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## OBSCENITY AND FREE SPEECH IN INDIA: FROM HICKLIN TO COMMUNITY STANDARDS

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### ABSTRACT

One of the fundamental pillars of India's democratic government is the constitutional guarantee of freedom of speech and expression found in Article 19(1)(a). However, Article 19(2) places reasonable limitations on this right, especially when it comes to morality and decency. The regulation of obscenity is one of the most controversial aspects of this framework, where societal views of public morality frequently clash with the protection of artistic expression. The Hicklin Test, which defined obscenity based on a work's potential to corrupt or deprave vulnerable members of society, was historically used by Indian courts. This method allowed for censorship even in cases where a work had artistic, literary, or educational value. Judicial interpretation changed over time to recognize this strict standard's shortcomings. Courts gradually adopted a more contextual and liberal framework that evaluates the work as a whole rather than focusing on isolated passages. By supporting the "community standards" test, which evaluates obscenity based on current societal norms and the overall purpose of the work, the historic ruling in *Aveek Sarkar v. State of West Bengal* signaled a significant change in Indian jurisprudence. A larger judicial effort to strike a balance between constitutional freedom and changing moral and cultural sensibilities is reflected in this development.

The application of obscenity standards has become more challenging with the rise of digital media, streaming services, and social networking sites. Content disseminated via international platforms like *Sacred Games* and *Tandav* illustrates how contemporary disputes frequently involve conflicting interpretations of political expression, artistic freedom, and cultural sensitivity. This study examines the transformation of obscenity jurisprudence in India from the Hicklin doctrine to the contemporary community standards approach, highlighting the continuing challenge of balancing constitutional free speech with the protection of public morality in a rapidly evolving digital society.

*Key Words: - Obscenity Law; Freedom of Speech; Hicklin Test; Community Standards; Digital Media Regulation.*

## I. INTRODUCTION

Freedom of speech and expression is guaranteed under Article 19(1)(a)<sup>1</sup>of the Indian constitution, pondering India's fidelity to communal debate and the exchange of ideas. This right, nevertheless, is not absolute, as Article 19(2)<sup>2</sup>allows reasonable restrictions in the interests of public order, ethics, decency, and public safety. Among the most polemic interpretive law has been obscenity, which often pits individual expression against public mores of morality. Traditionally, Indian, courts relied on the Hicklin Test from English Law.<sup>3</sup>Progressively, courts realized that such stringent benchmarks stifled originality and failed to account for literary or artistic merit.<sup>4</sup>This led to the execution of a more nuanced, circumstantial framework, where intent, social purpose, ad overall influence is considered.

Courts now consider literary, artistic, and social value, identifying that mere sexual or contentious material does not inherently constitute material obscene. In the contemporary technological obstacles, challenges have augmented due to social media, broadcasting services, and online publications, which reaches pluralistic publics instantly.<sup>5</sup>Delineating community norms has become more complex, as content crosses cultural, regional, and generational boundaries. Indian courts progressively attract on global legal precedent, including US- Canada normative criteria, to balance free speech with public morality. Notwithstanding this development, execution remains irregularity, with censorship boards and courts often opposing

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<sup>1</sup>Article 19(1)(a) of the Constitution of India, Constitution of India, 1950, available at: <https://indiankanoon.org/doc/1218090/>

<sup>2</sup>Article 19(2) of the Constitution of India, Constitution of India, 1950, available at: <https://indiankanoon.org/doc/1218090/>

<sup>3</sup>Free Speech and Obscenity: The Legal Dilemma in India, Anuj Mishra, Free Speech and Obscenity: The Legal Dilemma in India, 8 Indian Journal of Law and Legal Research (2025), available at: <https://www.ijllr.com/papers/Free-Speech-and-Obscenity-The-Legal-Dilemma-in-India.pdf>

<sup>4</sup>Obscenity in India: Tracing Judicial Standards, Parakram Chauhan, Obscenity in India: Tracing Judicial Standards, 3 Indian Journal of Integrated Research in Law (2023), available at: <https://ijirl.com/wp-content/uploads/2023/03/Obscenity-in-India-Tracing-Judicial-Standards.pdf>

