

# A Critical Legal Study on How an Obscenity is an Offence in India

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## ABSTRACT

Obscenity is a widespread and complicated problem since it touches on related problems like morality and decency, which are culturally and societally specific. The definition of the word "obscene" is "offending" against established standards of morality and decency." It also described as an immoral conduct intended to shock a sensible, rational man's moral sensibility by a disregard for decency and morals. This present paper aimed at Obscenity is illegal under several different laws Sections 292 and 294 of the Indian Penal Code make it illegal to engage in obscene conduct, including publishing obscene literature, performing obscene songs, and engaging in obscene activities in or near public spaces. The present paper aimed at obscenity tests of obscenity Miller test, Hicklin test, Roth test, Likely Audience Test, Community standards test. This present paper also emphasises the observation of Controversy on Legal Advancement of Obscenity and Minors and (POCSO) Protection of Children from Sexual Offenses Act with the rise of the Internet and social media, the legislation around obscenity has changed. Present paper also observed with the Anti-Obscenity Laws in India Different Legal Provisions and Penalties. Anyone who posts or sends offensive content online may be prosecuted under Section 67 of the Information Technology Act issues has also been explained in the present paper. The Young Persons (Harmful Publication) Act, 1956 Section 2 and also dealing with the Section 2 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 discussed in this research paper. The present also discussed Constitutional provisions of decency and morality: exception to freedom of speech and expression. This research paper also emphasises the Legal Precedents with Respect of Obscenity and also analysis the various suggestions Arguments on Obscenity.

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**KEYWORDS:** Culturally, Decency, morality, Obscenity, offending, societally, legislation, violating

## INTRODUCTION

The Latin word obscenus, which implies "offensive," especially modesty, is from which the word "obscene" derived. Obscene, which according to the Oxford dictionary is "offensive or repulsive by accepted standards of morality and decency," seems to be a straightforward word with a straightforward definition.

India's (colonial and postcolonial) judicial discourse on obscenity cases (1860–2015). I show that the legal system takes on the form of an emotive space that mobilises the feelings of disgust (for sex) and fear (for deviant sexualities) in order to support the (hetero)normative sexual order. Unless it satisfies the "community standard" of honourable love, the

"sexual" always gets erased in this terrain of emotional adjudication. The purity of women has always been seen conservatively by Indian society. It is thought to be crucial to maintaining the family's good name. To determine whether the content, gesture, or piece of art is truly obscene, there are primarily three tests.

## TESTS OF OBSCENITY

### Miller test:

According to the test means The three criteria that determine obscenity are collectively referred to as the "Miller test" and include: whether the typical individual would discover that the work, seen as a whole, appeals to the prurient desire.

whether the work portrays or represents sexual behaviour or bodily functions in an offensive manner as defined by the relevant state legislation; and

whether there is a serious lack of literary, artistic, political, or scientific worth in the work as a whole<sup>2</sup>

#### **Hicklin Test:**

According to this test, The **Regina v. Hicklin case**, in which the "Hicklin Rule" was established in 1868, gave rise to the Hicklin Test. This test allows any portion of a work to be examined for obscenity that might be offensive to some adults and children.<sup>3</sup>

#### **Roth test:**

According to this test, The federal legislation that forbade mailing any information that is "obscene, vulgar, lascivious, or filthy...or any publication of indecent character" was challenged in the case of **Roth v. United States in 1957**. Obscenity "is not within the range of constitutionally protected speech or press," according to the Court. The Roth test, created by Justice William J. Brennan Jr., is a definition of obscenity. This test emphasises the overall idea of the content rather than just a few specific passage.

