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MEDIA LAWS AND ETHICS

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SYLLABI-BOOK MAPPING TABLE

MEDIA LAWS AND ETHICS

Syllabi	Mapping in Book
BLOCK I: HISTORY OF MEDIA AND CODE OF ETHICS	
UNIT-I History Perspective of the Media Laws in India- Constitution and Media: Fundamentals Rights, Freedom of Speech and Expression, Directive principles of state policy; Powers and Privileges of the Parliament / State legislative assemblies.	Pages 1-34
UNIT- II Press Laws in India ,Definition of contempt of court Intellectual property rights Trademark Patently and copy right	Pages 35-46
UNIT- III Parliamentary privileges- books and registration act- working journalist act- press council of India- press commissions of India- official secrets act.	Pages 47-87
UNIT- IV Press censorship, Right to information, Code of ethics for media professionals, the role of press council of India and other professional councils.	Pages 88-108
BLOCK II: DIFFERENT TYPES OF MEDIA LAWS	
UNIT- V Civil And Criminal Laws: Civil and Criminal Law of Defamation; Relevant provisions of the Indian Penal Code with reference to sedition, obscenity, crime against women, children etc.,	Pages109-129
UNIT –VI Laws dealing with obscenity, Laws and constitutional provisions pertaining to Human Rights in India.	Pages 130-141
UNIT VII Cinematograph Act, 1952; PrasarBharathi Act; Committees on Broadcasting and Information Media; Broadcasting regulations – key issues; GATT and Intellectual property right legislations;	Pages 142-168

Syllabi

Mapping in Book

UNIT –VIII

Cyber Laws in India: Need for cyber-laws, nature and scope of cyber laws, approaches to cyber laws, cyber – crimes, piracy, Convergence bill, Information Technology Legislation.

Pages 169-183

BLOCK III: ETHICS AND CASE STUDIES

UNIT -IX

Ethics,
Role and responsibilities of professional bodies;
Themes and issues in Media Ethics:
Principles and ethics of Journalistic conduct;

Pages 184-204

UNIT- X

Comparison of ethical norms;
Codes for radio, television and advertising;
Case studies in media ethics and major ethical violations.

Pages 205-211

UNIT –XI

Domestic violence act- tabloid and yellow journalism – violence and brutality – reporting during special sensitive situations- ethical construes in investigative journalism.

Pages 212-232

UNIT- XII

Law of copyright,
major copyright issues/cases,
WIPO,
piracy of media products and the IT Act 2001.

Pages 233-255

UNIT- XIII

The limits of the right to know – journalism ethics and patriotism- new roles of journalism and public opinion – journalist code of conduct – broadcast content complaints council.

Pages 256-265

UNIT XIV

Codes of ethics for media professionals, role of press council of India and other professional councils and case studies of major ethical violations by the Indian media.

Pages 266-279

Model Question paper

Pages 280-281

CONTENTS

PAGE NO.

BLOCK I – HISTORY OF MEDIA AND CODE OF ETHICS**Unit-I****Pages 1 - 34**

- 1.1. Introduction
- 1.2. Objectives
- 1.3. Historical Perspective of Media Laws in India
- 1.4. Constitution and Media
 - 1.4.1. Fundamental Rights
 - 1.4.2. Freedom of Speech and Expression
 - 1.4.3. Directive Principle of State Policy
 - 1.4.4. Powers and Privileges of the parliament/State Legislative Assemblies
- 1.5. Let us Sum up
- 1.6. Unit- End Exercises
- 1.7. Answer to Check your Progress
- 1.8. Suggested Readings

UNIT-II**Pages 35 - 46**

- 2.1. Introduction
- 2.2. Objectives
- 2.3. Press Laws in India
- 2.4. Definition of Contempt of Court
- 2.5. Intellectual Property rights
- 2.6. Trademark
- 2.7. Patent and copy right
- 2.8. Let us Sum up
- 2.9. Unit- End Exercises
- 2.10. Answer to Check your Progress
- 2.11. Suggested Readings

UNIT-III

Pages 47- 87

- 3.1. Introduction
- 3.2. Objectives
- 3.3. Parliamentary Privileges
- 3.4. Books and Registration Act
- 3.5. Working Journalist Act
- 3.6. Press Council of India
- 3.7. Press Commission of India
- 3.8. Official Secret Act
- 3.9. Let us Sum up
- 3.10. Unit- End Exercises
- 3.11. Answer to Check your Progress
- 3.12. Suggested Readings

UNIT- IV

Pages 88 - 108

- 4.1. Introduction
- 4.2. Objectives
- 4.3. Press Censorship
- 4.4. Right to Information
- 4.5. Code of Ethics for Media Professionals
- 4.6. The Role Press Council of India and other Professional councils
- 4.7. Let us Sum up
- 4.8. Unit- End Exercises
- 4.9. Answer to Check your Progress
- 4.10. Suggested Readings

BLOCK II – DIFFERENT TYPES OF MEDIA LAWS

UNIT-V

Pages 109–129

- 5.1. Introduction
- 5.2. Objectives

- 5.3. Civil and Criminal Laws
- 5.3.1. Civil and Criminal Law of Defamation
- 5.3.2. Relevant Provisions of Indian Penal code with reference to
 - a) Sedition
 - b) Obscenity
 - c) Crime against women, Children etc.
- 5.6. Let us Sum up
- 5.7. Unit- End Exercises
- 5.8. Answer to Check your Progress
- 5.9. Suggested Readings

UNIT-VI

Pages 130–141

- 6.1. Introduction
- 6.2. Objectives
- 6.3. Laws Dealing with Obscenity
- 6.4. Laws and Constitutional Provisions pertaining to Human Rights in India
- 6.5. Let us Sum up
- 6.6. Unit- End Exercises
- 6.7. Answer to Check your Progress
- 6.8. Suggested Readings

UNIT –VII

Pages 142–168

- 7.1. Introduction
- 7.2. Objectives
- 7.3. Cinematograph Act 1952
- 7.4. PrasarBharathi Act
- 7.4.1. Committees on Broadcasting and information Media
- 7.4.2. Broadcasting Regulations-Key issues
- 7.5. GATT and Intellectual Rights regulations
- 7.6. Let us Sum up
- 7.7. Unit- End Exercises
- 7.8. Answer to Check your Progress
- 7.9. Suggested Readings

UNIT –VIII

Pages 169–183

- 8.1. Introduction
- 8.2. Objectives
- 8.3. Cyber Laws in India
 - 8.3.1. Need for Cyber Laws, nature and Scope of Cyber Laws
 - 8.3.2. Approaches in Cyber Laws
 - 8.3.3. Cyber Crimes
 - 8.3.4. Piracy
 - 8.3.5. Convergence Bill
- 8.4. Information Technology Legislation
- 8.5. Let us Sum up
- 8.6. Unit- End Exercises
- 8.7. Answer to Check your Progress
- 8.8. Suggested Readings

BLOCK III: ETHICS AND CASE STUDIES

UNIT –IX

Pages 184–204

- 9.1. Introduction
- 9.2. Objectives
- 9.3. Ethics
- 9.4. Role and responsibilities of Professional Bodies
- 9.5. Themes and Issues in Media Ethics
- 9.6. Principles and ethics of Journalistic conduct
- 9.7. Let us Sum up
- 9.8. Unit- End Exercises
- 9.9. Answer to Check your Progress
- 9.9. Suggested Readings

UNIT - X

Pages 205–211

- 10.1. Introduction
- 10.2. Objectives
- 10.3. Comparison of ethical Norms -Codes for Radio, television and advertising
- 10.4. Case Studies in Media Ethics and Major Ethical Violations
- 10.5. Let us Sum up
- 10.6. Unit- End Exercises
- 10.7. Answer to Check your Progress

10.8. Suggested Readings

UNIT – XI

Pages 212–232

11.1. Introduction

11.2. Objectives

11.3. Domestic violence Act

11.4. Tabloid and Yellow Journalism

11.5. Violence and brutality

11.6. Reporting during special sensitive situations

11.7. Ethical construes in investigative journalism

11.8. Let us Sum up

11.9. Unit- End Exercises

11.10. Answer to Check your Progress

11.11. Suggested Readings

BLOCK IV: COPY RIGHTS AND VARIOUS PRESS RELATED COUNCIL

UNIT - XII

Pages 233–255

12.1. Introduction

12.2. Objectives

12.3. Law of Copy Right

12.4. Major Copyright issues/cases

12.5. WIPO

12.6. Piracy of media Products and the IT Act 2001

12.7. Let us Sum up

12.8. Unit- End Exercises

12.9. Answer to Check your Progress

12.10. Suggested Readings

UNIT – XIII

Pages 256–265

13.1. Introduction

13.2. Objectives

13.3. The limits of the Right to Know

13.4. Journalism ethics and Patriotism

13.5. New roles of Journalism and Public opinion

13.6. Journalist code of contact

13.7. Broadcast content complaints council

- 13.8. Let us Sum up
- 13.9. Unit- End Exercises
- 13.10. Answer to Check your Progress
- 13.11. Suggested Readings

UNIT -XIV

Pages 266–279

- 14.1. Introduction
- 14.2. Objectives
- 14.3. Codes of ethics for media Professionals
- 14.4. Role of Press council of India and other Professional councils
- 14.5. Let us sum up
- 14.6. Unit- End Exercises
- 14.7. Answer to Check your Progress
- 14.8. Suggested Readings

Model Question Paper

Pages 280-281

BLOCK I – HISTORY OF MEDIA AND CODE OF ETHICS

*History of India and Code
of Ethics*

UNIT– I

NOTES

- 1.1. Introduction
- 1.2. Objectives
- 1.3. Historical Perspective of Media Laws in India
- 1.4. Constitution and Media
 - 1.4.1. Fundamental Rights
 - 1.4.2. Freedom of Speech and Expression
 - 1.4.3. Directive Principle of State Policy
 - 1.4.4. Powers and Privileges of the parliament/State Legislative Assemblies
- 1.5. Let us Sum up
- 1.6. Unit- End Exercises
- 1.7. Answer to Check your Progress
- 1.8. Suggested Readings

1.1. INTRODUCTION

Mass media denotes a section of media especially designed to reach a large audience. The term was coined in 1920, with advent of nationwide radio networks, mass-circulation news papers and magazines. Media a plural of word medium refers to various means of communication e.g. Television, Radio and the news paper. Term can also be used as a collective noun for the press or news reporting agencies. In the computer world, media is also used as a collective noun, but refers to different types of data storage options. In communication, media are the storage and transmission Channels or tools used to store or deliver information of Data.

NOTES

1.2. OBJECTIVES

After going through this unit you will be able to:

- Understand about the historical perspective of Media laws in India
- Realize the Linkage between constitution and Media
- Explain Fundamental Rights and Freedom of Expression
- Describe the Directive principle of State Policy
- Discuss the powers and privileges of the parliament and State Legislative Assemblies

1.3. HISTORICAL PERSPECTIVE OF MEDIA LAWS IN INDIA

There was no press regulation until the British East India Company stated ruling a part of India after the Battle of Plessey in 1757. When newspapers in India were published by only Europeans expulsion of the editor (printer) was ultimate penalty. The James Augustus Hickey in 1780 started The Bengal Gazette or Calcutta General Advertiser, the first newspaper in India. It was seized in 1872 because of its outspoken criticism of the Government.

Like censorship, licensing was also a European institution to control the press. It was introduced in Bengal in 1823 through Adam's regulations. The East India Company also issued instruction that no servant of the company should have any connection with a newspaper.

Licensing regulations were replaced by **Metcalf's Act** which was applicable to entire territory of the East India Company and required that the printer and publisher of every newspaper declare the location of the premises of its publication.

License was, however, reintroduced in 1857 by Lord Canning and was applied to all kinds of publication. In 1860 Indian Penal Code was passed as a general law but laid down offences which any writer, editor or publisher must avoid- the offences of defamation and obscenity.

The press and Registration of Books Act (25 of 1867)

This Act is still in force, of course with amendments from time to time. The object of this Act was to provide for the regulation of the printing presses and of periodical containing news, for the preservation of copies of books and for the registration of books. It contains rules for

the registration of books. It contains rules for the making of declaration by the keepers of presses and publishers of newspapers, rules regulations for the delivery of book; penalties; registration of book. This Act gave powers to the government to make rules and to exempt book or newspapers from the provision of this Act.

Vernacular Press Act 1878

When the Indian language Press became very bold the Vernacular Press Act 1878 was introduced. It was comprehensive and rigorous, aimed at “better control” of the language press. It empowered any magistrate of a district or a commissioner of police in a presidency town to call upon the printer and publisher of a newspaper to enter into a bond undertaking not to publish certain kind of material, to demand security, and to forfeit, if it was thought fit, such presses and confiscate any printed matter as it deemed objectionable. No printer or publisher against whom such action had been taken could have recourse to a court of law. It was particularly meant to crush Amrit Bazar Patriks, which was bilingual before this Act.

Telegraphy Act

In India the Indian Telegraph Act was passed in 1885. The definition of telegraph in this Act is very wide as it later covered all other means of communication depending on electromagnetic waves, this including teleprinter, telephone, fax, radio and television. It provides for interception of messages and takeover of licensed establishment by the Government in any public emergency or in this interest of public safety. Section 5 of the Telegraph Act 1885 gave power to the central Government authorized by the government to take possession of licensed telegraphs and to order interception of telegraphic messages which include as per section 3(1) of the Act telephone messages also.

The Newspaper (Incitement to offences) Act

In June 1908 the government passed the Newspaper (Incitement to Offense) Act, which gave power to local authorities to take judicial action against the editor of any newspaper, which indulges in writings calculated to incite rebellion. Nine prosecutions were instituted under this Act and as a result seven presses were confiscated. Then came the Press Act of 1910, which empowered the government to demand security from any newspaper,

Copyright Act

British parliament passed the copyright Act in 1911. Similar provisions came to India by Indian Copyright Act, 1914. It was

NOTES

NOTES

replaced by a comprehensive legislation only in 1957 by the new Copyright Act 1957.

Cinematograph Act

In 1918 Government passed the Cinematograph Act 1918, which was replaced by the Cinematograph Act, 1952.

Indian Press Act, 1910

This act empowered the magistrate to require a deposit of not less than Rs.500 and not more than Rs.2000 from the keepers of news printing presses and publishers of newspapers.

- The local government could even demand a security deposit of Rs.500 min to Rs.5000 max
- It was a huge money which would be generally beyond anybody's affordability
- It was imposed due to seditious publication and enlarged to include writing against the Indian Princes, judges, executive officers and public servants.
- Almost 350 printing press were penalized and securities of 40,000 pounds were demanded from newspapers
- Because of security deposits, more than 130 newspapers had not start
- This act was heavily used against the newspapers Punjabee&Hinduvasi etc.

The Official Secrets Act

In 1923 the Official secrets act was passed in order to update and consolidate the existing provisions of Indian Official Secrets Act of 1889, along the lines of the British Act of 1911 and 1920. The earlier Act was repealed. Section 5 of this Act, which affects the press deals with "official secrets" and relates to "wrongful communication".

The Foreign Relations Act

In 1932 the foreign relations Act was passed with the object of providing against the publication of statements likely to prejudice the maintenance of friendly relations between the British government and the government of certain foreign states.

Media Laws of India

In the time of the British Raj, many laws related to the press were enacted. In the post Independence time, the various Government have enacted many more media related laws. Media being a very powerful influence on the society is regulated and controlled by various legislations enacted from time to time.

Constitutional Provisions

The Indian constitution does not provide freedom for media separately. But there is an indirect provision for media freedom. It gets derived from Article 19(1) (a). This Article guarantees freedom of speech and expression. The freedom of mass media is derived indirectly from this Article. Article 19 of our constitution deals with the right to freedom and it enumerates certain rights regarding individual freedom of speech and expression etc. These provisions are important and vital, which lie at the very root of liberty.

Article 19 of the Indian constitution lays down-

“All citizens shall have the right to freedom of speech and expression, to assemble peaceably, and without arms, to form associations or unions, to move freely throughout the territory of India, to reside in any part of the territory of India, to acquire hold and dispose of property and to practice any profession or to carry on any occupation, trade or business.

However the right to freedom of speech and expression shall not affect the operation of any existing law or prevent the state from making any law insofar as such law imposes reasonable restrictions on the exercise of that right in the interest of the sovereignty and integrity of India, the security of the state, friendly relations with foreign states, public decency or morality or In relation to contempt of court, defamation or incitement to offense”.

List of Acts and rules applicable to the media industry-

1. The press and Registration of Books Act,1867
2. Registration of newspaper (central) Rules,1956
3. The press and Registration appellate board (practice and procedure) order,1961
4. The press council Act,1978
5. The press council Rules,1979

NOTES

NOTES

6. The press council (procedure for Nomination of members) rules,1978
7. The press council (procedure for Inquiry) (Amendment) Regulation,2006
8. The press council (procedure for conduct of meetings and Business) Regulations, 1979
9. The press council of India (Grant of certified copies) Regulations,1999
10. The working journalists and Other Newspaper Employees (conditions of service) and miscellaneous provisions Act,1955
11. The working journalists (Conditions of service) and miscellaneous provisions Rules, 1957
12. The working journalist and other Newspaper Employees Tribunal Rules,1979
13. The working Journalist (fixation of Rates of wages) Act,1958
14. The newspaper (price and pages) Act,1956
15. The delivery of books and newspaper (public libraries) Act,1954
16. The right to information Act,2005
17. The right to information (Regulation of fee and cost) Rules,2005
18. The central information commission (appeal procedure) rules,2005
19. The central information commission (Management) Regulations,2007
20. The Drugs and Magic Remedies (Objectionable Advertisement) Act,1954
21. The Drugs and Magic Remedies (Objectionable Advertisement) Rules,1955
22. The Emblems and Names (prevention of Improper Use) Act,1950
23. The Emblems and Names (prevention of Improper Use)Rules, 1982

24. State Emblem of India (prohibition of Improper Use) Act,2005
25. State Emblem of India (prohibition of Improper Use)Rules,2007
26. The parliamentary proceedings (protection of Publication)Act,1977
27. The young persons (Harmful Publication) Act,1956
28. The Punjab special powers(press) Act,1956 (relevant provision)
29. Copyright Act,1957
30. The Dramatic performance Act,1876 (relevant provisions)
31. The cinematograph Act,1952
32. The cinematograph (certification) Rules,1983
33. The Cine-workers and Cinema Theater Workers (Regulation Of Employment) Act,1981
34. The Cine-workers and Cinema Theater Workers (Regulation Of Employment) Rules,1984
35. The cine-workers welfare Cess Act,1981
36. The cine-workers welfare Cess Rules,1984
37. The cine-workers welfare Fund Act,1981
38. The cine-workers welfare Fund Rules,1984
39. The prasarBharati (Broadcasting Corporation Of India) Act,1990
40. The sports Broadcasting signals (Mandatory sharing with PrasarBharati) Act,2007
41. The sports Broadcasting signals (Mandatory sharing with PrasarBharati) Rules,2007
42. The cable television networks
43. The cable television networks Rules,1994
44. The radio, television and video cassette recorder sets (exemption from licensing requirements)Rules,1997
45. The standard of quality of service (Broadcasting and cable service) (cable television – CAS Areas) Regulation,2006

NOTES

NOTES

46. The Indian Telegraph Act,1885 (Relevant provisions)
47. The telecom Regulation Authority Of India Act,1997
48. The telecom Regulation Authority Of India (miscellaneous) Rules,1999
49. The telecom Regulation Authority Of India (period for filing of application to authority) Rules,1999
50. The telecommunication Interconnection (port charges) Regulation,2001
51. The TRAI (Levy of fees and other charges for Tariff Plans) Regulations,2002
52. The telecom Disputes settlement and appellate Tribunal (Form, verification and the fee for filing an appeal) Rules,2003
53. The telecommunication interconnection(charges and revenue sharing) Regulations,2001
54. The telecommunication interconnection Usage charges regulation,2003
55. The telecom regulation authority of India (salaries, allowances and other conditions of service of chairpersons and whole-time members) Rules,2000
56. The telecom regulation authority of India (procedure for conducting Inquiry Against a member) Rules,1999
57. The telecom regulation authority of India (annual report and return) Rules,1999
58. The telecom regulation authority of India (form of annual statement of accounts and records) Rules,1999
59. The telecommunication (Broadcasting and cable service) Interconnection Regulations,2004
60. The telecom regulatory authority of India (access to information) regulations,2005 19
61. The common charter of telecom service,2005
62. The regulation on quality of service of basic and cellular mobile telephone services,2005
63. Quality of service (code of practice for metering and billing accuracy) regulation,2006

64. The standard of quality of service (Broadcasting and cable services)(cable television-CAS areas) regulation,2006
65. The quality of service of broadband service regulation,2006
66. The telecom consumers protection and Redressal of grievances regulations,2007
67. The telecom unsolicited commercial communication regulation,2007
68. The international telecommunication access to essential facilities at cable landing stations regulations,2007
69. The telecommunication consumers education and protection fund regulations,2007
70. The direct to home broadcasting services (standards of quality of service and redressal of grievances) regulations,2007
71. Domestic leased circuits regulations,2007
72. The register of interconnect agreements regulations,1999
73. The Indian post Office Act,1898 (relevant provision)
74. The information technology Act, 2000 (relevant provisions)
75. The information technology (Certifying Authorities) Rules,2000

NOTES

The list of legislations applicable for information-

- i. Press & registration of books Act,1867
- ii. Delivery of books 'and newspapers' (public Libraries) Act,1954
- iii. Delivery of books (public Libraries) Rules,1955
- iv. Registration of newspapers (central) Rules,1956
- v. The newspaper (prices and pages) Act,1956
- vi. The young persons (harmful publication) Act,1956
- vii. The press and registration Appellate board (practice and procedure) order,1961
- viii. The parliamentary proceedings (protection of publication) act,1977

NOTES

- ix. Press council Act,1978
- x. The press council (procedure for nomination of members) rules,1978
- xi. The press council rules,1979
- xii. The press council (procedure for conduct of meeting and business) regulations,1979
- xiii. The press council of India (Grant of certified copies) regulations,1999
- xiv. Press council (procedure for inquiry) (Amendment) regulations,2006

The following guidelines and policies are applicable for information-

- 1) Central news media accreditation guidelines,1999
- 2) Guidelines for publication of Indian editions of foreign magazines dealing with news and current affairs 21
- 3) Guidelines for syndication arrange advertisement policy
- 4) Electronic media advertisement policy
- 5) Guidelines for empanelment of audio-video procedure with DAVP
- 6) Policy guidelines for empanelment of private C & S TV channels for government advertisement by DAVP and other duly authorized agencies of the ministry of I & B
- 7) Citizens charter of register of newspaper for India
- 8) Guidelines for foreign investment in Indian entities publishing scientific/technical/specialty Magazines/ journals/periodicals
- 9) Guidelines for foreign investment in print media news sector/facsimile editions
- 10) The press council of India's Norms of journalistic conduct.

1.4. CONSTITUTION AND MEDIA

The Indian constitution confers no special rights or privileges to the press. However, Article 19(i) (a) of the constitution does guarantee freedom of the expression for every citizen which includes:

- (i) The right to lay what sentiments he pleases before the public, or the right to impart information and ideas;
- (ii) The right to receive information and ideas from others through any lawful medium.

