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**Introduction**

The unique position of the Indian women in our Society and the cultural heritage of India has been admitted and acknowledged by all. It is not disputed that the dignity of women has to be preserved and protected. Women personhood, including motherhood, wifehood and childhood under the law has been acknowledged to be imperative....In the Indian polity, all efforts have been made for liberation of women and guarantee to them of their dignity and personality.[1]

Mass Media and women have a very close nexus. And this nexus is not limited to India but is an issue concerning the whole world. In this article, I would discuss the various legal checks and bounds governing the media qua the delicate relation of women and media.

**Constitution of India vis-a-vis Women Representation**

The most significant day in the history of Media Regulations vis-a-vis women was the 26th of January 1950? the day on which the Constitution was brought into force. The Constitution of India recognizing the need to protect the interest of women contain provisions which not only act as protector but also ameliorate women's condition in all spheres of life and accordingly the legislature has enacted several laws, launched various welfare programmes etc.[2]

**Article 19: Right to freedom**

Article 19[3], inter alia, guarantees all citizens the freedom of speech and expression. Though Article 19(1) (a) does not explicitly deals with the freedom of the Press and Media, however the judicial decisions state that the freedom of speech and expression include the freedom of the press and circulation also.[4] Further, these rights are not absolute and are subjected to reasonable restrictions as enshrined under clause (2).[5] Decency, one of the restrictions mentioned under Article 19(2), has been included for restricting speeches and publications which tend to undermine public morals[6] and to ensure that the action must be in conformity with the current standards of behavior. At no time, obscenity has ever been accepted as an act, which does not go against the interest of decency or morality.

In **Ranjit D. Udeshi v. State of Maharashtra** [7], the issue of obscenity and the conflict with freedom of speech and expression has been discussed at length and the court was of the opinion that obscenity is offensive to modesty or decency, and decency and morality are reasonable grounds for restricting the right to freedom of speech and expression of the people as per Article 19(2) of Constitution of India. Country today may not have the same catholic sense of morality and decency, which it had in fifties or sixties, but abhorrence to obscenity, vulgarity and pornography has remained unchanged.[8]

In other words, the dignity of woman is constitutionally protected and any media projections which are derogatory to women should be prevented and prohibited. If the media, electronic or print, ever exceed its jurisdiction, the courts come forward to ensure that violation of the Fundamental rights by the media does not go unchecked.[9] It may also be added that the government is allowed to make any policies under these restrictions, which overrides individual and business interests of an individual.[10] These restrictions constitute the basis for other statutory limitations on speech like that contained in the Indian Penal Code (IPC) 1860, the Indecent Representation of Women Act, 1986 and the Cinematograph Act, 1952.

**Article 21: Right to Life**

Further, Article 21 guarantees protection of life and personal liberty. Right to life as enshrined in this article something more than survival or animal existence.[11] It includes the right to live with human dignity.[12] It is a basic right of a female to be treated with decency and proper dignity.[13] Acts such as rape, sexual harassment or molestation or many such which encourage or promote these activities, are violative of Article 21.[14]

In **Chandra Rajakumari and Anr. v. Commissioner of Police, Hyderabad and Ors** [15] the Hon'ble High Court of Andhra Pradesh held that:

It is also relevant and expedient to hold without any reservation that any act which tend to offend the dignity of a woman to deal with her indecently in the circumstances amounting to indecent representation in any form, they are bound to offend Article 21 of the Constitution of India as right to live includes right to live with dignity and decency and right to live happily. Any violation of the women society in the country in body or mind leading to justifiable unhappy existence is bound to attract Article 21 of the Constitution.

The obscene projections of women by media have the effect of demeaning, debasing and degrading women. They also tend to corrupt the viewer and encourage criminal behavior, which endangers the life of women. They hinder the women from fully enjoying their right to life. They deprive them of the respect and dignity that they are entitled to and show them in a low light. Hence, are violative of the basic right of the women guaranteed under this article.

**Article 51A: Fundamental Duties**

The Constitution also addresses certain duties, under Article 51A,[16] to the citizens, which though are without any legal sanction, should fulfill while exercising his own Fundamental Rights.[17]

The Hon'ble Supreme Court has rightly stated:

It is a fallacy to think that under the constitution there are only rights and no duties. The provisions in Part IV enable the

Legislatures to impose various duties on the citizens. The mandate of our Constitution is to build a welfare society and that object may be achieved to the extent the Directive Principles are implemented by legislation.[18]i.e., if the person does not care for the duties he should not deserve the right.[19] This Article in cl. (e) specifically levies duty on the citizen to renounce practices that are derogatory to the dignity of women. Therefore any person who does anything which debases women should not be protected by the freedom of expression or profession, trade and business under Article 19.[20] At any rate, there may be laws enacted by the States to enshrine the intentment of the Constitution under Article 51A (e) and in the absence also it must be supplemented in extraordinary circumstances through judicial intervention popularly called in these days as 'judicial activism' in the field of the State passivism.[21]

Therefore, if media tend to practice derogatory to the dignity of woman in any manner, which includes the modesty, protected in the provision, should be constitutionally prohibited.

