



## Obscenity in the platform age: Re-examining legal Standards for social media in the Indian context

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### Abstract

The rapid rise of social media platforms such as Facebook, YouTube, and Instagram has transformed public expression in India, fostering new forms of visibility, monetization, and cultural influence. A surge in body-centric and sexually suggestive content—often falling within a grey area between nudity, expression, and obscenity—poses challenges to India's traditional obscenity laws. Rooted in statutes like the *Bhartiya Nyaya Sanhita, 2023* and the *Information Technology Act, 2000*, and shaped by judicial doctrines such as the "community standards" test, these laws were designed for older media formats. In the digital age, algorithm-driven dissemination, real-time publishing, and platform incentives complicate regulation. This creates legal ambiguity around defining obscenity, platform accountability, and protecting public interest without curbing constitutional free speech, highlighting the need for updated, platform-sensitive legal frameworks.

**Keywords:** Obscene, Children, Nudity, Social Media, Instagram

### Introduction

The nature of public expression in India has changed significantly as a result of the social media platforms' explosive growth. Social media sites like Facebook, YouTube and Instagram have evolved from simple communication tools into potent ventures for visibility, revenue and cultural impact. Visual content, especially body-centric or sexually proactive content has become more popular than ever in this platform-driven economy. Although, a large portion of this material does not fit in the conventional definition of pornography, it usually lies in the grey area between obscenity, sexual expression and nudity. The Indian obscenity legislation, which was primarily developed during the time of print media, films and regulated mass media, faces serious issue as a result of this change.

Statutory laws like Section 294 of *Bhartiya Nyaya Sanhita, 2023* <sup>[1]</sup> (earlier Section 292 of *IPC*) and Section 67 and 67A of *Information Technology Act, 2000* <sup>[2]</sup>, act as the foundation for Indian obscenity law. This paradigm has been further influenced by judicial interpretation through seminal rulings like *Ranjit D. Udeshi vs. State of Maharashtra (1965)* <sup>[3]</sup>, *Samresh Bose vs. Amal Mitra (1985)* <sup>[4]</sup> and *Aveek Sarkar vs. State of West Bengal (2014)* <sup>[5]</sup>. When we take as a whole, these decisions show how the judiciary has tried to strike a balance between public morality and freedom of expression by using principles like the "community standards" test and acknowledging the importance of context, purpose and social worth. But these theological tools were created in connection with media formats that differ greatly from modern social media platforms, such as books, periodicals and movies.

Traditional obscenity law is not prepared to handle the additional complexity brought about by the platform age. Social media content is quickly shared, algorithmically selected and available to a wide range of users, including children. Social media allows for real-time publication with fewer restrictions, in contrast to motion pictures for print media, where content is subject to prepublication screening. Furthermore, platforms' economics structures actively

encourage visibility and interaction, frequently rewarding content that draws attention through sexualization and aesthetic appeal. Consequently, regulating online sexual content is longer confined to questions of individual expression, but is shaped by platform governance mechanisms, algorithm-driven visibility, and large-scale dissemination.

In the Indian context, this change presents urgent legal issues. Can content that is suggestive but not overtly sexual be considered "obscenity" under the current legal definition? Does the "community standards" test still make sense in a digital world where audiences are diverse and conventions have become more globalized? How much responsibility do platforms have for spreading sexualised content, even when it is officially compliant with their community guidelines? Above all, how can Indian obscenity laws safeguard the public interest, particularly the safety of children, without devolving into moral policing or unduly limiting expression that is protected by the Indian Constitution under Article 19 <sup>[1](a)</sup>? While Indian courts having increasingly engaged with questions of online speech, the jurisprudence on obscenity in the context of social media remains fragmented. Decisions have largely focused on extreme cases involving explicit material or child exploitation, leaving a vast grey area of sexualized but lawful content unaddressed. However, without providing precise substantive criteria for defining obscenity, legislative measures like the *Information Technology (Intermediate Guidelines and Digital Media Ethics Code) Rules, 2021* <sup>[6]</sup>, impose heavy compliance obligations on platforms. This regulatory ambiguity raises the possibility of selective censoring, uneven enforcement, and giving private companies the authority to make moral decisions.