It is the Article that gives editors and journalists the right to publish news or any Kind of information, and to comment on the public affairs. The freedom of the press rests on the fundamental right, and implies the right to print, publish, comment and criticize without any interference from the state or any public authority. It includes the right not to publish or comment as well. However, the freedom of the press is not absolute, just as the freedom of expression is not. Public interest has to be safeguarded; so have private interest, and the right to privacy. Public interest is safeguarded by Article 19(2) which lay down reasonable limitations to the freedom of expression its matters affecting:

- ✓ Maintenance of friendly affairs with other nation
- ✓ Contempt of court
- ✓ Defamation
- ✓ Decency and morality
- ✓ Incitement of an offence
- ✓ National integrity
- ✓ Nation's reputation
- ✓ Maintenance of public order.

1.4.1 Fundamental Rights

Introduction:

- ✓ The constitution confers on the people certain rights which are called Fundamental Rights such as Right to equality, Freedom of speech etc. The constitution also expresses in a compendious form the limitations and exceptions to fundamental rights.

NOTES

NOTES

- ✓ Fundamental Rights is charter of rights contained in Part III (Article 14-36) of Constitution of India.
- ✓ It guarantees civil liberties such that all Indians can lead their lives in peace and harmony as citizens of India.
- ✓ Initially 7, later became 6 rights (Right to property was deleted by 44th amendment)
 - Right to Equality – [Articles 14-18]
 - Right to freedom – [Articles 19-22]
 - Right Against Exploitation- [Articles 23-24]
 - Right to Freedom of Religion-[Articles 25-28]
 - Cultural and Educational Rights-[Articles 29-30]
 - Right to Constitutional Remedies-[Articles 32]
- ✓ **Article 12** defines the word ‘state’ to include the government and parliament of India and the government and legislature of the states and other local authority.
- ✓ **Article 13** clearly states that laws inconsistent with/or in derogation of the fundamental rights would be void.

RIGHT TO EQUALITY (Article 14-18)

Article 14 The state shall not deny any person equality before the law or equal protection of the law within the territory of India.

Example: Retirement age of Air hostess fixed at 35 years or on marriage. (violation)

Article 15 No discrimination should be made under grounds of race, religion, sex, caste and place of birth.

Example: Reservation of seats for SC/ST in Educational Institutions.

Articles 16 Equality of opportunity in matters of Public Employment

Example: State may reserve posts in favour of SC/ST.

Article 17 Abolition of Untouchability

Example: Insulting a member of SC or refusing admission in hospitals on basis of untouchability (Violaiton)

Article 18 Abolition of Title- all titles except military and academic distinctions (republic not monarch)

Example: Abolition of Dewanbahadur, Raj bahadur except Padma Shri, Padma Bhusan, Padma Vibhushan and BharathRatna.

RIGHT TO FREEDOM (Articles 19-22)

Articles 19(1) Right to

- a) Freedom of speech and expression [limitation 19(2)]
- b) Assemble peaceably without arms [limitation 19(3)]
- c) Form associations or unions [limitation 19(4)]
- d) Move freely throughout the territory of India [limitation 19(5)]
- e) Reside and settle in any part of the territory of India [limitation 19(5)]
- f) *****Right to property-deleted*****
- g) To practice any profession or to carry on any occupation, trade or business [limitation 19(6)]

Example: RTI is an integral part of 19(1)(a)

Article 19(2) Right to freedom of speech and expression cab be denied under:

- ✓ Maintenance of friendly affairs with other nation
- ✓ Contempt of court
- ✓ Defamation
- ✓ Decency and Morality
- ✓ Incitement of an offence
- ✓ National Integrity
- ✓ Nation's Reputation
- ✓ Maintenance of Public Order.

NOTES

NOTES

Example: NDTV was asked to go off air for 24hrs on November 9th over coverage and airing of Pathankit attack

Article 20 Protection in respect of conviction for offences

Article 20 (1) Retrospective criminal legislation/ ex post facto legislation

A person can only be convicted or punished of an offense if the act charged against him was an offence under the law in force at the date of the commission of the act. He shall not be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offense.

Article 20 (2) Immunity from Double Prosecution and Punishment/Double Jeopardy

No person shall be prosecuted and punished more than once for the same offense.

Article 20(3) Immunity from being compelled to give evidence against himself/ Self Incrimination

No person accused of an offence shall be compelled to be a witness against himself

Article 21 Freedom of Person or Personal Liberty

No person shall be deprived of his life and personal liberty except according to procedures established by law.

Example: Fair Trial, Right to Privacy (No Phone Tapping in Officers), Honor killing violation.

Article 21 A Right to education 86th amendment act, 2002. Became a law in 2009

The state shall provide free and compulsory education to all children of the age 6-14 years in such manner at the state may a law, determine.

Article 22 (1) & (2) Protection against arbitrary arrest and detention

- ✓ No arrest or detention without being informed the reasons/grounds for such arrest
- ✓ Right to consult/ be defended by an advocate of his choice

- ✓ Shall be produced before the near magistrate within 24 hours of detention.

Article 22 (3) the above safeguards are not available to the following:

- ✓ If the person is at the time being an enemy alien.
- ✓ If the person is arrested under certain law made for the purpose of “Preventive Detention”
- ✓ Preventive detention: the imprisonment of a person with the aim of preventing them from committing further offences or of maintaining public order.(maximum of 3 months)

NOTES

RIGHT AGAINST EXPLOITATION (Articles 23-24)

Article 23 Prohibits the traffic in human beings, beggar and all other forms of forced labor.

Example:

- The Immortal Traffic (Prevention) Act, 1956
- The Bonded Labor System (Abolition) Act, 1976

Article 24 Prohibition of Employment of Children in factories, etc

No child below the age of 14 years shall be employed to work in any factory, mine or engaged in any hazardous employment

FREEDOM OF RELIGION (Articles 28-28)

Article 25 Freedom of conscience and free profession, practice and propagation of religion

Article 26 Freedom to manage religious affairs

Article 27 Freedom as to payment of taxes for promotion of any particular religion

Article 28 Freedom as to attendance at religious instruction or religious worship in certain education institutions

CULTURAL AND EDUCATION RIGHT (Article 29-30)

Articles 29 This article seeks to protect the interests of the minority communities. This article confers the freedom to all citizens,

residing in different parts of the land, to conserve their distinct languages, scripts or cultures, states shall not impose upon it any culture other than the community's own culture.

No denial of admission into any education institution on the grounds of religion, race, culture, caste and language.

Case study: Kerala Education Bill (1958) and State of Madras vs. Compakam (1951)

NOTES

Article 30 It provides that all minority communities- religious or linguistic, have the right to establish and administer educational institutions of their choice without any interference. In granting aid to educational institutions, the state shall not discriminate on the grounds of religion or language.

RIGHT TO CONSTITUTIONAL REMEDIES (Article 32-36)

Article 32 of the Indian constitution provides for constitutional remedies against the violation or transgression of fundamental rights. The fundamental rights are highest importance to the individuals. They are basic conditions for the fullest development of personality.

Article 32 which was referred to "as the very soul of the constitution" by Dr. Ambedkar, provides for constitutional remedies. Clause 2 of Article 32 provides that. "the Supreme court shall have the power to issue directions or order or writs including the writs in the nature of habeas corpus, mandamus, prohibition, Quo warrantor and reiteration, whichever may be appropriate for the enforcement of any of the rights conferred by" fundamental rights.

In case of transgression of fundamental rights the Supreme Court or the High Courts may issue five kinds of writs. These are writs of Habeas Corpus, Mandamus, Prohibition, Certiorari, and Quo warranto.

- **Habeas Corpus** – Habeas Corpus literally means- that human person is sacred. Hence no person may be detained illegally. Whenever a person is detained, he must be produced before a court. This writ is a powerful safeguard against arbitrary arrest and detention.
- **Mandamus**- meaning 'command', mandamus calls upon public servants to perform some duties. Thus mandamus is issued against dereliction of duty.

- **Prohibition**-as the very term prohibition- suggests, this writ is issued by the Supreme Court or the High Courts, to prohibition inferior courts under them to overstep their jurisdiction.
- **Certiorari**- it enables a superior court to compel inferior courts to submit records of proceedings to the higher court.
 - **Quo warranto**- literally means by what right. This writ is issued to determine the legality of person's claim to public office. The purpose of this writ is to prevent usurpation of a public office by an undesirable or, unqualified person.

NOTES

1.4.2. Freedom of Speech and Expression

Expression is a matter of liberty and right. The liberty of thought and right to know are the sources of expression. Free speech is live wire of the democracy. Freedom of expression is integral to the expansion and fulfillment of individual personality. Freedom of expression is more essential in a democratic setup of state where people are the sovereign rulers. Iver Jennings said, 'Without freedom of speech, the appeal to reason which is the basis of democracy cannot be made'. Milton in his *Aeropagitica* says that without this freedom there can be no health in the moral and intellectual life of either the individual or the nation.

As defined by Laski 'Democracy is a government by discussion' could be successful only when there is effective participation of the people in the government. For this the people need be educated.

In the words of Krishna Iyer J. 'This freedom is essential because the censorial power lies in the people over and against the Government over and against the people'.

The freedom of expression has been considered as a necessary condition for a democratic polity. According to Kant 'The fundamental postulate of liberty, is that, no man can be used as a means as man is an end to him as well as to the others'.

Free speech is traffic in indispensable commodity namely ideas. Hocking has said that if an idea was born in a man, it was not an item of capital stock. He has an impulse to give it away, to spread it everywhere in the knowledge that what he gives he keeps. According to Hocking, "The destiny of private thought is to gain power and effect through shaping public behavior or public enactment. Nothing could more describe a human failure than a man physically prolific whose ideas should count for nothing to his groups or his time. A suppression

NOTES

of speech, in its more painful consequence, would be the mental sterilization of the community.

The social interest in free expression is based on the idea that without expression, there is no society at all, because communication is the very essence of social life.

George Bernard Shaw has said that our whole theory of freedom of speech and opinion for all citizens rests not on the assumption that everybody was right. But on the certainty that everybody was wrong on some point on which somebody else was right, so that there was a public danger in allowing anybody to go unheard.

The freedom of speech and expression is required to fulfill the following objectives:

- 1) **To discover truth:** Historically the most durable argument for a free speech principle has been based on the importance of open discussion to the discovery of truth. It is evident from the famous funeral address given by Pericles as back as in 431 B.C. Athenians, he Pericles out, did not consider public discussion merely something to be put up with; rather they believed that the best interest of the city could not be served with a full discussion of issue before the assembly. If restrictions on speech are tolerated, society prevents the ascertainment and publication of accurate facts and valuable opinion. The best test of truth is power of the thought to get in accepted in the competition of market. The truth would emanate from a 'free trade in ideas' on intellectual competition.
- 2) **Non self-fulfillment:** A second major theory of free speech sees it as an integral aspect of each individual's right to self development and fulfillment. Restrictions inhibit our personality and its growth. The reflective mind, conscious of options and the possibilities for growth, distinguished human beings from animals. Freedom of speech is also closely linked to other fundamental freedoms. Thus, for full-fledged development of personality, freedom of speech and expression is highly essential.
- 3) **Democratic value:** Freedom of speech is the bulwark of democratic Government. This freedom is essential for the proper functioning of the democratic process. It is regarded as the first condition of liberty. It occupies a preferred position in the hierarchy of liberties giving succor and protection to all

other liberties. It has been truly said that it is mother of all other liberties.

In a democracy, freedom of speech and expression open up channels of free discussion of issues. Freedom of speech plays a crucial role in the formation of public opinion on social, political and economic matters.

- 4) To ensure pluralism:** Freedom of speech reflects and reinforces pluralism, ensuring that different types of life's are validated and promote the self esteem of those who follow a particular life-style. The French council constitutional and the Italian constitutional courts have rules that the free speech rights of media corporations may be limited to ensure that the constitutional value of pluralism is safeguarded.

So, it can be concluded that freedom of speech enables the discovery of truth, is crucial to the working of a democratic constitution and is an aspect of human self fulfillment or autonomy. It is in the speaker's interest in communicating ideas and information and equally in the interest of audience in receiving ideas and information.

LAW OF EXPRESSION UNDER INDIAN CONSTITUTION

The people of India gave to themselves, the constitution of India, with a view of make it sovereign, Democratic, Socialistic, secular and Republic. In our democratic society, pride to place has been provided to freedom of speech and expression, which is the mother of all liberties. One of the main objectives of the Indian constitution as envisages in the Preamble, is to secure LIBERTY OF THOUGHT AND EXPRESSION to all the citizens. Freedom of expression is among the foremost of human rights. It is the communication and practical application of individual freedom of thought. Irrespective of the system of administration, various constitutions make a mention of the freedom of expression. While freedom of thought is a personal freedom; freedom of expression is a collective freedom, whose character becomes more and more pronounced as the technical methods of their diffusion multiply and improve.

The right of free speech is absolutely indispensable for the preservation of a free society in which Government is based upon the consent of an informed citizenry and is dedicated to the protection of the rights of all, even the most despised minorities.

NOTES

Constitutional Aspect

In order to give effect to the objective, “freedom of speech and expression” has been guaranteed as a fundamental right under Article 19 (1)(a) available to all citizens, subject only to restrictions which may be imposed by the state under clause (2) of the Articles. The relevant portion of Article 19 reads as follows:

Articles 19(1) All citizens shall have the right

NOTES

- (a) Freedom of speech and expression.

Article 19(2) Nothing in sub clause (a) of clause (1) shall effect the operation of any existing law, or prevent the State from making any law, in so far as such law imposed reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of Sovereignty and Integrity of India, the Security of the State, Friendly relations with foreign states. Public order, Decency or Morality, or in relation to contempt of court, Defamation or Incitement to an offence.

Article 19 (1) provides that all citizens shall have the right to freedom of speech and expression, to assemble peaceably and without arms, to form associations or unions, to move freely throughout the territory of India, to reside and settle in any part of the territory of India and to practice any profession or to carry on any occupation, trade or business. The rights mentioned in Articles 19 (1) are not the exhaustive of all rights of a free man. Some of the rights falling outside Articles 19 are freedom to move, right of citizenship, the right to vote, or contest election, the contractual right against the Government, right of Government servants to continue in employment and the right to strike. The freedoms enumerated in Articles 19 (1) are those great and basic rights which are recognized as natural rights inherent in the status of a citizen. But none of these freedoms is absolute or uncontrolled. The rights granted by Articles 19 are available only to citizens and not to aliens or foreigners.

1.4.3. Directive Principle of State Policy

36. Definition. “The State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

37. Application of the principle contained in this part.--- The provision contained in this part shall not be enforceable by any court, but the principle therein laid down are nevertheless fundamental in the

governance of the country and it shall be the duty of the state to apply these principle in making laws.

38. State to secure a social order for the promotion of welfare of the people.---(1) The state shall strive to promote the welfare of the people by securing and protecting as effectively as it ay a social order in which justice, social, economic, and political, shall inform all institution of the nation life.

(2) The state shall, in particular, strive to minimize the equalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst group of people residing in different areas or engaged in different vocations.

39. Certain principle of policy to be followed by the state—The state shall, in particular, direct its policy towards securing---

(a) That the citizens, men and women equally, have the right to an adequate means of livelihood;

(b) That the ownership and control of the material resource of the community are so distributed as best to sub serve the common good;

(c) That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) That there is a equal pay for equal work for both men and women;

(e) That the health and strength of workers; man and women; and the tender age of children are not abused and the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

(f) That children are given opportunity and facilities to develop in a health manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

39A.Equal justice and free legal aid—The state shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by

NOTES

suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

40. Organization of village panchayats.--- The state shall take step to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

NOTES

41. Right to work, to education and to public assistance in certain cases. --- The state shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

42. Provision for just and humane conditions of work and maternity relief.---the state shall make provision for securing just and humane conditions of work and for maternity relief.

43. Living wage, etc., for workers.— the state shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or to otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the state shall endeavor to promote cottage industries on an individual or co-operatives basis in rural areas.

43A. participation of workers in management of industries-- - the state shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organization engaged in any industry.

44. Uniform civil code for the citizens. --- The state shall endeavor to secure for the citizens a uniform civil code throughout the territory of India.

45. Provision for early childhood care and education to children below the age of six years. --- The state shall endeavor to provide early childhood care and education for all children until they complete the age of six years.

46. Promotion of educational and economic interests of scheduled castes, scheduled Tribes and other weaker sections.—the state shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the

scheduled Castes and the scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

47. Duty of the state to raise the level of nutrition and the standard of living and to improve public health. ---the state shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties, and, in particular, the state shall endeavor to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

48. Organization of agriculture and animal husbandry. ---the state shall endeavor to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

48A. Protection and improvement of environment and safeguarding of forests and wild life. ---the state shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country.

49. Protection of monuments and places and objects of national importance.--- it shall be the obligation of the state to protect every monument or place or object of artistic or historic interest, declared by or under law made by parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

50. Separation of judiciary from executive.---the state shall take steps to separate the judiciary from the executive in the public service of the state.

51. Promotion of international peace and security. ----the state shall endeavor to---

- (a) Promote international peace and security;
- (b) Maintain just and honorable relations between nations;
- (c) Foster respect for international law and treaty obligation in the dealings of organized peoples with one another; and
- (d) Encourage settlement of international disputes by arbitration.

NOTES

1.4.4. Powers and Privileges of The Parliament/Statelegislative Assemblies

To provide for the expression of the right of freedom of speech and debates in parliament; to provide for certain privileges, immunities and powers in connection with parliament; to provide for committees of privileges to investigate conduct of members; and to provide for matters incidental thereto.

NOTES

Definitions

In this Act, unless the context otherwise indicates-

“Assembly” means the National Assembly referred to in chapter 7 of the Namibian Constitution;

“Chairperson”-

- (a) Means the member elected under Article 73 of the Namibian Constitution to be the Chairperson of the council; and
- (b) Includes-
 - (i) The member elected under that Articles as Vice-chairperson; or
 - (ii) Any other member of the council referred to in that Article;

When acting for the chairperson;

“Committee” means any standing or select committee established by the Assembly or a committee contemplated in Article 74(2) of the Namibian Constitution, and includes the committee of Privileges;

“committee of privileges”, in relation to the Assembly, means the Committee of Privileges of the National Assembly established by section 7(1) (a) and, in relation to the Council, means the committee of Privileges of the National Council established by section 7(1)(b)

“Council” means the national council referred to in Articles 68 of the Namibian Constitution;

“**Enquiry**” means an enquiry in terms of section 14;

“**House**” , in relation to parliament, means the Assembly or the Council;

“**Journals**” means the minutes of proceedings of the House

“**Members**” means a member of the House;

“**officer**”, in relation to the Assembly, means any officer contemplated in Articles 52(3) of the Namibian Constitution and, in relation to the Council, means any person appointed to the staff of the council, and includes the Secretary and any member of the Namibian police as defined in section 1 of the Police Act, 1990 (Act 19 of 1990), who is on duty within the precincts of Parliament;

“**Parliament**” means the Assembly or the council, and includes any committees;

“**precincts of Parliaments**” means the chamber in which the proceedings of the House are conducted, and include any galleries, lobbies, offices, or areas used principally in connection with the proceedings of Parliaments and every part of the buildings in which the chamber is situated and any forecourt, yard, garden, enclosure, or open space appurtenents thereto and used or provided for the purposes of the House;

“**Secretary**”, in relation to the Assembly, means the secretary of the Assembly appointed or designated under Articles 52(1) of the Namibian Constitution and, in relation to the Council. Means the person appointed to perform the functions of Secretary for the council;

“**Speaker**”-

(a) Means the member elected under sub-Article (1) of Article 51 of the Namibian Constitution to be the speaker of the Assembly; and

(b) Includes-

(i) the member elected under the sub-Articles as Deputy – Speaker; or

(ii) any other member of the Assembly referred to in sub-Articles(4) of that Articles;

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When acting for the speaker;

“**Standing rules and orders**”, in relation to the Assembly; means the standing Rules and orders of the Assembly made by the Assembly under the Article 59(1) of the Namibian constitution and; in relation to the council, means that Standing Rules and Orders of the Council made by the Council under Article 74(2) of the Namibian Constitution; and

NOTES

“**stranger**”, in relation to parliament, means any person other than a member or an officer.

COMMITTEE OF PRIVILEGES (7.13)

(1) There shall be-

(a) A committee of the assembly to be known as the Committee of Privileges of the National Assembly; and

(b) A committee of the council to be known as the committee of privileges of the National council.

(2) The committee of privileges of the national assembly shall comprise-

(a) The speaker, who shall be the chairperson; and

(b) Five members of the assembly, appointed by the assembly.

(3) The committee of privileges of the national council shall comprise-

(a) the chairperson, who shall preside at any meeting of that committee; and

(b) five members of the council; appointed by the council.

Tenure of office of members of committees of privileges

(1) (a) A member of the committee of privileges of the national assembly referred to in section 7(1) (a), other than the speaker, shall hold office for the period from the time of his or her appointment until the next ensuing election of members of the Assembly in accordance with Articles 46 and 50 of the Namibian Constitution, or until Assembly is dissolved by the

President under Articles 57(1) of the said constitution ,and such member shall be eligible for re-appointment if re-elected in such election.

(b) the assembly may at any time remove a person, other than the speaker; as a member of the committee of privileges referred to in paragraph (a)

2.(a)The Assembly of the committee of privileges of the National Council referred to in section 7(1) (b), other than the chairperson, shall hold office for the period from the time of his or her appointment, until the next ensuing election of members of the council in accordance with articles 69 and 70 of the Namibian constitution, and such member shall be eligible for re-appointment if re-elected in such election.

(b) The council may at any time remove a person, other than the chairperson, as a member of the committee of privileges referred to in paragraph (a)

(3) Any vacancy in the committee of privileges arising from a circumstance referred to in subsection (1) (b) or (2) (b), as the case may be, or caused by the death of any member of that committee, shall be filled by the appointment of another person in accordance with the provisions of section 7(2) (b) or (3) (b), as the case may be, and every member so appointed shall hold office for the unexpired portion of the period of office of the member who has vacated his or her office or who has died as the case may be.

Vice- chairperson and acting chairperson of committee of privileges

(1) the members of the chairpersons of privileges shall elect one of their number to be the vice- chairperson of that committee, who shall act for the chairperson if the chairperson is unable to perform his or her duties.

(2) if both the chairperson and vice-chairperson are absent from a meeting of the committee of privileges, the members presents at that meeting shall elect one of their number to preside at that meeting.

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Quorum

The quorum for any meeting of the committee of privileges shall be a majority of its members.

Standing Rules and orders applicable to committee of privileges

The relevant standing rules and orders shall be applicable to the committee of privileges to the extent as may be determined by the House concerned.