### Conclusion

It is a sad commentary that despite the Constitutional articles, legislative provisions, codes, self regulations, and various regulatory bodies, both Print and Electronic Media continue to portray obscene images of women. They focus on sex appeal or physical beauty of women.[22] Then, are given clinched argument by the media that they dish out what the people want. All this is just hackneyed expressions without any sincere attempt to provide constructive suggestions and guidelines for the emergence of a healthy media industry.

### References:

[1] Mahila Jagran Manch, Bangalore v. State of Karnataka and Others, 1999 (4) Kar.L.J. 295.

[2]Ibid.

[3] Article 19 of the Constitution reads as: (1) All citizens shall have the right- (a) to freedom of speech and expression;

[4] The same was reiterated in Romesh Thappar v. State of Madras A.I.R. 1950 S.C. 124, Sakal Papers Pvt. Ltd., A.I.R. 1962 S.C. 305 and later in Life Insurance Corporation of India v. Prof. Manubhai D. Shah With Union Of India And Cinemat Foundation, 1992 (3) S.C.R. 595.In Indian Express Newspapers (Bombay) Pvt Ltd. v. Union of India, (1985) 1 SCC 641, the Supreme Court further explained the meaning and importance of this freedom in this yet another significant case:

The expression freedom of press has not been used in Article 19 but it is comprehended within Article 19 (1) (a). The expression means freedom from interference from authority, which would have the effect of interference with the content and circulation of newspapers. There cannot be any interference with that freedom in the name of public interest. The purpose of the press is to advance the public interest by publishing facts and opinions without which a democratic-electorate cannot make a responsible judgment; Freedom of press is the heart of social and political intercourse. It is the primary duty of the courts to uphold the freedom of the press and invalidate all laws or administrative actions, which interfere with it contrary to the Constitutional mandate.

[5] Article 19(2) of the Constitution reads as:

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

[6] Ranjit D. Udeshi v. State of Maharashtra, A.I.R. 1965 S.C. 881.

[7] 1965(1) SCR 65 SC.

[8] Anonymous letter-un-signed v. The Commissioner of Police and Ors.,1997 (1) A.L.T. 481.

[9] <http://presscouncil.nic.in/speech6.htm>, as browsed on 10th January, 2007.

[10] Sate of Orissa v. Radhey Shyam Meher, A.I.R. 1995 S.C. 855.

[11] State of Maharashtra v. Chanderbhan, A.I.R. 1983 S.C. 803.

[12] Francis Coralie Mullin v. Administrator, Union Territory of Delhi, A.I.R. 1981 S.C. 746.

[13] State of Punjab v. Baldev Singh, A.I.R. 1999 S.C. 2378.

[14] Boddhistattawa Gautam v. Shubra Chakraborty, A.I.R. 1996 S.C. 992.

[15] 1998 (1) A.L.T. 329.

[16] Article 51A. of the Constitution reads as:

(a) It shall be the duty of every citizens of India-

(b) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

(c) to cherish and follow the noble ideals which inspired our national struggle for freedom;

(d) to uphold and protect the sovereignty, unity and integrity of India;

(e) to defend the country and render national service when called upon to do so;

(f) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

(g) to value and preserve the rich heritage of our composite culture;

(h) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

(i) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(j) to safeguard public property and to abjure violence;

(k) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.?

[17] Dr. Durga Das Basu, Shorter Constitution of India , (2003), p 465.

[18] Chandra Bhawan Boarding v. State of Mysore, A.I.R. 1970 S.C. 2042.





[19] Dr. Durga Das Basu, Op.cit., (2003), p 465.

[20] The line of thinking of enforcement of duties by mandamus or legal remedy had the support of in Surya v. Union of India, A.I.R. 1982 Raj. , Dasarathi v. State, A.I.R. 1982 Raj. 1, Rural Litigation Kendra v. State of UP, A.I.R. 1985 S.C. 1259, Sachidanand v. State of West Bengal, A.I.R. 1987 S.C. 1109.

[21] <http://www.naavi.org/pati/cyberobsceneity.html>, as browsed on 10th January, 2007.

[22] <http://epc.buffalo.edu/authors/andrews/about/quartermain.htm>, as browsed on 30th September, 2007.

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