

CHAPTER X

OBSCENITY AND BAD TASTE : PRINCIPLES

The following principles evolved as a result of the deliberations of the Council in their adjudication on complaints relating to obscenity and bad taste.

1. "Obscenity" as well as "taste" are not open to precise definition and the Press Council cannot lay down definite guidelines about them. They are to be judged with reference to a concrete case depending on the totality of impression left on the reader.¹
2. Though 'taste' is difficult to define, it has been stated that the editor can recognise what offends good taste. The meaning of 'taste' varies according to the context. For a journalist it implies that "which on grounds of decency or propriety he should not publish". Where a matter has "a tendency to stimulate sex-feeling", its publication in a journal meant for the lay public, young and old, is undesirable. However, it can be laid down that "the exploitation of sex falls short of good taste", and whether or not this is the effect of a publication is to be judged keeping in view the matter published.²
3. The test of obscenity laid down by the courts interpreting section 292, I.P.C.³ "did not in terms apply in considering a complaint as to whether a particular picture or passage fell below the standards of public taste.⁴ This is to be judged in relation to the environment, the milieu, as well as notions of taste prevailing in contemporary society.⁵
4. Recently, it was laid down that the basic test of obscenity is whether the matter is "so gross or vulgar that it is likely to deprave and corrupt". Another test is whether depiction of the scene and language used can be regarded as "filthy", "repulsive" "dirty" or "lewd", these being the normal dictionary meaning of obscene.⁷
5. Whether a story is obscene or not, will depend upon such factors

1. Case of *Indian Observer*, 1969 Ann. Rep. 33.

2. Case of *Confidential Advisor*, 1969 Ann. Rep. 50 at 51.

3. See *Ranjit D. Udeshi v. State of Maharashtra*, A.I.R. 1965 S.C. 881.

4. Case of *Jawani Diwani*, 1971 Ann. Rep. 55 at 57.

5. Case of *Blitz, Statesman, etc.*, 1969 Ann. Rep. 69 at 77.

6. This test laid down in *Queen v. Hicklin*, 1868 L.R. 3 Q.B. 360 was applied by the Press Council in *Malayalanadu*, 1980 Ann. Rep. 125 at 130.

7. Case of *Malayalanadu*, *ibid.*

as the literary and cultural nature of the magazine, and the social theme of the story. The author's reputation should not serve as the guideline, but rather it is the material which is judged to be obscene.⁸

6. A picture is to be judged in relation to three tests, namely,
 - (i) if they could be said to be vulgar and indecent;
 - (ii) if they could be described as merely a piece of pornography;
 - or
 - (iii) if they constitute an "unwholesome exploitation of sex" so as to make money.⁹
7. As regards advertisement of goods wherein appears pictures of women, the test as to whether the limit of decency is crossed is the same as that laid down by the Societies of Advertisers in India and abroad as ethical guidelines for advertisements.¹⁰
8. The relevancy of a picture to the subject matter of a magazine or paper has a bearing on the question whether the matter published falls below the standards of public taste.¹¹ It has a bearing also on the question of motivation, viz., "is it dirt for money's sake or is it intended to serve some purpose"?¹² In publishing the bare body of a woman, how much leeway is to be allowed will depend on the nature of the magazine. Thus, a journal devoted to movies carrying stills of pictures exhibited in cinema houses, may be allowed greater freedom in the matter than a serious magazine.¹³ One of the relevant factors in judging whether the picture falls below the standard of public taste will be the purpose of the publication or the nature of the magazine—whether it relates to art, painting, medicine, research or reform¹⁴ of sex. A mere writing contained in the magazine publishing obscene pictures will not make the publication as aiming at research or reform if the written matter has no relationship with the pictures contained therein.¹⁵
9. As regards the question of motivated complaints there were two aspects, namely, (i) if the complaint was frivolous in that want of taste was clearly not involved, it would be rejected without going into its motive; (ii) if, however, some justification existed for

8. *Ibid.*

9. Case of *Blitz, Statesman, etc.*, *supra* note 5 at 78-79.

10. *Id.* at 79.

11. Case of *Jawani Diwani*, *supra* note 4.

12. Case of *Blitz, Statesman, etc.*, *supra* note 5 at 78.

13. *Id.* at 70, 87.

14. *Ibid.*

15. *Id.* at 77.

enquiry, the complaint would be entertained, irrespective of it having been induced by some improper motive. Hence, the motive of a complainant, whether good or bad, may not be very relevant.¹⁶

10. The editor has the discretion to publish the matter. But where a complaint alleges violation of journalistic propriety by improper exercise of discretion, it is for the Council to decide the matter.¹⁷

16. *Id.* at 74.

17. Case of *Illustrated Weekly of India*, 1973 Ann. Rep. 71-74.