INTERNATIONAL AGREEMENT FOR THE SUPPRESSION OF THE CIRCULATION OF
OBSCENE PUBLICATIONS

(Paris, 4 May 1910)

ENTRY INTO FORCE: 15 SEPTEMBER 1911

The Governments of the Powers hereinafter named, being equally desirous of facilitating, so far as their respective laws permit, the interchange of information for the purpose of the discovery and suppression of offences relating to obscene publications, have resolved to conclude an Agreement for that purpose, and have accordingly appointed their Plenipotentiaries, who, having met in conference at Paris from 18 April to 4 May 1910, have agreed upon the following provisions:

Article 1

Each of the Contracting Governments agrees to establish or to designate an authority charged with the duty:

1. Of coordinating all information which may facilitate the discovery and suppression of acts constituting offences against their internal legislation in respect of obscene writings, designs, pictures or objects where the various acts constituting the offence have taken place in different countries;

2. Of furnishing all information which may be useful for the purpose of preventing the importation of publications or objects contemplated by the preceding paragraph, or of securing or expediting the seizure thereof, so far as their respective laws permit;

3. Of communicating the laws which have been or shall be introduced in their respective States which reference to the object of the present Agreement.

The Contracting Governments shall make known to each other, through the intermediary of the Government of the French Republic, the authority established or designated in conformity with the present Article.

Article 2

The authority designated under Article 1 shall have power to correspond direct with the similar department established in each of the other Contracting States.

Article 3

The authority designated under Article 1 shall, if the internal legislation of the country concerned so permit, communicate to the similar authorities of all the other Contracting States particulars of convictions pronounced in the said country in respect of offences contemplated by Article 1.

Article 4
Non-Signatory States may accede to the present Agreement. For this purpose they shall notify their intention to do so by means of a declaration which shall be deposited in the archives of the Government of the French Republic, who shall communicate a certified copy thereof, through the diplomatic channel, to each of the Contracting States, notifying at the same time the date of such deposit.

Six months after this date the Agreement shall come into force throughout the territory of the acceding State, and such State shall thereupon become a Contracting State.

Article 5

The present Agreement shall come into force six months after the date of the deposit of ratifications.

If one of the Contracting States denounces it, such denunciation shall only have effect as regards that State.

The denunciation shall be notified by a declaration which shall be deposited in the archives of the Government of the French Republic, who shall communicate a certified copy thereof, through the diplomatic channel, to each of the Contracting States, notifying at the same time the date of such deposit.

Twelve months after this date the Agreement shall cease to be in force throughout the territory of the State which has denounced it.

Article 6

The present Agreement shall be ratified, and the ratifications shall be deposited at Paris as soon as six of the Contracting States are in a position to do so.

A protocol recording the deposit of ratifications shall be drawn up, of which a certified copy shall be transmitted, through the diplomatic channel, to each of the Contracting States.

Article 7

If a Contracting State desires the present Agreement to come into force in one or more of its colonies, possessions or consular judicial districts, it shall notify its intention by a declaration which shall be deposited with the Government of the French Republic, who shall communicate a certified copy thereof, through the diplomatic channel, to each of the Contracting States, notifying at the same time the date of such deposit.

Six months after this date the Agreement shall come into force in the colonies, possessions and consular judicial districts included in such notification.

The denunciation of the Agreement by one of the Contracting Parties on behalf of one or more of its colonies, possessions and consular judicial districts, shall be made under the forms and conditions laid down by the first paragraph of this Article. Such denunciation shall have effect twelve months after the date of the deposit of the declaration thereof in the archives of the Government of the French Republic.

Article 8
The present Agreement, which shall be dated 4 March 1910, may be signed in Paris up to 31 July following, by the Plenipotentiaries of the Powers represented at the Conference for the Suppression of Obscene Publications.

DONE at Paris, the 4th May, 1910, in a single copy, of which a true copy shall be communicated to each of the Governments which have signed the same.

