INDECENT REPRESENTATION OF WOMEN- A PERSPECTIVE

By Priyanka Ghai and Rohit Singh
From Amity Law School, Noida

Abstract
Advertising is the tool that creates awareness among the consumers. It is also a tool which is used to create awareness but it also shapes the perception of the public about the product and the services that the company is providing. In the 21st century where there is a cutthroat competition scenario the race to the finish line is difficult. One of the biggest challenges of the companies is not only designing and selling the product but to also to create an advertisement to lure the people to try and buy their products.

To accomplish the purpose the firms use women as tools to create a brand image whether relevant or not. The portrayal of women in irrelevant ads which plunders their dignity is one issue which everyone turns a blind eye to. Even though there are laws that control the practice of representing women in irrelevant ads which compromising with their dignity, the marketers carry on this practice still with pride. This shows the effectiveness of the laws enforced for protecting the dignity of the most important part of the society i.e. women.

Through this paper the authors examine the scenario of unethical representation of women in advertisements in light of current laws and whether the effects on them.

Keywords :-
➢ Dignity
➢ Advertising
➢ Women
➢ Unethical

I. PRECLUDE
Today advertisement is omnipresent. From dawn to dusk everything the people see and people use has some kind of distinct name or mark that is trying to advertise directly or indirectly. It has a big effect on our social structure and economical structure thus it plays a vital role in peoples life. If done in the right way it creates wonders but if not then it affects the society in the worst way.1

Ad agencies use techniques to make the people look at the ad. They create the desire or want of the product or service by using different techniques. One of the dirty techniques used by the advertisers is by portraying women in unethical and unrealistic way. This is what the advertisers call the “sex sells method”2. For them it is the easiest and best way to create the want for something in the brain. They portray beautiful models for irrelevant thinking it will drive sales upwards.3

Earlier when women were not socially and politically active they used women as substitutes for irrelevant ads but now even when the whole scenario of women’s status

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in a society has drastically changed the advertisers are still using these dirty tricks. This creates pressure on the women as a false image is created and women are expected to excel in everything both inside and outside their homes.

**Objectives**

- To gain insight into the indecent representation of women in advertisement.
- To know about the various laws that prevent indecent representation of women in advertisement.
- To discuss the various court decisions that have set a precedent against indecent representation of women in advertisement.

**II. Advertising – The tool of awareness**

The dictionary meaning of advertising is – “A notice or announcement in a public medium promoting a product, service, or event or publicizing a job vacancy.”

The objective of advertising is to induce the public to buy or avail their product or services. There are many varieties like television ads, Infomercials, Radio Advertising, online advertising, newspaper advertisements, out of home advertisements etc.

This is the soul of business strategy where the aim is to sell their product. Another term for this is commercial speech, where the people are informed about the product in the best way possible with the intention of making them buy the product. In other words it is just informing the public about the product. It even enhances the image of the brand and the product if it is done in the right way. They use all the elements in their ad like using an informative idea, a sexual image of women or a fun element, etc. to induce their buyers.\(^5\)

**Women and Advertisements:**

Women constitute almost half of the total population of India. In Indian culture, women occupy a critical position and esteemed place. In the past, the Vedas glorified women as a ‘Devi’ or Goddess.\(^6\) But this glorification was quite unreal as for at the same time, women were totally found suppressed and conquered in a patriarchal society. Presently, The treatment of women as a mere sex object in the advertisements is in contrast with the Indian culture. Advertisements which is a form of communication seeks out to communicate information to the buyer about merchandise. It can take any form in any medium. The advertisement is the most dominant and prevailing medium in the commercial society.

Women play a very important role in respect to Advertisements. They are the viewers, endorsers, and victims also. As viewers of advertisements, Indian women are comparatively easily influenced. As endorsers, the models are promoting merchandise which is usually done by a woman. As victims that woman model in most cases are exploited.\(^7\)

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\(^5\)Ibid., at 2.

