# IPC Section 292

## IPC Section 292: Sale, etc., of obscene books, etc.  
  
Section 292 of the Indian Penal Code (IPC) deals with the sale, distribution, exhibition, and circulation of obscene materials, encompassing books, pamphlets, papers, drawings, paintings, representations, figures, or any other object. It serves as a critical legal provision for safeguarding public morality and decency by criminalizing the dissemination of obscene content that could corrupt public morals or negatively influence vulnerable individuals.  
  
\*\*The Text of Section 292:\*\*  
  
\*\*(1)\*\* Whoever—  
  
\*\*(a)\*\* sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other object which is lascivious or appeals to the prurient interest or if its effect, taken as a whole, tends to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, or  
  
\*\*(b)\*\* imports, exports or conveys any such obscene matter as is referred to in clause (a) for any of the purposes aforesaid, or knowing or having reason to believe that such obscene matter will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or  
  
\*\*(c)\*\* takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene matter as is referred to in clause (a) is sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or  
  
\*\*(d)\*\* advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene matter as is referred to in clause (a) can be procured from or through any person, or  
  
\*\*(e)\*\* offers or attempts to do any act which is an offence under this section,  
  
shall be punished on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to five thousand rupees.  
  
\*\*(2)\*\* In this section, the word "book" shall have the same meaning as given to that word in the Copyright Act, 1957 (14 of 1957).  
  
\*\*Breaking down the elements of Section 292:\*\*  
  
1. \*\*"Whoever..."\*\*: This indicates that the provision applies to any individual involved in the creation, dissemination, or promotion of obscene materials, irrespective of their background or intent.  
  
2. \*\*Clause (a): Core Offenses\*\*: This clause outlines the primary offenses related to obscene materials:  
  
 \* \*\*"sells, lets to hire, distributes, publicly exhibits..."\*\*: This encompasses various methods of disseminating obscene materials, making it an offense to commercially exploit or publicly display such content.  
 \* \*\*"...puts into circulation..."\*\*: This broad term covers any act that makes obscene material accessible to others, regardless of the specific method.  
 \* \*\*"...for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession..."\*\*: This criminalizes not only the actual distribution but also the creation, possession, and intent to distribute obscene materials.  
 \* \*\*"any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other object..."\*\*: This inclusive list covers a wide range of media, ensuring that the law adapts to evolving forms of expression.  
 \* \*\*"...which is lascivious or appeals to the prurient interest or if its effect, taken as a whole, tends to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it..."\*\*: This is the crucial definition of "obscene" within this section. It incorporates three key aspects:  
 \* \*\*Lasciviousness\*\*: This refers to content that is overtly sexual and intended to arouse lustful desires.  
 \* \*\*Appeal to the prurient interest\*\*: This targets material that excites unhealthy or morbid sexual curiosity.  
 \* \*\*Tendency to deprave and corrupt\*\*: This focuses on the potential harmful impact of the material on those likely to encounter it, considering their age, maturity, and other relevant factors. The "Hicklin Test" has historically been applied, though modern interpretations often consider contemporary community standards and artistic merit.  
  
3. \*\*Clause (b): Import and Export\*\*: This clause extends the scope of the section to cover the import, export, and conveyance of obscene materials, recognizing the potential for cross-border dissemination. It also includes instances where the individual has knowledge or reason to believe that the imported material will be used for illegal purposes.  
  
4. \*\*Clause (c): Participating in or Profiting from Obscene Businesses\*\*: This clause targets individuals involved in businesses that deal with obscene materials, even if they are not directly involved in the sale or distribution. This encompasses those who profit from such businesses, acknowledging their complicity in the spread of obscenity.  
  
5. \*\*Clause (d): Advertising Obscene Materials or Services\*\*: This clause addresses the advertising or promotion of obscene materials or services, including making it known that such materials are available. This targets the facilitators of obscenity, even if they are not directly handling the materials themselves.  
  
6. \*\*Clause (e): Attempts\*\*: This clause criminalizes attempts to commit any of the offenses listed under Section 292, recognizing that even unsuccessful attempts to distribute obscene materials represent a threat to public morality.  
  
  
7. \*\*Punishment\*\*: The punishment for a first conviction under Section 292 is imprisonment for up to two years and a fine up to two thousand rupees. Subsequent convictions attract harsher penalties, with imprisonment up to five years and a fine up to five thousand rupees. The enhanced punishment for repeat offenses reflects the seriousness with which the law treats the continued dissemination of obscene materials.  
  
  
8. \*\*Subsection (2): Definition of "Book"\*\*: This subsection clarifies the definition of "book" by referring to the Copyright Act, 1957. This ensures consistency in interpretation and avoids ambiguity regarding the scope of the term.  
  
  
\*\*Key aspects and considerations regarding Section 292:\*\*  
  
\* \*\*Contemporary community standards\*\*: While the Hicklin Test has historically been applied, modern interpretations of "obscenity" consider contemporary community standards. What might have been deemed obscene in the past might not be considered so today, reflecting evolving societal values.  
  
\* \*\*Artistic merit and literary value\*\*: Courts often consider the artistic merit or literary value of a work when determining its obscenity. A work with genuine artistic value might not be considered obscene even if it contains explicit content, provided it serves a larger artistic purpose.  
  
  
\* \*\*"Hicklin Test" and its limitations\*\*: While the Hicklin Test focuses on the potential impact on the most vulnerable members of society, it has been criticized for being overly restrictive and potentially suppressing legitimate artistic expression. Modern interpretations have attempted to refine and contextualize this test.  
  
\* \*\*Balancing freedom of expression with public morality\*\*: Section 292 seeks to strike a balance between protecting freedom of expression and safeguarding public morality. Courts must carefully consider this balance when applying the section.  
  
  
\* \*\*Burden of proof\*\*: The prosecution bears the burden of proving beyond a reasonable doubt that the material in question is obscene according to the criteria outlined in the section.  
  
  
\* \*\*Defenses\*\*: Possible defenses against a charge under Section 292 include arguing that the material is not obscene according to contemporary community standards, that it possesses artistic merit, or that the accused was unaware of the obscene nature of the material.  
  
  
\*\*Examples of acts that might fall under Section 292:\*\*  
  
\* Selling pornographic magazines or DVDs.  
\* Distributing pamphlets containing explicit images.  
\* Exhibiting obscene paintings or sculptures in a public gallery.  
\* Uploading obscene videos online for public viewing.  
\* Possessing obscene material with the intent to distribute it.  
  
  
\*\*Examples of acts that might NOT fall under Section 292:\*\*  
  
\* Displaying classical nude sculptures in a museum.  
\* Selling books with adult themes but with literary merit.  
\* Possessing a single copy of an adult magazine for personal use.  
\* Sharing a suggestive image with a consenting adult in private.  
  
  
In conclusion, Section 292 of the IPC plays a vital role in maintaining public morality by prohibiting the dissemination of obscene materials. Its effectiveness hinges on a nuanced interpretation of "obscenity" that considers contemporary community standards, artistic merit, and the potential impact on individuals. Courts must carefully balance the need to protect public decency with the constitutional guarantee of freedom of expression, ensuring that the application of Section 292 does not stifle legitimate artistic expression while effectively combating the spread of harmful and genuinely obscene content.