[Signatures not reproduced here.]
Annexure II

INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE CIRCULATION OF AND
TRAFFIC IN OBSCENE PUBLICATIONS

concluded at Geneva on 12 September 1923

Albania, Germany, Austria, Belgium, Brazil, the British Empire (with the Union of South Africa, New Zealand, India and the Irish Free State), Bulgaria, China, Colombia, Costa Rica, Cuba, Denmark, Spain, Finland, France, Greece, Haiti, Honduras, Hungary, Italy, Japan, Latvia, Lithuania, Luxemburg, Monaco, Panama, the Netherlands, Persia, Poland (with Danzig), Portugal, Roumania, Salvador, Kingdom of the Serbs, Croats and Slovenes, Siam, Switzerland, Czechoslovakia, Turkey and Uruguay:

Being equally desirous of making as effective as possible the means of suppressing the circulation of and traffic in obscene publications,

Having accepted the invitation of the Government of the French Republic to take part in a conference, under the auspices of the League of Nations, convened in Geneva on 31 August 1923 for the examination of the Draft Convention drawn up in 1910, the examination of the observations presented by the various States and the elaboration and signature of the final text of a Convention,

Have nominated as their plenipotentiaries for this purpose,

[Names of plenipotentiaries not reproduced here.]

Who, having communicated their full powers, found in good and due form,

And having taken cognisance of the Final Act of this Conference and of the Agreement of 4 May 1910,

Have agreed upon the following provisions:

Article 1

The High Contracting Parties agree to take all measures to discover, prosecute and punish any person engaged in committing any of the following offences, and accordingly agree that it shall be a punishable offence:

(1) for purposes of or by way of trade or for distribution or public exhibition to make or produce or have in possession obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films or any other obscene objects;

(2) for the purposes abovementioned, to import, convey or export or cause to be imported, conveyed or exported any of the said obscene matters or things, or in any manner whatsoever to put them into circulation;

(3) to carry on or take part in a business, whether public or private, concerned with any of the said obscene matters or things, or to deal in the said matters or things in any manner whatsoever, or to distribute them or to exhibit them publicly or to make a business of lending them;
(4) to advertise or make known by any means whatsoever, in view of assisting in the said punishable circulation or traffic, that a person is engaged in any of the above punishable acts, or to advertise or to make known how or from whom the said obscene matters or things can be procured either directly or indirectly.

Article 2

Persons who have committed an offence falling under Article 1 shall be amenable to the courts of the Contracting Party in whose territories the offence, or any of the constitutive elements of the offence, was committed. They shall also be amenable, when the laws of the country shall permit it, to the courts of the Contracting Party whose nationals they are, if they are found in its territories, even if the constitutive elements of the offence were committed outside such territories.

Each Contracting Party shall, however, have the right to apply the maxim *non bis in idem* in accordance with the rules laid down in its legislation.

Article 3

The transmission of rogatory commissions relating to offences falling under the present Convention shall be effected either:

(1) By direct communication between the judicial authorities; or

(2) Through the diplomatic or consular representative of the country making the request in the country to which the request is made; this representative shall send the rogatory commission direct to the competent judicial authority or to the authority appointed by the Government of the country to which the request is made, and shall receive direct from such authority the papers showing the execution of the rogatory commission.

In each of the above cases a copy of the rogatory commission shall always be sent to the supreme authority of the country to which application is made.

(3) Or through diplomatic channels.

Each Contracting Party shall notify to each of the other Contracting Parties the method or methods of transmission mentioned above which it will recognise for rogatory commissions of such Party.

Any difficulties which may arise in connection with transmission by methods (1) and (2) of the present Article shall be settled through diplomatic channels.

Unless otherwise agreed, the rogatory commission shall be drawn up in the language of the authority to which request is made, or in a language agreed upon by the two countries concerned, or shall be accompanied by a translation in one of these two languages certified by a diplomatic or consular agent of the country making the request or certified on his oath by a translator of the country to which request is made.

Execution of rogatory commissions shall not be subject to payment of taxes or expenses of any nature whatsoever.

Nothing in this Article shall be construed as an undertaking on the part of the Contracting Parties to adopt in their courts of law any form or methods of proof contrary to their laws.
Article 4

Those of the Contracting Parties whose legislation is not at present adequate to give effect to the present Convention undertake to take, or to propose to their respective legislatures, the measures necessary for this purpose.

Article 5

The Contracting Parties whose legislation is not at present sufficient for the purpose agree to make provision for the searching of any premises where there is reason to believe that the obscene matters or things mentioned in Article 1 or any thereof are being made or deposited for any of the purposes specified in the said Article, or in violation of its provisions, and for their seizure, detention and destruction.