\(^6\)Ved-Pradip, The status of women in veda, available at:


\(^7\)The effects of using “real” in advertising, The university of Tulsa, Oklahoma, pdf available at: https://pdfs.semanticscholar.org/41d4/631b5ab1630212e7f1b76aaf599e5eabca40.pdf, last seen on October 13, 2019.
Women in many societies make the majority of expenditure decisions; consequently, they are chief target of these advertisers. The advertisements have many positive impacts also. Mainly the advertisements which educate women and bring awareness about issues not known to them such as the use of contraceptives to have safe sex, use of sanitary napkins, the importance of safe sanitation etc. With this, these advertisements get opportunities in career to women as models, designers etc. But on the other hand, most advertisements make women victims of cheap marketing practices. The representation of woman in obscene or indecent ways for whatever commercial ends is the worst thing done.

The way women are represented is completely stereotypical. They are represented to be top at everything like being the perfect housewife, maintaining the perfect form at the workplace, staying beautiful to achieve the social status in the society, having a white and fair skin complexion and many more. These advertisements put an enormous amount of pressure on women to excel at everything. Moreover in India the advertisements are so detail oriented that they represent women as housewives always taking the house chores like washing dishes and cleaning and the males take the big decisions excelling at stock market, business, gym, etc.

Another way by which the advertisers put pressure on the women is by body shaming where in beauty products they are shown with the perfect body types which is difficult to achieve.

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**Women inherent right to Dignity**

Dignity is derived from the roman word dignitas which means status. Romans related it to honour and respect. The expression ‘life’ assured in Article 21 of the Constitution does not connote mere animal existence or continued drudgery through life. 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 also. Right to live with human dignity enshrined in Article 21 derives life breath from the Directive Principles of State Policy (DPSP).

In Maneka Gandhi v. Union of India, it was ruled by the Supreme Court 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*, Apex Court held that it “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*, 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...”

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9. 1978 AIR 597
10. 1981 AIR 746
dignity or decency of women and offends Art 21 of the Constitution.”

The human dignity has been mentioned in International laws also. International Covenant on Civil and Political Rights has also recognized that human beings have dignity inseparable from them. We the people of our country play the role in promoting the indecent representation of women. It can be curbed only if it is opposed or objected by masses. One should not be a silent spectator to the indecent representation of women. It is our duty to take cognizance of the activities that destroy the very foundation of Indian society and its culture. But with the progress and development by the passage of time what is obscene for the past generation may not be indecent for the present generation. The media should enable projection of women in a decent and dignified way and promote respect and dignity to women avoiding negative portrayal of women. No advertisements portraying women in vulgar way in any means shall be projected by the media.

Moreover, in 1995 the Delhi Bar Association demanded for cancellation of membership of a lady lawyer of Delhi High Court on appearing in nude and semi-nude photographs in some magazines. That lady lawyer advocated that in no way it amounts to professional misconduct and it is time lawyers should learn to differentiate between professional and personal life. This is entirely a personal issue and has in no way affected her professional working.

III. CODE AND LAWS FOR ADVERTISING ETHICS

1. The Indecent Representation of Women (Prohibition) Act, 1986

The Indecent Representation of Women (Prohibition) Act, 1986 which was created to address representation of women which may not fall under the purview of ‘obscenity’. The law was created to prohibit indecent representation through publication which can be communicated to any individual or general public through two main channels:

(i) advertisements and
(ii) physically sending any book, pamphlets, paper, slide, film, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women.

The term “advertisement” defined under section 2(a) of the act as: “advertisement includes any notice, circular, label, wrapper or other document and also includes any

: http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx.html

Times of India dated Nov. 15th, 1995

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11 1998 (1) ALD 810
12 International Covenant on Civil and Political Rights, 1966, art. 10, available at
http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx.html
13 Times of India dated Nov. 15th, 1995

www.supremoamicus.org
visible representation made by means of any light, sound, smoke or gas;”\(^{14}\)

The term ‘indecent representation of women’ was defined as “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 deprave, corrupt or injure the public morality or morals.”\(^{15}\)

The act prohibits representation of women in a derogatory manner in the advertisements. Section 3 of this act states that “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.”\(^{16}\)

Whereas section 4 prohibits the publication which contains any indecent representation of women. 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, painting, drawing, photograph, representation or figure which contains indecent representation of women in any form.”\(^{17}\)

The act also penalises the indecent representation of women. As per Section 6 of this act “Any person who contravenes the provisions of Section 3\(^{18}\) or Section 4\(^{19}\) of this act 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 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.”\(^{20}\)

The Supreme Court in one judgement held “that freedom of expression cannot be suppressed, unless there is a situation where such a freedom is harming the interest of the society. It proves that not everything that looks indecent is not always indecent.”\(^{21}\)

The Indecent Representation of Women (Prohibition) Bill, 2012 was also introduced in the Rajya Sabha to give effect to the changes necessary to the existing framework. This was referred to the Parliamentary Standing Committee.