The following five components a test was adapted from Roth, those are:

1. the evaluation was conducted from the viewpoint of a regular, reasonable person
2. community standards of acceptability were to be used to measure obscenity
3. works with questionable themes were the only ones subject to obscenity law
4. a work had to be read in its entirety in order to be evaluated for obscenity and
5. an obscene work was one that sought to arouse in viewers.<sup>4</sup>

#### **Community Standards test:**

This test was also utilised in India. According to the Community Standards Test, obscene art, gestures, or material are only present if the overall prevailing theme is incompatible with current community standards. Obscene language is fundamentally

regionally and socially based. What was an obscenity offence yesterday is not now. When Bollywood actors appeared in magazines wearing minimal attire, it was assumed that they were endorsing immoral behaviour. In contemporary Bollywood films, the limited attire is quite common<sup>5</sup>.

#### **Likely Audience Test**

In contrast to the Hicklin obscenity test, this one is new. This experiment substituted the "most vulnerable person" theory with the "probable reader test." The influence on individuals who might fairly be expected to have access to the publication can be taken into consideration, as this test emphasises<sup>6</sup>

The Supreme Court of India ruled in the **case of Chandrakant Kalyandas** that the criteria for obscenity must be based on the intended audience rather than the potential reader of the book.

The obscenity standard was established by the Supreme Court of India in **Samaresh Bose v. Amal Mitra (1985)**, departing from the Hicklin test. The judge should try to understand what kind of potential impact the book is likely to have on the readers' minds and put himself in the shoes of a reader of each age group into whose hands the book is likely to fall when evaluating the obscenity test, the court held.

#### **Controversy on Legal Advancement of Obscenity and Minors**

Obscenity involving in kids is prohibited by federal law, and anyone found guilty of this offence are subject to harsher punishments than if the incident merely involved adults. Distribution of pornographic material to children is expressly forbidden by federal law. Federal law makes it illegal to send or attempt to transfer such material to a juvenile under the age of 16, whether in person or online. Using deceptive website domain names with the goal to trick a minor into reading dangerous or offensive content is likewise prohibited. For instance, it may be illegal under federal law to use a cartoon character or children's television show on a website that hosts harmful or offensive content. This federal statute establishes a tougher standard for determining whether a minor was exposed to obscenity. Any representation of a minor that depicts, or appears to depict, a minor engaging in explicit sexual activity may be deemed obscene, as well as any

<sup>2</sup> Abhijeet Kumar Bhatt The Law Of Obscenity available at: India <https://theguardian.com/the-law-of-obscenity-in-india/> The Daily Guardian, (last visited 30/09/2023)

<sup>3</sup> Divvyanshi Gupta Obscenity- An Offence Under The Indian Legal System available at: <https://digiinfomedia.online/obscenity-an-offence-under-the-indian-legal-system/> Digital Info Media, (last visited 30/09/2023)

<sup>4</sup> Satyen What Is Obscenity Crime And How Anything Is Considered Obscene? available at: <https://career101.in/obscenity-crime/4783/>, (last visited 30/09/2023)

<sup>5</sup> Kaushiki Singh Bhadauria- Obscenity Laws And India – Detailed Law Article

available at: <https://www.writinglaw.com/obscenity-laws-india/obscenity-laws/>, (last visited 30/09/2023)

<sup>6</sup> Kaushiki Singh Bhadauria- Obscenity Laws And India available at – Detailed Law Article <https://www.writinglaw.com/obscenity-laws-india/obscenity-laws/>, (last visited 30/09/2023)

representation of a minor that "lacks genuine literary, aesthetic, political, or scientific significance." A first-time offender who is found guilty of this felony faces a minimum of 5 years and a maximum of 20 years in jail.<sup>7</sup>

### **(POCSO) Protection of Children from Sexual Offenses Act**

The Protection of Children from Sexual Offenses Act of 2012 makes it illegal to sex a kid or transmit them pornographic images, videos, or other media (POCSO).

The definition and parameters of sexual harassment are set forth in Section 11 of POCSO. The POCSO Act's Sections 13, 14, and 15 outline the penalties for utilising children in pornographic activities. In accordance with Section 14, using a kid or children for pornographic purposes is punished by up to five years in prison and a fine. Additionally, storage of child-related pornographic material with the purpose to distribute it is prohibited by Section 15 and is punishable by up to three years in prison, a fine, or both.