Most academic writing on obscenity laws in India has focused on films, books or big constitutional ideas like morality and free speech, and usually studies these areas separately. Very little attention has been given to how obscenity law works on social media platform like Instagram or Facebook. On these platforms, decisions about what content stays or is removed are often made by

computer algorithms and influenced by profit and engagement, rather than by human editors or censors. It is important to study the research gap in this area because social media has become a major space where people express themselves and where culture is shaped in India today. This article re-examines obscenity law in India in the age of social media. It explains that although the basic idea of obscenity law is still useful, it needs to be adjusted to fit how digital platforms work. Relying only on unclear moral standards, without clear rules for social media, create problems for both free speech and effective regulation.

Obscene/ nude content on social media is a complex issue involving law, morality, freedom of expression, child protection, mental health and digital regulation. A large amount of nude content on social media can be dangerous in several situations, especially when there is a lack of proper regulation and awareness. The societal impact of obscene or nude content disseminated through social media platforms is examined below:

**1. Impact on Children and Teenagers:** In the current digital era, social media and other electronic spaces are crucial to how teenagers interact with their friends, build their identities and define who they are.<sup>[7]</sup> Early exposure to social content in children and teenagers can create mental confusion. Numerous quantitative research indicates that teens' usage of social media has health issues such as elevated levels of anxiety, melancholy and self-harming behaviour, as well as decreased socio-emotional well-being, low self-esteem and negative body image<sup>[89]</sup>. Most dangerously, it may create unrealistic expectations about relationships. Children start emphasizing on physical appearance. Social media often shows edited, filtered or idealised bodies. Viewing such content at a young age, without emotional maturity, can be extremely harmful. This can create a belief that a partner must look a certain way, attraction is only about physical perfection and appearance is more important than emotional compatibility. However, in reality, healthy relationships depend much more on trust, respect, communication and shared values.

**2. Impact on Mental Health:** The nude content on social media leads to addictive behaviour. The common public is so much influenced with those unrealistic online images that they constantly compare themselves. It certainly has increased the risk of anxiety and depression<sup>[10]</sup>. Objectification of an individual has increased as people only see others merely as a body rather than a human being. Other studies looked at how technology affected young adults' and adolescents' psychosocial functioning, health, and general well-being. Poorer mental health outcomes were linked to using social media excessively.<sup>[11]</sup> Adolescent teens, particularly girls, who use social media more frequently are more likely to experience internalizing and externalizing problems.<sup>[12]</sup> Nonetheless, prior research has consistently linked using a mobile device prior to bed with lower sleep quality outcomes. These outcomes include fatigue during the day, shorter sleep durations, and poorer sleep quality.<sup>[13]</sup>

**3. Exploitation and Cyber Crime:** The prevalence of nude content on social media has increased the possibility of cyber crime and other online exploitation. The misuse of intimate content can have serious negative effects on a victim's emotional, social and legal well-being. The rise of

social media platform has facilitated a disturbing trend known as revenge porn, where intimate images are shared without consent as a means of retaliation or coercion. Sharing someone else's private or intimate photos or films without that person's permission, usually following a breakup or personal conflict, is a crime. However, it is employed as a means of control, humiliation or retaliation<sup>[14]</sup>. Emotional distress, social isolation and reputational harm are common experiences for the victim. In many cases, the content spreads rapidly and becomes difficult to remove from the internet. Notably, such non-consensual sharing of personal photos is illegal in India and leads to punishment. Section 66 E, section 67, 67 A and 67 B of Information Technology Act, 2000<sup>[15]</sup> punishes for violation of privacy without consent, publishing or transmitting of obscene material, publishing or transmitting of sexually explicit content, child sexual content where minor is involved, respectively.

**4. Objectification of Women:** The large scale circulation of sexualised content on social media often contributes to the objectification of women. Objectification occurs when a person is treated primarily as a body for a collection of body parts rather than as a complete individual with thoughts, emotions, abilities and autonomy. It means that a woman's body shape, sexual appeal or physical attractiveness are more appreciated than for their abilities, accomplishments or intelligence. Unrealistic beauty standards are being normalised. As a result, there is a social pressure to meet specific body standards, which can have a detrimental impact on one's confidence and self-perception. Additionally, it takes attention away from the achievements made by women in academia, the work place and public life. It is no more surprising that with the rise of nudity on social media platform, women face harassment and unwanted messages. Sexualised representations online have been normalised which encourages inappropriate behaviour on the internet. Uninvited sexual remarks or graphics communications are sent to women. People may disregard or treat personal boundaries disrespectfully. Some people may feel entitled to make improper remarks, pass judgement on them, or approach them when women are predominantly seen via a sexual lens. This may lead to dangerous online environments and deter users from using online forums. Objectification of women can also strengthen existing gender inequalities in several ways. It perpetuates the idea that women are primarily there to attract or win the approval of males, maintains unfair power dynamics in interpersonal and professional contexts. Focus on appearance rather than ability limits opportunities. Structural inequalities are further normalised when women are continuously portrayed in society as objects of desire rather than equal participants. This has an impact on respect, representation and decision making authority in both public and private domains.

