

Bill No. LXX of 2012

THE INDECENT REPRESENTATION OF WOMEN
(PROHIBITION) AMENDMENT BILL, 2012

A

BILL

further to amend the Indecent Representation of Women (Prohibition) Act, 1986.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Indecent Representation of Women (Prohibition) Amendment Act, 2012.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

60 of 1986.

2. In the Indecent Representation of Women (Prohibition) Act, 1986 (hereinafter referred
to as the principal Act), in section 2,—

Amendment
of section 2.

(i) for clause (a), the following clause shall be substituted, namely:—

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‘(a) “advertisement” includes any notice, circular, label, wrapper or other document or any audio or visual representation made by means of any light, laser light, sound, smoke, gas or electric form or through any other media, for the purpose of promotion of any goods, service, place, person, event or organisation;’;

(ii) after clause (a), the following clause shall be inserted, namely:—

‘(aa) “electronic form” shall have the same meaning as assigned to it in clause (r) of section 2 of the Information Technology Act, 2000;’; 21 of 2000.

(iii) for clause (b), the following clause shall be substituted, namely:—

‘(b) “distribution” includes all method of distribution, either by way of samples or making available for public access through broadcast, transmission or uploading on website or in any other printed or electronic form, whether for profit or otherwise;’; 5

(iv) for clause (c), the following clause shall be substituted, namely:—

‘(c) “indecent representation of women” means— 10

(i) publication or distribution in any manner, of any material depicting women as a sexual object or which is lascivious or appeals to the prurient interests; or

(ii) depiction, publication or distribution in any manner, of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent or derogatory to or denigrating women or which is likely to deprave, corrupt or injure the public morality or morals;’; 15

(v) after clause (d), the following clause shall be inserted, namely:—

‘(da) “material” includes any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation in any form, figure or any other content in printed, audio, visual or electronic form;’; 20

(vi) after clause (f), the following clause shall be inserted, namely:—

‘(g) “publish” includes—

(i) to prepare or print in any book, newspaper, magazine, poster, graffiti, periodicals or any form of printed matter, digital or in any other format; or 25

(ii) to distribute or broadcast through audio-visual media including cable, computer, broadband satellite transmission or any other form,

to any person so as to communicate or make it available to the public;’.

Substitution of new section for section 4.

3. For section 4 of the principal Act, the following section shall be substituted, namely:— 30

Prohibition of indecent representation of women.

“4. No person shall publish or distribute or cause to be published or cause to be distributed by any means any material which contains indecent representation of women in any form:

Provided that nothing in this section shall apply to—

(a) any material,— 35

(i) the publication of which is proved to be justified as being for the public good on the ground that such material is in the interest of science, literature, art or learning or other objects of general concern; or

(ii) which is kept or used for *bona fide* religious purposes; or

(b) any representation sculptured, engraved, painted or otherwise represented on or in— 40

(i) any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act, 1958; or 24 of 1958.

(ii) any temple, or any car used for the conveyance of idols, or kept or used for any religious purpose; or

37 of 1952. (c) any film in respect of which the provisions of Part II of the Cinematograph Act, 1952 will be applicable.”.

4. In section 5 of the principal Act, in sub-section (I),—

Amendment of section 5.

5 (i) in the opening portion, for the words beginning with “Subject to such rules” and ending with “for which he is so authorised”, the following shall be substituted, namely:—

2 of 1974.

10 “Notwithstanding anything in the Code of Criminal Procedure, 1973, any police officer not below the rank of Inspector, or any other officer of the Central Government or a State Government authorised by the Central Government or the State Government may”;

(ii) in clause (b), for the words “seize any advertisement or any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure”, the words “seize any advertisement or material” shall be substituted.

15 5. For section 6 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 6.

20 “6. Any person who contravenes the provisions of section 3 or section 4 shall be punishable on first conviction with imprisonment of either description for a term which may extend to three years and also with fine not less than fifty thousand rupees but which may extend to one lakh rupees; and in the event of a second or subsequent conviction with imprisonment for a term of not less than two years but which may extend to seven years and also with a fine not less than one lakh rupees but which may extend to five lakh rupees.”.