The Ministry of Women & Child Development has recently proposed to ban obscene depiction of women on the Internet and on SMS/MMS by amending the Indecent Representation of Women Act, 1986.\(^{22}\) As technological revolution has resulted in the development of new forms of communication, such as internet, multimedia messaging and various other

\(^{14}\) The Indecent Representation of Women (Prohibition) Act, 1986, s.2(a).

\(^{15}\) The Indecent Representation of Women (Prohibition) Act, 1986, s.2(c).

\(^{16}\) The Indecent Representation of Women (Prohibition) Act, 1986, s.3.

\(^{17}\) The Indecent Representation of Women (Prohibition) Act, 1986, s.4.

\(^{18}\) Ibid, at 6.

\(^{19}\) Ibid, at 6.

\(^{20}\) The Indecent Representation of Women (Prohibition) Act, 1986, s.6.

\(^{21}\) Ajay Goswami vs Union of India (2007) 1 SCC 143.

applications like Skype, WhatsApp, Snapchat, Instagram etc., the Ministry decided to widen the scope of the Law.

Often the activists and courts in numerous TV commercials and cinemas have witness the prime ingredients of indecent representation of women. Some of the famous advertisements which are banned are shown below in in TABLE – I.23

<table>
<thead>
<tr>
<th>S.NO</th>
<th>ADVERTISEMENTS</th>
<th>YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>Tuff Shoes Footwear Print Ad featuring Milind Soman and Madhu Sapre</td>
<td>1995</td>
</tr>
<tr>
<td>4.</td>
<td>Amul Matcho TV Commercial</td>
<td>2007</td>
</tr>
<tr>
<td>5.</td>
<td>Motorola TV Commercial</td>
<td>2008</td>
</tr>
<tr>
<td>6.</td>
<td>Motorola TV Commercial</td>
<td>2007</td>
</tr>
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<td>7.</td>
<td>Zatak Deo Tv Commerical</td>
<td>2010</td>
</tr>
<tr>
<td>8.</td>
<td>Fastrack TV Commerical featuring Cricketer Virat Kohli and actress Genelia D'Souza</td>
<td>2011</td>
</tr>
<tr>
<td>9.</td>
<td>Idea TV Commerical</td>
<td>2011</td>
</tr>
<tr>
<td>10.</td>
<td>Ford Figo Print Ad</td>
<td>2013</td>
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<tr>
<td>11.</td>
<td>AC Black Apple Juice Commercial</td>
<td>2002</td>
</tr>
</tbody>
</table>

The Ministry of Information and Broadcasting, in 2017, has also banned the telecast of condom advertisement on TV from 6AM to 10 PM as they are indecent specially for Children.24

As per the National Crime Records Bureau (NCRB) data which is available up to 2014, total cases reported in the country under Indecent Representation of Women (Prohibition) Act, 1986 during last five years (TABLE-II) shows a mixed trend.25

![Total Number of Cases reported](chart.png)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Number of Cases reported</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>895</td>
</tr>
<tr>
<td>2011</td>
<td>453</td>
</tr>
<tr>
<td>2012</td>
<td>141</td>
</tr>
<tr>
<td>2013</td>
<td>362</td>
</tr>
<tr>
<td>2014</td>
<td>47</td>
</tr>
</tbody>
</table>

2. Indian Penal Code, 1860

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24 Govt. bans condom ads from 6 a.m to 10 p.m because they are “indecent”, The Hindu, available at: https://www.thehindu.com/news/national/govt-bans-condom-ads-from-6-am-to-10-pm-because-they-are-indecent/article21461765.ece, last modified on December 12, 2017.

The IPC has various sections to protect the women of India against indecent representations in advertisements. **Section 292** of Indian Penal Code (IPC) provides:

“No book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be *obscene* if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt person, who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.”

**Section 293** of the Indian Penal Code (IPC) states—

“Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees.”

