

Medio –Legal Approach towards Gender Equality

Dr. Rajshree Choudhary¹ & Mrs. Hansa Dheeraj Joshi²

¹(Dean, University College of Law, Mohanlal Sukhadia University, Udaipur, INDIA)

² (Research Scholar, University College of Law, Mohanlal Sukhadia University, Udaipur, INDIA)

Abstract

Media has acquired new dimensions in the modern times wherein it plays a significant role in not only performing its well known functions of informing, educating and entertaining the masses but also acting as a tool for moulding the thought process of the society. This paper aims at adopting a medio- legal approach towards attaining gender equality. This paper seeks to classify various types of media with its outreach and its utilisation to promote gender sensitisation. Further, it attempts to analyse the present situation of women in the Indian society in context of their portrayal by the media. The laws existing in India regarding equality, indecency and obscenity are discussed. The paper concludes with the emphasis on the role that is ought to be played by the law and the media in ensuring to secure the golden principle of equality specified in the Indian Constitution.

Keywords: Media, Women, Laws

Date of Submission: 03-02-2022

Date of Acceptance: 16-02-2022

I. INTRODUCTION

Indian democracy has three well defined and specified pillars viz. Legislature, Executive and the Judiciary. These three organs are instrumental in the governance of the country. With the passage of time and development one more pillar is added as the fourth one i.e. the Media. Media being one of the strongest weapons of Indian democracy, it serves three fold objects: giving information, educating and entertaining the masses. Media acquires the prestigious status of fourth pillar due to the fact that it is an instrument of social change where it influences and molds the outlook of the masses and plays a dominant role in their decision making. It is a herculean task to influence and shape the minds of the people but media is capable of performing this task with great ease. The impact of media is colossal and so is the attachment of the people with the media. Undoubtedly, media has played a momentous role in reducing the menace existing in the Indian society, but gender sensitization is one of the areas where lot of initiative is to be taken especially by the media. Media alone cannot be made responsible for ensuring gender equality and that both law and media should go together hand in hand.

II. DEFINITIONS

Media: According to Cambridge Dictionary, the different methods of giving information to masses through newspapers, television and radio is mass media. The word media is derived from Latin word 'medium' meaning 'middle ground or intermediate'. Media is thus a medium to reach out to large number of people i.e. the masses.

Law: Article 13 of the Indian Constitution defines law to include any ordinance, order, bye law, rule, regulation, notification, custom or usages having the force of law within the territory of India.¹

Gender sensitization: Gender sensitization means creating awareness about ones gender, changing the behavior or the views held as stereotypes particularly against women.

III. TYPES OF MEDIA AND ITS OUTREACH: AN ANALYSIS

The media has played a noteworthy role right from 18th century where print media came into existence in 1780 that was followed by radio broadcasting in 1927. It has played a pivotal role in the process of independence of the country. The 1991 policy of liberalization, privatization and globalization has paved way towards the further development in media. Media may be broadly classified as Print Media, Broadcast Media and the Internet.

¹ Article 13 of The Constitution of India, 1950

Print Media: Newspapers and Magazines

Newspapers are the major source of information for large number of readers. It can be classified as National or Local, Daily or weekly newspaper. Being cheap, possessing linguistic flexibility and widespread coverage are few characteristics of this media. It is an excellent source of advertising thus acting as a source of huge income for newspapers. According to the Indian Readership Survey (IRS) data of 2019², the overall readership of newspapers has increased from 407 million readers to 425 million readers. With technological advancement, the newspapers and magazines have set up online portals that have increased the number of online readers.

Magazine caters to the needs of diversified categories viz. consumers, industries, etc. and is useful for academic purpose, knowledge and entertainment. Photos, illustrations and colors attract its readers. It can be classified into local/regional/national or weekly/ monthly/ quarterly magazines which can be further classified into consumer and business publications. Consumer magazines are related to glamour, film, women lifestyle, special interest, general interest whereas the business publications are related to profession, businesses, trades, institutes or industries. The overall readership of magazines has increased from 7.8 million in 2017 to 8.7 million in 2019 where it increased from 12% to 13% in urban areas and remained unchanged to 5% in the rural areas.³

But the print media suffers huge drawback when it comes to illiterate people where in India almost 26% of its population was illiterate in 2011⁴, the gap being wider in rural areas as compared to urban areas. Newspapers are cheaper as compared to magazines but it can be afforded more by the upper and middle class people. The lower strata continue to struggle for its daily bread.

Broadcast Media: Television and Radio

Television is a perfect blend of visual images, sound, motion and color attracting viewers' attention. It is capable of reaching out to a very large audience offering wide variety in terms of news content, daily soaps, technology and discoveries. In India, 836 million Indians watch on TV every day and India is the largest TV audience Measurement Panel in the world. There are 197 million TV homes with more than 595 channels served for viewing. US\$ 5.7 billion is spent on advertising and content.⁵

Radio has a wide coverage and reaches to people with low income groups. It offers varieties of songs, news and information. It is preferred by every age group and is now easily accessible on mobile phones.