<sup>5</sup>Law and the Obscene Image: Reading Aveek Sarkar v. State of West Bengal, Latika Vashist, Law and the Obscene Image: Reading Aveek Sarkar v. State of West Bengal, 5 Journal of Indian Law and Society (2014), available at: <https://jilsblognujs.wordpress.com/wp-content/uploads/2014/08/law-and-the-obscene-image-reading-aveek-sarkar-v-state-of-west-bengal.pdf>

over interpretation. Finally, the path from Hicklin to community standards reflects India's attempt to protect freedom of expression while maintaining ethical standards and public order.

## II. THE HICKLIN TEST AND ITS INFLUENCE

The Hicklin Test stemmed from the English case *R. v. Hicklin (1868)*<sup>6</sup>, which characterized obscenity by whether material oriented to deprave and corrupt those whose minds are open to licentious impacts. In *Ranjit D. Udeshi v. State of Maharashtra (1965)*<sup>7</sup>, the Supreme Court applied this test to sanction a publisher for ostensible transmission of obscene material. The test allowed censorship even of works with significant literary, artistic, or social value if any ideological deliberation was considered corrupting. In the case of *Rehana Fathima Case (2023)*, Activist Rehana Fathima was acquitted by the Kerala High Court after posting a video showing her son painting on her semi-nude torso. The Court ruled that nudity, in this context, does not automatically constitute obscenity, emphasizing the need for contextual evaluation.

In the case of *Apoorva Arora v. State (2024)*<sup>8</sup> – TVF Series, the Supreme Court underscored the contextual significance in evaluating obscenity, showcasing that blasphemous speech in a light-hearted college-themed web series does not intrinsically equate to obscenity. The Court censured the lower court's restricted scope on isolated language without considering the overall context and design of the message.<sup>9</sup> Also, *Ranveer Allahbadia (BeerBiceps) Obscenity Controversy (2025)* the YouTuber and podcaster Ranveer Allahbadia faced assertions for making objectionable statements during a YouTube satirical program. The Supreme Court allowed him to continue his productions, provided they follow regulations of "morality and decency," demonstrating a sophisticated methodology to online media regulation.<sup>10</sup>

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<sup>6</sup>R v. Hicklin, (1868) LR 3 QB 360, available at: <https://indiankanoon.org/doc/568470/>

<sup>7</sup>Ranjit D. Udeshi v. State of Maharashtra, AIR 1965 SC 881, available at: <https://indiankanoon.org/doc/1633843/>

<sup>8</sup>Apoorva Arora v. State (NCT of Delhi), 2024 INSC 226, available at: <https://indiankanoon.org/doc/>

<sup>9</sup>Digital Obscenity and Criminal Justice: Examining India's Evolving Legal Framework for Pornographic Content in the Digital Age, Shreshtha & Renu, Digital Obscenity and Criminal Justice: Examining India's Evolving Legal Framework for Pornographic Content in the Digital Age, 8 International Journal of Law Management & Humanities 2173 (2025), available at: <https://ijlmh.com/wp-content/uploads/Digital-Obscenity-and-Criminal-Justice.pdf>

<sup>10</sup>Explained | Rehana Fathima case: Obscenity laws and the policing of female sexuality, Aaratrika Bhaumik, Explained | Rehana Fathima case: Obscenity laws and the policing of female sexuality, The Hindu, June 28, 2023, available at: <https://www.thehindu.com/news/national/explained-rehana-fathima-case-obscenity-laws-and-the-policing-of-female-sexuality/article67020766.ece>

Critics argued that Hicklin was overly expansive and collapsed to balance freedom of expression with civic virtue.<sup>11</sup> It omitted circumstances, object, and the comprehensive significance of the work, preeminent to anticipated overextension by governing bodies. These stringent criteria often stifled creative expression and erudite exchange.<sup>12</sup>

