

The Indecent Representation of Women (Prohibition) Act, 1986

The Indecent Representation of Women (Prohibition) Act, 1986 prohibits the indecent representation of women through any means of communication such as advertisements, books, paintings, films, and more. Indecent Representation Of Women Dignity Of Women Special Courts Penalties Communication

Summary

The Indecent Representation of Women (Prohibition) Act, 1986 was enacted with the objective of prohibiting the indecent representation of women through any means of communication such as advertisements, books, paintings, films, and more. The Act defines what constitutes indecent representation of women and provides for penalties for contravention of the provisions. The Act seeks to protect the dignity and respect of women and prevent the portrayal of women in a derogatory manner. The Act applies to the whole of India and provides for the constitution of special courts for the trial of offences under the Act.

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Section 1: Short Title, Extent And Commencement

(1) This Act may be called the Indecent Representation of Women (Prohibition) Act, 1986.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Simplified

(1) The name of this law is the "Indecent Representation of Women (Prohibition) Act, 1986."

(2) The law is applicable throughout all of India.

(3) The law will become active on a date that the Central Government of India decides. They will announce this date in an official publication.

Explanation using Example

Imagine a scenario where a clothing brand launches an advertising campaign across India that features women in a manner that is considered indecent and degrading to the dignity of women. The images are displayed on billboards, in magazines, and on social media platforms.

As the Indecent Representation of Women (Prohibition) Act, 1986, is in force throughout India, an individual or organization that finds the advertisement offensive can file a complaint with the authorities. Given that this Act applies nationwide, the complaint would be valid regardless of the state in which the advertisement is displayed.

The Central Government, having already brought the Act into force through an official notification, empowers law enforcement agencies to take necessary action against the clothing brand for violating the Act. This could include removing the advertisements and potentially imposing penalties on the brand.

Section 2: Definitions

In this Act, unless the context otherwise requires, -

"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;

"distribution" includes distribution by way of samples whether free or otherwise;

"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 a way as to have the effect of being indecent, or derogatory to, or denigrating, women, or is likely to deprave, corrupt or injure the public morality or morals;

"label" means any written, marked, stamped, printed or graphic matter, affixed to, or appearing upon, any package;

"package" includes a box, carton, tin or other container;

"prescribed" means prescribed by rules made under this Act.

Simplified

This law is about not showing women in a bad or sexual way. Here's what some words mean in this law:

"advertisement" is anything that's meant to tell you about something or sell you something. It can be a piece of paper, a package, or even something you see or hear, like a light show, music, smoke signals, or a balloon with words.

"distribution" means giving stuff out to people, and it doesn't matter if it's free or if they have to pay for it. It can also be when you hand out free samples of something.

"indecent representation of women" is when pictures or descriptions of women are shown in a way that's not nice, respectful, or that makes people think bad thoughts or act in a bad way.

"label" is anything that has writing or pictures on it that tells you what's inside a package or what it's all about.

"package" is anything used to wrap or contain stuff, like a box, a carton, or a can.

"prescribed" means the specific rules or instructions that are given by this law.

Explanation using Example

Let's consider a hypothetical scenario to understand the application of the definitions provided in Section 2 of The Indecent Representation of Women (Prohibition) Act, 1986:

Imagine a company called "GlamCosmetics" decides to launch a new lipstick line. They create a print advertisement showing a woman in a suggestive pose with zoomed-in images focusing on her lips in a manner that is explicitly sexualized. The advertisement is printed on flyers (notices) and distributed in public areas and also appears on large billboards (visible representations) with bright lights.

Here's how the Act applies:

The "advertisement" would include the flyers and billboards used by GlamCosmetics to promote the lipstick.

If GlamCosmetics also distributes free samples of the lipstick in public, this would be considered "distribution" as per the Act.

The portrayal of the woman in the advertisement could be considered an "indecent representation of women" if it is seen as derogatory or likely to corrupt public morality.