**5. Social and Cultural Tension:** Social media's pervasiveness of sexualised and nude content has caused a great deal of social and cultural tension, especially in cultures where traditional values and public morals are highly valued. Debate frequently arises over whether such content reflects freedom of expression or represents a decline in cultural standards. Younger people tend to see visual self-expression as a matter of personal choice, while older generations may consider it as improper or ethically wrong. This tension is frequently fuelled by a clear generational

divide. Furthermore, there is a noticeable distinction in behaviour online and offline, as people may act bolder or behave differently in virtual environments than they would in social situations in real life. Ongoing cultural disputes concerning identity, values and appropriate standards in digital age are exacerbated by these divergent viewpoints and actions.

**6. Normalization of Explicit Content:** The term "normalisation of explicit content" means the slow process by which regular exposure to sexually suggested content on social media gradually normalises, generalizes or lessens the shock value of such content. Such content has a desensitization effect where users' sensitivity declines when they are exposed to explicit photographs or videos on regular basis on application like Instagram, X (Twitter), Facebook etc. Things that were once deemed private or improper have now started to feel "normal". For instance, semi naked promotional content used by the influencers for public engagement or marketing may cease to be seen as unusual and instead become a commonplace internet trend. Social standards are changing as a result of such content on social media. Constant online exposure can influence perceptions or what is socially acceptable. For example, posting explicit images in an attempt to increase followers or "likes" could eventually become the norm. Younger users could begin to think that sharing private or suggestive images is essential to being liked or validated. Also, the commercialisation of explicitness is now becoming normal. Some web businesses use ads or subscriptions to make money off of suggestive or semi-nude content. Explicitness is becoming less of a moral dilemma and more of a business tactic as this is increasingly accepted.

**7. Impact on Social Relationships:** The normalisation of explicit and idealised content on social media can negatively affect social relationships by creating unrealistic standards of physical appearance and romantic expectations. Constant exposure to edited and sexualised portrayals may lower self-esteem, encourage unhealthy comparisons, and pressure people to seek online validation. It can also distort perceptions of intimacy, shifting focus from emotional connection to physical appearance. With the passage of time, this may strain trust, blur boundaries, and influence how consent and privacy are understood, particularly among young users.

**8. Social and Legal Issues:** The normalisation of explicit content on social media creates significant legal and social challenges because it blurs the boundaries between artistic expression, personal autonomy and punishable obscenity. In other words, from legal point of view, normalization may make it more difficult to distinguish between expression via art, individual liberty and the legal definition of obscenity. Indian law does not criminalise mere nudity, it penalises content that is legally considered "obscene". However, for artistic, cultural or social creativity, obscenity may be used in films, photographs, paintings or digital arts.<sup>[16]</sup> However, when exhibition of explicit content on internet becomes prevalent, it becomes difficult to differentiate between authentic artistic portrayal and material meant to stimulate sexual desire. Instead of concentrating only on the existence of obscenity/nudity, the courts consider the context, intent and overall impact of such content.<sup>[17]</sup> Moreover, the

question of personal freedom versus public morality also arises. Under Article 19<sup>[1]</sup> (a) of the Indian Constitution, people have the right to freedom of speech and expression. This includes the freedom to express oneself, art, literature, media and even personal images. There may be clashes of opinion between groups as a society becomes more digitally exposed. For example, what one group considers personal liberty may be seen by another as offensive or immoral. This leads to conflict between: personal freedom in the digital realm, and the desire of society uphold moral principles.

The "community standard test", which is used by Indian courts, evaluates content according to what a typical, reasonable person in modern society would think of it. But with time, social media normalisation alters community perceptions: social sensitivity may be diminished by exposure to explicit material. Some things may be acceptable by younger generations but not to older ones. Online culture often differs significantly from offline societal norms. This poses a crucial query: how should courts define obscene content if community standards are always changing as a result of internet influence?

