

Ranveer Allahbadia Row: Crude Humour or Legal Obscenity?

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The intersection of free speech and obscenity laws in India is a contentious issue, with provocative content often sparking legal and moral debates. A recent controversy surrounding influencer [Ranveer Allahbadia's comment](#) on a comedy show has raised critical legal questions about whether his remarks qualify as obscene under Indian law.

This article examines the legal framework governing obscenity, judicial precedents and the application of contemporary community standards to determine whether the comment meets the legal threshold for obscenity.

Historical foundations of Indian obscenity laws

India's obscenity laws originated in colonial-era statutes, most notably [Section 292](#) of the Indian Penal Code, which criminalised the sale or circulation of material deemed "lascivious", "prurient" or capable of "depraving and corrupting" individuals.

For decades, Indian courts relied on the Hicklin test, derived from the English case *Regina v. Hicklin* (1868), which judged obscenity based on whether isolated passages of a work could 'corrupt' susceptible minds, such as minors or morally vulnerable individuals. This paternalistic standard prioritised societal morality over artistic or literary merit, leading to the banning of works like D.H. Lawrence's *Lady Chatterley's Lover* in [Ranjit D. Udeshi v. State of Maharashtra \(1965\)](#).

However, the Hicklin test's rigidity drew criticism for stifling creative expression and ignoring context. In *Ranjit Udeshi*, the Supreme Court introduced [three modifications](#).

First, nudity or sexuality in art and literature are not inherently obscene. Second, works must be evaluated as a whole rather than through isolated excerpts. Last, a defence exists if the material serves a public good.

These modifications signalled a shift toward a more nuanced understanding of obscenity, culminating in the landmark *Aveek Sarkar v. State of West Bengal* (2014) case. In this ruling, the Supreme Court abandoned the Hicklin test entirely and adopted the “community standard test”, aligning Indian law with the US precedent set in *Roth v. United States* (1957).

This test evaluates obscenity through the lens of “contemporary community standards”, requiring courts to assess whether the average person, applying prevailing societal norms, would find that the material has the tendency to arouse feeling or reveal an overt sexual desire and excites sexual passion in persons who are likely to see it.



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The community standard test and its application

The community standard test represents a significant shift in Indian obscenity jurisprudence. Unlike the Hicklin test, which focused on protecting the most impressionable individuals, this doctrine emphasises societal evolution and majority sensibilities.

Obscenity is judged from the standpoint of an ordinary, reasonable adult rather than hypersensitive individuals or vulnerable groups. This acknowledges that societal norms evolve and that freedom of expression cannot be curtailed merely to placate minority moral outrage. Courts must consider the present-day values of Indian society, which are shaped by globalisation, digitalisation and cultural pluralism.

For example, in the *Aveek Sarkar* case, which involved a semi-nude photograph of tennis player Boris Becker and his fiancée, the Supreme Court ruled that nudity alone is not obscene unless it reveals “overt sexual desire” or is designed to “excite sexual passion” in viewers.

Material must also be assessed in its entirety, not through decontextualised fragments, to protect satirical, educational or artistic works that might contain sexual references but serve a broader purpose. The test distinguishes between material that merely shocks or offends and that which actively incites lustful thoughts. Even explicit content may escape classification as obscene if it has redeeming social, political or artistic merit.

Allahbadia’s comment: obscene or free speech?

To determine whether Allahbadia’s comment qualifies as obscene, courts would apply the community standard test by considering several factors.

The context and intent of the remark are critical. The comment was made on a comedy show, a platform where provocative humour and hyperbole are common.

Indian courts have recognised that contextual intent matters. In the *College Romance case*, the Supreme Court distinguished between obscenity and vulgarity, holding that expletives in youth-centric content often reflect colloquial speech or emotional outbursts rather than an intent to arouse sexual desire.

Similarly, Allahbadia’s question, while crass and distasteful, appears designed to shock for comedic effect rather than to titillate.