The information about the lipstick printed on the packaging would be the "label".

The boxes or containers that the lipstick comes in would be referred to as the "package".

Any rules that need to be followed by GlamCosmetics in this context would be those "prescribed" by the authorities under this Act.

If the advertisement is found to be indecent as per the Act, the company could face legal action for violating the law.

Section 3: Prohibition Of Advertisements Containing Indecent Representation Of Women

No person shall publish, or cause to be published, or arrange or take part in the publication or exhibition of, any advertisement which contains indecent representation of women in any form.

Simplified

Section 3: It is not allowed for anyone to publish, help in publishing, or be involved in showing any advertisement that shows women in an improper or offensive way.

Explanation using Example

Imagine a clothing brand plans to release a print advertisement in a popular magazine. The marketing team designs an ad that features a woman in a way that is sexually suggestive and degrades her dignity. Before the ad goes to print, a member of the team raises concerns that the portrayal of the woman might be considered indecent under the Indecent Representation of Women (Prohibition) Act, 1986. Taking heed, the brand reviews the ad and decides to alter the image and content to respect women's dignity, thus avoiding potential legal issues under Section 3 of the Act.

Section 4: Prohibition Of Publication Or Sending By Post Of Books, Pamphlets, Etc, Containing Indecent Representation Of Women

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 form:

Provided that nothing in this section shall apply to -

any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure -

the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure is in the interest of science, literature, art, or learning or other objects of general concern; or

which is kept or used bona fide for religious purposes;

any representation sculptured, engraved, painted or otherwise represented on or in -

any ancient monument within the meaning of the Ancient Monument and Archaeological Sites and Remains Act, 1958 (24 of 1958); or

any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose;

any film in respect of which the provisions of Part II of the Cinematograph Act, 1952 (37 of 1952), will be applicable.

Simplified

It's illegal for anyone to create, sell, rent, distribute, mail, or share any kind of material (like books, films, or pictures) that shows women in an offensive or improper way.

However, there are exceptions to this rule:

Materials that are considered beneficial to the public because they're about science, education, art, or other important topics, or materials used for genuine religious reasons, are not included in this ban.

Artwork that is part of ancient monuments or religious places like temples, or used in religious festivals or activities, is also not included.

Movies that fall under the rules of the Cinematograph Act of 1952 are not included either.

Explanation using Example

Imagine a local bookstore owner is found to be selling a calendar featuring indecent images of women. The authorities are alerted and upon investigation, it is determined that the calendar's content violates the Section 4 of The Indecent Representation of Women (Prohibition) Act, 1986. The images are neither educational nor used for religious purposes, and the calendar does not fall under any exceptions provided by the Act. Consequently, the bookstore owner is charged under this law for distributing material that contains indecent representation of women.

Section 5: Powers To Enter And Search

(1) Subject to such rules as may be prescribed, any Gazetted Officer authorised by the State Government may, within the local limits of the area for which he is so authorised, -

enter and search at all reasonable times, with such assistance, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;

seize any advertisement or any book, pamphlet, paper, slide film, writing, drawing, painting, photograph, representation or figure which he has reason to believe contravenes any of the provisions of this Act;

examine any record, register, document or any other material object found in any place mentioned in clause (a) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act:

Provided that no entry under this sub-section shall be made into a private dwelling house without a warrant:

Provided further that the power of seizure under this sub-section may be exercised in respect of any document, article or thing which contains any such advertisement, including the contents, if any, of such document, article or thing, if the advertisement cannot be separated by reason of its being embossed or otherwise from such document, article or thing without affecting the integrity, utility or saleable value thereof.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

(3) Where any person seizes anything under clause (b) or clause (c) of sub-section (1), he shall, as soon as may be, inform the nearest Magistrate and take his orders as to the custody thereof.

