By Siddharth Narrain

The National Commission for Women has recommended amendments to the Indecent Representation of Women Act, broadening the definition of “indecent representation” and introducing more stringent punishment under the law. But with this move, is the NCW taking the debate on representation of women in the media forward in any meaningful way?

The Indecent Representation of Women Act (IRWA) was enacted in 1987, supposedly in response to demands from the women's movement to tackle the derogatory depiction of women in the media. This law defines 'indecent representation of women' as 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 of being derogatory or denigrating women or is likely to deprave, corrupt or injure the public morality or morals of any person or persons of any class or group”.

Since its enactment, the IRWA has been criticised by many feminists and persons within the women's movement for a number of different reasons:

- Curtailing the constitutional right to freedom of speech and expression.
- Framing the debate around sexist representations in terms of women's shame and honour, as well as public morality.
- For being used to camouflage a deep discomfort with women's sexuality.

Instead of taking this criticism on board, the National Commission for Women (NCW) has drafted amendments to the IRWA that seek to broaden the definition of ‘indecent representation’, expand the scope of the Act to include electronic and digital media, and make more stringent the punishment prescribed by the law. At a seminar held in Mumbai recently, NCW chairperson Girija Vyas said that the commission would hold five seminars across the country to gather opinions on the amendments from Bollywood personalities, members of the Press Council, advertising professionals, and social workers.

The NCW has proposed that the existing definition of ‘advertisement’ in the IRWA be expanded to include ‘laser light, sound, fibre optic, electronic or any other media’. It has recommended the inclusion of electronically and digitally conceived files distributed through audio-visual media, including computer and satellite-connected intra or Internet communications. It has suggested that the maximum fine for a repeat offender be increased from Rs 10,000 to Rs 500,000. Vyas has been reported as saying that the NCW is in favour of increasing the term of punishment and penalty from two years to five years, and from Rs 2,000 to Rs 10,000.

The most troubling part of the amendments is the proposal to expand the definition of ‘indecent representation of women' to include “the depiction of women as a sexual object which is lascivious or appeals to the prurient interest”. Besides widening the scope of the existing law, this will cloud the distinction between existing laws relating to obscenity and the IRWA.

Sections 292, 293 and 294 of the Indian Penal Code (IPC) govern the general law of obscenity in India. In the 1965 case of Ranjit Udeshi, the Supreme Court upheld the constitutional validity of the obscenity law on the grounds that it constitutes a reasonable restriction on the right to freedom of expression, which is incorporated in Article 19 (2)(d) of the Constitution. The case
involved an appeal by a bookseller against the Bombay High Court's decision to convict him together with his partners for being in possession of an 'obscene book for the purpose of sale', the book in question being *Lady Chatterley's Lover* by D H Lawrence.

The Supreme Court, after upholding the constitutionality of the provision, went on to consider whether the book was obscene. For this, it adopted and expanded on the scope of the test for obscenity laid out in the 1868 English case R v Hicklin, or the Hicklin test, which defined obscenity as matter which had the tendency “to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort might fall”. The Hicklin test allowed a publication to be judged for obscenity based on isolated passages of a work considered out of context and judged by their apparent influence on “most susceptible” readers such as children or weak-minded adults.

In its later decisions, the Supreme Court modified the focus of the Hicklin test to include concerns of decency and modesty, and having the effect of depraving and corrupting. A material would thus be offensive if it involved treating sex in a way that appealed to ‘the carnal sides of human nature' or had such a tendency. The court has held that such material was offensive to modesty and decency, ‘as judged by national standards, and considered likely to pander to lascivious, prurient, or sexually precocious minds'.

The controversy over the banning of the Amul Macho and Lux Cosy underwear advertisements, under the Cable Television Network Act, in July 2007, is a prime example of how the portrayal of women's sexuality can be censored under the guise of obscenity and indecency.

The Amul Macho advertisement (available at [www.youtube.com/watch?v=xhFkPOiegXg](http://www.youtube.com/watch?v=xhFkPOiegXg)) begins with a demure woman descending the stairs of a common washing area, where other women have gathered and are chatting amongst themselves. The demure looking woman suddenly becomes aggressive, squeezing and striking the underwear of a man against the floor whilst washing it. Her actions get more suggestive and she appears to be getting more turned on as she continues pounding. The advertisement ends with the punch line -- Amul Macho: Crafted for Fantasies. In the Lux Cosy advertisement, a washerwoman calls at an apartment to pick up the laundry and a man wearing a towel answers the door. As his towel drops, leaving him only in his underwear, she eyes him flirtatiously.

The Information and Broadcasting Ministry considered both these advertisements indecent, vulgar and suggestive and thus violative of Rule 7 (8) of the Advertising Code prescribed under the Cable Television Networks (Regulation) Act 1995, despite them being cleared by the Advertising Standards Council of India (ASCI), the self-regulatory body of the advertising industry.

According to Vyas, the immediate reason for these recommendations is the proliferation of indecent advertisements on the Internet and television.

However, there are enough laws that deal with the regulation of content on television and the Internet. These include the Direct to Home (DTH) Guidelines, uplinking and downlinking guidelines that use the existing provisions of the Cable Television Networks Act to govern content.
The Telecom Regulatory Authority of India (TRAI) has recommended that content on new broadcast technologies like Internet Protocol Television (IPTV) Services and Mobile Television Services be governed in accordance with the existing Cable Television Networks Act and Rules.

The Ministry of Information and Broadcasting's proposed Content Code, which, along with its proposed Broadcasting Bill, is aimed at consolidating existing broadcasting laws, says that the content of broadcasting channels cannot “present 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 women or depict women as mere objects or symbols of sexual desires or behaviour”. As far as the Internet is concerned, Section 67 of the Information Technology Act 2000 is worded widely enough to cover indecent representation and obscenity on the Net.

By advocating widening the scope of a law that has been criticised widely from within the women's movement, and not taking into account the existing legal framework, the NCW has shown that it has no interest in taking forward the debate on representation of women in the media in any meaningful manner.

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InfoChange News & Features, June 2008