Powers and functions of committee of privileges

The committee of privileges-

- (a) Shall, subject to the approval of the House, issue directives providing for-
 - (i) Such disclosure by members of their financial or business affairs as it may consider to be appropriate; and
 - (ii) The form and frequency in which the particulars contemplated in subparagraph (i) shall be furnished;
- (b) may, subject to part III, investigate, either of its own accord or upon a complaint made by –
 - (i) the House, any matter relating to the conduct of any member within the precincts of parliament or an alleged breach by any member of the relevant standing rules and orders;
 - (ii) any person, any matter relating to an alleged breach by a member of his or her duty in terms of section 2 to disclose an interest as contemplated in that section;
- (b) May, for the purpose of paragraph (b), in writing require a member to submit to it a return of assets and liabilities or furnish it with such particulars or information or to submit or make available to it such books, documents, statements, or records as it may require, and to examine such return or particulars, information, books, documents, statements or records;

- (c) Shall report and make recommendations to the house with regards to its findings in any investigation it terms of paragraph (b)

**Powers of house with regards to report by committee of privileges
The house-**

- (a) Shall, in accordance with is Standing rules and orders; consider a report and recommendations made to it under section 12 (d); and
- (b) May take such disciplinary action against the member concerned as it may deem appreciate in accordance with its standing rules and

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State Legislative Assemblies

Any member who desires, to move for leave to introduce a Bill, shall give five day's notice in the prescribed form (Appendix D) of his intention and shall together with the notice, submit to the Secretary a copy of the Bill and a full statement of objects and Reasons:

Provided that in case of a Government Bill, along with the notice sufficient number of copies of the Bill shall be sent to the Secretary for circulation to the Members;

Provided further that in case of a private Member who gives notice for leave to introduce a Bill, the Speaker may, if he thinks necessary modify the statement of Objects and Reasons in consonance with the clauses in the Bill.

Bill which is dependent wholly or partly upon another Bill pending before the House may be introduced in the House in anticipation of the passing of the Bill on which it is dependent:

Provided that the second Bill shall be taken up for consideration and passing in the House only after the first Bill has been passed by the House and assented to by the President or the Governor as the case may be.

When a Bill is pending before the House, notice of an identical Bill, whether received before or after the introduction of the pending Bill, shall be removed from, or not entered in the list of pending notices, as the case may be, unless the speaker otherwise directs.

A Bill involving expenditure shall be accompanied by a financial memorandum which shall invite particular attention to the clauses involving expenditure and shall also give an estimate of the

NOTES

recurring and non-recurring expenditure involved in case of the Bill is passed into law:

Provided that the clauses in a Bill involving expenditure shall be printed in thick type or in italics so as to draw the attention of the Members to the same.

A Bill involving proposals for the delegation of legislation powers shall further be accompanied by a memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character:

Provided that if any clause in the Bill involving proposals for the delegation of legislative powers either to the Government or to the subordinate authority, does not conform the norms or principles laid down by the Committee on Delegated Legislation, the Speaker may return the same for complying with the recommendations made by the Committee;

Provided further that the clauses involving proposals for the delegation of legislative power shall be underlined or sidelined.

If notice is given of any motion in respect of a Bill or an amendment which, in the opinion of the Speaker cannot be made except on the recommendation of the Governor or with the previous sanction of the President, the Speaker shall as soon as may be after the receipt of the notice, refer the Bill or the amendment to the authority who would have the power to grant the recommendation or sanction, and the motion shall not be placed on the list of business unless the recommendation or previous sanction required has been granted.

If a motion for leave to introduce a Bill is opposed the Speaker after permitting if he thinks fit a brief statement from the member who moves and from a member who opposes the motion may without further debate, put the question thereon.

If such a motion is agreed to, the Bill may be introduced

1.5. LET US SUM UP

In this unit you would have learnt clearly historical perspective of Media Laws in India and constitution and Media. In fundamental Rights Right to Equality, Right to Freedom, Right Against Exploitation, Freedom of Religion, cultural and Education Right with special reference to Freedom of speech and Expression relevant to Media are provided. Similarly Directive Principle of State policy as well as powers and privileges of the parliament /state assemblies are explained in detailed manner.

1.6. UNIT- END EXERCISES

1. What are all the Fundamental Rights?
2. Explain the Law of Expression under Indian constitution.
3. List out the powers of Parliament.

1.7. ANSWER TO CHECK YOUR PROGRESS

1.The Fundamental Rights are Right to Equality, Right to Freedom, Right Against Exploitation, Freedom of Religion, cultural and Education Right and Freedom of speech and Expression.

2.Law of Expression under Indian Constitution

The people of India gave to themselves, the constitution of India, with a view of make it sovereign, Democratic, Socialistic, secular and Republic. In our democratic society, pride to place has been provided to freedom of speech and expression, which is the mother of all liberties. One of the main objectives of the Indian constitution as envisages in the Preamble, is to secure LIBERTY OF THOUGHT AND EXPRESSION to all the citizens. Freedom of expression is among the foremost of human rights. It is the communication and practical application of individual freedom of thought. Irrespective of the system of administration, various constitutions make a mention of the freedom of expression. While freedom of thought is a personal freedom; freedom of expression is a collective freedom, whose character becomes more and more pronounced as the technical methods of their diffusion multiply and improve.

The right of free speech is absolutely indispensable for the preservation of a free society in which Government is based upon the consent of an informed citizenry and is dedicated to the protection of the rights of all, even the most despised minorities.

Constitutional Aspect

In order to give effect to the objective, “freedom of speech and expression” has been guaranteed as a fundamental right under Article 19 (1)(a) available to all citizens, subject only to restrictions which may be imposed by the state under clause (2) of the Articles. The relevant portion of Article 19 reads as follows:

Articles 19(1) All citizens shall have the right

- (a) Freedom of speech and expression.

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Article 19(2) Nothing in sub clause (a) of clause (1) shall effect the operation of any existing law, or prevent the State from making any law, in so far as such law imposed reasonable restrictions on the exercise of the right conferred by the said sun-clause in the interests of Sovereignty and Integrity of India, the Security of the State, Friendly relations with foreign states. Public order, Decency or Morality, or in relation to contempt of court, Defamation or Incitement to an offence.

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Article 19 (1) provides that all citizens shall have the right to freedom of speech and expression, to assemble peaceably and without arms, to form associations or unions, to move freely throughout the territory of India, to reside and settle in any part of the territory of India and to practice any profession or to carry on any occupation, trade or business. The rights mentioned in Articles 19 (1) are not the exhaustive of all rights of a free man. Some of the rights falling outside Articles 19 are freedom to move, right of citizenship, the right to vote, or contest election, the contractual right against the Government, right of Government servants to continue in employment and the right to strike. The freedoms enumerated in Articles 19 (1) are those great and basic rights which are recognized as natural rights inherent in the status of a citizen. But none of these freedoms is absolute or uncontrolled. The rights granted by Articles 19 are available only to citizens and not to aliens or foreigners.

3. Powers of Parliament

To provide for the expression of the right of freedom of speech and debates in parliament; to provide for certain privileges, immunities and powers in connection with parliament; to provide for committees of privileges to investigate conduct of members; and to provide for matters incidental thereto.

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(c) Means the member elected under Article 73 of the Namibian Constitution to be the Chairperson of the council; and

(d) Includes-

- (i) The member elected under that Articles as Vice-chairperson; or
- (ii) Any other member of the council referred to in that Article;

When acting for the chairperson;

“**Committee**” means any standing or select committee established by the Assembly or a committee contemplated in Article 74(2) of the Namibian Constitution, and includes the committee of Privileges;

“**Committee of privileges**”, in relation to the Assembly, means the Committee of Privileges of the National Assembly established by section 7(1) (a) and, in relation to the Council, means the committee of Privileges of the National Council established by section 7(1)(b)

“**Council**” means the national council referred to in Articles 68 of the Namibian Constitution;

“**Enquiry**” means an enquiry in terms of section 14;

“**House**” , in relation to parliament, means the Assembly or the Council;

“**Journals**” means the minutes of proceedings of the House

“**Members**” means a member of the House;

“**officer**”, in relation to the Assembly, means any officer contemplated in Articles 52(3) of the Namibian Constitution and, in relation to the Council, means any person appointed to the staff of the council, and includes the Secretary and any member of the Namibian police as defined in section 1 of the Police Act, 1990 (Act 19 of 1990), who is on duty within the precincts of Parliament;

“**Parliament**” means the Assembly or the council, and includes any committees;

“**precincts of Parliaments**” means the chamber in which the proceedings of the House are conducted, and include any galleries, lobbies, offices, or areas used principally in connection with the proceedings of Parliaments and every part of the buildings in which the chamber is situated and any forecourt, yard, garden, enclosure, or open space appurtenents thereto and used or provided for the purposes of the House;

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“Secretary”, in relation to the Assembly, means the secretary of the Assembly appointed or designated under Articles 52(1) of the Namibian Constitution and, in relation to the Council. Means the person appointed to perform the functions of Secretary for the council;

“speaker”-

(c) Means the member elected under sub-Article (1) of Article 51 of the Namibian Constitution to be the speaker of the Assembly; and

(d) Includes-

(i) The member elected under the sub-Articles as Deputy – Speaker; or

(ii) Any other member of the Assembly referred to in sub-Articles (4) of those Articles;

When acting for the speaker;

“Standing rules and orders”, in relation to the Assembly; means the standing Rules and orders of the Assembly made by the Assembly under the Article 59(1) of the Namibian constitution and; in relation to the council, means that Standing Rules and Orders of the Council made by the Council under Article 74(2) of the Namibian Constitution; and

“stranger”, in relation to parliament, means any person other than a member or an officer.

1.8. SUGGESTED READINGS

1. K.M .Shrivastava, Media Laws: A Historical Perspective, Mass Media in India 2(2009), Publication Division, Ministry of information and Broadcasting, Government of India
2. M.V.Desai, Communication Policies in India, UNESCO, Paris, 213(1977)
3. D.D. Basu, Law of the Press in India, Prentice Delhi 2003
4. D.D.Basu, Introduction to Indian Constitution, Prentice Hall Delhi 2003
5. S.Natarajan, A History of Press in India 219-220, Asia publishing House,1962

UNIT – II

- 2.1. Introduction
- 2.2. Objectives
- 2.3. Press Laws in India
- 2.4. Definition of Contempt of Court
- 2.5. Intellectual Property rights
- 2.6. Trademark
- 2.7. Patent and copy right
- 2.8. Let us Sum up
- 2.9. Unit- End Exercises
- 2.10. Answer to Check your Progress
- 2.11. Suggested Readings

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2.1 INTRODUCTION

Mass Media laws in India have a long history and are deeply rooted in the country's colonial experience under British rule. In the Constitution of India there is no separate provision for Press freedom. But the article 19(1) A which is fundamental right which guarantees freedom of speech and expression considered as freedom of Press also. The Indian penal code was passed in 1860. The Indian penal code also contains certain provisions which create offences and provide for punishment of a person who commits such offence by printing, publishing or circulating an objectionable matter. This unit covers Press Laws in India, Contempt of Court, Intellectual Property rights, Trademark, patent and Copy right.

2.2. OBJECTIVES.

After going through this unit you will be able to:

- Understand about the Press laws in India
- Define the term of Contempt of Court
- Explain the main aspects of Intellectual property Rights.

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- Compare Trademark, Patent and Copy right

2.3 PRESS LAWS IN INDIA

Besides the restrictions imposed on the press by the Constitution, there exist various laws which further curtail press freedom and the right of the citizen to information, as well as the right to freedom of speech and expression. They are all in force in the interest of public order, of the sovereignty and security of the state.

1. The Indian Penal Code, 1860 which makes it an offence a) to incite enmity between different classes of citizens b) to spread any rumours or reports likely to incite members of the Armed Forces to mutiny or failure of duty c) to cause alarm to any section of the Public whereby there is an inducement to commit an offence against the State or against public peace d) to incite one class or community against another e) to utter words or to make visible representations with intent to wound religious feelings or beliefs of another person, or of any class of citizens
2. The Indian telegraph Act, 185 which empowers the state to intercept, detain, or not to transmit any message, in the interest of public safety, public order, the sovereignty & integrity, and security of the state. Press messages intended to be punished in India by correspondents accredited to the central government or the state government can be intercepted or detained only during a public emergency.
3. Indian Post Office Act, 1898 which gives the state or its representatives the right to intercept, detain or not to send any indecent or obscene publication or representations.
4. The Police incitement to Disaffection Act, 1922, which provides for a penalty for spreading disaffection among the police and for related offences.
5. Official Secrets Act, 1923, which prohibits obtaining, collecting, recording or publishing of secret government documents or photographs or sketches or models. It is this Act which prevents Indian Journalists from publishing inside information about the government.
6. The Security and Public Safety Acts of the various States. These deal with penalties for inciting commission of 'subversive' acts.

7. The Drugs and Magic Remedies Objectionable Advertisements Act, 1954, which, in the interests of public health, bans advertisements of magic cures of sexual ailment and the like.
8. Section 11 of the Customs Act, 1962 which gives Government the power to ban import and export of goods in the interests of security, public order and decency and morality.
9. The Criminal Procedure Code, 1973 which empowers the State to forfeit copies of a publication that offends Indian Penal Code provisions relating to public order or security of the state.
10. The Young Persons Harmful Publications Act, 1956 disallows publication and circulation of any literature likely to encourage anti-social tendencies among children
11. Contempt of Courts Act, 1971 relates to the willful disobedience of judicial orders and the like, and to any publication which interferes with or undermines the administration of justice. For example, a journalist is guilty of contempt of court if he or she publishes a report on a case held in camera in the private chamber of the judge

The Copyright Act, 1957 as amended up to August 1984 which protects the original works of writers, artists, musicians, dramatists, film and video producers and other creative persons from being pirated

2.4. DEFINITION OF CONTEMPT OF COURT

The Expression contempt of court has been defined in the contempt of courts Act 1971. The term contempt of court refers to civil contempt or criminal contempt under the act.

Civil contempt means willful disobedience to any judgement, decree, direction, order, writ or other process of the court or willful breach of an undertaking given to the court (clause 2B)

Criminal contempt means the publication (whether by words, spoken or written or by signs or by visible representation or otherwise) of any material or doing of any other act whatsoever.

Anything that

- i) Scandalizes or tends to scandalize or tends to lower the authority of any court

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ii) Interferes or tends to interfere the due course of any judicial Proceedings

iii) Prejudices or interferes or tends to interfere with the course of any judicial proceedings

Activities that constitute to Contempt of Court:

i) Anything that can create apprehension in the minds of the people about the judges and administration of justice.

ii) Causing embarrassment to the judges in discharge of his official duty

iii) Criticism though it is not judicial, it affects the court

iv) Imputation of improper routines in deciding a case

Punishment for Contempt of Court

Punishment for Contempt of Court includes imprisonment for a term which may extend to 6 months or a fine which may extend to Rs 2000/- or more.

2.5 INTELLECTUAL PROPERTY RIGHTS

Intellectual property IP is a term referring to a number of distinct types of creations of the mind of which property rights are recognized- and the corresponding fields of law. Under intellectual property law, owners are granted certain exclusive rights to a variety of intangible assets, such as musical, literary, and artistic work; discoveries and inventions; and words, phrases, symbols, and design. Common types of intellectual property include copyrights, trademarks, patents, industrial design rights and trade secrets in some jurisdictions.

Although many of the legal principles governing intellectual property have evolved over centuries, it was not until the 19th century that the term intellectual property began to be used, and not until the late 20th century that it became commonplace in the United States.

Intellectual property rights are legal rights, which result from intellectual activity in the industrial, scientific, literary and artistic fields. These rights given statutory expression to the moral and economic rights of creators in their creations. Intellectual property rights safeguard creators and other producers of intellectual goods and

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services by granting them certain time-limited rights to control the use made of those productions. These rights also promote creativity and the dissemination and application of its results and encourage fair-trading, which contributes to economic and social development.

The need for a system to protect IP internationally arose when foreign exhibitors refused to attend an International Exhibition of Inventions in Vienna in 1873 because they were afraid that their ideas would be stolen and exploited commercially in other countries. This led to the creation of the Paris Convention for the Protection of Industrial Property of 1883. The Paris Convention was the first major international treaty designed to help the people of one country obtain protection in other countries for their intellectual creations, in the form of industrial property rights. In 1886, copyright entered the international arena with the Berne Convention for the Protection of Literary and Artistic Works.

The aim of this Convention was to help nationals of its Members States obtain international protection of their right to control, and receive payment for, the use of literary and artistic works. Both the Paris Convention and the Berne Convention set up International Bureaus to carry out administrative tasks, such as organizing meetings of the Member States. In 1893, these two small bureaus united to form an international organization called the United International Bureaus for the Protection of Intellectual Property- best known by its French acronym, BIRPI. Based in Berne, Switzerland, with a staff of seven, BIRPI was the predecessor of what is today known as the World Intellectual Property Organisation or WIPO. WIPO is a specialized agency of the UN, with a mandate to administrate IP matters recognized by the UN Member States. There are about 21 international treaties in the field of intellectual property, which are administrated by WIPO. The treaties fall into three groups namely treaties, which establish international protection; treaties; which facilitate international protection and treaties, which establish classification systems.

Intellectual property rights in India

There is a well-established statutory, administrative and judicial framework to safeguard intellectual property rights in India, whether they relate to patents, trademarks, copyright or industrial designs. Well-known international trademarks have been protected in India even when they were not registered in India. The Indian Trademark Law has been extended through court decisions to service marks in addition to trademarks for goods. Computer Software companies have successfully curtailed piracy through court orders. Computer databases have been protected. The courts, under the doctrine of breach of confidentiality, accorded an extensive protection

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of trade secrets. Right to privacy, which is not protected even in some developed countries, has been recognized in India.

Protection of intellectual property rights in India continues to be strengthened further. The year 1999 witnessed the consideration and passage of major legislation with regard to protection of intellectual property rights in harmony with international practices and in compliance with India's obligations under TRIPS. These include:

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1. The patents Amendment Act, 1999 passed by the Indian Parliament on March 10, 1999 to amend the Patents Act of 1970 that provides for establishment of a mailbox system to file patents and accords exclusive marketing rights for 5 years.
2. The Trade Marks Bill, 1999, which repeals and replaces the Trade and Merchandise Mark Act, 1958 passed by the Indian Parliament in the Winter Session that concluded on December 23, 1999.
3. The Copyright Amendment Act, 1999 passed by both houses of the Indian Parliament, and signed by the President of India on December 30, 1999
4. A sui generis legislation for the protection of geographical indications called the Geographical Indication of Goods Registration & Protection Bill, 1999 approved by the both houses of the Indian Parliament on December 23, 1999.
5. The Industrial Designs Bill, 1999, which replaces the Designs Act, 1911 was passed in the Upper House of the Indian Parliament in the Winter Session, which concluded on December 23, 1999 and is presently before the Lower House for its consideration.
6. The Patents Second Amendments Bill, 1999 to further amend the Patents Act, 1970 and make it TRIPS compliant was introduced in the Upper House of Indian Parliament on December 20, 1999.

In addition to the above legislative changes, the Government of India has taken **several measures to streamline and strengthen the intellectual property administration system** in the country. Projects relating to the modernization of patent information services and trademarks registry have been implemented with help from WIPO/UNDP. The government of India is implementing a project for modernization of patent offices at a cost of Rs.756 million incorporating several components such as human resource

development, recruiting additional examiners, infrastructure support and strengthening by way of computerization and reengineering work practices, and elimination of backlog of patent applications. An amendment to the Patent Rules was notified on June 2, 1999 to simplify the procedural aspects.

The Trade Marks Registry is also proposed to be further strengthened and modernized. A project for modernization was earlier implemented during 1993-96. Further strengthening of the Registry is being taken up at a cost of Rs.86 Million. The main thrust now is to strengthen the infrastructure of the Trade Marks Registry and the early removal of backlog of pending applications, transfer of records to CD-ROM's. Re-engineering of work processes, appointment of additional examiners etc.

As regards the respect **enforcement**, Indian enforcement agencies are now working very effectively and there has been a notable decline in the levels of piracy in India. In addition to intensifying raids against copyright infringers, the Government has taken a number of measures to strengthen the enforcement of copyright law. Special cells for copyright enforcement have been set up in 23 States and Union Territories. In addition, for collective administration of copyright, copyright societies have been set up for different classes of works.

2.6. TRADEMARK

Trademark is distinctive sign which is used to distinguish the products of services of different businesses. A 'Mark' may consist of a word or invented word, signature, device, letter, numeral, brand, heading, label, name written in a particular style, the shape of goods other than those for which a Mark is proposed to be used, or any combination thereof or a combination of colors and so forth. Subject to certain conditions, a trademark may also be symbolized by the name of a person living or dead.

2.7. PATENT AND COPY RIGHT

A patent may be granted for a new, useful and non-obvious invention and gives the patent holder a right to prevent others from practicing the invention without a license from the inventor for a certain period of time. (typically 20 years from the filing date of patent application)

Copy Right may subsist in creative and artists works (e.g. books, movies, music, paintings, Photographs and software) and give a copy Right holder the exclusive right to control reproduction or adaptation of such works for a period of time (Historically a period of between 10 to

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30 years depending on Jurisdiction, more recently the life of the author plus several decades)

2.8. LET US SUM UP

This unit has dealt with the important aspects of Press laws in India.

NOTES

1. The Indian Penal Code, 1860 which makes it an offence a) to incite enmity between different classes of citizens b) to spread any rumors or reports likely to incite members of the Armed Forces to mutiny or failure of duty c) to cause alarm to any section of the Public whereby there is an inducement to commit an offence against the State or against public peace d) to incite one class or community against another e) to utter words or to make visible representations with intent to wound religious feelings or beliefs of another person, or of any class of citizens
2. The Indian telegraph Act, 185 which empowers the state to intercept, detain, or not to transmit any message, in the interest of public safety, public order, the sovereignty & integrity, and security of the state. Press messages intended to be punished in India by correspondents accredited to the central government or the state government can be intercepted or detained only during a public emergency.
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6. The Security and Public Safety Acts of the various States. These deal with penalties for inciting commission of 'subversive' acts.
7. The Drugs and Magic Remedies Objectionable Advertisements Act, 1954, which, in the interests of public health, bans advertisements of magic cures of sexual ailment and the like.

8. Section 11 of the Customs Act, 1962 which gives Government the power to ban import and export of goods in the interests of security, public order and decency and morality.
9. The Criminal Procedure Code, 1973 which empowers the State to forfeit copies of a publication that offends Indian Penal Code provisions relating to public order or security of the state.
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The Copyright Act, 1957 as amended up to August 1984 which protects the original works of writers, artists, musicians, dramatists, film and video producers and other creative persons from being pirated

The expression contempt of court has been defined in the contempt of courts Act

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Intellectual property rights in India

There is a well-established statutory, administrative and judicial framework to safeguard intellectual property rights in India, whether they relate to patents, trademarks, copyright or industrial designs. Well-known international trademarks have been protected in India even when they were not registered in India. The Indian Trademark Law has been extended through court decisions to service

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marks in addition to trademarks for goods. Computer Software companies have successfully curtailed piracy through court orders. Computer databases have been protected. The courts, under the doctrine of breach of confidentiality, accorded an extensive protection of trade secrets. Right to privacy, which is not protected even in some developed countries, has been recognized in India.

Similarly this unit also defined the Trademark, Patent and Copy right.