Simplified

(1) If the government has made specific rules, an officer with a high rank (Gazetted Officer) who has been given the power by the state can do the following within the area they are responsible for:

Go into and look through any place at reasonable times, with help if needed, if they think that someone has broken or is breaking the law mentioned in this Act;

Take any advertisement or any kind of written or visual material that seems to break the rules of this Act;

Check any records or other items found in the place and take them if they might show that a crime under this Act has been committed:

However, they can't just walk into someone's home without a legal warrant to do so;

Also, they can take the whole item if the offensive advertisement is part of it and can't be removed without ruining the item.

(2) The process for searching or taking things under this Act should follow the rules of the Code of Criminal Procedure from 1973, just like it would for searches done with a warrant from that Code.

(3) If an officer takes anything based on what's said in parts (b) or (c) above, they must quickly tell the closest Magistrate (a type of judge) and ask what to do with the items taken.

Explanation using Example

Imagine a scenario where a local bookstore is suspected of selling a calendar featuring indecent representations of women. A Gazetted Officer, authorized by the State Government, receives a tip-off and believes that the bookstore may be committing an offence under The Indecent Representation of Women (Prohibition) Act, 1986.

The officer, acting under Section 5(1)(a), decides to enter and search the bookstore during business hours. Upon inspection, under Section 5(1)(b), the officer finds the calendar in question and determines that it indeed contravenes the Act. The officer then seizes the calendars to prevent further distribution.

While searching, the officer also reviews the bookstore's sales records under Section 5(1)(c) and finds evidence suggesting that the store has been ordering and selling such calendars regularly. The officer seizes the records as evidence.

Following the seizure, as per Section 5(3), the officer informs the nearest Magistrate about the seizure and seeks instructions on how to proceed with the custody of the seized items.

Section 6: Penalty

Any person who contravenes the provisions of section 3 or section 4 shall be punishable on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and in the event of a second or subsequent conviction with imprisonment for a term of not less than six months but which may extend to five years and also with fine not less than ten thousand rupees but which may extend to one lakh rupees.

Simplified

If someone breaks the rules in section 3 or section 4 of this law, here's what happens:

The first time they get caught, they could go to jail for up to two years and might have to pay a fine of up to 2,000 rupees.

If they get caught again, the punishment is harsher. They'll have to spend at least six months in jail, but it could be up to five years. They'll also have to pay a bigger fine, at least 10,000 rupees and up to 1 lakh rupees.

Explanation using Example

Imagine a shopkeeper who sells calendars depicting women in an indecent manner, which is against the law as per Section 3 of The Indecent Representation of Women (Prohibition) Act, 1986. Upon being caught for the first time, the shopkeeper is convicted and faces a possible imprisonment of up to two years and a fine up to two thousand rupees. If the shopkeeper is found guilty of the same offense again, the punishment is more severe: a mandatory imprisonment of at least six months, which could extend to five years, and a fine not less than ten thousand rupees, which may go up to one lakh rupees.

Section 7: Offences By Companies

(1) Where an offence under this Act has been committed by a company, every person, who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be proceeded against and punished accordingly.

Explanation - For the purposes of this section, -

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Simplified

(1) If a company breaks the law under this Act, the person who was in charge of the company at the time and responsible for running its business, as well as the company itself, are both considered to have committed the crime. They can be taken to court and punished if found guilty.

However, a person won't be punished if they can show that they didn't know about the offence or that they tried their best to stop it from happening.

(2) Even if the person in charge isn't directly responsible, if the crime happened because someone in a high position in the company, like a director or manager, allowed it, agreed to it, or ignored it, then that high-ranking person can also be taken to court and punished.

Just to be clear, when we talk about:

(a) "company" in this section, we mean any kind of business group, including partnerships and other groups of people working together; and

(b) "director" for a partnership, we mean one of the partners in that partnership.

Explanation using Example

Imagine a scenario where a clothing company releases an advertising campaign that features indecent images of women, which is in violation of The Indecent Representation of Women (Prohibition) Act, 1986. The authorities decide to take legal action against the company for this offence.