**3. Young Person’s (Harmful Publications) Act, 1956**

According to this act Harmful Publication 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;”

Moreover section 3 contains the penalty for sale of harmful publications. It states that—

“If a person—

(a) sells, lets to hire, distributes, publicly exhibits, or in any manner puts into circulation, any harmful publication, or

(b) for purposes of sale, hire, distribution, public exhibition or circulation, prints, makes or produces or has in his possession any harmful publication, or

(c) 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 both.

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26 The Indian Penal Code, 1860, s. 292.
27 The Indian Penal Code, 1860, s. 293.
28 THE YOUNG PERSONS (HARMFUL PUBLICATIONS) ACT, 1956, s. 2(a).
(2) On a conviction under this section, the court may order the destruction of all the copies of the harmful publication in respect of which the conviction was had and which are in the custody of the court or remain in the possession or power of the person convicted.”

4. **National Human Rights Commission (NHRC)**

NHRC has the power to look into matter for protecting the dignity of women in advertisements.

5. **Advertising Standard Council Of India (ASCI)**

This is a self-regulated organisation established in 1985, taking cognizance of the fact that advertisers use different unethical and unrealistic representations to sell the products this council which drafted a code to be followed by the advertisers so that such practices are curbed. It stands for the “protection of the legitimate interests of consumers and all concerned with Advertising - Advertisers, Media, Advertising Agencies and others who help in the creation or placement of advertisements.”

The code is to be followed by all which requires advertisements to be –

i) Honesty
ii) Non-Offensive to the Public
iii) Must be Against harmful products /situation
iv) Fair Competition

6. **Cable Television Networks (Regulation) Act, 1995:**

This act prohibits transmission of advertisements or anything on the cable which are not in conformity with the **cable television network rules, 1994**. Rule 6 of this code states the programme code and prohibits any programme which “Offends against good taste or decency” or “Contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half-truths.”

It also protects women from indecent representation. Under rule 6(k) it prohibits any programme -

“Denigrates women through the depiction in any manner of the figure of a women, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprave, corrupt or injure the public morality or morals.”

Moreover **Rule 7** of this provides the advertising code. The rule for protection is given under 7(vi), it prohibits advertisements on television that –

“in its depiction of women violates the constitutional guarantees to all citizens. In particular, no advertisement shall be permitted which projects a derogatory image of women. Women must not be portrayed in a manner that emphasises passive, submissive qualities and encourages them to play a subordinate, secondary role in the family and society. The cable operator shall

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29 **THE YOUNG PERSONS (HARMFUL PUBLICATIONS) ACT, 1956**, s. 3.
31 The Cable Television Network Rules, 1994, Rules 6(a).
32 The Cable Television Network Rules, 1994, Rules 6(d).
33 The Cable Television Network Rules, 1994, Rules 6(k).
ensure that the portrayal of the female form, in the programmes carried in his cable service, is tasteful and aesthetic, and is within the well-established norms of good taste and decency.”

7. The Press Council Of India

Established in 1966 on the recommendations made by parliament. Currently the press council of India is governed under the Press Council Act, 1978. It is the watch dog for the press in India. The preamble of the act states that it is an “An Act to establish a Press Council for the purpose of preserving the freedom of the Press and of maintaining and improving the standards of newspapers and news agencies in India.”

Section 13 of this act provides for the objectives and functions of the council. According to this section some of the objectives are –

(b) “to build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards;”

(c) “to ensure on the part of newspapers, news agencies and journalists, the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship;”

(d) “to encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism;”

(e) “to keep under review any development likely to restrict the supply and dissemination of new of public interest and importance.”

Moreover section 14 gives the council the power to censure. It states that-

“(1) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that a newspaper or news agency has offended against the standards or journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct, the Council may, after giving the newspaper, or news agency, the editor or journalist concerned an opportunity of being heard, hold an inquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist concerned an opportunity of being heard, hold an inquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be:

Provided that the Council may not take cognizance of a complaint if in the opinion of the Chairman, there is no sufficient ground for holding an inquiry.