### **Anti-Obscenity Laws in India: Different Legal Provisions and Penalties**

According to the Indian Penal Code of 1860, the primary goal of criminal law is to safeguard the safety and security of people's fundamental human rights, including their right to life, right to body, right to property, and right to a place to call home, as well as to uphold public morals and decency and maintain the state's moral welfare. Therefore, it is the responsibility of the State to protect its citizens from potentially sneaky attacks and to penalise those who publish offensive material that tends to degrade morality. Obscene books, pamphlets, and other representations that are judged to be "lascivious or appealing to the prurient interests" are prohibited from publishing and sale under Sections 292 and 293 of the IPC. Obscene advertisements are included in this category. Obscene activities and music are prohibited by Section 294. Whoever, to the displeasure of others:

- Engages in any pornographic activity in a public setting, Displaying offensive signs or making vulgar remarks in or close to public spaces shall be penalised with either type of detention for a duration that may last up to three months, a fine, or both
- First Offense: Up to two years in jail and a rupees 2,000 fine

- Repeat Offense: Up to five years in prison and a fine of between 10,000 and one lakh rupees.<sup>8</sup> The Central Government creates the Indecent Representation of Women (Prohibition) Rules, 1987 in accordance with the authority granted by Section 10 of the Indecent Representation of Women (Prohibition) Act, 1986 (60 of 1986).<sup>9</sup>

The Act permits the storage of obscene content and the private viewing of it as long as those activities are not expressly prohibited. On the other hand, it is forbidden to transmit or publish pornographic material.

### **Information Technology Act 2000**

**Section 67 Electronic publication of pornographic information:** Those responsible for publishing, transmitting, or causing to be published in electronic form any lewd or appeals to the licentious interest or, if its effects tend to deprave and corrupt people, to their licentious interests people are likely to read, view, or hear the matter given all pertinent circumstances included or embodied in it, shall, upon conviction, be punished by a term of description of a period that might last for two years and include a fine that could 25,000 rupees, and in the event of a subsequent or subsequent conviction, as well as imprisonment of either kind for a term that may be exceed five years, as well as a fine that may 50 thousand rupees.

Before 2008, section 67 of the Information Technology Act was the sole part of the law that forbade the publication of obscenity and child porn. The Also Act of 2000 particularly limits the dissemination of sexually explicit or filthy material in Section 67A, and it forbids child pornography in Section 67B. According to the rules of the AC, viewing, downloading, possessing, and other actions are not offences. This section simply makes it illegal to publish and transmit sexually explicit or obscene information in an electronic format.

Punishment First offence: five years and a ten lakh rupee fine repeat offence: seven years and a ten lakh rupee fine. The anti-child pornography movement in India reached a turning point with the enactment of Section 67(B) of the amendment. This statute clearly states that it is illegal to publish, view, or even possess such pornographic material.<sup>10</sup>

According to Section 2(d) of the NHRC Act, a human right is defined as a right to life, liberty, equality, and dignity of the person protected by the Indian

<sup>7</sup> Content Team Obscenity available at: <https://legaldictionary.net/obscenity/legal-dictionary/>, (last visited 30/09/2023)

<sup>8</sup> The Indian Penal Code 1860, (60 Of 1860) (India)

<sup>9</sup> Women (Prohibition) Act, 1986 (60 Of 1986) (India)

<sup>10</sup> Information Technology Act 2000 (India)

Constitution or enshrined in an international covenant and upheld by Indian courts<sup>11</sup>.

**The Young Persons (Harmful Publication) Act, 1956 Section 2:** "Harmful publication" refers to any book, magazine, pamphlet, leaflet, newspaper, or other similar publication that contains stories told entirely or primarily through the use of images, whether such stories are told with or without the help of pictures. awful nature, with the potential for the magazine as a whole to corrupt young people who might gain access to it, either by influencing or urging him to conduct crimes or acts of aggression, cruelty, or any other kind of behaviour<sup>12</sup>.