According to Section 7(1) of the Act, not only the company itself but also the individuals who were in charge of running the company at the time of the offence can be held responsible. This means that the CEO and other senior managers could be deemed guilty and face legal consequences.

However, if the CEO can demonstrate that they were not aware of the advertising campaign's content and had taken all necessary steps to prevent such an offence (for example, by implementing a strict approval process for

marketing materials), they might not be punished as per the provisions in the Act.

On the other hand, if evidence surfaces that a particular director or senior manager had either approved the campaign or ignored the potential violation, as per Section 7(2), that individual could be specifically targeted for legal action and punished for their role in the offence.

Section 8: Offences To Be Cognizable And Bailable

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this Act shall be bailable.

(2) An offence punishable under this Act shall be cognizable.

Simplified

(1) Even if the Code of Criminal Procedure, 1973 says something different, any crime that is punished under this Act allows the accused to be released on bail.

(2) Any crime under this Act allows the police to arrest the accused without a warrant and to start an investigation without a court order.

Explanation using Example

Imagine a scenario where a local magazine publishes an advertisement that depicts a woman in an indecent manner, which is in violation of The Indecent Representation of Women (Prohibition) Act, 1986. A complaint is filed against the publisher of the magazine.

Under Section 8(1) of the Act, the publisher, when arrested, has the right to be released on bail. This is because the offence, although serious, is classified as bailable.

Additionally, under Section 8(2), the police have the authority to arrest the publisher without a warrant, since the offence is cognizable. This means that the police can take immediate action upon receiving the complaint without waiting for a court order.

Section 9: Protection Of Action Taken In Good Faith

No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or any State Government for anything which is in good faith done or intended to be done under this Act.

Simplified

If the Central or State Government, or any of their officers, do something or plan to do something with honest intentions under this law, you can't take them to court or start any legal action against them for it.

Explanation using Example

Imagine a scenario where a government officer confiscates magazines from a bookstore because they contain indecent representation of women, which is a violation of the law. The bookstore owner, feeling aggrieved by the loss of merchandise, decides to sue the officer for damages. However, under Section 9 of The Indecent Representation of Women (Prohibition) Act, 1986, the officer is protected from such legal action because the confiscation was an action taken in good faith, intending to enforce the provisions of the Act. Therefore, the lawsuit against the officer would not be admissible in court.

Section 10: Power To Make Rules

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the manner in which the seizure of advertisements or other articles shall be made, and the manner in which the seizure list shall be prepared and delivered to the person from whose custody any advertisement or other article has been seized;

(b) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Simplified

Simplified Explanation:

- (1) The Indian government can create rules for how this law should work and announce them publicly.
- (2) Specifically, these rules can cover things like:
 - (a) How to properly take away ads or items that break the law, and how to list these items and give that list to the person they were taken from.
 - (b) Any other details that need to be figured out by making more rules.
- (3) When new rules are made, they have to be shown to both houses of the Indian Parliament while they're meeting, for at least 30 days. This can happen in one long meeting or several short ones. If both houses don't want a rule or want to change it before the next meeting after those 30 days, the rule will only work in the changed way or not at all. But, anything that was done before the rule was changed or cancelled is still valid.

Explanation using Example

Imagine a scenario where a local magazine has been publishing advertisements that depict women in an indecent manner. The Central Government, under Section 10 of The Indecent Representation of Women (Prohibition) Act, 1986, issues a notification outlining the specific procedures for law enforcement agencies to follow when seizing these advertisements. It details the steps for making the seizure, preparing a seizure list, and ensuring that the list is handed over to the individual from whom the advertisements were confiscated.

Following these rules, the police conduct a raid on the magazine's office. They follow the prescribed manner for the seizure, ensuring that all legal protocols are followed, and a seizure list is prepared. This list is then provided to the magazine's owner, documenting what has been seized. The rules set out by the Central Government ensure that the seizure is carried out systematically and that the rights of the involved parties are respected.