Article 6

The Contracting Parties agree that, in case of any violation of the provisions of Article 1 on the territory of one of the Contracting Parties where it appears that the matter or thing in respect of which the violation of such Article has occurred was produced in or imported from the territory of any other of the Contracting Parties, the authority designated in pursuance of the Agreement of 4 May 1910 of such Contracting Party shall immediately render to the corresponding authority of the other Contracting Party, from whose country such matter or thing is believed to have come or in which it is believed to have been produced, full information so as to enable such authority to adopt such measures as shall appear to be suitable.

Article 7

The present Convention, of which the French and English texts are authoritative, shall bear this day's date, and shall be open for signature until 31 March 1924 by any State represented at the Conference, by any Member of the League of Nations, and by any State to which the Council of the League of Nations shall have communicated a copy of the Convention for this purpose.

Article 8

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the League of Nations, who shall notify the receipt of them to Members of the League who are signatories of the Convention and to other signatory States.

The Secretary-General of the League of Nations shall immediately communicate a certified copy of each of the instruments deposited, with reference to this Convention, to the Government of the French Republic.

In compliance with the provisions of Article 18 of the Covenant of the League of Nations, the Secretary-General will register the present Convention upon the day of its coming into force.

Article 9

After 31 March 1924 the present Convention may be adhered to by any State represented at the Conference which has not signed the Convention, by any Member of the League of Nations, or by any State to which the Council of the League of Nations shall have communicated a copy of the Convention for this purpose.

Adhesion shall be effected by an instrument communicated to the Secretary-General of the League of Nations to be deposited in the archives of the Secretariat. The Secretary-General shall at once notify such deposit to all Members of the League of Nations signatories of the Convention and to other signatory States.
Article 10

Ratification of or adhesion to the present Convention shall *ipso facto*, and without special notification, involve concomitant and full acceptance of the Agreement of 4 May 1910, which shall come into force on the same date as the Convention itself in the whole of the territory of the ratifying or adhering Member of the League or State.

Article 4 of the abovementioned Agreement of 4 May 1910 shall not, however, be invalidated by the preceding provision, but shall remain applicable should any State prefer to adhere to that Agreement only.

Article 11

The present Convention shall come into force on the thirtieth day after the deposit of two ratifications with the Secretary-General of the League of Nations.

Article 12

The present Convention may be denounced by an instrument in writing addressed to the Secretary-General of the League of Nations. The denunciation shall become effective one year after the date of the receipt of the instrument of denunciation by the Secretary-General, and shall operate only in respect of the Member of the League of Nations or State which makes it.

The Secretary-General of the League of Nations shall notify the receipt of any such denunciation to all Members of the League of Nations signatories of or adherents to the Convention and to other signatory or adherent States.

Denunciation of the present Convention shall not, *ipso facto*, involve the concomitant denunciation of the Agreement of 4 May 1910 unless this is expressly stated in the instrument of notification.

Article 13

Any Member of the League of Nations or State signing or adhering to the present Convention may declare that its signature or adhesion does not include any or all of its colonies, overseas possessions, protectorates or territories under its sovereignty or authority, and may subsequently adhere separately on behalf of any such colony, overseas possession, protectorate or territory so excluded in its declaration.

Denunciation may also be made separately in respect of any such colony, overseas possession, protectorate or territory under its sovereignty or authority, and the provisions of Article 12 shall apply to any such denunciation.

Article 14

A special record shall be kept by the Secretary-General of the League of Nations, showing which of the parties have signed, ratified, adhered to or denounced the present Convention. This record shall be open at all times to any of the Members of the League of Nations or any State which has signed or adhered to the Convention. It shall be published as often as possible.

Article 15

Disputes between the Parties relating to the interpretation or application of this Convention shall, if they cannot be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. In case either or both of the Parties to such a dispute should not be Parties to the Protocol of
Signature of the Permanent Court of International Justice, the dispute shall be referred, at the choice of the Parties, either to the Permanent Court of International Justice or to arbitration.

**Article 16**

Upon a request for a revision of the present Convention by five of the signatory or adherent Parties to the Convention, the Council of the League of Nations shall call a conference for that purpose. In any event, the Council will consider the desirability of calling a conference at the end of each period of five years.

In faith whereof the abovenamed Plenipotentiaries have agreed the present Convention.

Done at Geneva the twelfth day of September, one thousand nine hundred and twenty-three, in two originals of which one shall remain deposited in the archives of the League of Nations and the other shall remain deposited in the archives of the Government of the French Republic.
Questionnaire

Age-Group between 11-15 -10 15-20-30
21-25 —30 25-40 -- 25 40 and above—20

Occupation- lawyers, students, businesspersons, housewives, professionals, teachers, judges, retired persons , police.