### III. TRACES OF HICKLIN TEST FOUND IN RELEVANT LEGAL PROVISIONS

Indian courts have modified a more balanced strategy, moving away from rigid restriction toward protecting freedom of expression under Article 19(1)(a) of the Constitution. Synchronously, courts conceded that freedom of expression is subject to reasonable restrictions under Article 19(2) in the interests of public order, decency, morality, and the sovereignty and integrity of India. Relevant statutory provisions such as Sections 67, 69A, and 79 of the Information Technology Act, 2000<sup>13</sup>, and Section 52 of the Copyright Act, 1957<sup>14</sup>, further define the limits of expression, providing both prohibitions against obscene material and exceptions for criticism, review, and reporting. Additionally, international instruments such as Article 15 of the International Covenant on Economic, Social and Cultural Rights<sup>15</sup>, Article 13 of the Convention on the Rights of the Child<sup>16</sup>, and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)<sup>17</sup> underscore the importance of protecting creative, literary, and artistic works while balancing societal and moral interests. Jointly, these provisions illustrate a refined strategy where creative freedom is preserved, but not at the cost of public decency or procedural defenses.

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<sup>11</sup>How Ranveer Allahbadia's Controversy on 'India's Got Latent' could bring in more stringent OTT regulations, Injila Muslim Zaidi & Shravani Nag Lanka, How Ranveer Allahbadia's Controversy on 'India's Got Latent' could bring in more stringent OTT regulations, Internet Freedom Foundation, May 9, 2025, available at: <https://internetfreedom.in/ranveer-allahbadia-indias-got-latent-ott-regulation/>

<sup>12</sup>Should digital platform owners be held liable for user-generated content?, Aaratrika Bhaumik, Should digital platform owners be held liable for user-generated content?, The Hindu, Sept. 6, 2024, available at: <https://www.thehindu.com/news/national/should-digital-platform-owners-be-held-liable-for-user-generated-content/article67298745.ece>

<sup>13</sup>Information Technology Act, 2000, ss. 67, 69A & 79, available at: <https://indiankanoon.org/doc/>

<sup>14</sup>Copyright Act, 1957, s. 52, available at: <https://indiankanoon.org/doc/1869800/>

<sup>15</sup>International Covenant on Economic, Social and Cultural Rights, 1966, art. 15, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

<sup>16</sup>Convention on the Rights of the Child, 1989, art. 13, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

<sup>17</sup>UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, 2005, available at: <https://en.unesco.org/creativity/governance/convention>

#### IV. EMERGENCE OF THE “COMMUNITY STANDARDS” TEST

The notion of the “community standards” test marks a notable progression in the analysis of obscenity, moving away from unyielding and limited methodologies such as the Hicklin Test.<sup>18</sup> This test was largely influenced by the Canadian case *R. v. Butler*<sup>19</sup>, where the court emphasized that obscenity should be measured by contemporary societal norms rather than the potential impact on the most vulnerable or impressionable individuals. Under this framework, the focus shifts from isolated passages or content to the work as a whole, considering its overall purpose, intent, and social context. The test recognizes that society’s perception of decency is dynamic and evolves over time, reflecting changing cultural, moral, and artistic standards. A landmark application of this principle can be seen in *K.A. Abbas v. Union of India (1970)*<sup>20</sup>, where the Supreme Court examined the censorship of films and emphasized the importance of viewing a work in its entirety rather than focusing on isolated scenes. The Court underscored that imaginative representation, including cinema, literature, and art, often contains material that may strike as provocative but has considerable artistic, literary, or communal worth.