2.9. UNIT- END EXERCISES

1. Summarize the Press laws in India.
2. What is Trade Mark?
3. Compare Patent and Copy right.

2.10. ANSWER TO CHECK YOUR PROGRESS

1. Press laws in India

1. The Indian Penal Code, 1860 which makes it an offence a) to incite enmity between different classes of citizens b) to spread any rumours or reports likely to incite members of the Armed Forces to mutiny or failure of duty c) to cause alarm to any section of the Public whereby there is an inducement to commit an offence against the State or against public peace d) to incite one class or community against another e) to utter words or to make visible representations with intent to wound religious feelings or beliefs of another person, or of any class of citizens
2. The Indian telegraph Act, 185 which empowers the state to intercept, detain, or not to transmit any message, in the interest of public safety, public order, the sovereignty & integrity, and security of the state. Press messages intended to be punished in India by correspondents accredited to the central government or the state government can be intercepted or detained only during a public emergency.
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The Copyright Act, 1957 as amended up to August 1984 which protects the original works of writers, artists, musicians, dramatist, film and video producers and other creative persons from being pirated

3 Patent and copy right

A patent may be granted for a new, useful and non-obvious invention and gives the patent holder a right to prevent others from practicing the invention without a license from the inventor for a

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certain period of time.(typically 20 years from the filing date of patent application)

Copy Right may subsist in creative and artists works (e.g. books, movies, music, paintings, Photographs and software) and give a copy Right holder the exclusive right to control reproduction or adaptation of such works for a period of time (Historically a period of between 10 to 30 years depending on Jurisdiction, more recently the life of the author plus several decades)

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2.11. SUGGESTED READINGS

1. D.D. Basu, Law of the Press in India, Prentice Hall Delhi 2003
2. RadhaKrishnamurthi, Indian Press Laws, India Laws House, Delhi
3. Gauravoberoi, Media & Press Laws
4. Seema Hasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi, 2013
5. Anurika Vaish (Ed): IPR and Broad casting Rights, Shree Publishers and distributors, New Delhi 2008

UNIT – III

- 3.1. Introduction
- 3.2. Objectives
- 3.3. Parliamentary Privileges
- 3.4. Books and Registration Act
- 3.5. Working Journalist Act
- 3.6. Press Council of India
- 3.7. Press Commission of India
- 3.8. Official Secret Act
- 3.9. Let us Sum up
- 3.10. Unit- End Exercises
- 3.11. Answer to Check your Progress
- 3.12. Suggested Readings

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3.1. INTRODUCTION

The Concept of Privileges of Parliament rests on Principles that a sovereign legislature should be able to perform its legislative and deliberative functions independently and effectively. For this it should possess certain inherent or conferred powers to punish for breach of such privileges. Articles 105(3) and 194(3) of the Constitution empower Parliament and State legislatures respectively to enact laws codifying their Privileges.

To provide for the expression of the right of freedom of speech and debates in parliament; to provide for certain privileges, immunities and powers in connection with parliament; to provide for committees of privileges to investigate conduct of members; and to provide for matters incidental thereto.

Definitions

In this Act, unless the context otherwise indicates-

“Assembly” means the National Assembly referred to in chapter 7 of the Namibian Constitution;

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“Chairperson”-

(e) Means the member elected under Article 73 of the Namibian Constitution to be the Chairperson of the council; and

(f) Includes-

(i) The member elected under that Articles as Vice-chairperson; or

(ii) Any other member of the council referred to in that Article;

When acting for the chairperson;

“**Committee**” means any standing or select committee established by the Assembly or a committee contemplated in Article 74(2) of the Namibian Constitution, and includes the committee of Privileges;

“**committee of privileges**”, in relation to the Assembly, means the Committee of Privileges of the National Assembly established by section 7(1) (a) and, in relation to the Council, means the committee of Privileges of the National Council established by section 7(1)(b)

“**Council**” means the national council referred to in Articles 68 of the Namibian Constitution;

“**Enquiry**” means an enquiry in terms of section 14;

“**House**”, in relation to parliament, means the Assembly or the Council;

“**Journals**” means the minutes of proceedings of the House

“**Members**” means a member of the House;

“**Parliament**” means the Assembly or the council, and includes any committees;

3.2. OBJECTIVES

After going through this unit you will be able to:

- Understand about the Parliament Privileges

- Explain the Book and registration act and Working Journalist act
- Describe Press council of India and Press commissions of India
- Elucidate the Official Secret act

3.3. PARLIAMENTARY PRIVILEGES

PARLIAMENTARY PRIVILEGES

- ✓ Article 105,194
- ✓ People's Representation Act 1951

Definition:

According to Sir Thomas Erskine May, Parliamentary privilege is the sum of peculiar rights enjoyed by each house collectively and by members of each house individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals.

Introduction:

- ✓ Parliamentary privilege though part of the law of the land, is to certain extent in exemption, from the general law.
- ✓ The constitution of India, 1949- Article 105 & 194: powers, privileges and Immunities of parliament and its members; and
- ✓ Representation of the people's Act 1951- Qualification and disqualification for the Member of Parliament and State Legislature.

Article 194:

- ✓ Freedom of speech in the parliament
- ✓ None of the members of the parliament are liable to force the proceedings of the court
- ✓ Other privileges and powers of any parliamentarian came into force in 1978 by 44th amendment act.
- ✓ Provisions above clauses (1), (2), (3) shall apply to any person who belongs to any house and who by virtue of the constitution have the right to speak and also take part in the proceedings of the parliament.

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The Representation of people Act, 1951:

- ✓ An act to provide for the conduct of elections of the House of parliament and house of the legislature of each state, the qualification and disqualifications for membership of the houses, the corrupt practices and other offences at or in connection with such elections and the decisions of doubts and disputes arising out of or in connection with such elections.

Prominent Privileges

- 1) Freedom of speech in parliament
- 2) Immunity to a member from any proceedings in any court in respect of anything said or any vote given by him in parliament or any committee thereof.
- 3) Immunity to a person from proceedings in any court in respect of the publication by or under the authority of either houses of parliament of any report, paper, notes or proceedings.
- 4) Prohibition of courts to inquire into proceedings of parliament
- 5) Freedom from arrest of members in civil cases during the continuance of the session of the house and 40 days before its commencement and 40 days after its conclusion
- 6) Right of the house to receive immediate information of the arrest, detention, conviction, imprisonment and release of a member
- 7) Member or officers of the house cannot give evidence or procedure document in court of law relating to proceedings of the house, without the permission of the house.
- 8) Each house also enjoys certain consequential powers such as
 - a) To commit persons, whether they are members or not, for breach of privilege or contempt of the house;
 - b) To compel the attendance of witnesses and to send for papers and records;
 - c) To regulate its own procedure and the conduct of its business;

- d) To prohibit the publication of its debate and proceedings and
- e) To exclude strangers from the house.

3.4. BOOKS AND REGISTRATION ACT

During the reign of the British Government in India writing of books and other informatory material took a concrete shape and with the advent of printings presses various books on almost all the subject and periodicals touching every aspect of life started appearing. Thrust on education gave an impetus to this with the result that lot of printed material became available. Those in the field of writing, publishing and printing gave a thought to organize a system for keeping a record of the publications. The then East India Company was urged to keep a record of the publications. An attempt was made by the authorities to make a collection of the books and other publications emanating from the various printing presses throughout India.

Board of Directors of East India Company issued an instruction that copies of every important and interesting work published in India should be dispatched to England to be deposited in the library of India House. Such an instruction had a slow impact. Again the Royal Asiatic Society in London urged the then Secretary of State for India to repeat the instruction of the late Board of Directors of East India Company and also desired that catalogues of all the works published in India should be sent to England. A system of voluntary registration of publications was evolved but it failed. It was found necessary to establish a system compulsory sale to Government, of three copies of each work in India. To achieve this purpose a Bill was introduced in the Legislature for the regulation of printing presses and newspaper for the preservation of copies of books and periodicals containing news printed in the whole of India and for the registration of such books and periodicals containing news.

Thus, the oldest surviving Act is the Press and Registration of Books Act, 1867. It also remained the fundamental law governing the rules for the regulation of the publication of newspapers and of having printing presses.

3.5. WORKING JOURNALIST ACT

An act to regulate certain conditions of service of working journalist and other person employed in newspaper establishments.

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Be it enacted by the parliament in the sixth year of the republic of India as follows:

Preliminary

1. Short title and commencement—

- (1) This act may be called their the [working journalist and other newspaper employees] (condition of service)and miscellaneous Provision Act, 1955.
- (2) It extends to the whole of India

2. Definitions-- Hindi sad, unless the context otherwise requires.

"Board" means-

- (i) in relation to working journalist, the wage board constituted under section 9;and
- (ii) in relation to non journalist newspaper employees, the wages board constituted under section 13-C

(b)"newspaper" means any printed periodical work containing public news or comments on public news and include such other class of printer periodical work as may, from time to time, be notified in this behalf by the central government in the official gazette;

(c) "Newspaper employee" means any working journalist, and includes any other person employed to do any work in or in relation to any newspaper establishment;

(d) "Newspaper establishment" means and establishment under the control of any person our body of person, whether incorporated or not, for the the production or publication of one or more newspaper for conducting any news agency for syndicate;[and includes newspaper establishments specified as one establishment under the schedule.

Explanation: for the purpose of this clause-

- (a) Different department, branches and centres of newspaper establishments shall be treated as parts thereof,-
- (b) A printing press shall be deemed to be newspaper establishment if the principal business thereof is to print newspaper]

(DD) "not journalist newspaper employee" means a person employed to do any work in ,or in relation to, any newspaper establishment, but does not include any such person who-

(i). Is a working journalist, or

(ii) Is employed mainly in a managerial administrative capacity, or

(iii) Being employed in a supervisor capacity, performs either by the nature of the duties attached to office or by reason of the powers Vested in him , functions mainly of a managerial nature.

(e) "Prescribed" means describe bhai rules made under this act

(ee) Tribunal means-

(i) In a relation to working journalist, that Tribunal constituted under section 13-AA;and

(ii) Relation to non journalist newspaper employees, the Tribunal constituted under section 13-DD

(eee) "wages" means all remuneration capable of being expressed in terms of money, which would , if the terms of employment, expressed or implied, were fulfilled, be payable to a newspaper employee in respect of his employment or of work done in such a employment, and includes-

(i) Such allowance (including dearness allowance) as newspaper employees for the time being entitled to;

(ii) Value of any house accommodation or of supply of light water, medical attendance or other amenity or of any service or of any concessional supplier of food grains or other articles;

(iii) Any travelling concession, but does not include;

(a) Any bonus;

(b) Any contribution paid or payable by the employer to any person fund or provident fund or for the benefit of the newspaper employee under any law for the time being in force;

(C) any gratuity payable on the termination of his service.

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Explanation- in this clause, the term “wages” shall also include new allowances, if any, of any description fixed from time to time]

(f) "working journalist" means a person whose principal avocation is that of a journalist and [who is employed as such, either whole time or part time in or in relation to one or more newspaper establishment] and includes an editor, a leader, writer, News editor, some editor, feature writer, copy tester, reporter, correspondent, cartoonist, news photographer and proofreaders, but does not include any such person who---

(i) Is employed mainly in a managerial or administrative capacity; or

(ii) being employed in a supervisor capacity, performs, either by the nature of the duties attached to his office or by a reason of the power vested in him, function mainly of a managerial nature;

(g) All words and expressions used by not a defined in this act and defined in the industrial disputes act, 1947 (XIV of 1947), shall have the meanings respectively assigned to them in that act.

WORKING JOURNALIST

3. Act XIV of 1947 to apply to working journalists.-- (1) the provisions of the industrial dispute act ,1947(XIV of 1947). As in Force for the time being, shall, subject to the modification specified in subsection. (2), apply to, or in relation to, working journalist as they apply to, or in relation to, workman within the meaning of the act.

(2) section 25-F of the aforesaid act, in its application to working journalist, shall be construed as if in CL.(a) thereof, for the period of notice reported to therein in relation to the retrenchment of a workman, the following period of notice in relation to the retrenchment of working journalist had been substitute, namely

(a) 6 month, in the case of an editor, and

(B) 3 month, the case of any other working journalist.

4. Special provision in respect of certain cases of retrenchment.-- where at anytime between the 14th day of July, 1954 and the 12th day of March 1955, any working journalist had been retrenched, he shall be entitled to receive from the employer-

(a) wages for one month at to which he was and title immediately before is retrenchment, unless he had been given one months notice in writing before such a retrenchment: and

(b) Which shall be equivalent to 15 days average pay for every completed year of service under that employee or any part thereof in excess of six months.

5. Payment of Gratuity.—

(1) where-

(a) any working journalist has been in continuous service, tomorrow weather before or after the commencement of this act for not less than three years in a newspaper establishment, and –

(i) his service or terminated by the employer in the relation to the newspaper establishment for any reason whatever, otherwise than as a punishment inflicted by way of disciplinary action; or

(ii) He retired from service on reaching the age of superannuation; or

(b) any working journalist has been in continuous service whether before or after that commencement of this act, for not less than 10 years in any newspaper establishment, and he voluntarily resign on or after the first day of July, 1961, from service in that newspaper establishment on any ground whatever rather than on the ground of conscience; or

(d) any working journalist dies while he is in service in any newspaper establishment; the working journalist or in the case of death, his nominee or nominees or if there is no nomination in force at the time of the death of the working journalist is family, as a case may be Shall , without prejudice to any benefits or Right accruing under the industrial disputes act, 1947 14 of 1947, be paid, answer sheet termination, retirement, resignation of death, by the employer in relation to that establishment come on gratuity which shall be equivalent to 15 days average pay for every competed yeah of service or any part thereof in excess of six month;

Provided that in the case of working journalist report to in CL. (b) the total amount of gratuity that shall be payable to him shall not exceed twelve and a- half months average pay.

NOTES

NOTES

Provided further that the area working journalist is employed in any newspaper establishment where in not more than that 6 working journalist very employed on any day of the 12 month immediately preceding the commencement of this act, the gratuity payable to a working journalist employed in such newspaper establishment for any period of service before such commencement shall not be equivalent to 15 days average pay for every completed year of service or any part of there of excess of 6 months but shall be equivalent to-

a) 3 days average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service does not exceed 5 years

(b) 5 days average pay for every completed year of service or any part thereof in excess of 6 months, if the period of such post service exceeds 5 years but does not exceed 10 years and

(c) 7 days average pay for every completed year of service or any part thereof in excess of 6 months, if the period of such post service exceeds 10 years.

Explanation- For the purpose of this subsection and subsection (1) of sec

17."Family" means -

(i) In the case of male working journalist, his widow, children, whether married or unmarried, and his dependent parents and the widow and children of his deceased son:

Provided that every 2 shall not be Deemed to be a member of the family of the working journalist if at the time of his death she was not legally entitled to be maintained by him;

(ii) In the case of a female working journalist, her husband, children, whether married or unmarried, and the dependent parents of the working journalist or of her husband and widow and children of her the deceased son:

Provided that if the working journalist has expressed the desire to exclude her husband from the family, the husband and is dependent parents shall not be Deemed to be a part of the working journalist family, and in either of the above two cases, if the child of a working journalist or of a diseased son of your working journalist has been adopted by another person and if, under the personal law of the adaptor,

adoption is legally recognised, such a child shall not be considered as a member of the working journalist.

(2) any dispute whether a working journalist has voluntarily resigned from service in any newspaper establishment on the ground of conscience shall be Deemed to be a industrial dispute within the meaning of industrial disputes act, 1947 (14 of 1947) , or any corresponding law relating two investigation and settlement of industrial disputes in force in any state.

(3) Where a nominee is a minor and the gratuity under subsection (1) has become payable during this minority, it shall be paid to a person appointed under subsection (3) of sec.5-A:

Provided that where there is no such person payment shall be made to you any Guardian of the property of the minor, appointed by a competent code or where no such Guardian has been appointed, to either parent of minor cover or where neither parent is alive, to any other Guardian of the minor:

Provided further that where the gratuity is payable to two or nominees, and either or any of them ties, the gratuity shall be paid to the surviving nominee or nominees.

5-A. Nomination by working journalist.—

(1) notwithstanding anything contained in any law for the time being in force are in any disposition testamentary e or otherwise in respect of any gratuity payable to a working journalist, where a nomination made in the prescribe manner purport to confer on any person the right to receive payment of the gratuity for the time being due to the working journalist, the nominee shall, on the death of the working journalist, become entitled to the gratuity and to be paid the sum due in respect there of the exclusion of all other person, unless the nomination is varied are cancelled in the prescribed manner.

(2) any nomination referred to in subsection (1) shall become void if the nominees predeceases, or where there are two or more nominees all the nominees predeceases, the working journalist making the nomination.

(3) Whether nominee is a minor, it shall be lawful for the working journalist making the nomination to appoint any person in the prescribed manner to receive the gratuity in the event of his death during the minority of the nominee.

NOTES

NOTES

6. Hours of work.-(1) subject to any rules that may be made under this act, no working journalist shall be required or allowed to work in any newspaper establishment for more than 144 Hours during any e period of four consecutive weeks, exclusive of time for meals.

(2) Every working journalist shall be allowed during any period of seven consecutive days rest for a period of not less than 24 consecutive hours, the period between 10:00 p.m. and 6:00 p.m. being included there in.

Explanation-for the purpose of this section, "week" means a period of seven days beginning at midnight on Saturday.

7. leave- without prejudice to such holidays, casual leave or other kinds of leaves as may be prescribed, every working generation shall be entitled to-

(a) Earned leave on full wages for not less than one eleventh of the period spent on duty;

(b) Leave on medical certificate on one off of the wages for not less than one 18th of the period of service.

8. Fixation occupation of Rates of wages.- (1) the central government may, in the manner here in after provided.

(a) Fix rates of wages in respect of working journalist;

(b) revise, from time to time, at search in travel as it may think fit, the rate of wages fixed under this section or specified in the order made under section sixth of the working journalist (fixation of Rates of wages) Act 1958(29 of 1958).

(2) Rate of wages may be fixed or revised by the central government in expect of working journalist time work and for piece work.

9. Procedure for fixing and revising rate of wages.- for the purpose of fixing for revising rate of wages in respect of working journalist under this act, the central government shall, as and when necessary, constituted wage board which shall consist of--

(a) Two person response sending employers in a relation to newspaper establishment;

(b) Two person h presenting working journalist.

(c) three independent persons, one of whom shall be a person who is or has been a judge of high court or the supreme court and who shall be appointed by the government it as the chairman thereof.

10. Recommendation by board- (1) the board shall, by notice published in such manner as it think fit, call up on newspaper establishments and working journalist and other person interested in the fixation or revision of Rates of wages of working journalist to make such representation as they may think fit as respect the rates of wages which may be fixed or revised under this act in respect of working journalists.

(2) every such representation shall be in writing and shall be made within such period as the board may specified in the notice and shall state the rates wages which, in the opinion of the person making the representation come up would be reasonable, having record to the capacity of the employer to pay the same or to any other circumstances, which never may seem relevant to the person making the representation in a relation to representation.

3) the board shall take into account the presentation of aforesaid, if any, and after examining the materials placed before it makes such recommendations as it think fit to the central government for the fixation or revision of Rates of wages in respect of working journalist; and any such recommendation may specify, whether prospectively or retrospectively e, the date from which the rates of wages should take effect.

(4) in making any recommendations to the central government the Board shall have regard to the cost of living, the prevalent rate of wages for comparable employment, the circumstances relating to the newspaper industry in different religion of the country and to any other circumstance which to the board may seem relevant.

Explanation-for the removal of doubts it is hereby declared that nothing in this subsection shall prevent the board from making recommendations for fixation or revision of Rates of wages on all India basis

Classification not violative of art..19(1)(a) and 19 (g)---in view of the amended definition of the "newspaper establishment" under sec ..2(d) which came into operation retrospectively from the Inception of the act and the explanation added to Section.10(4) and in view further of the fact that in clubbing the unit of the establishment together, the board cannot be said to have act contrary e to the law laid down by the

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supreme court in Express newspaper case. The classification of the newspaper establishments on all India bases for the purpose of fixation of wages is not bad in law. Change it is not violative of the petitioner right it under arts.19 (1)(a) and 19 (1)(g) of the constitution.

11. Powers and procedure of the board.-(1) subject to the provisions contained in sub section (2) the board may exercise all or any of the powers which and industrial Tribunal constituted under the industrial dispute act, 1947 14 of 1947, exercise for the adjudication of an industrial dispute referred to it and shall, subject to the provisions contained in this act ,and the rules, if any, made there under have power to regulate its own procedure.

(2) Any representation Meritundi board and any document furnished to it by a way of evidence shall be open to the inspection on payment of such fee as may be prescribed by any person interested in the matter.

(3) If, for any reason, a vacancy occurs in the office of chairman or any other member of the board, the central government shall fill the vacancy by appointing another person there to in accordance with the provisions of section 9 and any proceeding may be continued before the board as reconstituted from the stage at which the vacancy occurred.

12. Powers of Central government to enforce recommendations of the wage board.-(1) as soon as may be, after the receipt of the Recommendation of the board, the central government shall make any order in the term of the recommendations for subject to such modification, if any, as it is think fit, being modification which, in the opinion of the central government, do not affect important alteration in the character of the recommendations.

(2) Notwithstanding anything contained in subsection (1), the central government may, if it thinks fit.

(a) Make such modification in the recommendation, not being modification of the nature referred to in substation (1), as it thinks fit

Provided that before making any such modification, the central government shall Cause Notice to be given to all persons likely to be affected thereby in such manner as may be predescribe, and shall take into account any representations which they may make in this behalf in writing; or

(b) refer the recommendation or any part thereof to the board in which case, the central government it shall consider it's for the recommendations and make and order either in terms of

recommendations with such modification of the nature refers to subsection (1) as it think fit

(3) Every order made by the central government under this section shall be published in the official gazette together with the Recommendation of that board relating to the order and order shall come into operation on the date of Publication on such date, weather prospectively or retrospectively as may be specified in the order.

13. On the coming into operation of an order of the central government under section 12 every working journalist shall be entitled to be paid by his employer's wages in the rate which shall, in no case, be less than the rate of wages specified in the order.

13.A. power of government to fix interim rates of wages--(1) notwithstanding anything contained in this act, where the central government is of opinion that it is necessary so to do, it may come after consultation with the board, by notification in the official gazette, fix interim rates of wages in respect of working journalist.

(2) Any interim rate wages so fixed shall be binding on all employees in relation to newspaper establishment and every working journalist shall be entitled to be paid wages at a rate which shall, in no case, be less than the interim rate of wages fixed under subsection (1)

(3) any interims rates of wages fixed under subsection 1 shall remain in the force until the order of the central government under section 12 comes into operation.

13-AA. Constitution of Tribunal for fixing or revising rate of wages in respect of working journalist. Notwithstanding anything contained in this act, whether the central government is of opinion that the board constituted under section 9 for the purpose of fixing or revising rates of wages in respect of working journalist under this act had not been able to function (for any reason Whatever)if it will come and in the circumstances, it is necessary so to do ,it may be notification in the official gazette, gazette constitute tribunal, Shall consists of a person who is or has been, the judge of high court or the supreme court for the purpose of fixing a revising rate of wages in respect of working journalist under this act.(2) the provisions of section 10 to 13 a shall apply to, and in relation to the Tribunal constituted under subsection 1 of the section, the central government and working journalist, subject to the modification that

NOTES

NOTES

(a) The reference to the board therein, wherever they occur, shall be construed as a reference to the Tribunal.

(b) In sub section 3 of section 11

(I) the reference to the office of chairman or any other member of board shall be construed as a reference to the office of the person constituting read Tribunal: and

(I) the reference to Section 9 shall be construed as a reference to subsection 1 of the section and

(c) The reference in section 13 and section 13 a to Section 12 shall be construed as reference to Section to world read with this section.

(3) The Tribunal, in discharging each function under this act, may act on the evidence recorded by the wages board are partly recorded by the wages board and partly recorded by itself.