What is your concept of obscenity?

Many have felt that there is no definite definition of obscenity under the law. Without proper definition there can not be any punishment for obscenity because the person responsible for depraving or corrupting does not know that what he has done is an offense. Some have tried to define obscenity in their own way. Few of the interesting definitions are as under:-

Shashi Sharma—Obscenity is usually limited to explicit sexual acts including spoken and written expression that can be publicly accessed and transmitted which affect the prevalent social morality and the cultural prescription. The definition of obscenity should change with changing social and global scenario.

Govind Dhaske—Obscenity is a subjective feeling based on culture and practices and behaviour of persons.

Arun Panicker—Any matter which is lascivious and prurient to interest of young mind is called obscene.

Manjiri Mayee— The concept of obscenity can differ from person to person and country to country depending on the moral standards of the society. My concept of obscenity is something which is offensive to modesty or decency i.e. any obscene material, picture, or act for that matter.

Gool Patel— Lewd or loose and vulgar talk, remarks, outrageous behaviour shown in body language, indecent dressing, emphasizing too much on body parts.

Atul Sathe— Obscenity is that vulgar depiction of human body and emotions that goes beyond good value and good taste. There is a thin line between divine eroticism and obscenity.
Others have more or less thought of obscenity in a similar way.

Do you think there is an increase in obscenity in the society?

60% -yes 35%-no 5% cannot say

Is obscenity more prevalent in the metropolitan and tier I cities as against tier II and tier III cities?

50% -yes 45% -no 5% cannot say

Do you think obscenity is on the rise in India?

53% -yes 37-no 10% cannot say

Has westernisation often misunderstood as modernisation, let to an increase in obscenity especially in dress?

50% -yes 45% -no 5%-cannot say

Has Bollywood contributed significantly to obscenity? How?

55%-yes 45%-no 5%-cannot say

Are you aware of any specific laws governing obscenity?

20%-yes 60%-not specific laws 20%-none at all

If yes, do existing laws suffice in your opinion or they require more teeth?

36%- sufficient 46%-more stringent laws 18%-no laws should be there

If no, do you believe that obscenity especially in dress and sometimes in public behaviour is an irreversible part of globalisation and should be kept out of the ambit of legislation altogether?

20%-yes – no legislation 39%-no, legislation a must 25%-cannot say

Do you think that awareness of the existing laws dealing with obscenity needs to be heightened?

66% -yes 19%-no 15% cannot say

Do you agree that celebrities are often targeted by publicity seeking individuals on frivolous grounds of obscenity?
Do you subscribe to the view that the recent Richard Gere –Shilpa Shetty episode of kissing was blown out of all proportions by the media and did not deserve to be yet another addition to an already clogged legal system?

53%-yes 37%-no 10%-cannot say

Do courts have more pressing and urgent issues to attend than judge the length and breadth of a film /television stars dress?

80%-yes 15%-no 5%-cannot say

Should obscenity be left to the discretion of the public domain or remain in the private domain?

70%-yes – public domain 20%-private matter 10%-cannot say

Do you think that the law makers in India have a special duty to promulgate deterrent legislation on obscenity, in view of India’s long history of culture and tradition?

70%-yes 20%-no 10%-can not say

Do you feel that laws governing obscenity involve wide participation by women of different backgrounds, that is to say women and not men should decide what is obscene and what is not?

50%-yes 45%- no 5%-can not say

Can you think of any practical workable ways to check or curb the obscene material on the Internet?

45%-yes, through filter system 45%-no, democratic right to view what one wants to 10%-can not say

Law on obscenity should be followed more in breach?
25%-yes  60%-no  15%-can not say

Should laws regarding obscenity should be made simple and workable to achieve this end? How?

40%-yes  40%-no  20%-can not say

The answers are: Websites should be blocked. Network service providers should be prosecuted if they have knowledge of obscene content. Internet which is easily accessible is largely to be blamed for increasing obscenity.

Many felt that the issue of obscenity should not be taken lightly because the morality of the future generation depends on it. Laws governing obscenity should be tightened. We should have stricter obscenity laws. There should be more awareness regarding laws and rules dealing with obscenity. Though laws regarding obscenity are made, they are not implemented properly. Legislation should revive Vedic spiritual teachings.