Internet / Online Media

Globalization has made the world a small place where anyone can reach out to the other with great ease within a very short span of time. It involves email marketing, social media marketing, online ads and mobile marketing. It is easily accessible to anyone with a computer and broadband connection or with internet in the mobile smartphones. Online Media has achieved a huge following where India has more than 560 million internet users and is the second largest online market in the world with 310 million active mobile social media users.⁶

The era of Liberalization, Privatization and Globalization (LPG) in 1991 has brought about drastic changes in the media industry. It has led to huge transformation in Indian media. Undoubtedly, newspapers and radio have been affected by the introduction of electronic media interfaces. This has led to the establishment of online portals by the newspapers and magazine companies that have become easily accessible to people especially in fast moving metropolitan cities in India. Social Media has evolved as the most influential media with facebook, whatsapp, instagram and many more new applications that have huge number of users.

IV. MEDIA AND WOMEN PORTRAYAL

Women in India had held honoured, dignified and empowered status with men in the ancient times with active participation in economy, decision making and governance. The prestige that the women held gradually deteriorated with the changing times and subsequently became subordinate to their male counterparts. The struggle to be at par with men continues till today where women contribute to almost half of the population. There has been an improvement in the status of women wherein media has played an important role. However, the portrayal of women in the media has changed with the changing times. The trends set up by the depiction of women in media have been unfortunate and is one of the reasons for the crimes committed against them. It

² <https://mruc.net/uploads/posts/8e428e54a95edcd6e8be593a7021a185.pdf> (Visited on February 10, 2020)

³ <https://mruc.net/uploads/posts/8e428e54a95edcd6e8be593a7021a185.pdf> (Visited on February 10, 2020)

⁴ http://censusindia.gov.in/2011-prov-results/data_files/india/Final_PPT_2011_chapter6.pdf (Visited on February 11, 2020)

⁵ <https://www.thedmti.com/wp-content/uploads/2019/04/WHAT-INDIA-WATCHED-2018-BARC-India-Yearbook.pdf> (Visited on February 11, 2020)

⁶ <https://www.statista.com/topics/2157/internet-usage-in-india/> (Visited on February 12, 2020)

ranges from the women who are sometimes shown as the most exploited or vulnerable class, sometimes sexually appealing with size zero figure to someone who is the most tolerant, someone who is more into domestic affairs, someone who is more caring, compromising and sometimes giving upon herself for others happiness. Further daily soaps add to the miseries of women where one woman is shown inferior/superior to the other, one being in positive role and the other in complete negative role, one dominating the other. The concept of putting each other down is the very essence of daily soaps. This has led to the creation of gender stereotypes which is one of the reasons for the degradation of status of women in the Indian society where the domination of male stands justified. The effect of media is so abundant that it is easily taken as it is without a second thought especially by the children and the illiterate people. The working culture is prominent where both the parents are working and thus leaves least scope for understanding among the young children. The illiterate people lack the ability of reasoned decision and thus land up believing everything as true. The situation is worsened when the gender stereotypes are asserted by the women themselves. Ultimately, the sufferer is the women. In the present times, in the name of feminism, free expression of sexuality, one's own body is depicted in such a way that downgrades the very dignity of women.

V. LEGISLATION ON WOMEN PORTRAYAL

The Constitution of India, 1950: There are various laws that are made for securing the status and position of women in the Indian society. Women draw their basic rights from the golden principles of equality, liberty, justice and fraternity enshrined in the Preamble of the Indian Constitution. Women are to be treated equally with men in terms of employment or opportunities and no discrimination can be made between them by reason of gender. The State is empowered to take steps of protective discrimination or affirmative action in the favour of women. Directive Principles of State Policy are in the nature of guidelines that are to be adopted by the State while passing laws for women. Article 51 (A) (e) casts an obligation in the form of a fundamental duty to renounce practices derogatory to the dignity of women. Reservations are also made for securing participation of women in the governance of the country. Convention on Elimination of All forms of Discrimination Against Women (CEDAW) is the international convention that has been ratified by India to secure equal rights for its women.

The Indian Penal Code, 1860: Section 292, 293, and 294 of the Indian Penal Code makes provisions relating to obscenity. Obscenity deal with sale, hire, distribution, public exhibition, circulation, import, export, conveyance, profit making or advertisement, etc. of any matter which is obscene. The test of obscenity is whether the tendency of the matter, charged with obscenity, is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall.⁷ This test had two aspects: 'to deprave and to corrupt' and required 'minds that are opened to immoral influences.' Later, the interest of contemporary society and the influence of the alleged material came to be considered while determining the question of obscenity.⁸ Something that appeals to prurient interest is obscene i.e. that arouses sexual desire. When the purpose of the material is in public interest, in the interest of arts, science, literature or learning, is for religious purposes or relating to ancient monuments, such material shall not be termed as obscene.