**Section 2 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990:** "Broadcasting" refers to the spread of any kind of communication, including signs, signals, Transmission of electromagnetic waves can be used to transmit any type of writing, image, or sound. through cables that are designed to be accessed by the general public directly or through space using relay stations, including all grammatical subsets and analogous terms, be interpreted accordingly<sup>13</sup>.

#### **Constitutional provisions of decency and morality: exception to freedom of speech and expression**

The first prerequisite for liberty is said to be the freedom of speech and expression. It holds a favoured place in the hierarchy of rights, supporting and defending all other rights. It is true what is said that it is the mother of all freedoms. It has been called a "natural right," a "fundamental human right," and other similar terms. The freedom of thought, expression, and belief are pledged to be protected for Indian citizens in the preamble of the constitution. Indian citizens have the right to freedom of speech and expression, which is where the media gets its right to "freedom of press" under Article 19(1)(a) of the constitution.

However, this right is not absolute, which means that it is subject to some restrictions, the scope of which is set down in the Constitution. These constraints, which fall within clauses 2 to 6 of Article 19 of the Indian Constitution, are typically referred to as "reasonable restraints." These justifications include the state's sovereignty and integrity, security, goodwill toward other nations, public order, decency and morality, contempt of court, defamation, and incitement to commit an offence. The exercise of the freedoms

outlined in Article 19(1) may be restricted by the State through legal means. The use of the State's legal authority to limit freedoms takes the shape of executive action.

One of the grounds under Article 19(2) of the Indian Constitution on which reasonable restrictions to the right to free speech and expression may be imposed is decency and morality. Such ideas differ from one nation to another based on the moral norms of the time.<sup>14</sup>

#### **Legal Precedents with Respect of Obscenity:**

**Case: Ranjeet v. State of Maharashtra**<sup>15</sup> D. Udeshi, 1964, Ranjeet D. Udeshi is one of the bookshop's owners in this instance. He discovered some copies of a book called Lady Chatterley's Lover that had been prohibited at the time for having some pornographic material. He was found guilty under Section 292 of the IPC, but he argued in his appeal before India's highest court that:

- (1) The section was invalid because it infringed on the right to free speech and expression granted by Article 19(1)(a) of the Indian Constitution.
- (2) The book did not include obscene material, even if the passage was legal.
- (3) The complainant must mention that he sold the book along with the with the intent to influence the purchaser and that he was aware that the book was not pornographic.

The Supreme Court adopted the Hicklin test from the Victorian era in the seminal decision of **Ranjeet Udeshi v. the State of Maharashtra**. The obscenity test evaluated content by the standard of a person who was susceptible to immoral influences and would be likely to be corrupted or perverted by it. Using this approach, a wide range of content could be considered "obscene."

**Case Aveek Sarkar v. State of west Bengal:** In this instance, a German magazine released a picture of tennis great Boris Becker standing nudely with actress fiancée Barbara Feltus while holding her breasts in his palm. The father of Feltus took the photo. Reprints of the article with this image appeared in Indian newspapers and magazines. Following this, a complaint under Section 292 of the IPC was made against the journal. A complaint was subsequently made against the newspaper under Section 292 of the IPC. But after applying the community standard test, the Supreme Court of India

<sup>11</sup> Abhijeet Kumar Bhatt The Law Of Obscenity available at: In India <https://theguardian.com/the-law-of-obscenity-in-india/> The Daily Guardian , (last visited 30/09/2023)

<sup>12</sup> Young Persons (Harmful Publication) Act, 1956

<sup>13</sup> Prasar Bharati (Broadcasting Corporation of India) Act, 1990

<sup>14</sup> Abhijeet Kumar Bhatt The Law Of Obscenity available at: In India <https://theguardian.com/the-law-of-obscenity-in-india/> The Daily Guardian , (last visited 30/09/2023)

<sup>15</sup> Air 881, 1965 Scr (1) 65

determined that the half-naked photo of Boris Becker and his fiancée was not offensive. The basis for this decision is that the photo did not arouse sexual desire or deprave or corrupt people's minds<sup>16</sup>.