(2) If the Council is of the opinion that it is necessary or expedient in the public interest so to do, it may require any newspaper to

\[34 \text{ The Cable Television Network Rules, 1994, Rules 7(vi).} \]
\[35 \text{ The Press Council Act, 1978, (act no.37 of 1978).} \]
\[36 \text{ The Press Council Act, 1978, (act no.37 of 1978), s. 13(b).} \]
\[37 \text{ The Press Council Act, 1978, (act no.37 of 1978), s. 13(c).} \]
\[38 \text{ The Press Council Act, 1978, (act no.37 of 1978), s. 13(d).} \]
\[39 \text{ The Press Council Act, 1978, (act no.37 of 1978), s. 13(e).} \]
publish therein in such manner as the Council thinks fit, any particulars relating to any inquiry under this section against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, editor or journalist.

(3) Nothing in sub-section (1) shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.

(4) The decision of the Council under sub-section (1), or sub-section (2), as the case may be, shall be final and shall not be questioned in any court of law.

So according to the norms the journalists shall not publish any obscene, vulgar or offensive material which is not accepted by the public. Moreover the display advertisements which are vulgar or contains any explicit material should not be used.

8. National Commission For Women

The National Commission for women is a statutory body set up in 1992. It is governed under the National Commission for Women Act, 1990. Section 10 provides the functions of the commission. Some of the functions according to this section in relation to protection of women dignity are –

a) "Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws;"\textsuperscript{40}

d) “review, from time to time, the exiting provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;”\textsuperscript{42}
e) “take up cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities”\textsuperscript{43}

IV. EFFECTS OF UNETHICAL ADVERTISING

1. OBJECTIFICATION

A pertinent question that appears is that are women the target of advertising? Are they the products? or are they the products? This is a question that has led to a conundrum of debates. Advertisers use women in their advertisements as a sex object to sell the object. In most of the advertisements they have no relation to the product and they are chosen anyway in the advertisements because the advertisers believe that including them and showing off their bodies makes the product more appealing.

They are used in irrelevant advertisements as a product and the different advertisements like shaving cream, razor blade, innerwear, washing powder and even in iron and steel products. In short they are used to endorse products that are used by both men and women. The thinking of the advertisers is that they believe that since men are the purchasers

\textsuperscript{41} National Commission for Women Act, 1990 (Act No. 20 of 1990 of Govt. of India), s. 10(a).
\textsuperscript{42} National Commission for Women Act, 1990 (Act No. 20 of 1990 of Govt. of India), s. 10(d).
\textsuperscript{43} National Commission for Women Act, 1990 (Act No. 20 of 1990 of Govt. of India), s. 10(e).
including women in their ad makes them buy the product.

2. **STEREOTYPING**

In India the women are presented with a preconceived notion. In most of the advertisements they are represented as either housewives or mothers. In housewives they are represented as doing their housing chores like washing clothes and cleaning dishes with full makeup. The working women are represented even in the similar manner where they are represented as managing both their professional and personal lives in a balanced manner. They are represented as having a timid and pleasing personality. These amounts to great pressure on them as if they fail they are thought to be as inefficient as the society already has a notion of what is a woman according to the advertisements.

3. **ARTIFICIALITY**

The advertisements portray women as having the ability to find happiness in all the things. The advertisements make the society believe that they are the women is the source of debit or credit of the husbands income. Certain advertisements have even attempted to compare women with cement making the public believe that they should be as strong as cement and age cannot catch them. While certain other advertisements like the beauty products show body shame women creating a farce notion that having fair skin and wearing lipstick all the time will fetch them a good husband, good life and even a good job.

4. **CONSUMER BUYING DECISIONS**

True advertising should not impact the right of consumers to be treated as fair and rational beings nonetheless advertisers manipulate the decisions of the consumers in making them buy the products. Moreover, as most of the population is still illiterate they are easily influenced by these advertisements.

V. **JUDICIAL APPROACH**

The dictionary meaning of word *obscenity* is the quality of being obscene which means “offensive to modesty or decency; lewd, filthy and repulsive”\(^4\). The test of obscenity was established by the Supreme Court in *Ranjit D. Udeshi v. State of Maharashtra*\(^4\). In this case *D.H. Lawrence’s Lady Chatterley’s Lover* book was banned. Booksellers found with copies of the book were prosecuted under S. 292, IPC that, inter alia, criminalises the sale and possession of obscene books. The petitioners made two arguments in court were that -

- “S.292 was unconstitutional since it violated Article 19(1)(a) and in any event, Lady Chatterley’s Lover was not an obscene book within the meaning of the provision.”