The Indecent Representation of Women (Prohibition) Act 1986: The indecent depiction of women in media called for the passage of a strong prohibitory legislation that would ensure the appropriate portrayal of women. This Act prohibited the indecent representation of women through print media or other by media of other forms. It contained provisions prohibiting advertisements that contained indecent representation of women, prohibition of publication or sending by post of books, pamphlets, etc., containing indecent representation of women, power to search and entry by gazetted officer, penalty and such other provisions.

There is an overlap in provisions of Section 294 of Indian Penal Code, 1860 (IPC) with Indecent Representation of Women (Prohibition) Act, 1986 (IRWA). The definition of indecent representation in the IRWA is a part of the definition of obscenity in IPC, thus confusing indecency with obscenity. Further the penalty in case of first conviction remains the same under both the laws with different penalties in case of second and subsequent conviction. The IRWA thus appears to be merely a segregated or extended version of Section 294 of IPC.

The development in Information Technology and Communication posed new challenges and called for modifications in the existing law governing portrayal of women in media. The Indecent Representation of Women (Prohibition) Amendment Bill, 2012 came into existence that sought to amend the Indecent Representation of Women (Prohibition) Act, 1986 to provide more effective protection to women against their indecent representation. The Bill also sought to make punishment stringent and make the power to enter any premises and conduct search and seizure of any material more effective. Unfortunately even after a lapse of seven years the Bill continues to remain pending.

Information Technology Act, 2005: Section 67 makes the publishing or transmitting of obscene material in electronic form an offence. The meaning of the term obscene is the same as specified in IPC. The punishment on

⁷ Hicklin's case (1868) L.R. 3 Q.B. 360.

⁸ Ranjit D. Udeshi (1965) 1 S.C.R. 65.

first conviction may be imprisonment of either description for a term of three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees. Section 67A further prescribes punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form that is punishable on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of 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 ten lakh rupees.⁹

VII. FULFILLMENT OF MEDIO- LEGAL APPROACH

The medio- legal approach can contribute towards gender equality by adopting the following measures:

Maximum Utilization of the outreach by the media: As seen earlier, media has a massive following in India. This following can be used for bringing about a change in the outlook of the society towards women by throwing light on the issues of women, the rights that are available to them, the responsibility that the society owes to its women and creating a sense of belongingness among the women. This shall lead to change in the societal outlook and will further ensure that women feel dignified, safe, protected and empowered.

Positive Portrayal of Women by the Media: The negative depiction of women by media is also one of the reasons for their subordinate status. This portrayal creates a stereotype that women are the most vulnerable groups making them easily susceptible to crimes and violence. The depiction of independent and empowered women is the need of the hour. Women depiction should include the equal treatment to women at par with men in the family, education and workplace. The distinction of manly and womanly tasks should be eliminated. The ability of women to perform the tasks assigned to them in an effective way needs to be appreciated and portrayed by media. The new heights scaled by the women needs to be highlighted.

Effective Implementation of the Laws: In case of impermissible depiction of women, the laws should immediately come into action. There are sufficient laws to deal with the issues of obscenity or indecency. A serious thought is required to be given to the Indecent Representation of Women (Prohibition) Bill in light of the recent development in technology.

Responsibility of the Citizens: It cannot be the sole duty of the media or the laws or the government to ensure that gender equality is attained; there is an equal obligation that is cast upon the citizens to respect and value the women in the family, society and nation at large. Everyone in the society from the both the genders and third genders i.e. mother, sister, wife, daughter, father, brother, husband, son and every possible relative should initiate the process of gender sensitization in deed and action that can be then backed up in schools, colleges, educational institutes and workplaces. Just and fair treatment in terms of attitude towards buying of toys, choice of the clothes, color of the clothes, treatment to domestic helpers and similar such acts from the very early age to young children can ensure that the seeds of gender equality are sown from a very tender age.

Checks and Balances by Creation of Gender Equality Cell: The checks and balances can be ensured by creation of a special cell that shall be dedicated to the cause of gender equality. This Cell shall keep a check on the laws and suggest timely amendments keeping in mind the changing society and the developments that are made in the field of technology. The media as far as it is concerned with the portrayal of women shall be under the supervision of the Cell and immediate action shall be taken in case of violation of permissible depiction.

VIII. CONCLUSION

Women are equal contributors towards the development of family, community, society, state and nation. India does take pride in giving the best women politicians, astronauts, cricketers, athletes, boxers, wrestlers and innumerable fields that have the best women leaders, but the plight of most of the women remains unchanged. Gender equality is a concept with varied dimensions and should be dealt in the context in which it arises. Media and law can be a means of attaining gender equality but ultimately it is the approach that an individual possesses against women that needs to be changed. Each one should initiate the process that is then positively depicted by the media and is further protected by law.

⁹ Section 67A of The Information Technology Act, 2000