Laws which are existing on this topic should be taught in colleges to all students, not only students of law. The adverse effect should be emphasized while teaching obscenity laws. An obscenity cell should be constituted for curbing and controlling and punishing the culprits of obscenity.

Legislation should be aimed at creating a deterrent effect rather than merely providing more teeth. There is a greater need of the judiciary to show at least intermittent judicial activism in its own functioning and reorient to the changing needs of the society due to technological advancements. There should be more awareness regarding obscenity laws. Laws should be simplified and more specific.

Lack of political will to preserve the social fabric has diluted the spirit for enforcement of the prevailing laws relating to social order and public morality. Most of the so-called celebrities prefer the shortcut route of obscene dressing and behaviour for low cost publicity.

Media can play a better role. Media’s impact is very high on the cultural values of youth. But due to the media there is increase in the obscenity. Newspapers carry almost nude photographs of girls, have articles on how to have better sex, how to please your partner in bed etc. These kind of exposure definitely contributes to increasing obscenity in the society. Media should print about laws dealing with obscenity for the knowledge of general public.

Good behaviour, decent dressing and attitudes can be corrected and inculcated by parents and teachers.

The more we ape western culture and behaviour, there will be more obscenity in the country.
Can obscenity ever be brought out of the realm of relative to absolute?

30%-yes 60%-no 10%-cannot say

As of date, there will be billions of web-sites with explicit obscene content. Should such sites be blocked and websites/ network service providers be prosecuted?

60%-yes 20%-no 20% cannot say

Do you believe that public display of affection specially kissing in public places amounts to obscene behaviour?

60%-yes 30%-no 10%-cannot say

Do beauty pageants have an element of obscenity?

70%-yes 30%-no 10%-cannot say

The following could be responsible for promoting / propagating obscene:-

1. T.V. Programmes  2. Internet  3. mms  4. any other media

50% feel it is internet, 38% feel it is all of the above including the tabloids and magazines, 10% feel it is mms (multi media messaging service), 2% feel foreign films.

Do you think advertisement agencies are treating women’s body as a tool for selling their products?

60%-yes 20%-no 20%-cannot say

Do you think obscene behaviour is the invasion on the traditional Indian culture?

60%-yes 30%-no 10%-cannot say
Panel discussion on Obscenity

A panel discussion on Obscenity at XXXI Indian Social Science Congress - Focal Theme People’s struggle movements for Equitable Society held at the SNDT women’s University, Mumbai on December 26,2007. The researcher was the chair-person for the panel discussion. This discussion was attended by about 100 people, most of them lawyers and students of LL.M. The gist of the panel discussion is as under:-

Laws dealing with obscenity require to be more practical and comprehensive.
There should be strict laws to control and punish obscenity.
The term obscenity should be capable of proper definition.
Whether the particular act or film or writing is obscene or not should be known the creator or maker, so that he can not be punished for something he did not intent to do.
If there is commercial exploitation of the obscene images or photos of women, the punishment should be very strict so that it becomes a deterrent for others.
Cyber cells should be established even in small towns.
Police should be vigilant in curbing obscenity and punishing the culprits.
People should be made aware of the laws regarding obscenity.
Employment and education opportunities for women should be provided by the Government.
The present requirement and efforts are on preserving genuine artistic works and arts on the on hand and to weed out the wild, obscene and pornographic works on the other hand.
The Constitution of India provides protection to individuals, who are victims of this menace, in the form of Article 21 by protecting their privacy rights.
Articles on how to have more sex or better sexual satisfaction should not be published in the newspapers.
Obscenity has never existed in India because women were always respected as mothers or sisters in the ancient times. Sexual activity was a kind of spiritual, higher practice and not gross enjoyment of the senses. Only after the Moghul rule, when too many women were raped and sexually assaulted that obscenity increased in the society.
The present requirement and efforts should be on preserving genuine artistic works and arts on the one hand and to weed out the wild, obscene and pornographic works on the other hand.
There are increasing number of cases on internet obscenity. Laws should be implemented strictly to curb this problem. Children are misusing the internet for various purposes.
A women looks like a million dollar. Her face is her fortune, women’s beauty is a form of currency in circulation among men. These kind of statements which are very commonly made, make women like a saleable commodity. Over time, pornography has grown more and more sexually explicit as producers have taken advantage of the freedoms that accompanied the spread of democracy. The widespread availability of pornography on the Internet has led to a number of problems involving children.
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