Penalty.

25 6. After section 10 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 11 and 12.

“11. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Application of other laws not barred.

12. The officers authorised under section 5 shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.”.

Officers to be public servants.

45 of 1860.

STATEMENT OF OBJECTS AND REASONS

The Indecent Representation of Women (Prohibition) Act, 1986 (the Act) was enacted to prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner. However, the Act in its present form relates primarily to the print media. Since the enactment of the Act, technological revolution has resulted in development of new forms of communication, such as, internet and satellite based communication, multi-media messaging, cable television, etc. It has, thus, become necessary to widen the scope of the Act so as to cover the above forms of media. Further, considering that the National Crimes Records Bureau recorded a total number of 845, 895 and 453 cases of violation of the provisions of the Act in the years 2009, 2010 and 2011, respectively, for the law to be more effective, stringent punishment which acts as deterrent also becomes essential. It is also felt that the power to enter any premises and conduct search and seizure of any material, if there is reason to believe that an offence under the Act has been committed, should be made more effective and the officers conducting such searches are given sufficient protection while carrying out their duties under the Act.

2. It is, therefore, proposed to amend the Indecent Representation of Women (Prohibition) Act, 1986 to ensure more effective protection to women against their indecent representation. The Bill, *inter alia*, provides to—

(a) define the “indecent representation of women” to mean the depiction of the figure or form or body or any part thereof, of a woman in such a way as to have the effect of being indecent or derogatory to or denigrating women or is likely to deprave, corrupt or injure public morality;

(b) amend the definitions of “advertisement” and “distribution” and also to define “electronic form”, “material” and “publish”;

(c) prohibit the publication or distribution of any material, by any means, which contains indecent representation of women in any form;

(d) increase the maximum imprisonment from two years to three years and fine from two thousand rupees to a fine of not less than fifty thousand rupees which may be extended to one lakh rupees for first offence; and increase the minimum imprisonment for second or subsequent offence from six months to two years and maximum imprisonment from five years to seven years and minimum fine from ten thousand rupees to one lakh rupees and maximum fine from one lakh rupees to five lakh rupees;

(e) amend section 5 of the Act so as to authorise any police officer not below the rank of Inspector to make investigation of offences under the Act.

3. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 30th November, 2012.

KRISHNA TIRATH

ANNEXURE

EXTRACTS FROM THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986

(60 OF 1986)

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2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “advertisement” includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas;

(b) “distribution” includes distribution by way of samples whether free or otherwise;

(c) “indecent representation of women” means the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a 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;

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4. 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, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women in any form:

Prohibition of publication or sending by post of books, pamphlets, etc., containing indecent representation of women.

Provided that nothing in this section shall apply to—

(a) any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure—

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure is in the interest of science, literature, art, or learning or other objects of general concern; or

(ii) which is kept or used *bona fide* for religious purposes;

(b) any representation sculptured, engraved, painted or otherwise represented on or in—

(i) any ancient monument within the meaning of the Ancient Monument and Archaeological Sites and Remains Act, 1958; or

24 of 1958.

(ii) any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose;

(c) any film in respect of which the provisions of Part II of the Cinematograph Act, 1952 will be applicable.

37 of 1952.

5. (1) Subject to such rules as may be prescribed, any Gazetted Officer authorised by the State Government may, within the local limits of the area for which he is so authorised,—

Powers to enter and search.

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(b) seize any advertisement or any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which he has reason to believe contravenes any of the provisions of this Act;

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Penalty.

6. Any person who contravenes the provisions of section 3 or section 4 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 a 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.

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RAJYA SABHA

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further to amend the Indecent Representation of Women (Prohibition) Act, 1986.

*[Shrimati Krishna Tirath, Minister of State (Independent Charge) in the Ministry of
Women and Child Development]*