Provided that if the Tribunal is of opinion that further the examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice it may re summon any such witness, and after search for the examination, cross examination and re examination, if any, as it may be permitted, the witness shall be discharge

(4) Under constitution of fear Tribunal under subsection 1 the board constituted under section 9 and functioning immediately e before such constitution shall cease to exist and remember constituting that board shall be deemed to have vacated their office.

Provided that any interim rate of wages fixed by the central government section 13 A in respect of working journalist and in force immediately before the constitution of the Tribunal shall remain in force until the order of the central government under section 12 read with this section comes into operation.

3.6. PRESS COUNCIL OF INDIA

Object and functions of the council

13. (1) the object of the council shall be to preserve the freedom of the press and to maintain and improve the standards of newspaper and news agencies in India.

The council may, in furtherance of its objects, perform the following functions, namely;

- (a) to help newspapers and news agencies to maintain their independence;
- (b) to build up a code of conduct for newspapers, news agencies and journalist in accordance with high professional standards;
- (c) to ensure on the part of newspapers, news agencies and journalists, the maintenance of high standard of public taste and foster a due sense of both the right and responsibilities of citizenships;
- (d) to encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism;
- (e) to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance;
- (f) to keep under review cases of assistance received by any newspaper or news agency in India from any foreign source including such cases as are referred to it by the Central government or are brought to its notices by an individual, association or persons or any other organization provided that nothing in this clause shall preclude the Central government from dealing with any case of assistance received by a newspaper or news agency in India from any foreign source in any other manner it think fit;
- (g) To undertake studies of foreign newspaper, including those brought out by any embassy or other representative in India of a foreign State, their circulation and impact.

5 of 1908

Explanation for the purpose of this clause the expression “foreign State” has the meaning assigned to it in Section 87-A of the code of Civil procedure, 1908;

- (h) To promote a proper functional relationship among all classes of persons engaged in the population or publication of newspaper or in news agencies.

NOTES

NOTES

14 of 1947

Provided that nothing in the clause shall be deemed to confer on the Council any function in regard to disputes to which the Industrial Disputes Act, 1947, applies;

- (i) to concern itself with development such as concentration of or other aspect of ownership of newspaper and news agencies which may affect the independence of the press;
- (j) to undertake such studies as may be entrusted to the council and to express its opinion in regard to any matter referred to it by the central Government;
- (k) to do such other acts as may be incidental or conducive to the discharge of the above function.

Power to censure

14 (1) Where, on receipt of a complaint made to it or otherwise, the council has reason to believe that a newspaper or news agency has offended against the standards of journalistic ethic or public taste or that an editor or working journalist has committed any professional misconduct, the council may, after giving the newspaper, or news agency, the editor or journalist concerned an opportunity of being heard, hold an inquiry in such manner as may be provided by regulations made under this act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be:

Provided that the council may not take cognizance of a complaint if in the opinion of the chairman, there is no sufficient ground for holding an inquiry.

- (2) if the council is of the opinion that it is necessary or expedient in public interest so to do, it may require any newspaper to publish therein in such manner as the council thinks fit, any particulars relating to any inquiry under this section against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, editor or journalist.

(3) Nothing in sub-section (1) shall be deemed to empower the council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of Law.

(4) The decision of the Council under sub-section (1) or sub-section (2), as the case be, shall be final and shall not be questioned in a court of Law.

General Powers of the council (5 of 1908)

15. (1) for the purpose of performing its functions or holding any inquiry under this Act, the council shall have the same powers throughout India as are vested in a civil court while trying a suit under the Code of Civil procedure, 1908, in respect of the following matter, namely;

(a) Summoning and enforcing the attendance of the persons and examining them on oath;

(b) Requiring the discovery and inspection of the documents;

(c) Requiring evidence on affidavits;

(d) Requisitioning any public record or copies thereof from any court or office;

(e) Issuing commissions for the examination of witness or documents; and

(f) Any other matter; which may be prescribed

(2) Nothing in sub-section (1) shall be deemed to compel any newspaper, news agency, editor or journalist to disclose the source of any news or information published by that newspaper or received or reported by that news agency, editor or journalist.

(45 of 1860)

(1) Every inquiry held by the council shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian penal code.

(2) The council may, if it considers it necessary for the purpose of carrying out its objects or for the performance of any of its functions under this act, make such observation, as it may think fit, in any

NOTES

of its decisions or reports, respecting the conduct of any authority, including Government.

Press council (procedure for Inquiry) Regulation, 1979

3. Contents of complaint in respect of newspaper, news agency, editor or other working journalist under section 14(1) of the Act;

(1) where a person makes a complaint to the council in respect of the publication or non-publication of any matter in any newspaper or news agency, under section 14(1) of the act he shall file the complaint in duplicate with the sufficient copies for the respondents listed and shall-

NOTES

(a) furnish the name and address of the newspapers; news agency, editor or other working journalist against which or whom the complaint is preferred and in cases where the complaint relates to the publication of matter in a newspaper or to transmission by a news agency, forward along with the complaint a cutting of the matter complained of in original or a self attested copy thereof and such other particulars as are relevant to the subject-matter of the complaint; and where the complaint is in respect of non-publication of matter; the original or a self attested of copy of the matter, non-publication of which is complained of; (English translation of the matter if it is in vernacular).

(b) state in what manner the publication or non-publication of the matter complained of is objectionable within the meaning of section14(1) of the Act;

(c) before filing the complaint before the council, draw the attention of the newspaper, news agency , editor or other working journalist concerned, to the matter appearing the newspaper etc.or to the non-publication thereof which, in the opinion of the complainant,

As amended vide Gazette Notification dated 14.12.2006

Concerned, to the matter appearing in the newspaper etc. or to the non-publication thereof which, in the opinion of the complainant, is objectionable, and he shall also furnish to the newspaper, news agency, editor or the working journalist, as the case may be, the ground for the holding such opinion. The complainant shall, along with the complaint, enclose a copy of the latter written by him to newspaper, news agency, editor or other working journalist together with a copy of the reply, if any received by him, provided that the chairman may in his discretion waive this condition;

- (d) In case where the complaint is that an editor or a working journalist has committed any professional misconduct, other than the way of the publication or non-publication of any matter in a newspaper, the complainant shall set out clearly in detail the facts which according to him justify the complaint and the provisions of clause (c) above shall also apply to such complaints.
- (e) In every case place all other relevant facts before the council; and
- (f) (i) In the case of a complaint relating to the publication or non-publication of any matter in respect of newspaper or new agency the same shall be lodged with the council within the following periods of its publication or non-publication.
- Dailies, News agencies and weeklies within two months.
 - In all other cases.....within four months

Provided that a relevant publication of an earlier date may be referred to in the complaint.

(ii) In the case of a complaint against an editor or working journalist under the clause (d) above the same shall be lodged within four month of the misconduct complained of :

Provided that the chairman may, if satisfied that the complainant has acted promptly, but that the delay in filing the complaint within the period prescribed under the sub-clause (i) or sub-clause (ii) of Regulation (3) 1 (f) has been caused by reason of the time taken to comply with the condition laid down in sub-clause (c) supra or on account of other sufficient cause condone the delay and entertain the complaint.

(2) the complainant while presenting the complaint shall at the foot thereof make and subscribe to a declaration to the effect:

- (i) That to the best of his knowledge and belief he has placed all the relevant facts before the Council and that no proceedings are pending any court of law in respect of any matter alleged in the complaint.

NOTES

NOTES

- (ii) That he shall inform the council forthwith if during the pendency of the inquiry before the council any matter alleged in the complaint becomes the subject matter of any proceeding in a court of law.

5. Issue of Notice (i) as soon as possible, and in any case not later than forty five days from the date of receipt of a complaint complete in all respects, under the direction of the Chairman, a copy thereof shall be sent to the newspaper, news agency, editor or other working journalist against which or whom the complaint has been made, under regulation 3 along with a notice requiring the newspaper, news agency, editor or other working journalist, as the case may be, to show cause why action should not be taken under section 14 of the Act. Provided that in appropriate cases the Chairman shall have the discretion to extend time for the issuance of the notice.

Provided further that the chairman may decide not to issue a notice to show cause to the newspaper, news agency, editor or working journalist where, in his opinion, there is no sufficient ground for holding an inquiry. The council at its next meeting shall be apprised by the chairman of the reason for his decision not to issue a “ Show Cause” notice and it may pass such orders as it deems fit.

(2) the notice issued under sub-regulation (i) above shall be sent to the newspaper, news agency, editor or other working journalist concerned by registered post, acknowledgement due, at the address furnished in the complaint.

6. Filing of written statement; (1) the newspaper, news agency, editor or other working journalist against which or whom the complaint is made may, within fourteen days from the date of service of the copy of the complaint and notice under regulation 5 or within such further time as may be granted by the chairman in his behalf, submit a written statement in reply to the complaint.

(2) A copy of the written statement when received shall be forwarded to the complaint for his information.

(3) After receipt of the complaint or written statement, the Chairman may, if he considers necessary , call for any further information either from the complainant or the respondent newspaper, news agency, editor or working journalist, as the case may be, in order to clarify matter appearing in the complaint or written statement and in doing so, may call for such documents or further statements as he might consider necessary. All the documents and statements called for by him shall

from part of the recorded and shall be placed before the committee at the time of the inquiry.

9. Inquiry by the committee: Notice of the time, date and place of hearing shall be served on the complainant as well as on the newspaper, news agency, editor and working journalist, as the case may be, and shall be sent by registered post, acknowledgement due. In the inquiry before the committee the parties shall be entitled to adduce relevant evidence, oral or documentary, and make submissions in support of their contentions.

At the close of the inquiry the committee shall make a report of its findings on the allegations contained in the complaint together with its reasons and submit the record of the case of the council.

10. Decision by the council: (1) the Council shall after perusing the record of the case, pass orders giving its decision or it may remit the case to the committee for such further inquiry as the Council may deem necessary and after receipt of its report dispose of the case.

(2) every case shall be determined by a majority of votes of the members of the Council present and voting, and in the event of the votes being equal, the chairman shall have a casting vote and shall exercise the same.

(3) the order of the council shall be communicated in writing to the parties to the case.

13. power to take suo motu action: the chairman may suo motu issue notice or, as the case may be, take action in respect of any matter which falls within the mischief of section 14 (1) of the Act or in respect of or relating to any matter falling under the section 13(2) thereof and thereupon the procedure prescribed by these regulations from regulation 5 onwards shall be followed as if it were a complaint under regulation 3.

14. Procedure in respect of complaints etc. Under section 13: The procedure prescribed by these regulations in respect of complaints under section 14(1) of the Act shall apply, as far as may be, to complaints or representation received by the council with regard to any subject falling within the provision of Section 13.

Provided that a person making such a complaint shall make the complaint in duplicate with sufficient copies for the respondent listed and shall:

NOTES

NOTES

- (a) Give complete particulars of the respondent(s) viz., name, designation and complete address.
- (b) State how the action/inaction of the respondent authorities amounts to curtailments of the freedom of the press. Mention the possible reason for the action/inaction of the respondent(s)/authorities duly supported by documentary evidence.

In case the action of the respondent(s)/authorities is a reprisal measure for writings in the newspaper, critical of the respondent(s). the cuttings of the such reports be furnished in original or as self attested copies. (English translation, if the news item(s) is in vernacular)

- (c) Draw the attention of the respondent(s)/authorities towards the grievance and furnish a copy of the letter written to the respondent(s)/authorities.

Furnish a copy of the reply, if any, received from the respondent(s)/authorities. Provided that the chairman may waive this requirement in his discretion.

- (d) Place before the council all relevant facts along with the supporting documents.
- (e) (i) Time for filing the complaint: four months from the date of cause of action.
- (iii) Provided that the chairman may condone the delay if he is satisfied that there exist sufficient reasons for such condonation.
- (f) Make and subscribe to the declaration prescribed in regulation 3(2) supra.

Further provided that on receipt of such complaint, complete in all aspects, under the direction of the chairman, a copy thereof shall be sent to the authority against whom the complaint has been made along with a notice for statement in reply as to why the matter does not warrant observation under section 15(4) of the Act. That the procedure specified in Regulation 7-12 above shall thereafter be adopted.

3.7. PRESS COMMISSION OF INDIA

*History of India and Code
of Ethics*

First Press commission (1952-54)

On 23rd September 1952, the Ministry of information and Broadcasting constitute the first press commission. The members of the working group were Justice J.S.Rajashyakshaya(Chairman), Dr.C.P.RamasamyAiyer, AcharyaNarendraDeo, Dr. ZakiHussain and Dr. V.K.V.Rao.The main recommendations were:

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- To protect the freedom of the Press and maintain high standards of journalism, a Press council should be established.It was accepted and the Press council was established on July 4, 1966 which started functioning from November 16.(on this date National Press day is celebrated)1966
- To prepare the account of the press and the position of every year, there should be appointment of Registrar of News paper for India (RNI). It was also accepted and in July 1956, RNI was appointed.
- Price page should be introduced. It was also accepted in 1966.
- For maintaining a cordial relationship between the government and Press, a press consultative committee should be constituted. It was accepted and the same was constituted on 22nd September 1962.
- Working Journalists Act should be implemented. The Government implemented this and in 1955 the working journalists and other news paper employees(condition of services) and miscellaneous provisions Act was set up.
- There should be establishment of fact finding committee to evaluate the financial position of the news papers and news Agencies. It was accepted and 14th April 1972, First Fact Finding Committee was set up which submitted its report on 14th January 1975.
- For protecting the main principles of the Freedom of the Press and to help the news papers against the monopolistic tendencies, a news paper Financial Corporation should be Constituted. It was accepted in principle and on 4th December 1970 a Bill was also presented in the Loksabha, but it lapsed.

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Second Press commission

The Government of India constituted the Second Press Commission on May 29, 1978. The main Recommendations were:

- An Attempt should be made to establish a cordial relation between the Government and the Press
- For the Development of small and medium news papers, there should be establishment of News paper Development Commission
- News paper industries should be separated from industries and commercial interests
- There should be appointment of Board of Trustees between editors and proprietors of the news paper
- Price page should be introduced.
- There should be fixed proportion of news and advertisements in small, medium and big news papers.
- News paper industries should be relieved from the impact of foreign capital.
- No predictions should be published in News papers and magazines
- The misuse of the image of the advertisement should be discontinued.
- The government should prepare a stable advertisement policy.
- The Press Information Bureau should be reconstituted..
- Press laws should be amended,

3.8. OFFICIAL SECRET ACT

An Act to consolidate and amend the law relating to official secrets WHEREAS it is expedient that the law relating to official secrets should be consolidated and amended; it is hereby enacted as follows;

1. Short title, extent and application

- (1) This Act may be called the official secrets Act, 1923

- (2) It extends to the whole of India and applies also to servants of the Government and to citizen of India outside India.

2. Definitions

In this Act, unless there is anything repugnant in the subject or context,

- (1) Any reference to a place belonging to Government includes a place occupied by any department of the Government, whether the place is or is not actually vested in Government;
- (2) Expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself, or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or relating any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of any sketch, plan, model, articles, note or document;
- (3) “document” includes part of a document;
- (4) “model” includes design, pattern and specimen;
- (5) “munitions of war” includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or ine intended or adopted for use in war, and any other article, material or device, whether actual or proposed, intended for such use;
- (6) “office under Government” includes any office or employment in or under an department of the Government
- (7) “photograph” includes an undeveloped film or plate;

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- (8) “Prohibited place” means
- (a) Any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of Government, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war;
 - (b) Any place not belonging to Government where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of, Government, or otherwise on behalf of Government;
 - (c) Any place belonging to or used for the purpose of Government which is for the time being declared by the central Government, by notification in the official Gazette, to be a prohibited place for the purpose of this act on the ground that information with respect thereto, or damage thereto, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;
 - (d) Any railway, road way or channel, or other means of communication by land or water(including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity work or other work for purpose of a public character, or any place where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of Government, which is for the time being declared by the central Government, notification in official Gazette, to be a prohibited place for the purpose of this act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;

(9) “sketch” includes any photography or other mode of representing any place of thing; and

(10) “Superintendent” of police” includes any police officer of a like or superior rank, and any person upon who the powers of a superintendent of police are for the purpose of this Act conferred by the Central Government.

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3. Penalties for spying

(1) If any person for any purpose prejudicial to the safety or interests of the state

(a) Approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or

(b) Makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly, or indirectly, useful to an enemy; or

(c) Obtains, collects, records or published or communicates to other person any secret official code or pass word, or any sketch, plan, model, article or not or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy [or which related to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the state or friendly relations with foreign state],

He shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defense, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Government or in relation to any secret official code, to fourteen years and in other cases to three years.

(2) On a prosecution for an offence punishable under this section 1. It shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the state, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case

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or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the state; and if any sketch, plan, model, article, note, document or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstance of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the state, such sketch, plan, model, article, note, document,2[information, code or pass word shall be presumed to have been made]. Obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the states.

3.9. LET US SUM UP

Prominent Privileges

1. Freedom of speech in parliament
2. Immunity to a member from any proceedings in any court in respect of anything said or any vote given by him in parliament or any committee thereof.
3. Immunity to a person from proceedings in any court in respect of the publication by or under the authority of either houses of parliament of any report, paper, notes or proceedings.
4. Prohibition of courts to inquire into proceedings of parliament
5. Freedom from arrest of members in civil cases during the continuance of the session of the house and 40 days before its commencement and 40 days after its conclusion
6. Right of the house to receive immediate information of the arrest, detention, conviction, imprisonment and release of a member
7. Member or officers of the house cannot give evidence or procedure document in court of law relating to proceedings of the house, without the permission of the house.
8. Each house also enjoys certain consequential powers such as

- a) To commit persons, whether they are members or not, for breach of privilege or contempt of the house;
- b) To compel the attendance of witnesses and to send for papers and records;
- c) To regulate its own procedure and the conduct of its business;
- d) To prohibit the publication of its debate and proceedings and
- e) To exclude strangers from the house.

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Books and Registration Act

Though no license or permission is required for starting and running a newspaper, no paper can be published without complying with the provision of this act. A declaration made in the prescribed manner before the District, Presidency or Sub-divisional magistrate and authenticated by him is necessary before the newspaper is published. Similarly, no printing press can be set without making a relevant declaration.

The act requires that the name of the printer, the place of printing and the name of the publisher and place of publication must be legibly printed on every book or newspaper printed/ published within India. For having a press to print books or newspapers, a declaration must be made before the District Presidency or Sub-Divisional Magistrate giving description of its location.

An act to regulate certain conditions of service of working journalist and other person employed in newspaper establishments.

Be it enacted by the parliament in the sixth year of the republic of India as follows:

Preliminary

1. Short title and commencement—

(1) This act may be called the [working journalist and other newspaper employees] (condition of service) and **miscellaneous Provision Act, 1955.**

(2) It extends to the whole of India

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2. **Definitions**-- Hindi sad, unless the context otherwise requires.

"Board" means-

(i) in relation to working journalist, the wage board constituted under section 9;and

(ii) in relation to non-journalist newspaper employees, the wages board constituted under section 13-C

(b)"newspaper" means any printed periodical work containing public news or comments on public news and include such other class of printer periodical work as may, from time to time, be notified in this behalf by the central government in the official gazette;

(c) "Newspaper employee" means any working journalist, and includes any other person employed to do any work in or in relation to any newspaper establishment;

(d) "Newspaper establishment" means and establishment under the control of any person our body of person, whether incorporated or not, for the the production or publication of one or more newspaper for conducting any news agency for syndicate;[and includes newspaper establishments specified as one establishment under the schedule.

Explanation: for the purpose of this clause-

(a) Different department, branches and centres of newspaper establishments shall be treated as parts thereof,-

(b) A printing press shall be deemed to be newspaper establishment if the principal business thereof is to print newspaper]

(DD) "not journalist newspaper employee" means a person employed to do any work in ,or in relation to, any newspaper establishment, but does not include any such person who-

(i). is a working journalist, or

(ii) Is employed mainly in a managerial administrative capacity, or

(iii) Being employed in a supervisor capacity, performs either by the nature of the duties attached to office or by reason of the powers Vested in him , functions mainly of a managerial nature.

(e) "Prescribed" means describe bhair rules made under this act

(ee) Tribunal means-

(i) In a relation to working journalist, that Tribunal constituted under section 13-AA;and

(ii) Relation to non-journalist newspaper employees, the Tribunal constituted under section 13-DD

(eee) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a newspaper employee in respect of his employment or of work done in such a employment, and includes-

(i) Such allowance (including dearness allowance) as newspaper employees for the time being entitled to;

(ii) Value of any house accommodation or of supply of light water, medical attendance or other amenity or of any service or of any concessional supplier of food grains or other articles;

(iii) Any travelling concession, but does not include;

(a) Any bonus;

(b) Any contribution paid or payable by the employer to any person fund or provident fund or for the benefit of the newspaper employee under any law for the time being in force;

(c) any gratuity payable on the termination of his service.

Explanation- in this clause, the term "wages" shall also include new allowances, if any, of any description fixed from time to time]

(f) "working journalist" means a person whose principal avocation is that of a journalist and [who is employed as such, either whole time or part time in or in relation to one or more newspaper establishment] and includes an editor, a leader, writer, News editor, some editor, feature writer, copy tester, reporter, correspondent, cartoonist, news photographer and proofreaders, but does not include any such person who---

(i) Is employed mainly in a managerial or administrative capacity; or

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(ii) being employed in a supervisor capacity, performs, either by the nature of the duties attached to his office or by a reason of the power vested in him, function mainly of a managerial nature;

(g) All words and expressions used by not a defined in this act and defined in the industrial disputes act, 1947 (XIV of 1947), shall have the meanings respectively assigned to them in that act.

Press Council of India

Object and functions of the council

13. (1) the object of the council shall be to preserve the freedom of the press and to maintain and improve the standards of newspaper and news agencies in India.

The council may, in furtherance of its objects, perform the following functions, namely;

- (a) to help newspapers and news agencies to maintain their independence;
- (b) to build up a code of conduct for newspapers, news agencies and journalist in accordance with high professional standards;
- (c) to ensure on the part of newspapers, news agencies and journalists, the maintenance of high standard of public taste and foster a due sense of both the right and responsibilities of citizenships;
- (d) to encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism;
- (e) to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance;
- (f) to keep under review cases of assistance received by any newspaper or news agency in India from any foreign source including such cases as are referred to it by the Central government or are brought to its notices by an individual, association or persons or any other organization provided that nothing in this clause shall preclude the Central government from dealing with any case of assistance received by a

newspaper or news agency in India from any foreign source in any other manner it think fit;

- (g) To undertake studies of foreign newspaper, including those brought out by any embassy or other representative in India of a foreign State, their circulation and impact.

First Press commission (1952-54)

On 23rd September 1952, the Ministry of information and Broadcasting constitute the first press commission. The members of the working group were Justice J.S.Rajashyakshaya(Chairman), Dr.C.P.RamasamyAiyer, AcharyaNarendraDeo, Dr. ZakiHussain and Dr. V.K.V.Rao

Second Press commission

The Government of India constituted the Second Press Commission on May 29, 1978.