Under Section 294 of the Bharatiya Nyaya Sanhita and Section 67 of the Information Technology Act (2000), obscenity requires material to appeal to “prurient interest” (i.e., excessive or unhealthy sexual curiosity).

The comment’s grotesque hypothetical, forcing a choice between voyeurism and incest, evokes disgust and discomfort rather than sexual arousal. As the *College Romance* judgment noted, language with sexual connotations may not qualify as obscene if its primary effect is emotional (e.g., anger, frustration) rather than lustful.

Although the Hicklin test’s focus on ‘depraving and corrupting’ minds is no longer dominant, courts still evaluate whether material undermines public morality. However, the Supreme Court in *Aveek Sarkar* clarified that nudity or sexual references are not inherently obscene unless they incite “sexual passion” in the average viewer.

Allahbadia’s comment, framed as an absurd hypothetical, lacks the explicitness or eroticism necessary to deprave audiences. Its shock value overshadows any potential to corrupt.

A critical question is whether the comment offends contemporary Indian sensibilities. While public outrage on social media suggests offence, courts differentiate between transient outrage and enduring community standards.

The Supreme Court has cautioned against conflating the vocal reactions of a minority with societal norms. For instance, in *S. Khushboo v. Kanniammal* (2010), the court upheld free speech rights despite moral outrage over remarks on premarital sex, emphasising that societal attitudes toward sexuality are evolving.

The interplay between obscenity and Article 19

Whenever obscenity is examined under Indian law, Article 19(1)(a) of the constitution, which guarantees the fundamental right to free speech and expression, inevitably comes into focus.

However, this right is not absolute. Article 19(2) permits the state to impose reasonable restrictions in the interests of “morality” and “public order”. It could be argued that Allahbadia’s comment falls within these exceptions and, therefore, may be subject to legal limitations.

At the same time, it is important to note that judicial precedents have consistently underscored that free speech cannot be suppressed merely because certain individuals find it offensive.

In *S. Rangarajan v. Jagjivan Ram* (1989), which primarily dealt with film censorship, the Supreme Court held that while the Censor Board must exercise caution when assessing material that could impact public morality or decency, the standard for judging potentially obscene content should be that of an ordinary person with common sense and prudence, rather than that of a hypersensitive individual.

The court also cautioned against an orthodox or overly conservative approach, affirming that freedom of expression is the rule, not the exception.

Similarly, in *N. Radhakrishnan v. Union of India* (2018), the Supreme Court reinforced the principle that India is a democracy, not a totalitarian regime, and must uphold intellectual and creative freedom. The court warned against intellectual repression, emphasising that restricting free speech, creativity and imagination leads to the stagnation of thought and the suppression of artistic and literary expression.

It affirmed that obstructing the free flow of ideas would result in a state of literary and intellectual timidity, ultimately undermining democratic values.

These rulings establish that while the right to free speech is subject to reasonable restrictions, such limitations must align with evolving societal norms and be applied judiciously. In the context of Allahbadia’s comment, it seems that for the previously mentioned reasons, the courts may ultimately uphold his right to speech and expression when the case against him concludes.

For now the Supreme Court has granted him interim protection from arrest, although it also ordered him to surrender his passport and to stop participating in shows.

Conclusion

Allahbadia's comment, while undeniably vulgar and offensive, navigates complex territory with regard to India's obscenity laws. The community standard test, with its emphasis on contemporary societal norms and holistic context, provides a robust framework for distinguishing between protected speech and obscenity.

Historical precedents and evolving jurisprudence suggest that the courts would likely ultimately side with free expression in this case, recognising that crude humour, however distasteful, does not equate to legal obscenity.

Nevertheless, the controversy highlights the urgent need for legislative clarity to ensure that India's obscenity laws remain equitable, progressive and adaptable to the complexities of the digital age.

Kritika Vatsa is a third-year student at the Jindal Global Law School. She has a special interest in criminal law, competition law and corporate law. Mohit Kumar Manderna is a third-year student at the Jindal Global Law School. He writes about human rights, criminal law and corporate law.