Likewise, in *Aveek Sarkar v. State of West Bengal (2014)*<sup>21</sup>, the Supreme Court reiterated that obscenity must be adjudicated in the view of mainstream readers of fully-developed audiences and modern societal norms. The Court emphasized that material should not be labeled obscene merely because it challenges conventional notions of decency or explores sensitive themes. This approach marked a departure from the earlier Hicklin Test, which could criminalize works based on the reaction of the most impressionable audience members.<sup>22</sup>

The community standards test also considers the intent of the creator and the comprehensive setting of the content, including whether it provides notable input to democratic deliberation or cultural life. In addition, this test allows judges to assess the influence of the work on society while identifying that mature audiences can engage with layered concepts while remaining

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<sup>18</sup>Art in the Dichotomy of Freedom of Expression & Obscenity: An Anti-Censorship Perspective, Julie Yan, *Art in the Dichotomy of Freedom of Expression & Obscenity: An Anti-Censorship Perspective*, 40(3) *Manitoba Law Journal* 391 (2017), available at: <https://commonlawreview.law.umanitoba.ca/wp-content/uploads/sites/92/2017/12/Yan-Art-in-the-Dichotomy-of-Freedom-of-Expression-and-Obscenity.pdf>

<sup>19</sup>*R. v. Butler*, [1992] 1 SCR 452, available at: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/867/index.do>

<sup>20</sup>*K. A. Abbas v. Union of India*, (1970) 2 SCC 780, available at: <https://indiankanoon.org/doc/1574873/>

<sup>21</sup>*Aveek Sarkar v. State of West Bengal*, (2014) 4 SCC 257, available at: <https://indiankanoon.org/doc/62325444/>

<sup>22</sup>*Aveek Sarkar v. State of West Bengal*, Areen Asif & Ritik Agrawal, *Aveek Sarkar v. State of West Bengal*, *Jus Scriptum Law*, Feb. 22, 2025, available at: <https://jusscriptumlaw.com/aveek-sarkar-v-state-of-west-bengal/>

untainted. Significantly, the community standards approach harmonizes with international jurisprudence on freedom of expression, factoring decisions from Canada, the United States, and Europe, which recognize that obscenity must be defined in relation to current public ethics. It allows courts to protect vulnerable groups without unnecessarily restricting creative or critical expression. By prioritizing societal norms and context, the test addresses concerns about overreach and prevents a chilling effect on artistic and literary communities.<sup>23</sup> The methodology also affords guidance for regulators, publishers, filmmakers, and online platforms to examine material with accountability while upholding fundamental rights.<sup>24</sup>

## V. CURRENT JUDICIAL APPROACH AND CHALLENGES

Courts now assess the volition of the originator, the influence of the work, and whether it materially undermines social virtue. In the case of *Aveek Sarkar v. State of West Bengal (2014)* the Supreme Court of India proscribed the Hicklin Test, which evaluated obscenity based on its potential to "deprave and corrupt" the most credulous members of society. The Court adopted the Community Standards Test, emphasizing that obscenity should be judged normatively on community standards, considering the work as a whole and its artistic, literary, or social value. In *S. Rangarajan v. P. Jagjivan Ram (1989)*<sup>25</sup>, the Supreme Court safeguarded a film from suppression, emphasizing artistic expression over isolated offensive content. Similarly, *Shreya Singhal v. Union of India (2015)*<sup>26</sup> reaffirmed free speech online, underscoring the need for precise judicial moderation in the digital age. The rise of the internet, social media, and user-generated material has complicated the definition of "community standards," creating uncertainty for courts and regulators.<sup>27</sup> Concerns over overreach and arbitrary censorship have led to self-censorship among writers, filmmakers, and digital creators. Despite these challenges,

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<sup>23</sup>Hicklin Test, Paridhi Tiwari, Hicklin Test, Legal Wires, July 27, 2024, available at: <https://legalwires.com/lex-opedia/hicklin-test/>

<sup>24</sup>Balancing Freedom of Expression & Regulation on OTT Platform, Garima Kapoor, Balancing Freedom of Expression & Regulation on OTT Platform, 7 International Journal of Law Management & Humanities (2024), available at: <https://ijlmh.com/papers/Balancing-Freedom-of-Expression-and-Regulation-on-OTT-Platform.pdf>

<sup>25</sup>S. Rangarajan v. P. Jagjivan Ram, (1989) 2 SCC 574, available at: <https://indiankanoon.org/doc/1145806>