The terrible gang rape and murder of victim Jyoti Singh, now known as **the Nirbhaya case**, prompted the addition of Section 354D to the IPC through the Criminal Law Amendment Act, 2013, which was passed in 2013. It includes keeping an eye on a woman's online activities, such as her email or other correspondence. Consequently, gathering images of women from their social media profiles would fall within the purview of this section. Upon conviction, the criminal would receive a three-year sentence in addition to a fine.<sup>17</sup>

As Section 81 of the IT Act expressly provides, any offence involving obscenity in electronic form may be tried under that law rather than the IPC. However, depending on the specifics of the case, the provisions of both the IT Act and the IPC may be used, as was the case in **Avnish Bajaj v. the State (NCT of Delhi), 2008**<sup>18</sup>.

**The court ruled in Chandrakant Kalyandas Kakodkar v. Province of Maharashtra (1970)** that while the term obscenity being used frequently, the statutes do not define it precisely. Obscenity places restrictions on or punishes those who send, transmit, distribute, and share pornographic material. Judges must recognise the seriousness of the offence and render judgement in accordance with that understanding.<sup>19</sup>

The Supreme Court introduced a new criteria known as the responsible reader test in 2006 in the case of **Ajay Goswami v. UOI**,<sup>20</sup> which states that readers should exercise caution in this technological age. Regarding online obscenity, there are examples like **Avnish Bajaj v. State**<sup>21</sup>, where the issue was whether or not the website was accountable for publishing the MMS. In this instance, despite only acting as an intermediary, the website was blamed for the incident. In another instance, **M. Saravanan & Dr. L. Prakash v. State**<sup>22</sup>, a doctor was fined under Section 67 of the Information Technology Act for online distribution of indecent images and videos of a lady only for financial gain.

<sup>16</sup> (2014) 4 Scc 257

<sup>17</sup> (2017) 6 Supreme Court Cases 1: (2017) 2 Supreme Court Cases (Cri) 673: 2017 Scc Online Sc 533

<sup>18</sup> (2008) 105 Drj 721: (2008) 150 Dlt 769

<sup>19</sup> 1970 Air 1390, 1970 Scr (2) 80

<sup>20</sup> Writ Petition (Civil) 384 Of 2005

<sup>21</sup> 2008 Indlaw Del 763, 2008 (150) Dlt 769, 2008 (3) Jcc 1726, 2008 (Supp5)

<sup>22</sup> 13 April, 2006

The Supreme Court ruled in **Samresh Bose's**<sup>23</sup> other case, in which the obscenity of the Bengoli novel Prajapati was contested, that the book did not have the intended effect of eroding readers' morals or encouraging lasciviousness because the author's intention was to expose certain social ills and that he had used his own technique, skills, and word choice to that effect.

**Case: Maqbool Fida Husain v Raj Kumar Pandey**<sup>24</sup> A well-known painter is **Maqbool Fida Husain**. India is portrayed as a naked woman in one of his paintings that was eventually given the moniker "Bharat Mata" (Mother India). In 2004, Husain sold it to a private collector. The artwork was promoted in a 2006 online fundraising auction for earthquake victims. Private complaints were filed in several parts of India in response to the painting's marketing, which sparked demonstrations. The Supreme Court combined the cases and sent them to Delhi. The Husain was served summons by the trial court in Delhi for violations of sections 292 (which punishes the transmission of pornographic materials), 294 (which punishes pornographic actions and songs), and 298 (which penalizes statements with the intent to offend). wishing to offend religious sensibilities. Additionally, it was claimed that Husain was in violation of the Emblems and Names (Prevention of Improper Use) Act, the Prevention of Insults to National Honour Act, and section 500 of the Indian Penal Code for depicting the Ashoka Chakra in a derogatory way. This symbol is a component of both the Indian national flag and national emblem. Husain submitted an additional petition in opposition to this trial court's ruling. Sanjay Kishan Kaul, J. believed that art is a crucial means of expression when making this ruling. The Indian Constitution's Article 19(2) permits restrictions on freedom of speech and expression based on considerations of morality and public decency. Obscenity that offends morality and public decency is not protected. A piece of content is considered obscene according to section 292 of the IPC "(i) if it is lascivious; (ii) it appeals to the prurient interest; and (iii) it tends to deprave and corrupt persons who are likely to read, see, or hear [it]" (para. 31). Regarding the issue of obscenity, factors to keep in mind when combining artistic freedom with free speech include (i) modern mores and national standards; (ii) where art is created.