In the judgement, in paragraph 8, *Hidayatullah J.*, speaking for the Court, observed:

“No doubt this article guarantees complete freedom of speech and expression but it also makes an exception in favour of existing laws which impose restrictions on the exercise of the right in the interests of public decency or morality... the word, as the dictionaries tell us, denotes the quality of being obscene


\(^4\) *Ranjit D, Udeshi V. State of Maharasthra, 1965 AIR 881*

\(^4\) Ibid., at 16.
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.” 47

In the next paragraph, he went on to note: “Speaking in terms of the Constitution it can hardly be claimed that obscenity which is offensive to modesty or decency is within the constitutional protection given to free speech or expression, because the article dealing with the right itself excludes it. That cherished right on which our democracy rests is meant for the expression of free opinions to change political or social conditions or for the advancement of human knowledge. This freedom is subject to reasonable restrictions which may be thought necessary in the interest of the general public and one such is the interest of public decency and morality. Section 292, Indian Penal Code, manifestly embodies such a restriction because the law against obscenity, of course, correctly understood and applied, seeks no more than to promote public decency and morality.” 48

Later in Chandrakant Kalyandas Kakodar v. State of Maharashtra and Ors, the court held:

“It is the duty of the Court to consider the article, story or book by taking an overall view of the entire work and to determine whether the obscene passages are so likely to deprave and corrupt those whose minds are open to such influences and in whose hands the book is likely to fall; and in doing so the influence of the book on the social morality of our contemporary society cannot be overlooked. Even so as the question of obscenity may have to be judged in the light of the claim that the work has a predominant literary merit, it may be necessary if it is at all required, to rely to a certain extent on the evidence and views of leading litterateurs on that aspect” 49.

Later in Dharmendra Dhirajlal Soneji v. State of Gujarat, K. J Vaidya J. stated in his Judgement in para 13 that “T.V., films, radio, newspapers, advertisements, dramas are powerful medias to influence, educate and give direction to the people. Through striking banner-lines, captivating words, dialogues, gestures, songs, music, good or bad side of life get itself projected through aforesaid medias and ultimately taking driver's seat in the mind of the people shapes and directs their ultimate character and destiny good or bad. The ordinary techniques adopted by those medias are: (i) repetition, (ii) exaggeration, (iii) identification, (iv) appeal to authority, (v) appeal to prevailing discontent, (vi) the influence of slogan. All these, standing by themselves, are indeed quite good if canalized for the constructive purpose of rebuilding tomorrow's India. But unfortunately it is an experience of many that mostly the canalization is in wrong and destructive direction where it has tended to make people more criminal, more anti-social, more vulgar, more lifeless, more insincere, more dishonest, more sexual and more and more vulgar and shameless far away from the cultural and ethical values of life” 50.

VI. CONCLUSION AND SUGGESTIONS

In the 21st century when the situation and social status of women have changed many of the practices that were against the dignity of women have been abolished but the practice of creating a stereotype of who cooks and cleans and who washes the dishes still in practice. To make their advertisements more appealing the advertisers use women as a product. The mere thinking that using women as a substitute for the product disgust the minds of many great researchers.

It is said that he who controls the media controls the flow of information. This is true for the advertisements as the use of women as a substitute proves that women’s bodies are still not their own. The stereotypes set by the advertisers are so strong that breaking them becomes a social taboo.

This can only be tackled when the government takes certain steps like increasing education and awareness among women, establishing more stringent self-regulatory authorities that can keep an eye on them and using mass media to increase awareness against the stereotypes and imposed on them.

The trend today calls for a more realistic advertising where the sexual objectification of women is not practiced. The constitution of India guarantees the freedom of speech and expression but this speech and expression should not derogate the dignity of any individual. The advertisers not only break the laws but also set a low standard that affects the women and leaves them in the shackles of stereotypes.

Suggestions

- Establishing stricter regulatory Authorities
- Increasing legal education among women to make them aware of their rights
- Use of mass media by government to create social awareness regarding the menace.
- Need for stricter punishments against such practices

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