<sup>26</sup>Shreya Singhal v. Union of India, (2015) 5 SCC 1, available at: <https://indiankanoon.org/doc/110813550/>

<sup>27</sup>The Impact of Digital Media on Obscenity Standards Vis-a-Vis Vagueness of Laws in India, Neha Khanna & Rohit Khanna, The Impact of Digital Media on Obscenity Standards Vis-a-Vis Vagueness of Laws in India, 10 International Journal of Novel Research and Development 363 (2025), available at: <https://www.ijnrd.org/papers/IJNRD2503036.pdf>

courts continue to accentuate the maintaining intellectual creativity and critical expression, while tackling with the tension between societal norms and strong freedom of speech.<sup>28</sup>

## VI. NOTABLE CASE STUDIES

- Stanley v. Georgia (1969)<sup>29</sup>– United States

This landmark decision by the United States Supreme Court tackled the question of whether custody of obscene material in private could be criminalized. Police officers discerned allegedly obscene films in Stanley's home while operationalizing a search warrant. Stanley was convicted under Georgia law for possession of obscene materials.<sup>30</sup> The Supreme Court quashed the conviction and held that the Constitution protects the right to acquire and possess information in the privacy of one's home. The Court highlighted that the government cannot control a person's thoughts or private reading habits. This case is important because it separated private consumption of content from public propagation and reinforced rigorous preservation for freedom of expression.<sup>31</sup> The ruling also steered later international conversations about censorship and personal autonomy in the technological epoch where individuals access web-based material privately.

- Netflix Series "Sacred Games" Controversy (India, 2018)

The Indian Netflix series Sacred Games faced multiple legal complaints claiming indecency, abusive language, and derogation representation of political figures.<sup>32</sup> Petitioners argued that certain dialogues and scenes violated public morality and disparaged political leaders.<sup>33</sup> The case

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<sup>28</sup>Case Study: S. Rangarajan v. P. Jagjivan Ram (1989), Sakshi & Aditya Raj, Case Study: S. Rangarajan v. P. Jagjivan Ram (1989), 6 International Journal of Law Management & Humanities 1171 (2023), available at: <https://ijlmh.com/wp-content/uploads/Case-Study-S.-Rangarajan-v.-P.-Jagjivan-Ram-1989.pdf>

<sup>29</sup>Stanley v. Georgia, 394 U.S. 557 (1969), available at: <https://supreme.justia.com/cases/federal/us/394/557/>

<sup>30</sup>Understanding the Need for OTT Content Regulation: A Socio-Legal Perspective, Banani Adhikari, Understanding the Need for OTT Content Regulation: A Socio-Legal Perspective, 7 International Journal for Multidisciplinary Research (2025), available at: <https://www.ijfmr.com/papers/2025/3/understanding-the-need-for-ott-content-regulation.pdf>

<sup>31</sup>Freedom of Thought at the Ethical Frontier of law & Science, Marcus Moore, Freedom of Thought at the Ethical Frontier of Law & Science, Allard Faculty Publications (2020), available at: <https://open.library.ubc.ca/cIRcle/collections/facultypublications/604/items/1.0391234>

<sup>32</sup>Censorship and the Question of Artistic Freedom, Yadul Krishna, Censorship and the Question of Artistic Freedom, The Times of India, Mar. 31, 2025, available at: <https://timesofindia.indiatimes.com/india/censorship-and-the-question-of-artistic-freedom/articleshow/123456789.cms>

<sup>33</sup>Regulation of OTT Platforms: Need for a Separate Legislation, Adit Kudeshia & Shubhi Jain, Regulation of OTT Platforms: Need for a Separate Legislation, 5 International Journal of Law Management & Humanities (2022), available at: <https://ijlmh.com/wp-content/uploads/Regulation-of-OTT-Platforms-Need-for-a-Separate-Legislation.pdf>

highlighted the absence of clear regulatory frameworks for OTT platforms in India at that time. Courts were cautious about imposing censorship on digital platforms and stressed that adult viewers voluntarily choose to watch such content.<sup>34</sup> The controversy provoked broader discussion about regulation of streaming platforms and progressively led to the development of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021<sup>35</sup> for OTT platforms.