Official Secret Act

An Act to consolidate and amend the law relating to official secrets WHEREAS it is expedient that the law relating to official secrets should be consolidated and amended; it is hereby enacted as follows;

1. Short title, extent and application

- a) This Act may be called the official secrets Act, 1923
- b) It extends to the whole of India and applies also to servants of the Government and to citizen of India outside India.

2. Definitions

In this Act, unless there is anything repugnant in the subject or context,

- a) Any reference to a place belonging to Government includes a place occupied by any department of the Government, whether the place is or is not actually vested in Government;
- b) Expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note,

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document, or information itself, or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or relating any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of any sketch, plan, model, articles, note or document;

3.10. UNIT- END EXERCISES.

1. Explain the Press and registration of Book Act.
2. Enlist the main recommendations of the First Press commission.
3. Discuss the significant of Official secret Act

3.11. ANSWER TO CHECK YOUR PROGRESS

1.Press and Registration of Book Act

Though no license or permission is required for starting and running a newspaper, no paper can be published without complying with the provision of this act. A declaration made in the prescribed manner before the District, Presidency or Sub-divisional magistrate and authenticated by him is necessary before the newspaper is published. Similarly, no printing press can be set without making a relevant declaration.

The act requires that the name of the printer, the place of printing and the name of the publisher and place of publication must be legibly printed on every book or newspaper printed/ published within India.

For having a press to print books or newspapers, a declaration must be made before the District Presidency or Sub-Divisional Magistrate giving description of its location.

Every time a press is shifted to a new place a fresh declaration is necessary. But if the change of the place is for a period less than 60 days, the new location also falls within the jurisdiction of the same Magistrate, and the keeper of the press continues to be the same, no fresh declaration need to be made. In that case an intimation regarding the change of place sent within 24 hours will suffice.

Two conditions are necessary to be fulfilled for publishing a newspaper. One, the name of the editor must be clearly printed on every copy of the newspaper. Two, a declaration must be made before

the district, Presidency or Sub-divisional Magistrate within whose jurisdiction the newspaper is to be published, stating the following facts; a name of the printed and publisher b premises, stating the and publishing is conducted c) the title, language and periodicity of the newspaper. The printer and publisher either in person or through an authorized agent should make the declaration. If the printer or publisher is not the owner of the paper, the declaration should specify the name of the owner. But, making a declaration does not automatically pave the way for the publishing a newspaper. Publication can be started only after the said Magistrate authenticates the declarations.

Every time the tile, language or periodicity is changed, the declaration ceases to exist, and a fresh declaration must be made. Similarly, a new declaration is necessary as often as the ownership or the place of printing or publication of the newspaper is changed. However only a statement furnished to the magazine will suffice it the change of place is for a period not exceeding 30 days or if he is by infirmity or otherwise incapable of carrying out his duties for more than 90 days, then a fresh declaration will have to be made.

No person who does not ordinarily reside in India or a minor can file a declaration or edit newspaper, If the declaration is made in accordance with the provisions of the law and if no other paper bearing the same or similar title is already in existence in the same language or the same state, then the Magistrate cannot refuse to authenticate the declaration. However, before authentication he must make an inquiry from the **Registration or Newspaper for IndiaRNI** about the existence of such other paper.

The authentication is an administrative and not a judicial function, and the Magistrate must perform it without exercising his personal desecration.

After authentication the paper must be started within a specific period. The declaration in respect of a newspaper to be published once a week or more shall be void if it is not commenced within six weeks of the authentication. In case of all other newspapers the time limit for commencing publication is three months. This means that a daily, a weekly or bi-weekly newspapers must commence publication within six weeks and fortnightly, a monthly or a quarterly can start publishing within three months after authentication.

The Magistrate can cancel the declaration and order closure of a newspaper, for irregular publication. If in any period of three months, a daily, a tri-weekly, a bi-weekly or a fortnightly newspaper publishers less than half the number of issues, which it should have published in accordance with the declaration, the newspaper shall cease to publish. A fresh declaration must be field before it can be started again. In case of any other newspaper the maximum period of non-publication must not exceed 12 months in order to keep the declaration alive?

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Two copies of each issue of a newspaper and up to three copies of each book must be delivered, in a prescribed manner to the Government free of expense.

The Magistrate can cancel the declaration after giving opportunity to show cause to the person concerned, if the Magistrate is satisfied on the following counts:

- The newspaper is being published in contravention of the provisions of this Act or rules made under it, or
- The newspaper bears a title which is the same as, or similar to that of any other newspaper published either in the same language or in the same state, or
- The printer or publisher has ceased to be so, or
- The declaration was made on false representation or concealment of any material fact

The Magistrate's decision can be challenged in an appeal before the Press and Registration Appellate Board. The Board comprises a chairman and another member nominated by the Press Council of India.

2. **First Press commission (1952-54)**

On 23rd September 1952, the Ministry of information and Broadcasting constituted the first press commission. The members of the working group were Justice J.S. Rajshyakhaya (Chairman), Dr. C.P. Ramasamy Aiyer, Acharya Narendra Deo, Dr. Zaki Hussain and Dr. V.K.V. Rao. The main recommendations were:

- To protect the freedom of the Press and maintain high standards of journalism, a Press council should be established. It was accepted and the Press council was established on July 4, 1966 which started functioning from November 16. (on this date National Press day is celebrated) 1966
- To prepare the account of the press and the position of every year, there should be appointment of Registrar of Newspapers for India (RNI). It was also accepted and in July 1956, RNI was appointed.
- Price page should be introduced. It was also accepted in 1966.
- For maintaining a cordial relationship between the government and Press, a press consultative committee should be constituted.

It was accepted and the same was constituted on 22nd September 1962.

- Working Journalists Act should be implemented. The Government implemented this and in 1955 the working journalists and other newspaper employees (condition of services) and miscellaneous provisions Act was set up.
- There should be establishment of fact finding committee to evaluate the financial position of the newspapers and news Agencies. It was accepted and 14th April 1972, First Fact Finding Committee was set up which submitted its report on 14th January 1975.
- For protecting the main principles of the Freedom of the Press and to help the newspapers against the monopolistic tendencies, a newspaper Financial Corporation should be Constituted. It was accepted in principle and on 4th December 1970 a Bill was also presented in the Loksabha, but it lapsed.

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5. Official Secret Act

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the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or relating any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of any sketch, plan, model, articles, note or document;

5. “document” includes part of a document;

6. “model” includes design, pattern and specimen;

7. “munitions of war” includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or in intended or adopted for use in war, and any other article, material or device, whether actual or proposed, intended for such use;

8. “office under Government” includes any office or employment in or under an department of the Government

9. “photograph” includes an undeveloped film or plate;

10. “Prohibited place” means

a. Any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of Government, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plants, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war;

b. Any place not belonging to Government where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of, Government, or otherwise on behalf of Government;

c. Any place belonging to or used for the purpose of Government which is for the time being declared by the central Government, by notification in the official Gazette, to be a prohibited place for the purpose of this act on the ground that information with

respect thereto, or damage thereto, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;

d. Any railway, road way or channel, or other means of communication by land or water(including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity work or other work for purpose of a public character, or any place where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of Government, which is for the time being declared by the central Government, notification in official Gazette, to be a prohibited place for the purpose of this act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;

e.“Sketch” includes any photography or other mode of representing any place of thing; and

f.“Superintendent” of police” includes any police officer of a like or superior rank, and any person upon who the powers of a superintendent of police are for the purpose of this Act conferred by the Central Government.

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3.12. SUGGESTED READINGS

1. D.D.Basu, Introduction to Indian Constitution, Prentice Hall Delhi 2003
2. RadhaKrishnamurthi, Indian Press Laws, India Laws House, Delhi
3. Gauravoberoi, Media & Press Laws
4. SeemaHasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi,2013.

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UNIT - IV

- 4.1. Introduction
- 4.2. Objectives
- 4.3. Press Censorship
- 4.4. Right to Information
- 4.5. Code of Ethics for Media Professionals
- 4.6. The Role Press Council of India and other Professional councils
- 4.7. Let us Sum up
- 4.8. Unit- End Exercises
- 4.9. Answer to Check your Progress
- 4.10. Suggested Readings

4.1. INTRODUCTION

Censorship comes from the Latin word “Censor”. In Rome the censor had two duties, to count the citizens and to supervise their morals. The term ‘census’ is also derived from this word.

Similarly The word” sanitization” is euphemism commonly used in the political context of propaganda to refer to the doctoring of information that might otherwise be perceived as incriminating, self-contradictory, controversial, or damaging. Censorship, as compared to acts or policies of sanitization, more often refers to a publicly set standard, not a privately set standard. However, censorship is often alleged when an essentially private entity, such as corporation, regulates access to information in a communication forum that serves a significant share of the public. Official censorship might occur at any jurisdictional level within a state or nation that otherwise represents itself as opposed to formal censorship.

4.2. OBJECTIVES

After going through this unit you will be able to

- Understand the Meaning and concept of Press Censorship
- Analyze the Right to Information Act
- Explain the code of ethics for Media professionals

- Distinguish the role of Press council of India and other Professional councils

4.3. PRESS CENSORSHIP

Introduction:

Media is a major source of information. Everything we know about anything in the world is from media. Censorship of information is nothing but controlling the presentation of content of the various mediums of the media.

The Indian Constitution confers no special rights or privileges to the press. However, Article 19(1) (a) of the Constitution does guarantee freedom of expression for every citizen which includes:

(iii) The right to lay what sentiments he pleases before the public, or the right to impart information and ideas;

(iv) The right to receive information and ideas from others through any lawful medium

It is this Article that gives editors and journalists the right to publish news or any kind of information, and to comment on the public affairs. The freedom of the press rests on the fundamental rights, and implies the right to print, publish, comment and criticize without any interference from the State or any public authority. It includes the right not to publish or comment as well. However, the freedom of the press is not absolute, just as the freedom of expression is not. Public interest has to be safeguarded; so have private interest, and the right to privacy. Public interest is safeguarded by Article 19(2) which lays down reasonable limitations to the freedom of expression it matters affecting:

- ✓ Maintenance of friendly affairs with other nation
- ✓ Contempt of court
- ✓ Defamation
- ✓ Decency and morality
- ✓ Incitement of a offence
- ✓ National integrity
- ✓ Nation's reputation
- ✓ Maintenance of Public Order.

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Pros and Cons of Censorship:

Pros:

- ✓ Helps prevent conflict among people
- ✓ It is inclined in the interest of national security
- ✓ It prevents plagiarism
- ✓ It prevents indecent and obscene portrayal of women and children
- ✓ It prevents false advertising

Cons:

- ✓ It seems to violate the rights of the citizens
- ✓ It overly deprives the public of information related to social and economical issues
- ✓ It is clearly pro-dictatorship
- ✓ It slows down progress and innovation. E.g.: censorship on internet/ social media

There are many loopholes in the enforcement of censorship which makes

4.4 RIGHT TO INFORMATION ACT, 2005

It is an act to provide for setting out the practical regime of right to information for citizens to under control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

Citation Act No.22 of 2005

Territorialextent Whole of India except Jammu and Kashmir

Enactedby Parliament of India

Dateenacted 15-June-2005

Dateassentedto 22-June-2005

Date commenced 12-October-2005

*History of India and Code
of Ethics*

Right to Information (RTI) is an Act of the Parliament of India to provide for setting out the practical regime of the right to information for citizens and replaces the erstwhile Freedom of information Act, 2002. Under the provisions of the Act, any citizen of India may request information from a “public authority” (a body of Government or “instrumentality of State”) which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerise their records for wide dissemination and to proactively certain categories of information so that the citizens need minimum recourse to request for information formally.

This law was passed by Parliament on 15 June 2005 and came fully into force on 12 October 2005. The first RTI application was filed at a police station in Pune by Shahid Raza Burney. The first RTI application in Delhi was filed to the office of President about article 370 in Jammu & Kashmir. Every day, over 4800 RTI applications are filed. In the first ten years of the commencement of the act over 17,500,000 applications have been filed.

Information disclosure in India is restricted by the Official Secrets Act 1923 and various other special laws, which the new RTI Act relaxes. Right to Information codifies a fundamental right of citizens of India. RTI has proven to be very useful, but is counteracted by the Whistleblowers Act.

Scope

The Act covers the whole of India except Jammu and Kashmir, where J&K Right to Information Act is in force. It covers all the constitutional authorities, including executive, legislature and judiciary; any institution or body established or constituted by an act of Parliament or a state legislature. It is also defined in the Act that bodies or authorities established or constituted by order or notification of appropriate government including bodies “owned, controlled or substantially financed” by government, or non-Government organizations “substantially financed, directly or indirectly by funds”.

Private bodies

Private bodies are not within the Act’s ambit directly. In a decision of *Sarbjit Roy vs Delhi Electricity Regulatory Commission*. The Central Information Commission also reaffirmed that privatised public utility companies fall within the purview of RTI. As of 2014, private institutions and NGO’s receiving over 95% of their infrastructure funds from the government come under the Act.

Political parties

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The Central Information Commission (CIC) held that the political parties are public authorities and are answerable to citizens under the RTI Act. The CIC said that six national parties Congress, BJP, NCP, CPI(M), CPI and BSP and BJD- has been substantially funded indirectly by the Central Government and have the character of public authorities under the RTI Act as they perform public functions. But in August 2013 the government introduced a Right To Information (Amendment) Bill which would remove political parties from the scope of law. Currently no parties are under the RTI Act and there has a case been filed for bringing all political parties under it.

Governance and Process

The Right to Information in India is governed by two major bodies:

- Central Information Commission (CIC)- Chief Information commissioner who heads all the central departments and ministries-with their own public Information officers (PIO)s. CICs are directly under the President of India.
- State Information Commissions- State Public Information Officers or SPIOs- Heading over all the state department and ministries the SPIO office is directly under the State Governor.

State and Central Information Commissions are independent bodies and Central Information Commissions has no jurisdiction over the State Information Commission.

Fees

A citizen who desires to seek some information form a public authority is required to send, along with the application (a Postal order) or DD (Demand draft) or a bankers cheque) payable to the Account Officer of the public authority as fee prescribed for seeking information. If the person is from a disadvantaged community, he/she need not pay. The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the PIO as prescribed by the RTI ACT.

Controversies

The Right to Information in India has been mired with controversies ranging from their use in political battles, asking for educational degrees of political rivals, or cases of blatant refusals to provide information on high profile projects to allegations of misuse by civil society.

Digital Right to Information System

A digital portal has been set up, **RTI portal**, a gateway to the citizens for quick search of information on the details of first Appellate Authorities, PIOs etc. Amongst others, besides access to RTI related information/ disclosures published on the web by various Public Authorities under the government of India as well as the state Governments. It is an initiative taken by Department of Personal and Training, Ministry of Personnel, Public Grievances and Pensions to provide a RTI Portal Gateway to the citizens for quick search of information on the details of first Appellate Authorities, PIOs etc. Amongst others, besides access to RTI related information/ disclosures published on the web by various Public Authorities under the Government of India as well as the State Governments.

Though there are recent efforts on digital governance, Right to Information implementation has seen a digitalisation neglect even after 11 years of its enactment. A recent research on 'BallotBoxIndia' outlines that though central ministries are covered by a single Digital window to file Right to Information requests with integrated payment gateways and tracking mechanism none of the states have yet come forward to implement their versions or use the existing Right to Information Digital Infrastructure. The research report covering 29 states and union territories also highlights the responses from the SPIOs (State Public Information Officers). Researchers in the study focused on the Digital implementation and asked about plans or timeline to provide such facility. 64 % State Public Information failed to respond while the rest of the responses merely took cognizance without any hard timelines. The research also cover in details-the difficulty in filing manual Right to Information requests with the states with delays ranging many months of wait time and various follow ups and rejections. Every state in India has different rules and fee structures to file an application through registered post without any tracking mechanism as covered in details in the report.

Activism around an efficient Right to Information

Researchers and activists have been proposing changes to make the process easier, efficient and meaningful. One of it demands state and central information systems under one Digital System to streamline information flow and provide proactive information backed by streamlined mandatory reporting. The Right to Information (RTI Act 2005) was touted as one law which would bring in transparency and eradicate corruption by civil society direct involvement. Failure to implement it in a thoroughly and efficiently has led to rough loss estimate of \$245 million yearly as per one estimate.

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India being a federal state has many items in concurrent list and projects have multiple departments working on them, and sometimes projects are moved from one department to another. With Central and State information commissions working in such a disconnect, and manual transfers of the request for information between departments lead to big delays, confusion, and loss of traceability. It not only denies timely information, creates high barriers to information only a few with very strong motivations and means can cross, but puts a common citizen at the risk by exposing them directly to the departments and agencies which they are trying to find information on.

Definition of Information: (Section A)

Information is defined in section 2 (f) of the RTI Act that enables citizens to access public record. Information means any material in any form: records, documents, memos, e-mails, opinions, advices, press releases, circulars, order, logbooks, contracts, reports, papers, samples, models, data materials in any electronic form, information relating to any private body which can be accessed by a public authority.

- ✓ RTI is a part of fundamental right under the articles 19(1) of the Indian constitution. It flows from two fundamental right enshrined in the constitution:
 - Article 19-freedom of speech and expression
 - Article 20-Right to life and liberty
- ✓ RTI promises to promote transparency and accountability in the working of public authority
- ✓ RTI mandates timely requests for government information
- ✓ RTI gives access to information/ disclosures, published on the web by various public authorities under the government of India as well as the state government
- ✓ RTI gives power to have vigilance on the autocracy of the government.

Objective:

To empower citizens, promote transparency, accountability, contain corruption and make out democracy work for the people.

Officers in RTI:

- ✓ Each authority covered by RTI Act must appoint Public Information Officers (PIO)
- ✓ PIO's obligation is to provide information to citizens who requests for information
- ✓ If the request pertains to other Public Authority, then it is the responsibility of the PIO to transfer the case to the concerned officer within 5 working days.
- ✓ In addition, every public authority is required to designate Asst. PIO to receive RTI requests and appeals for forwarding it to the PIOs of their public authority.
- ✓ Central Information Commission (CIC) acts upon complaints from those Individuals who have not been able to submit information requests to a central PIO or a state PIO due to either the person's absence in the office, vacancy in the post or time factor.

Time period allotted for RTI:

- ✓ If the request has been made to the PIO, the reply has to be given within 30 days of receipt.
- ✓ If the request has been made to the Asst. PIO, the reply has to be made within 35 days
- ✓ Information concerning corruption and human rights violation by scheduled security agencies to be provided within 45 days
- ✓ When an individual's life and liberty is concerned, the PIO has to act within 24 hours. The applicant may also be queried to pay further fees towards the cost of providing the information, details of which shall be intimated to the applicant by the PIO as prescribed in the act.

Exemptions in RTI:

- ✓ Intelligence Bureau
- ✓ Directorate of Enforcement

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- ✓ Narcotics Control Bureau
- ✓ Aviation Research Centre
- ✓ Border Security Force
- ✓ Indo-Tibetan Border Force
- ✓ Assam Rifles
- ✓ SashatraSeemaBal
- ✓ Special Protection Group
- ✓ National Security Guards.

4.5. CODE OF ETHICS FOR MEDIA PROFESSIONALS

It start with principles and it talk about the fundamental objective of journalism which is to serve the people in a fair, accurate, and unbiased and decent manner. In this part the focus is on accuracy.

Accuracy and fairness

One of the important needs of any news report is accuracy. It mean that the information should be given in a truthful manner and without distortion, exaggeration, sensation. Following are the reason why inaccurate reporting must be avoided in any circumstances:

- It can cause irreparable personal harm to the person or persons featuring in the news report.
- It can prevent the general public from making informed decisions(from investing in securities to voting for a particular candidate)
- It could adversely affect the journalist concerned and her/ his media organisation integrity as well as credibility.

Check and cross check to avoid error.

All journalists need to check and cross check fact carefully a report or article of public interest and it is one of the most important aspect free publications of any information. Whenever or whenever there is a doubt, it needs to be verified and if verification is not possible it should be clearly mentioned in the report. PCI also talk about that any document that forms a basis of news reports should be preserved at least for 6 months.

Avoid defamatory writing

All media has the right to comment and criticize but it must avoid defamatory writing against any individual or organisation. It should not distort or misrepresent yes start and comment should be an honest expression of opinion. Newspaper cannot climb privilege for licence to malign a person or body climbing Special Protection or immunity on the plea having published the item as a satire under special columns such as 'gossip', 'parody', etc. Publication of Udaipur military news by one paper does not give licence to other to publish News or information reproducing or repeating the same.

Avoid plagiarism:

PCI clearly show your instruction against plagiarism as it says, using are passing of the writing or ideas of another as own, without crediting the source, is an offence and against the Ethics of journalism. It is also mentions that the practice of lifting news from other newspaper, publishing them subsequently as their own, ill-comport the highest standards of journalism. To remove it and ethically, the "lifting" newspaper duly acknowledge the source of the report. The position of featuring articles shall not be lifted without permission and proper acknowledgement. Depression not reproduce in any form of offending portions for accept from proscribed book' (PCI, 2010).

Avoid intrusion to the privacy of an individual:

Press Council of India also issued guidelines regarding right to privacy it mentions that the press shall not intrude the privacy of an individual, and less about weighed buy genuine overriding Public Interest, not being a prurient or morbid curiosity. so, however, that once a matter becomes a matter of public record, the right privacy no longer subsist and it becomes legitimate subject for comment by the press and the media, among others. It explains that the things, concerning a person homes, family, religion, health, sexuality, personal life and private affair are covered by the concept of privacy expecting where any of these impinges upon the public or Public Interest.

Privacy of public figures.

Press Council of India mentions that although right to privacy is an important human right but degree of privacy differs from person to person and from situation to situation. Propose who has become a public figure cannot expect to be afforded the same degree of privacy as a private person. His act and contact as are of public interest even if conducted in private may be brought to public knowledge through the medium of the press.

The press as however, a parallel duty to make sure that the information about such acts and conduct of public interest of the public person in obtained through fair means, is properly verified and then

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reported correctly. PCI process that the interview for articles for humans pertaining to public person which border on events that are in public knowledge, if reported correctly e, cannot be termed as interference into private life. There is a very thin line between public and private life and public person should not be too sensitive to criticism.

Norms for Interview and phone conversation:

According to the PCI, the press will tape record anyone's conversation after their permission except where the recording is necessary to protect a journalist in a legal action, or other compelling good reason and press shall, prior to Publication, remove offensive epithets used by a person whose statements are being reported. Apart from the interferences through photography into moments of person graph shall be avoided. However, photography of victims of accident or natural calamity maybe in larger Public Interest.

Impartiality:

The PCI advises that any information that contradicts aspect of a published report should be published. It includes contradictory evidence and comment. A newspaper should publish all replies given on matter of public interest to enable readers to judge their value.

To maintain impartiality adjective should be avoided except why required and there should be a clear distinction between opinion and fact. When opinion is presented as fact in mis guides the readers and a more so when no opinion is treated as Fact and the journalist personality is Apparent, it will serve to undermine her/his professional credibility. PCI also stresses on the fact that journalist should be free of any obligation to news source and interested group, including political parties.