**9. Legal challenges:** The widespread circulation of explicit content on social media presents significant enforcement challenges for the legal authorities. There is enormous amount of explicit content available online. Recently, India Today reported that the Ahmedabad Crime Branch has uncovered an online escort service racket and filed cases against nearly 120 Instagram accounts, Facebook pages and websites allegedly link to the prostitution and online fraud. Official stated that these platforms were used to attract customers by sharing explicit videos and nude images of women. During the investigation, it was revealed that the operators would quote charges for hourly or overnight services and collect payments via UPI IDs and mobile numbers. However, after receiving the money, the victims were reportedly cheated.<sup>[18]</sup>

When content is hosted outside of India, jurisdictional concerns come up. The content policies that social media companies implement may not align with Indian legal requirements.

### **Indian laws dealing with obscene and nude content**

Indian law does not define "nudity" as a separate offence; instead, it regulates nude or explicit content through provisions relating to obscenity, privacy and protection from sexual exploitation. Under the Bhartiya Nyaya Sanhita, 2023 (Earlier section 292 IPC), as per Section 294, the publication or distribution of obscene material is punishable. In the digital context, the information technology act 2000 is particularly significant- section 67 penalises the transmission of obscene material in electronic form, section 67A addresses sexually explicit content, 67B child pornography the protection of children from sexual offences (POCSO) act 2012, contains specific safeguards against child sexual abuse material. Section 13 to 15 of pocso act criminalise the use of a child for pornographic purposes, as well as the storage, distribution or transmission of such content, whether online or offline. The indecent representation of women (prohibition) Act, 1986's section 3 balance advertisements that contain in decent representation of women, section 4 prohibits publishing selling or distributing books images films or any material that depicts women indecently.

Additionally, the constitutional right to privacy under Article 21, as recognised in *Justice K.S. Puttaswami vs Union of India* (2017) <sup>[19]</sup>, strengthens legal remedies against non-consensual sharing of intimate images.

### **The following case laws provide judicial guidance on the regulation of obscene and nude content in India:**

1. In *Suhas Katti vs. State of Tamil Nadu* (2004) <sup>[20]</sup>, The court punished and accused for sending of scene messages online. The accused created fake accounts and sent obscene and defamatory emails and messages, resulting in serious consequences. He was convicted under section 67 of the IT Act, 2000. It was the first conviction under the IT Act, 2000.
2. In *Mr. X vs. Union of India and Ors.* (2023) <sup>[21]</sup>, the issue of a woman's intimate photos being shared online without her consent, was addressed by the Delhi High court. The court ruled that third parties, including search engines and social media sites, must do everything within their powers to eliminate the offensive material- not just the URLs identified by the victim. It underlined that sharing private photos without permission is against right to privacy under Article 21 of the Constitution, and the pertinent Information Technology Act requirements. In order to safeguard victims of Non-Consensual Intimate Images (NCII), the ruling further emphasized the necessity of efficient grievance redressal procedures and Swift action by authorities.
3. In *Apurva Arora and Anr. vs State (Govt. of NCT of Delhi)* (2024) <sup>[22]</sup>, the Supreme Court held that as per section 67 and 67A of the IT Act, the use of vulgar or obscene language in a web series does not always qualify as obscenity, instead the content must be evaluated in light of its entire impact and context.

### **Conclusion**

Social media's explosive growth has fundamentally changed how content is created, disseminated, and viewed, leading to intricate legal and ethical issues pertaining to pornographic and nude content online. In order to preserve individual dignity, public decency and vulnerable populations- especially children- Indian law restricts pornographic and sexually explicit content

through legislative requirements rather than treating nudity as an inherent crime. A continual attempt to strike a balance between ethical and constitutional protections and technical innovation is reflected in the legal framework.

The normalisation of explicit content has wider societal ramifications, including its effect on children, objectification of people, invasion of privacy, and the escalating issue of intimate image-distribution without consent. The protection of individual autonomy and dignity in the online world has been reinforced by the acknowledgement of privacy as a fundamental constitutional value.

In the end, the fundamental difficulty is striking a careful balance between the right to free speech and the requirement to uphold morality, decency, and human dignity. Legal frameworks, regulatory procedures and public awareness must all change as digital platforms do in order to maintain constitutional values and guarantee responsible content supervision.

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