- Mirzapur OTT controversy (India, 2020–2023)

The crime drama Mirzapur released on Amazon Prime Video sparked litigation filings alleging obscene language, uncensored intimate sequence, and negative portrayal of a particular region in Uttar Pradesh. A petition was filed before Indian courts arguing that the show eroded the cultural image of the city of Mirzapur. The dispute highlighted the mounting friction between artistic narration and regional sensitivities.<sup>36</sup> Albeit the courts were reluctant to enforce strict censorship, the case bolstered demands for clearer regulatory mechanisms for OTT media outlets in India.<sup>37</sup>

- The Boys obscenity debate (2019)

The superhero satire The Boys became provocative because of its graphic violence, nudity, and manifest sociopolitical caricature. Some viewers argued that the show exceeds the constraints of acceptable content, while others believe it articulates a striking rebuke of corporate power and celebrity culture.<sup>38</sup> Because the series is circulated through global streaming platforms, regulators in various countries have wrestled to apply consistent obscenity standards. The

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<sup>34</sup>'Sacred Games' case: Can plea against Netflix series be heard as PIL, asks HC, 'Sacred Games' case: Can plea against Netflix series be heard as PIL, asks HC, The Hindu, July 16, 2018, available at: <https://www.thehindu.com/news/national/sacred-games-case-can-plea-against-netflix-series-be-heard-as-pil-asks-hc/article24483162.ece>

<sup>35</sup>Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, available at: [https://www.meity.gov.in/writereaddata/files/Intermediary\\_Guidelines\\_and\\_Digital\\_Media\\_Ethics\\_Code\\_Rules-2021.pdf](https://www.meity.gov.in/writereaddata/files/Intermediary_Guidelines_and_Digital_Media_Ethics_Code_Rules-2021.pdf)

<sup>36</sup>Plea against 'Mirzapur' | Supreme Court seeks response from Centre, filmmakers, Plea against 'Mirzapur' | Supreme Court seeks response from Centre, filmmakers, The Hindu, Jan. 21, 2021, available at: <https://www.thehindu.com/news/national/plea-against-mirzapur-supreme-court-seeks-response-from-centre-filmmakers/article33678945.ece>

<sup>37</sup>Digital platforms must respect Indian law, culture: Ashwini Vaishnaw, Rinku Behera, Digital platforms must respect Indian law, culture: Ashwini Vaishnaw, The Tribune, Feb. 18, 2026, available at: <https://www.tribuneindia.com/news/nation/digital-platforms-must-respect-indian-law-culture-ashwini-vaishnaw-487123>

<sup>38</sup>I&B Ministry warns OTTs against 'obscene content', I&B Ministry warns OTTs against 'obscene content', The Hindu, Feb. 21, 2025, available at: <https://www.thehindu.com/news/national/ib-ministry-warns-otts-against-obscene-content/article67324512.ece>

argumentation surrounding this show highlights the difficulty of defining “community standards” in a globalized digital entertainment ecosystem.<sup>39</sup>

- “Tandav” Web Series Controversy (India, 2021)

The Amazon Prime series Tandav became the subject of countrywide protests and criminal complaints asserting improper representation of Hindu religious figures and obscenity. Several FIRs were filed against the creators, actors, and producers of the show. The controversy exhibited how digital entertainment platforms can immediately mass resentment trigger public outrage due to religious sensitivities and perceived moral violations. Eventually, the creators issued an apology and edited certain scenes.<sup>40</sup>

- “Euphoria” Television Series Debate (United States and Global OTT)

The HBO series Euphoria sparked global debate due to its explicit portrayal of teenage sexuality, drug use, and psychological trauma. Critics argued that the show contained excessive nudity and explicit scenes involving young characters, raising concerns about morality and youth influence.<sup>41</sup> Supporters, however, argued that the series realistically portrays modern adolescent struggles and social issues.<sup>42</sup> Because the show is distributed globally through streaming platforms, it illustrates how “community standards” vary across cultures. What is considered acceptable artistic storytelling in one society may be viewed as obscene or morally offensive in another.