Correction and apologize for error:

The PCI state, ' penny factual error are mistake is dictated or confirmed, the newspaper should promptly publish the correction with due prominence and with apology for expression of regrets in case of serious Lapse. The newspaper should promptly and with due prominence, publish either in field or with new editing, free of cost, at the instance of the person affected or feeling aggrieved/or concerned by the impugned application, a contradiction/reply/clarification for rejoinder sent to the editor in the form of a letter or not. If they edited doubts the truth or actual accuracy of the contradiction/ reply/ clarification on Re joinder, he shall be at liberty to add separately at the end, a brief editorial comment doubting it's veracity, but only when this doubt is reasonably founded on unimpeachable documentary or other evidential material in his/her possession. This is our concession which

was to be avoided of sparingly with due discretion and caution in appropriate cases.

However, where there replay/contradiction or rejoinder is being published in compliance with the direction of the first council, it is permissible to append a brief editorial note to that effect. Right to rejoiners cannot be climbed through the medium of the Press Conference, as Publication/ coverage of news of a conference is within the discretionary power of an editor.

Freedom of the press involves the reader's right to know all sides of an issue of public interest. An editor, therefore, shall not refuse to publish the reply or rejoinder merely on the ground that in his opinion the story published in the newspaper was true. That is an issue to be left to the judgement of the readers. It also does not behove an editor to show contempt towards a reader.

The council further states. 'An editor who decides to open his columns for letters on a controversial subject is not obliged to publish all the letter received in regards to that subject. He is entitled to select and publish only some of them either in entirety or the gist thereof. However, is exercising this discretion, he must make an honest endeavour to ensure that what is published is not one-sided but represents a fair balance between the views for and against with respect to the principal issue in controversy. In the event of rejoinder upon rejoinder being sent by two parties on a controversial subject, the editor has the discretion to decide at which stage to close the continuing column'.

Avoid obscenity and vulgarity:

The press council of India state, 'Newspaper/journalist shall not publish anything which is obscene, vulgar offensive to public good taste and newspaper shall not display advertisement which are vulgar or which, through depiction of a women in nude or lewd posture, provoke lecherous attention of males as if she herself was a commercial commodity for sale.

It's also says,' the globalisation and liberalisation does not given license to the media to misuse freedom of the press and to lower the value of the society. The media performs a distinct role and public purpose which require it to rise above commercial consideration guiding other industries and businesses. So far as that role is concerned, one of the duties of the media is to preserve and promote our cultural heritage and social values'.

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4.6. THE ROLE PRESS COUNCIL OF INDIA AND OTHER PROFESSIONAL COUNCILS

On the recommendation of the First Press commission and the National Integration council, The Press council Act was passed by parliament in 1965 and it was set up on July 4, 1966. The Press council act was however repealed in 1976. But a fresh legislation providing for the establishment of Press council was enacted by the Press council Act 1978. The Act came in to force on March 1, 1979.

Under section 5 the Press council Act 1978, the Council shall comprise of 28 members apart from the Chairman who is nominated by a committee consisting of the Chairman of the Rajya Sabha, the Speaker of the Lok Sabha and a person elected by the members of the council. The council consists of a Chairman and 25 other members. Of the 25 members, 3 were to represent the two houses of parliament, 13 were to be from amongst the working journalists, of which not less than 6 were to be editors who did not own or carry on the business of management of newspapers and rest were to be the persons having special knowledge or practical experience in respect of education, science, law, literature and culture. By the amendment of the act 1970, the membership of the council raised by one to provide a seat for persons managing the news agencies. These members were to be selected by a three-man selection committee comprising of chief justice of India, chairman of the Press council and nominee of the President of India. The Chairman and member were to hold office for a period of three years provided that no member could hold office for period exceeding six years in the aggregate.

To preserve the Freedom of the Press and to maintain and improve the standards of newspapers and news Agencies are the main objectives of the Press Council of India. The important tasks of the council are:

1. To build up code for Newspapers, news agencies and journalists in accordance with high Professional standards.
2. To help newspapers and news agencies to maintain their independence.
3. To ensure maintenance of high standards of public taste on the part of newspapers and news agencies and journalists.
4. To encourage the growth of sense of responsibility and public service among all those engaged in journalism.

5. To concern itself with developments such as concentration or other aspects of ownership of newspapers and news agencies this may affect the independence of the Press.
6. To keep under review cases of assistance received by any newspaper or news agency in India from foreign source.

Functioning of the council

The council discharges its functions primarily through the medium of its Inquiry committees, adjudicating on complaint cases received by it against the Press for a violation of the norms of journalism or by the Press for interference with its freedom by the authorities.

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Functions of the council

1. To encourage the growth of sense of responsibility and public service among all those engaged in the profession of Journalism.
2. To keep under review any development likely to restrict the supply and dissemination of news of public interest and importance.
3. To keep under review such cases of assistance received by any news paper or news agency in India from Foreign sources, as are referred to it by the Central Government.
4. Provided that nothing in this clause shall preclude the Central Government from dealing with any case of assistance received by a news paper or news agency in India from foreign sources in any other manner it things fit.
5. To promote the establishment of such common service for supply and dissemination of news to news papers as may, from time to time, appear to it to be desirable.
6. To Provide facilities for the proper education and training of persons in the profession of Journalism
7. To promote a proper functional relationship among all classes of persons engaged in the production and publication of news papers; of the above functions.
8. To study developments which may tend towards monopoly or concentration of ownership of news papers, including a study of the ownership or financial structure of news papers and if necessary to suggest remedies therefore.
9. To Promote technical or other research

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10. To do such other acts as may be incidental or conducive to the discharge.

News Broadcasters Association

The self-regulatory body for news and current affairs Channels is the News Broadcasters Association which has set up the News Broadcasting Standards Authority to adjudicate complaints in relation to broadcast content on News Channels. The NBA only of organizations that are members and submit themselves to regulation by the NBA. Therefore, Jurisdiction of NBSA is restricted only to members. The NBA has in a place a code of Ethics to regulate television content. The NBSA is empowered to warn, admonish, censure, express disapproval and fine any broadcaster in violation of the Code a sum up to Rs.1 lakh.

4.7. LET US SUM UP

Press Censorship

Media is a major source of information. Everything we know about anything in the world is from media. Censorship of information is nothing but controlling the presentation of content of the various mediums of the media.

The Indian Constitution confers no special rights or privileges to the press. However, Article 19(1) (a) of the Constitution does guarantee freedom of expression for every citizen which includes:

(iii) The right to lay what sentiments he pleases before the public, or the right to impart information and ideas;

(iv) The right to receive information and ideas from others through any lawful medium

It is this Article that gives editors and journalists the right to publish news or any kind of information, and to comment on the public affairs. The freedom of the press rests on the fundamental rights, and implies the right to print, publish, comment and criticize without any interference from the State or any public authority. It includes the right not to publish or comment as well. However, the freedom of the press is not absolute, just as the freedom of expression is not. Public interest has to be safeguarded; so have private interest, and the right to privacy. Public interest is safeguarded by Article 19(2) which lays down reasonable limitations to the freedom of expression it matters affecting:

- ✓ Maintenance of friendly affairs with other nation

- ✓ Contempt of court
- ✓ Defamation
- ✓ Decency and morality
- ✓ Incitement of a offence
- ✓ National integrity
- ✓ Nation's reputation
- ✓ Maintenance of Public Order.

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Right to Information Act, 2005

Definition of Information: (Section A)

Information is defined in section 2 (f) of the RTI Act that enables citizens to access public record. Information means any material in any form: records, documents, memos, e-mails, opinions, advices, press releases, circulars, order, logbooks, contracts, reports, papers, samples, models, data materials in any electronic form, information relating to any private body which can be accessed by a public authority.

- ✓ RTI is a part of fundamental right under the articles 19(1) of the Indian constitution. It flows from two fundamental right enshrined in the constitution:
 - Article 19-freedom of speech and expression
 - Article 20-Right to life and liberty
- ✓ RTI promises to promote transparency and accountability in the working of public authority
- ✓ RTI mandates timely requests for government information
- ✓ RTI gives access to information/ disclosures, published on the web by various public authorities under the government of India as well as the state government
- ✓ RTI gives power to have vigilance on the autocracy of the government.

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Objective:

To empower citizens, promote transparency, accountability, contain corruption and make out democracy work for the people.

Officers in RTI:

- ✓ Each authority covered by RTI Act must appoint Public Information Officers (PIO)
- ✓ PIO's obligation is to provide information to citizens who requests for information
- ✓ If the request pertains to other Public Authority, then it is the responsibility of the PIO to transfer the case to the concerned officer within 5 working days.
- ✓ In addition, every public authority is required to designate Asst. PIO to receive RTI requests and appeals for forwarding it to the PIOs of their public authority.
- ✓ Central Information Commission (CIC) acts upon complaints from those Individuals who have not been able to submit information requests to a central PIO or a state PIO due to either the person's absence in the office, vacancy in the post or time factor.

Code of Ethics for Media Professionals

- Accuracy and fairness
- Check and cross check to avoid error
- Avoid defamatory writing
- Avoid plagiarism
- Avoid intrusion to the privacy of an individual
- Impartiality
- Avoid obscenity and vulgarity etc.,

The Role of Press Council of India and other Professional councils Functions of the Press council

1. To encourage the growth of sense of responsibility and public service among all those engaged in the profession of Journalism.
2. To keep under review any development likely to restrict the supply and dissemination of news of public interest and importance.

3. To keep under review such cases of assistance received by any news paper or news agency in India from Foreign sources, as are referred to it by the Central Government.
4. Provided that nothing in this clause shall preclude the Central Government from dealing with any case of assistance received by a news paper or news agency in India from foreign sources in any other manner it things fit.
5. To promote the establishment of such common service for supply and dissemination of news to news papers as may, from time to time, appear to it to be desirable.
6. To Provide facilities for the proper education and training of persons in the profession of Journalism
7. To promote a proper functional relationship among all classes of persons engaged in the production and publication of news papers; of the above functions.
8. To study developments which may tend towards monopoly or concentration of ownership of news papers, including a study of the ownership or financial structure of news papers and if necessary to suggest remedies therefore.
9. To Promote technical or other research
10. To do such other acts as may be incidental or conducive to the discharge.

Other professional councils are News Broadcasters Association, Broad cast content complaints council, Advertisement standard council of India and General Agreement on Tariffs and Trade (GATT) etc,

4.8. UNIT- END EXERCISES

1. Write short notes on Press Censorship
2. List the code of ethics for media professionals
3. Summarize the functions of the Press council of India.

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4.9. ANSWER TO CHECK YOUR PROGRESS

1. Press Censorship

Media is a major source of information. Everything we know about anything in the world is from media. Censorship of information is nothing but controlling the presentation of content of the various mediums of the media.

The Indian Constitution confers no special rights or privileges to the press. However, Article 19(1) (a) of the Constitution does guarantee freedom of expression for every citizen which includes:

(iii) The right to lay what sentiments he pleases before the public, or the right to impart information and ideas;

(iv) The right to receive information and ideas from others through any lawful medium

It is this Article that gives editors and journalists the right to publish news or any kind of information, and to comment on the public affairs. The freedom of the press rests on the fundamental rights, and implies the right to print, publishes, comment and criticize without any interference from the State or any public authority. It includes the right not to publish or comment as well. However, the freedom of the press is not absolute, just as the freedom of expression is not. Public interest has to be safeguarded; so have private interest, and the right to privacy. Public interest is safeguarded by Article 19(2) which lays down reasonable limitations to the freedom of expression it matters affecting:

- ✓ Maintenance of friendly affairs with other nation
- ✓ Contempt of court
- ✓ Defamation
- ✓ Decency and morality
- ✓ Incitement of a offence
- ✓ National integrity
- ✓ Nation's reputation
- ✓ Maintenance of Public Order.

2. Code of Ethics for Media Professionals

- Accuracy and fairness

- Check and cross check to avoid error
- Avoid defamatory writing
- Avoid plagiarism
- Avoid intrusion to the privacy of an individual
- Impartiality
- Avoid obscenity and vulgarity etc.,

3. Functions of the Press council

1. To encourage the growth of sense of responsibility and public service among all those engaged in the profession of Journalism.
2. To keep under review any development likely to restrict the supply and dissemination of news of public interest and importance.
3. To keep under review such cases of assistance received by any news paper or news agency in India from Foreign sources, as are referred to it by the Central Government.
4. Provided that nothing in this clause shall preclude the Central Government from dealing with any case of assistance received by a news paper or news agency in India from foreign sources in any other manner it things fit.
5. To promote the establishment of such common service for supply and dissemination of news to news papers as may, from time to time, appear to it to be desirable.
6. To Provide facilities for the proper education and training of persons in the profession of Journalism
7. To promote a proper functional relationship among all classes of persons engaged in the production and publication of news papers; of the above functions.
8. To study developments which may tend towards monopoly or concentration of ownership of news papers, including a study of the ownership or financial structure of news papers and if necessary to suggest remedies therefore.
9. To Promote technical or other research

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10. To do such other acts as may be incidental or conducive to the discharge.

4.10. SUGGESTED READINGS

1. RadhaKrishnamurthi, Indian Press Laws, India Laws House, Delhi
2. Gauravoberoi, Media & Press Laws
3. SeemaHasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi, 2013.
4. Right to Information Act 22 of 2005 enacted by Parliament of India on 15th June 2005
5. Website: <http://presscouncil.nic.in>

BLOCK II – DIFFERENT TYPES OF MEDIA LAWS

*Different Types of Media
Laws*

UNIT – V

- 5.1. Introduction
- 5.2. Objectives
- 5.3. Civil and Criminal Laws
 - 5.3.1. Civil and Criminal Law of Defamation
 - 5.3.2. Relevant Provisions of Indian Penal code with reference to
 - a) Sedition
 - b) Obscenity
 - c) Crime against women, Children etc.
- 5.6. Let us Sum up
- 5.7. Unit- End Exercises
- 5.8. Answer to Check your Progress
- 5.9. Suggested Readings

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5.1. INTRODUCTION

Media of mass communication are very important of the modern society. They are also very powerful system that influences the society. At a certain level media influences the present and can also influence future of the society. Mass media have the power to make or unmake governments. So it is clear that mass media are quite powerful. But the exercise of power by the media gets regulated and controlled by various laws and rules enacted from time to time. In a democratic society media enjoy more powers and face less restrictions and regulations. In an authoritarian form of governance, the working of the media is restricted and controlled to great extent. Some time media in autocracies or under military rule are not all free. In India, the situation is mixed one. The mass media enjoy certain freedom. But the constitution imposes certain reasonable restrictions. Then there are laws that regulate the functioning of mass media in India. Media Laws in India have long history right from the British rule. The Government enacted several rules and regulations in India to perpetuate in rule. After independence, more laws have been enacted and old ones amended for the benefit of

the society. Some of the laws that regulate the media in India are mentioned below. A few of the laws will be discussed in detail in other units.

5.2. OBJECTIVES

After going through this unit you will be able to

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- Differentiate Civil and Criminal laws.
- Understand Civil and Criminal Law of Defamation
- Illustrate and explain relevant provisions of the Indian penal code with reference to Sedition, Obscenity, crime against women, children etc.

5.3. CIVIL AND CRIMINAL LAWS

Civil Laws:

Civil laws come into play to adjudicate the rights between parties i.e. to determine the rights of the persons involved in the dispute. For example if A has an interest in a property and B disputes his claim the rights between the parties is adjudicated in a civil court. Civil rights do not abate on the death of a person. On the contrary it passes on to his legal heirs on his death. Civil laws are not only confined to adjudication of rights between parties but also enforced against the state by way of writ jurisdiction. For example if the government arbitrarily exercises its powers under land acquisition act the same can be curtailed by way of writ before high court. If the government fails to do its duty it can also be enforced by writ. No action can be brought against the government except by way of writ in high court. In civil cases evidence is primarily supported by way of documents and deeds and oral evidence is secondary. At the lower level, District Munsiff courts and Subordinate courts, Small cause's courts and city civil courts have jurisdiction to entertain civil cases. Civil laws are regulated by civil procedure code.

Criminal laws:

Criminal laws come into play when an offence is committed against the state. Though an offence is committed against an individual, in criminal laws it is deemed that the offence is committed against the whole society. In criminal laws it is the responsibility of the government to launch prosecution against the accused with the aid of the investigating agencies. Contrary to civil laws, right to launch prosecution dies on the death of the accused and his legal heirs cannot

be prosecuted. For example, if A is accused of an offence of theft and subsequently he dies, prosecution cannot be launched against his legal heirs. Criminal action dies on the death of the person. In criminal cases evidence is mainly supported by eye witness. At the lower level, magistrate courts alone have jurisdiction to entertain criminal cases. Criminal laws are regulated by Criminal procedure code.

5.3.1 Civil and Criminal Law of Defamation

Not taking into account defamation of the state (otherwise known as ‘sedition’), under India Law, defamation is both a criminal offence and a civil wrong

As far as its being a criminal offence is concerned, section 499 of the Indian penal code, 1860, defines what would amount to defamation in relatively clear terms. Later section of the IPC specify what the punishment for having committed defamation would be, and the IPC read in conjunction with the procedural requirements laid down in the code of Criminal Procedure,1973,make the law relating to defamation as a crime is relatively certain, even if it is considered to be harsh by some.

As a civil wrong, however, the law is far less certain. Defamation is treated as a wrong within the super by ill-defined real of tort law, an area of law which does not rely on statues to define wrongs but relies on an ever-increasing body of case law to define what would be considered to be a wrong. Although tort law finds its roots in English law, and has over the course of the centuries evolved easily accessible fundamental principles, the area is still nascent in India, and possibly in consequence, not especially well defined.

Defamation as a crime

Section 499 of the IPC defines ‘defamation’ as being committed:

Through :(i) words (spoken or intended to be read), (ii) signs, or (iii) visible representations;

Which: Is a published or spoken imputation concerning any person;

If the imputation is spoken or published with: (i) the intention of causing harm to the reputation of the person to whom it pertains, or (ii) knowledge or reason to believe that the imputation will harm the reputation of the persons to whom it pertains will be harmed.

This board definition is subject to several explanations and exceptions as follows:

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[Explanation].

Explanation 1.- it may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.- it may amount to defamation to make an imputation concerning a company or an association or collection of persons as such

Explanation 3.- An imputation in the form of an alternative or expressed ironically, may account to defamation.

Explanation 4.- No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

[Exception]

First exception.- Imputation of truth which public good requires to be made or published. –It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Second exception- Public conduct of public servants.- it is not defamation to express in a good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception.-Conduct of any person touching any public questions- It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Fourth Exception.- Publication of reports of proceedings of courts.-it is not defamation to publish substantially true person of the proceedings of a court of Justice, or of the result of any such proceedings.

Explanation.- A justice of the peace or other officer holding an inquiry in open court preliminary to a trial in a court of justice, is a court within the meaning of the above section.

Fifth Exception. - Merits of case decided in court or conduct of witnesses and others concerned. -Its is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a court of Justice, or respecting the conduct of any person as partly, witness or agent, in any such case, or respecting the character of such person , as far as his character appears in that conduct, and no further.

Sixth Exception.- Merits of public performance. – It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Seventh Exception.- Censure passed in good faith by person having lawful authority over another.- it is not defamation in a person having over another any authority, either conferred by law or arising out of lawful contract made with mat other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Eight Exception- Accusation preferred in good faith to authorized person.- It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Ninth Exception.- Imputation made in good faith by person for protection of his or other's interests.- It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Tenth Exception- Caution intended for good of person to whom conveyed or for public good.- It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

If a person is found guilty of having committed defamation in terms of section 499 of the IPC, the punishment is stipulated in section 500: simple imprisonment for up to two years and/or a fine. The crpc,

NOTES

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which lays down the procedural aspects of the law, states that the offence is non-cognizable and bail able. Those who are accused of the offence would generally not be taken into custody without a warrant, and as such, an aggrieved person would not be able to simply file a police complaint but would, in most cases, have to file a complaint before a magistrate.

As far as the ‘truth defence’ is concerned, although ‘truth’ is generally considered to be a defence to defamation as a civil offence, under criminal law, only truth is a defence to defamation as a crime (assuming, of course, that it is demonstrably true) only in a limited number of circumstances. This can make persons particularly vulnerable to being held guilty of having committed defamation under the IPC even if the imputations the made were truthful.

Defamation as tort

As far as defamation under tort law is concerned, as general rule, the focus is on libel and not on slander. In order to establish that a statement is libelous, it must be proved that it is (i) false, (ii) written, (iii) defamatory, and (iv) published.

A interesting aspect of defamation as a tort is that it is only a wrong if the defamation is of a nature which harms the reputation of a person who is alive. In most cases, this translates to saying that it is not a tort to defame a deceased person since, as a general rule, the plaintiff needs to be able to prove that the defamatory words referred to him. However, this does not mean that there can be no cause of action if a dead person is defamed- if, for example, a defamation statement negatively impacts the reputation of a deceased person’s heir, an action for defamation would be maintainable.

Further, if an action for defamation is instituted, and defamation is found to have been committed, damages will be payable to the plaintiff (usually, the person defamed). In addition to this, a person apprehensive of being defamed in a publication may seek the grant of an injunction to restrain such publication. However, pre-publication injunctions are rarely granted as Indian courts have tended to follow the principle laid down in the 1891 case of *Bonnard V. Perryman*, which has been articulated by Westlaw as follows:

The court has jurisdiction to restrain by injunction, and even by an interlocutory injunction, the publication of a libel. But the exercise of the jurisdiction is discretionary, and an interlocutory injunction ought not to be granted except in the clearest cases- in cases in which, if a jury did not find the matter complained of to be libelous, the Court would set aside the verdict as unreasonable. An interlocutory injunction ought not to be granted when the Defendant swears that he

will be able to justify the libel, and the court is not satisfied that he may not be able to do so.

This principle has been followed by a division bench of the Delhi High Court in the 2002 case of Khushwant Singh v. Maneka Gandhi, AIR2002 Delhi58, and the 2011 decision of the Delhi High Court in the case of Tata sons Ltd. v. Greenpeace International.

As such, even if there is an apprehension that content may be of a defamation nature, it is likely that publication would not be restrained except in exceptional cases- presumably, those cases where the later payment of damages would clearly not suffice to set right the wrong done to the person defamed. In non-exceptional circumstances, Indian courts have shown a tendency to support free speech, and have not displayed a tendency to grant injunctions which would have the effect of muzzling speech on the ground of possible defamation.

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5.3.2. Relevant Provisions of Indian Penal Code With Reference To

a) Sedition

Conduct which is directed against a government and which tends towards insurrection but does not amount to treason. Treasonous conduct consists of levying war against the United States or of adhering to its enemies, giving them aid and comfort. The raising commotions or disturbances in the state; it is a revolt against legitimate authority.

The distance between sedition and treason consists in this that though its ultimate object is violation of the public peace, or at least such a course of measures as evidently engenders it, yet it does not aim at direct and open violence against laws, or the subversion of the constitution. The obnoxious and obsolete act of 1798, was called sedition law, because its professed object was to prevent disturbances.

Sedition is deprecated term of law to refer to non-over conduct such as speech and organization that is deemed by the legal authority as tending toward insurrection against the established order. Sedition often included subversion of a constitution and incitement of discontent(or resistance) to lawful authority. Sedition may include any commotion, though not aimed at direct and open violence against laws.

71/124 A Sedition: As per Indian penal code

Whoever, by words either spoken or written or by signs or by visible representation or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection

towards,72(***) the government established by law in 2(India),73(***) shall be punished with 61(imprisonment for life) to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1- The expression “disaffection includes disloyalty and all feelings of enmity.

