less crimes against women at the time. But woman of today is wearing provocative and scanty dresses, a symbol of modernity and standard. New innovative decent presentation of women, based on Indian distinct culture and society must be introduced. Simultaneously, western culture should not be imitated despite accepting dynamic globalization process.

##### **Role of Self Regulating Authorities**

The self-regulating agencies like Advertising Standards Council of India, Press Council of India, Central Board for Film Certification etc need to strictly adhere to their guidelines in respect of indecent representation of women. They need to have awareness generation programmes to spread awareness amongst common people, writers, publishers, internet and mobile service providers, film makers, lyricists, advertisers etc about such representations and also about the penalties which could be imposed on them in case of violation of the legislation.

##### **Role of Mass Media**

Mass Media communication must be used for creating social awareness among women regarding this menace. Mostly women are not aware of their legal rights. They should be taught to lead a dignified life which is their fundamental right through media. One of the major role media can play is also to sensitize people about the above mentioned laws and to create awareness among people. Since Media is considered as the



Fourth Estate, its function is to act as a guardian of the public interest and as a watchdog. The media authorities should therefore, assume equal responsibilities with parents in creating conditions that enable projection of women in a decent dignified way and promote violence free programmes. The models posing for advertisements should also be sensitive to what the public would consider indecent and avoid such portrayal. It is essential to enlist the support of policy makers and Parliamentarians on the appropriate policy and guidelines for the media to ensure that there is no negative portrayal of women.

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