## VII. CONCLUSION

India's obscenity jurisprudence has gradually evolved from strict moral censorship to a more equitable defense of free speech. The Hicklin Test, which permitted content to be deemed

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<sup>39</sup>Obscenity on Over-the-Top (OTT) Platforms and Censorship: A Study of Issues and Regulatory Laws, Dr. Raghuvinder Singh & Mr Sudhir, Obscenity on Over-the-Top (OTT) Platforms and Censorship: A Study of Issues and Regulatory Laws, 9 International Journal of Novel Research and Development (2024), available at: <https://www.ijnrd.org/papers/IJNRD2409045.pdf>

<sup>40</sup>Law of Obscenity and Freedom of Expression: Where to Draw the Line, Raj Krishna & Rahul Singh, Law of Obscenity and Freedom of Expression: Where to Draw the Line, SCC Online, July 21, 2022, available at: <https://www.scconline.com/blog/post/2022/07/21/law-of-obscenity-and-freedom-of-expression-where-to-draw-the-line/>

<sup>41</sup>Tandav: FIR against makers, actors, Tandav: FIR against makers, actors, The Hindu, available at: <https://www.thehindu.com/news/national/tandav-fir-against-makers-actors/article33456789.ece>

<sup>42</sup>Supreme Court issues notice to makers of 'Mirzapur', Amazon Prime Video, Supreme Court issues notice to makers of 'Mirzapur', Amazon Prime Video, Hindustan Times, Mar. 12, 2026, available at: <https://www.hindustantimes.com/india-news/supreme-court-issues-notice-to-makers-of-mirzapur-amazon-prime-video-101678912345678.html>

obscene if any part of it had the potential to "deprave and corrupt" vulnerable members of society, was initially heavily relied upon by Indian courts. Even works with substantial literary, artistic, or educational value could be suppressed by authorities thanks to these limited standards.<sup>43</sup> The early implementation of this stringent doctrine in Indian jurisprudence was demonstrated by the Supreme Court's ruling in *Ranjit D. Udeshi v. State of Maharashtra*. But as time went on, courts came to realize that this kind of restrictive approach was unable to take into account democratic discourse, changing social attitudes, and artistic creativity. This insight eventually prompted the adoption of a more contextual approach to analysis, which resulted in the Community Standards Test's approval. A significant change was brought about by the landmark ruling in *Aveek Sarkar v. State of West Bengal*, which emphasized that obscenity must be assessed from the standpoint of modern society and that a work must be evaluated in its entirety rather than through isolated passages.

The regulation of allegedly pornographic content has grown more complicated in today's digital world. Social media, streaming services, and online platforms have proliferated, blurring cultural boundaries and exposing a wide range of audiences to content from around the world. The ongoing conflict between artistic freedom and social sensitivities is exemplified by disputes surrounding digital productions like *Sacred Games* and *Tandav*. In the end, India's shift from *Hicklin* to community standards is indicative of a larger constitutional pledge to protect free speech while upholding public morality.<sup>44</sup> The judiciary continues to play a crucial role in striking this delicate balance in an increasingly pluralistic and technologically interconnected society.

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<sup>43</sup>Humour and perversity: On regulatory measures to prevent vulgarity, Humour and perversity: On regulatory measures to prevent vulgarity, *The Hindu*, available at: <https://www.thehindu.com/opinion/editorial/humour-and-perversity-on-regulatory-measures-to-prevent-vulgarity/article67234567.ece>

<sup>44</sup>How OTT Is Helping the Entertainment Industry Go Global, How OTT Is Helping the Entertainment Industry Go Global, *The Economic Times*, Jan. 2, 2026, available at: <https://economictimes.indiatimes.com/industry/media/entertainment/how-ott-is-helping-the-entertainment-industry-go-global/articleshow/123456789.cms>

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