When creativity and vulgarity coexist, art must predominate and obscenity be considered insignificant; (iii) the standard should be that of a reasonable person using common sense and caution;

<sup>23</sup> 1986 Air 967, 1985 Scr Supl. (3) 17

<sup>24</sup> Crl. Revision Petition No. 114/2007

(iv) if the content serves the public interest, it may be protected under the right to free speech; however, obscenity that serves no significant purpose for the public cannot be protected. The High Court additional determined that in cases where nudity or semi-nudity is in question, the specific postures and corresponding conditions must also be taken into consideration, as well as the artist's point of view and the notion that art "should not be seen in isolation without going into its onomatopoeic meaning."

According to the Court, mere nudity cannot be considered offensive. The court's ruling states that the painting's aesthetic appeal dwarfs the alleged obscenity in the form of nudity and makes it seem so trivial and unimportant that it is simple to ignore. The naked woman wasn't posed in any unusual ways, and her surroundings weren't decorated to evoke lust or other sexually charged emotions. Additionally, there was no specific area of the woman's body where the Ashoka Chakra could be interpreted as disrespecting the flag or national anthem.

The Court noted that "...both secular as well as religious Indian literature is replete with sexual allusions, sexually metaphor, and periods of such explicit passion the likes of which aren't to be encountered else in world writing." "An artist should have freedom of creativity, but he is not free to do whatever he wants," it continued. The distinction that needs to be made is between art as a representation of splendour and art as the product of a deranged mind affected by a shallow the counterculture, the latter of which should be kept out of civilised society. The Court further ruled that "freedom for the ideas we despise should exist. The right to free expression is meaningless if there no more freedom after speaking. The degree of democratic participation is a key indicator of both flexibility and freedom it expand Later, the Supreme Court of India dismissed a petition that asked for Husain to be put on trial for hurting Indian feelings, stating that the painting was a "work of art."

**Case: R. Basu v. National Capital Territory of Delhi and Another**<sup>25</sup> The High Court ruled that the petitioners could not assert immunity from Section 292 IPC for the two films for which there were no censor certificates. Additionally, the Court stated that because the petitioners had not provided CBFC certificates for the remaining two films, they could not claim to be innocent unless proven guilty. The Court noted that in order to address the "problem" of obscenity, the legislature had passed the Cable Television Network (Regulation Act) and adopted a

Programme Code. "Numerous statutory protections for controlling cable transmission" There are links to Indian television networks. The petitioners must adhere to Keeping in mind the feelings of the people, these rules and legislation pertaining to the electronic media and social significance of Indian society while transmitting its programmes. In light of this change in circumstances, the petitioners and the complainant filed a combined application, in which the complainant decided not to pursue his complaint in light of the aforementioned legislative restrictions and other provisions currently in effect.

**In Samarsh Bose v. Amal Mitra**<sup>26</sup> While making a distinction between vulgarity and obscenity, the courts ruled that while "vulgarity" may elicit feelings of disapproval, disdain, and even dissatisfaction it lacks a propensity to deprave or corrupted the thoughts of an individual, unlike "pornography" or "obscenity." In addition to the aforementioned, the Court noted that in a way to assess obscenity, a judge first needs to put himself in the shoes of the author in order to understand what the author truly wishes to convey. The judge must then put oneself in the shoes of readers of every age group into whose hands the book is likely to fall, and only then can he come to an objective a determination.

