

Obscenity laws in India

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In news— Recently, a BJP leader said that social media influencer Uorfi Javed is taking obscenity to the streets of Mumbai and urged the Maharashtra government to take cognizance of it.

What are the obscenity laws in India?

- **Under the Indian Penal Code (IPC), Sections 292, 293 and 294 deal with the offence of obscenity.**
- One can find a **vague definition of what constitutes obscenity in Section 292**, which says that any **content shall be deemed to be obscene if it is lascivious or appeals to the prurient interest, or if its effect tends to deprave and corrupt persons likely to read, see or hear the content.**
- This section **prohibits the sale or publication of any obscene pamphlet, book, paper, painting, and other such materials.**
- Meanwhile, **Section 293 criminalises the sale or distribution of obscene objects to anyone who is under the age of 20**, or an attempt to do so.
- Although it is a **bailable offence**, the maximum punishment for the first conviction is three years of imprisonment and a fine up to Rs 2,000, and for the second conviction seven years with a fine up to Rs 5,000.
- **Section 294 prohibits obscene acts and songs in public spaces.** The maximum punishment for the person convicted under this charge is three-month jail and a fine.
- With the advent of the digital age, laws were made to criminalise obscene conduct on the internet also.
- **Section 67 of the Information Technology Act says that anyone who publishes or transmits obscene material in**

electronic form can be punished.

- An aggrieved person is anyone who believes that the object on display, sold, or shared has the potential to corrupt the minds of those who come into contact with it can file a complaint.
- It is not necessary for the person to have come into contact with the obscene object.
- Even section 20 of the Indian Post Office Act of 1898 prohibits the transmission by post of anything indecent, etc.

Judiciary's view on obscene-

- With **no clear definition in the laws**, what can be considered as obscene as per the Indian courts has changed and evolved over the years.
- **Until 2014, the judiciary used the Hicklin test to determine if something is obscene or not.**
- The Hicklin Test was established in English Law after the case of Regina vs Hicklin (1868). According to it, a work can be considered obscene if any portion of it is found to "deprave and corrupt those whose minds are open to such influences".
- The test was most famously used by the Supreme Court to ban DH Lawrence's Lady Chatterley's Lover in the case of Ranjit D Udeshi vs State Of Maharashtra (1964).
- **However, in 2014, the apex court did away with the Hicklin Test** while hearing the case of **Aveek Sarkar & Anr vs State Of West Bengal and Anr**, which was regarding the publication of a semi-nude picture of Boris Becker and his fiancée.
- In its judgement, the court said while judging as to whether a particular photograph, an article or book is obscene, **regard must be had to the contemporary mores and national standards** and not the standard of a group of susceptible or sensitive persons.

- It added that the **photograph must be “taken as a whole” and seen with the context of what it wants to convey.**
- In 2022, after Bollywood actor Ranveer Singh posted pictures of his nude photoshoot for the New York-based Paper magazine on social media, police booked him under Sections 292, 293 and 509 of the IPC and Section 67A of the IT Act.
- Before Singh, model and actor Milind Soman was booked by the Goa Police in November 2021 for uploading a photograph of himself running nude on a beach in the state.