In a recent case, **Vinay Mohan v. Delhi Administration**<sup>27</sup>, 2008 II AD (Delhi) 315, Pradeep Nandrajog J. dismissed the petition contrary to the framing of charges and stated that it is a recognised legal principle that the definition of obscenity is greatly influenced by a person's social outlook. Accordingly, when it comes to nude or semi-naked pictures of a woman, this will depend on the posture, pose, context, and background information.

#### **Various suggestions Arguments on Obscenity**

**Education:** In terms of knowledge and awareness, any civilised society should place the empowerment of women via education at the top of its agenda It's on. With the aid educational institutions, we can strengthen this segment of society that is currently weak in order to combat this societal ill, inappropriate representation of women. Due to their ignorance, women themselves are sometimes prey to such inaccurate and offensive portrayals. The negative inappropriate depiction of women that has grown so pervasive in our daily lives that instances of indecent representation of women are being accepted, albeit

<sup>25</sup> AIR 2007CriLJ4245

<sup>26</sup> AIR 1986 SC 967 1985 KHC 726: 1985 (4) SCC 289: 1985 SCC (Cri) 523

<sup>27</sup> 2008 II AD (Delhi) 315

reluctantly, needs to be brought to the attention of women in particular<sup>28</sup>.

**Position of the Media** To raise consciousness among women about this threat, media outreach must be used. The vast majority of women are unaware of their legal entitlements. Through the news media, they should be taught that living in dignity is a human right. One of the key roles that the media may undertake is to educate individuals about the aforementioned regulations and to raise awareness. Models that are presenting for advertising should also be aware of what people in general would find offensive and steer clear of portraying such behaviour. To ensure that there's is no disparaging image of women in the media, it is crucial to seek the assistance of legislators and lawmakers.<sup>29</sup>

**Governance of the Internet** - In the current situation, it is necessary to make it illegal to access pornographic material through a computer network or other medium. Additionally, the definition of "transmits" or "publishes" in the electronic media is necessary. According to the obscenity laws. This will assist in reducing the respective party's culpability offenders.<sup>30</sup>

**Censorship should be acknowledged**, and a proportionate number of men and women in preview panels and censor boards should be guaranteed. This will assure neutrality and aid in the eradication of bias. Additionally, immorality should be punished in

the same way that <sup>31</sup>obscenity and also the **prohibition on obscene materials** must stop actual harm from occurring rather than just protect public morals. In this regard, it is necessary to use the harm principle to criminalise such actions rather than to disregard only offending content.<sup>32</sup>

### Conclusion

In India, there are an increasing number of incidents of obscenity. This is a really serious problem. Even though it is a criminal offence, many people nonetheless commit it. It is a social evil that has perverted everyone's thoughts. There needs to be greater awareness raised so that no man or woman will ever experience shame as a result of obscene acts committed by others. In conclusion, the IPC does not define the terms "obscene" and "obscene language." To decide whether a particular act is obscene or not, the courts must endure great pains. Public decency, societal morality, and cultural differences are some of the deciding variables that change over time. Remember that the Constitution's freedom of speech and expression clause does not provide protection for obscenity. The court has therefore consistently emphasised the necessity to encourage an environment of open communication up until the point at which it has an impact on society as a whole. In addition to all of this, you can avoid becoming a victim of such issues on a personal level by exercising caution and being a little more responsible. Prevention is always preferable to treatment.

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<sup>28</sup> Sanjeev kumar Law relating to Obscenity and Indecent Representation of women available at: [https://www.researchgate.net/publication/348191346Laws\\_Relating\\_to\\_Obscenity\\_and\\_Indecent\\_Representation\\_of\\_Women](https://www.researchgate.net/publication/348191346Laws_Relating_to_Obscenity_and_Indecent_Representation_of_Women), (last visited 30/09/2023)

<sup>29</sup> *Id*

<sup>30</sup> HUZAIFA MALIK 1 An Analysis of Laws Relating to Obscenity: Problems & Prospects available at: <https://www.ijlr.org/wp-content/uploads/An-Analysis-of-Laws-Relating-to-Obscenity.pdf> (last visited 30/09/2023)

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<sup>31</sup> *Id*

<sup>32</sup> *Id*