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Explanation 2 – Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3- Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

b) Obscenity

The law relating to obscenity is laid down in sec.292 of the Indian Penal Code which came about by Act 36 of 1969

Sec.292 reads as follows:

Sale, etc., of obscene books,etc.-[(1)] for the purpose of the sub-section (2) book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be obscene, if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as whole, such as to tend 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.]

[(2) Whoever-

Sells, lets to hire, distributes, publicly exhibits or in any manner puts it into circulation or for purpose of sale, hire, distribution public exhibition of circulation, makes produces, or has in

- (a) possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or
- (b) Import, export or conveys any obscene object for any of the purposes, aforesaid, on knowing or having reason to believe that

- such object will be sold let to hire, distributed or publicity exhibited or in any manner put into circulation or
- (c) Takes part in or receives profit from any business in the course of which he knows or has reasons to believe that such an object are for any of the purpose aforesaid, made produced, purchased, kept, imported, exported, convey, publicly excited, or in any manner put into circulation, or
 - (d) Advertises or makes known by any means whatever 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 object can be procured from or through any person, or
 - (e) Offers or attempt to do any act which is an offense 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 the 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 the fine which may extend to five thousand rupees]

[Exception- this section does not extend to –

- (a) any book, pamphlet , paper, writing, drawing, painting, representation of figure –
 - (i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet , paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other object of general concern
 - (ii) which is kept or used bona fide for religious purpose;
- (b) any representation sculptured, engraved, painted or otherwise represented on or in-
 - (i) any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act,1958 (24 of 58), or
 - (ii) Any temple, or any car used for the conveyance of idols, or kept or used for any religious purpose.]

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3. Objects and Reasons

Section 292 of Act of 19521 was emended by Act 36 of 1969. The object and reason laid down by the parliament for the amendment states as ;

“Under the present sec.292 and sec.293 of the Indian Penal Code, there is danger of publication meant for public good or for bona fide purpose of science, literature, art, or any other branch of learning being declared as obscene literature as there is no specific provision in the act for exempting them from operations of those sections. The Act removes that lacuna so as to bring the law into conformity with modern practice in other civilized countries.”

c) Crime against women, Children etc.,

Contents.

- 1 Constitution Provisions and Privileges
- 2 Laws relating to women
- 3 Laws relating to working women
- 4 Laws relating to marriage & divorce
- 5 Laws relating to maintenance
- 6 Laws relating to abortion
- 7 Laws relating to property, succession, inheritance, guardianship & adoption
- 8 Laws relating to children
- 9 Offences against women and children in the Indian Penal Code

See also

Constitutional Provisions and Privileges

- (i) Equality before law for women (Article 14)
- (ii) The state not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (Article 15 (i))
- (iii) The state to make any special provision in favour of women and children (Article 15 (3))

- (iv) Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state (Article 16)
- (v) The state to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39 (a)) ; and equal pay for equal work for both men and women (Article 39(d))
- (vi) To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (Articles 39 a)
- (vii) The state to make provision for securing just and humane conditions of work and for maternity relief (Article 42)
- (viii) The state to promote with special care and the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (Article 46)
- (ix) The state to raise the level of nutrition and standard of living of its people (Article 47)
- (x) To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (Article 51 (A) (e))
- (xi) Not less than one-third (including the number of seats reserved for women belonging to the scheduled Castes and Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (Article 243 D(3))
- (xii) Not less than one-third of the total number of offices of chairpersons in the Panchayats at each level to be reserved for women (Articles 243 D(4))
- (xiii) Not less than one-third (including the number of seats reserved for women belonging to the scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allowed by

NOTES

rotation to different constituencies in a Municipality (Article 243 T (3))

- (xiv) Reservation of offices of Chairpersons in Municipalities for the scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide (Article 243 T (4))

NOTES

Laws relating to women

- Commission of Sati (prevention) Act, 1987
- Criminal law (Amendment) Act, 1983
- Dowry Prohibition Act,1961
- Immoral Traffic (Prevention) Act,1956
- Indecent Representation of Women (Prohibition) Act,1986
- National Commission for Women Act, 1990
- Prohibition of Sexual Harassment of Women at the Workplace Bill,2010
- Protection of Women from Domestic Violence Act,2005

Laws relating to working women

- Contract Labor (Regulation and Abolition) Act,1976
- Employees State Insurance Act,1948
- Equal Remuneration Act,1976
- Factories (Amendment) Act, 1948
- Maternity Benefit Act, 1961 (Amendment in 1995)
- Plantation Labour Act,1951

Laws relating to marriage & divorce

- Anand Marriage Act,1909
- Arya Marriage Validation Act,1937
- Births, Deaths & Marriages Registration Act,1886
- Bangalore Marriages Validating Act,1936
- Convert's Marriage Dissolution Act,1866

- Family Courts Act,1984
- Foreign marriage Act,1969
- Hindu Marriage Act,1955
- Hindu Marriages (validation of Proceedings) Act,1960
- Indian Christian Marriage Act,1872
- Indian Divorce Act,1869
- Indian Divorce Amendment Bill,2001
- Indian Matrimonial Causes (War marriages) Act,1948
- Marriage Laws (Amendment) Act,2001
- Marriage Validation Act,1892
- Muslim Women (Protection of Rights On Divorce) Act,1986
- Parsi Marriage & Divorce Act,1936
- Prohibition Of Child Marriage Act,2006
- Special Marriages Act,1954

NOTES

Laws relating to maintenance

The code of criminal procedure,1973

- Order for maintenance of Wives, children and parents under section 125
- Procedure to be followed under section 125
- Alteration in allowance under section 125
- Enforcement of the order of maintenance

Laws relating to abortion

- Medical Termination of Pregnancy Act,1971
- Pre-Natal Diagnostic Techniques(Regulation& Prevention of Misuse)Act,1994
- Pre-Natal Diagnostic Techniques (Regulation & Prevention of Misuse)Amendment Act,2001

NOTES

- Pre-Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Amendment Act,2002

Laws relating to property, successions, inheritance, guardianship & adoption

- Guardians & Wards Act, 1890
- Hindu Adoption & Maintenance Act,1956
- Hindu Inheritance (Removal of Disabilities) Act,1928
- Hindu Minority & Guardianship Act,1956
- Hindu Succession Act,1956
- Hindu Succession (Amendment) Act,2005
- Indian Succession (Amendment) Act,2002
- Married Women's Property Act,1874
- Married Women's Property (Extension) Act,1959

Laws relating to children

- Child Labor (Prohibition & Regulation) Act,1986
- Child Marriage Restraint Act,1929
- Children Act,1960
- Children (Pledging of Labor) Act,1933
- Commissions for the Protection of Child Rights Act,2005
- Infant Milk Substitutes Act,1992
- Infant Milk Substitutes Act,2003
- Infant Milk Substitutes, Feeding Bottles & Infant Foods (Regulation Of Production, Supply & Distribution) Act,1992
- Infant Milk Substitutes Act, Feeding Bottles & Infant Foods (Regulation of Production, Supply & Distribution) Amendment Act,2003
- Juvenile Justice (Care & Protection of Children) Act,2003
- Juvenile Justice (Care & Protection of Children) Amendment Act,2006
- Prohibition of Child Marriage Act,2006

- Reformatory School Act,1897
- Young Persons (Harmful Publications) Act,1956

**Offences against women and children in the Indian Penal Code
The Indian penal Code, 1860**

- Abandoning of child under 12 years of age
- Adultery
- Assault or criminal force to a woman with intent to outrage her modesty
- Buying minor for purpose of prostitution
- Causing death of quick unborn child by act amounting to culpable homicide
- Causing miscarriage or miscarriage without the women's consent
- Cohabitation caused by a man deceitfully inducing a belief of lawful marriage
- Concealment of birth by secret disposal of dead body
- Concealment of former marriage
- Death caused by act done with intent to cause miscarriage
- Dowry death
- Enticing, detaining or taking away with criminal intent a married women
- Fraudulent marriage ceremony without lawful marriage
- Husband or relative of a husband of a women subjecting her to cruelty
- Importation of girl from foreign country
- Intercourse by man with his wife during separation
- Intercourse by a member of management or staff of a hospital with any woman in that hospital
- Intercourse by public servant with a woman in his custody
- Intercourse by superintendent of Jail, remand home etc.,

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- Kidnapping, abducting or inducing woman to compel her marriage
- Marriage ceremony fraudulently gone through without lawful marriage
- Marrying again during lifetime of spouse
- Preventing a child from being born alive or causing its death after birth
- Procreation of minor girl
- Rape
- Selling minor for purpose of prostitution
- Word, gesture or act intended to insult the modesty of a woman

5.6. LET US SUM UP

Civil and Criminal Law of Defamation

Not taking into account defamation of the state (otherwise known as ‘sedition’), under India Law, defamation is both a criminal offence and a civil wrong

As far as its being a criminal offence is concerned, section 499 of the Indian penal code, 1860, defines what would amount to defamation in relatively clear terms. Later section of the IPC specify what the punishment for having committed defamation would be, and the IPC read in conjunction with the procedural requirements laid down in the code of Criminal Procedure, 1973, make the law relating to defamation as a crime is relatively certain, even if it is considered to be harsh by some.

As a civil wrong, however, the law is far less certain. Defamation is treated as a wrong within the super by ill-defined real of tort law, an area of law which does not rely on statutes to define wrongs but relies on an ever-increasing body of case law to define what would be considered to be a wrong. Although tort law finds its roots in English law, and has over the course of the centuries evolved easily accessible fundamental principles, the area is still nascent in India, and possibly in consequence, not especially well defined.

Defamation as a crime

Section 499 of the IPC defines ‘defamation’ as being committed:

Through : (i) words (spoken or intended to be read), (ii) signs, or (iii) visible representations;

Which: Is a published or spoken imputation concerning any person;

If the imputation is spoken or published with: (i) the intention of causing harm to the reputation of the person to whom it pertains, or (ii) knowledge or reason to believe that the imputation will harm the reputation of the persons to whom it pertains will be harmed.

This board definition is subject to several explanations as follows:

[Explanation].

Explanation 1.- it may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2. - it may amount to defamation to make an imputation concerning a company or an association or collection of persons as such

Explanation 3. - An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4. - No imputation is said to harm a person’s reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Sedition

Conduct which is directed against a government and which tends towards insurrection but does not amount to treason. Treasonous conduct consists of levying war against the United States or of adhering to its enemies, giving them aid and comfort. The raising commotions or disturbances in the state; it is a revolt against legitimate authority.

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The distance between sedition and treason consists in this that though its ultimate object is violation of the public peace, or at least such a course of measures as evidently engenders it, yet it does not aim at direct and open violence against laws, or the subversion of the constitution. The obnoxious and obsolete act of 1798, was called sedition law, because its professed object was to prevent disturbances.

Sedition is deprecated term of law to refer to non-over conduct such as speech and organization that is deemed by the legal authority as tending toward insurrection against the established order. Sedition often included subversion of a constitution and incitement of discontent(or resistance) to lawful authority. Sedition may include any commotion, though not aimed at direct and open violence against laws.

Obscenity

The law relating to obscenity is laid down in sec.292 of the Indian Penal Code which came about by Act 36 of 1969

Sec.292 reads as follows:

Sale, etc., of obscene books,etc.-[(1)] for the purpose of the sub-section (2) book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall deemed to be obscene, if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is , if taken as whole, such as to tend 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.]

Offences against women and children in the Indian Penal Code

The Indian penal Code, 1860

- Abandoning of child under 12 years of age
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- Husband or relative of a husband of a women subjecting her to cruelty
- Importation of girl from foreign country
- Intercourse by man with his wife during separation
- Intercourse by a member of management or staff of a hospital with any woman in that hospital
- Intercourse by public servant with a woman in his custody
- Intercourse by superintendent of Jail, remand home etc.,
- Kidnapping, abducting or inducing woman to compel her marriage
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- Selling minor for purpose of prostitution
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5.7. UNIT- END EXERCISES

1. Differentiate civil Law from Criminal Law.
2. Define: sedition
3. What is obscenity?

5.8. ANSWER TO CHECK YOUR PROGRESS

1. Civil Laws:

Civil laws come into play to adjudicate the rights between parties i.e. to determine the rights of the persons involved in the dispute. For example if A has an interest in a property and B disputes his claim the rights between the parties is adjudicated in a civil court. Civil rights do not abate on the death of a person. On the contrary it passes on to his legal heirs on his death. Civil laws are not only confined to adjudication of rights between parties but also enforced against the state by way of writ jurisdiction.

Criminal laws:

Criminal laws come into play when an offence is committed against the state. Though an offence is committed against an individual, in criminal laws it is deemed that the offence is committed against the whole society. In criminal laws it is the responsibility of the government to launch prosecution against the accused with the aid of the investigating agencies. Contrary to civil laws, right to launch prosecution dies on the death of the accused and his legal heirs cannot be prosecuted.

2. Sedition

Conduct which is directed against a government and which tends towards insurrection but does not amount to treason. Treasonous conduct consists of levying war against the United States or of adhering to its enemies, giving them aid and comfort. The raising commotions or disturbances in the state; it is a revolt against legitimate authority.

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Sec.292 reads as follows:

Sale, etc., of obscene books,etc.-[(1)] for the purpose of the sub-section (2) book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall deemed to be obscene, if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is , if taken as whole, such as to tend 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.]

*Different Types of Media
Laws*

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5.9. SUGGESTED READINGS

1. RadhaKrishnamurthi, Indian Press Laws, India Laws House, Delhi
2. Durga Das Basu : Laws of the Press in India,NewDelhi;Prentice Hall, 2006
3. SeemaHasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi, 2013.
4. KevalJ.Kumar Mass Communication in India Jaico Publishing House,Ahmedabad 2015

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UNIT - VI

- 6.1. Introduction
- 6.2. Objectives
- 6.3. Laws Dealing with Obscenity
- 6.4. Laws and Constitutional Provisions pertaining to Human Rights in India
- 6.5. Let us Sum up
- 6.6. Unit- End Exercises
- 6.7. Answer to Check your Progress
- 6.8. Suggested Readings

6.1. INTRODUCTION

The concept of obscenity differs from country to country depending on the moral standards of contemporary society.

The Encyclopedia definition of Obscenity states, ‘By English law it is an indictable misdemeanor to show an obscene exhibition or to publish any obscene matter, whether it be writing or by pictures, effigy or otherwise.’ The precise meaning of “obscene” is, however, decidedly ambiguous. It has been defined as something offensive to modesty or decency or expressing or suggesting unchaste or lustful ideas or being impure, indecent or lewd’.

6.2. OBJECTIVES

After going through this unit you will be able to

- Understand laws dealing with Obscenity in India
- Explain Laws and constitutional Provisions pertaining to Human Rights In India

6.3. LAWS DEALING WITH OBSCENITY

The law covering obscenity is dealt with in the India Penal Code of 1860. Interestingly, these laws are relics of the colonial period and fundamentally at variance with the constitutional guarantees of freedom of expression. These laws relating to Obscenity are directly

inherited from British colonialism. A time where Britain experienced a period of what might be described as 'Moral Fundamentalist'.

One of the most controversial issues is balancing the need to protect society against the potential harm that may flow from obscene material, and the need to ensure respect for freedom of expression and to preserve a free flow of information and idea. The Constitution guarantees freedom of expression but in Article 19(2) it also makes it clear that the state may impose reasonable restriction in the interest of public decency and morality. The culminative effect of this provision seems to the legality of any act of the state which lawfully restrains the publication of 'obscene' material in India. The crucial question is, 'what is obscenity?'.

A brief study is done looking into the present obscenity law of the India, the history of that law and the surrounding circumstances which that law came into our statute book and the inadequacy of law. It further looks into the laws dealing with obscenity by different countries.

What the laws in India say?

The law relating to obscenity is laid down in sec.292 of the Indian Penal Code which came about by Act 36 of 1969

Sec.292 reads as follows:

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[(2) Whoever-

Sells, lets to hire, distributes, publicly exhibits or in any manner puts it into circulation or for purpose of sale, hire, distribution public exhibition of circulation, makes produces, or has in

- (f) possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or

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- (g) Import, export or conveys any obscene object for any of the purposes, aforesaid, on knowing or having reason to believe that such object will be sold let to hire, distributed or publicity exhibited or in any manner put into circulation or
- (h) Takes part in or receives profit from any business in the course of which he knows or has reasons to believe that such an object are for any of the purpose aforesaid, made produced, purchased, kept, imported, exported, convey, publicly excited, or in any manner put into circulation, or
- (i) 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 object can be procured from or through any person, or
- (j) Offers or attempt to do any act which is an offense 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 the 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 the fine which may extend to five thousand rupees]

[Exception- this section does not extend to –

- (c) any book, pamphlet , paper, writing, drawing, painting, representation of figure –
- (iii) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet , paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other object of general concern or,k
- (iv) which is kept or used bona fide for religious purpose;
- (d) any representation sculptured, engraved, painted or otherwise represented on or in-
- (iii) any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act,1958 (24 of 58), or

- (iv) Any temple, or any car used for the conveyance of idols, or kept or used for any religious purpose.

Objects and Reasons

Section 292 of Act of 19521 was emended by Act 36 of 1969. The object and reason laid down by the parliament for the amendment states as;

“Under the present sec.292 and sec.293 of the Indian Penal Code, there is danger of publication meant for public good or for bona fide purpose of science, literature, art, or any other branch of learning being declared as obscene literature as there is no specific provision in the act for exempting them from operations of those sections. The Act removes that lacuna so as to bring the law into conformity with modern practice in other civilized countries.”

Analyzing the Indian law

- (a) Through the amendment of 1969 brought about changes to obscenity law, the primary object of the 1969 amendment of sec.292 was to prevent circulation of and traffic in obscene literature. It was specifically to restrict communication of certain types of material based on their content. The amendment did not still lay down the definition of obscenity.
- (b) The present provision is so vague that it becomes difficult to apply it. The purposeful mission of the definition of obscenity has led to attack of sec.292 of the India Penal Code as being too vague to qualify as Penal provision. It is quite unclear what the provisions mean. This unacceptably large ‘grey area’, common in laws restricting sexual material, would appear to result not from a lack of capacity or effort on the part of drafters or legislators. Rather, it would seem to be the consequence of an explicit desire to include inherently nebulous concepts within these laws so as to enable application whenever public concern is raised in relation to certain material. This should stir a major uneasiness to protect against politically- motivated restriction of this sort.
- (c) The test here is whether the law ‘is so obscure’ as to be incapable of interpretation with any degree of precision using ordinary tools. The obscenity legislation and jurisprudence prior to the enactment of Act 36 of 1969 were concerned with prohibiting ‘immoral influence’ of obscene publications and

NOTES

NOTES

safeguarding the moral individual into whose hands such works could fall. It has to be kept in mind that to impose a certain standard of public and sexual morality, solely because it reflects the conventions of a given community, is inimical to the exercise and enjoyment of individual freedoms, which forms the basis of our constitution.

- (d) The enactment of sec.292 by the legislative, prohibited such material on the belief that they had a detrimental impact on the individual expose to them and consequently on society as a whole, our understanding of the harms caused by these materials has developed considerably since that time; however this does not detract from the fact that the purpose of this legislation remains, as was in 1969, the protection of society from harms caused by the exposure to obscene material. In 1969, the harm to society caused by publication and circulation of obscene material may well have been defined more strictly in terms of public morality.
- (e) The supreme court of India has time and again adopted the test of obscenity laid down by Cockburn CJ2. The test of obscenity is , ‘whether the tendency of the matter charged as obscenity, is to deprave and corrupt those whose minds are open to such immoral influences, and in whose hands a publication of this sort may fall.’ But these makes the court the judge of obscenity in relation to an impugned book, or article, or newspaper and (which) lays emphasis on the potentiality of the impugned object to deprave and corrupt by immoral influences. Interestingly, this rest of obscenity was laid down in the Hicklin case in 1869 which remains a part of obscenity jurisprudence in India today.
- (f) The legislative chose to leave sec.292 to open ends and by doing so left the criteria for application of standards to the judges. It is not the functions of the judge to define material which are to be proscribed by law. The present law which fails to define obscenity with precision is too arbitrary and too vague.

6.4. LAWS AND CONSTITUTIONAL PROVISIONS PERTAINING TO HUMAN RIGHTS IN INDIA

The constituent Assembly incorporated in the constitution of India the substance of the right proclaimed and adopted by the General Assembly in the universal Declaration of Human Right. Further on

10thDecember 1948, when the constitution of India was in the making. The General Assembly proclaimed and adopted the Universal Declaration of Human right, which surely influenced the framing of India’s constitution. Viewed from the Indian standpoint, human right have been synthesized, as it were, not as an integrated fabric by the preamble promises and various constitutional clauses of the National charter of 1950

NOTES

6.4.1 Human Right and the Indian Constitution

The constitutional of the republic of India which came into force on 26th January 1950 with 395 Articles and 8 schedules, is one of the most elaborate fundamental laws ever adopted. The preamble to the constitution declares India to be a Sovereign, socialist, secular and Democratic Republic term ‘democratic’ denotes that the Government gets its authority from the will of the people. It gives a feeling that they all are equal “irrespective of their race, religion, language, sex, and culture”. The preamble to the constitution pledges justices, social , economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and the unity and integrity of the nation to all its citizens.

India and Universal Declaration

India was a signatory to the universal declaration of Human Rights. A number of fundamental right guaranteed to the individual in part III of the Indian Constitution are similar to the provision of the universal Declaration of Human Rights. The following chart makes it very clear.

Table
Civil and political Right in the Universal declaration of Human rights and in the Indian Constitution

NO	Names of rights	Universal declaration	Indian constitution
1	Equality before law	Article 7	Article 14
2	Prohibition of discrimination	Article 7	Article 15(1)
3	Equality of opportunity	Article 21 (2)	Article 16(1)
4	Freedom of speech and expression	Article 19	Article 19 (1) (a)
5	Freedom of peaceful assembly	Article 20 (1)	Article 19 (1) (b)
6	Right to form associations or Unions	Article 23 (4)	Article 19 (1) (c)

NOTES

NO	Names of rights	Universal declaration	Indian constitution
7	Freedom of movement within the Border	Article 13 (1)	Article 19 (1) (d)
8	Protection in respect of conviction for offences	Article 11 (2)	Article 20 (1)
9	Protection of life and personal liberty	Article 3	Article 21
10	Protection of slavery and forced labour	Article 4	Article 23
11	Freedom of conscience and religion	Article 18	Article 25 (1)
12	Remedy for enforcement of right	Article 8	Article 32
13	Right against arbitrary arrest and detention	Article 9	Article 22
14	Right to social security	Article 22	Article 29 (1)

The table below shown that most of the economic, social, and cultural rights proclaimed in the universal declaration of Human Right have been incorporated in part IV of the Indian Constitution.

**Table
Economic, social and cultural Rights in the Universal Declaration
of Human Rights and in the Indian Constitution**

No	Universal Declaration of Rights	Articles in the Universal Declaration	Article in the Indian Constitution
1	Right to work, to just and favourable conditions of work	Articles 23 (1)	Articles 41
2	Right to equal pay for equal work	Articles 23 (2)	Articles 39 (d)
3	Right to education	Articles 26 (1)	Articles 21 (A), 41, 45, & 51 A(k)
4	Right to just and favourable remuneration	Articles 23 (3)	Articles 43
5	Right to rest and leisure	Articles 24	Articles 43
6	Right of everyone to a standard of living adequate for him and his family	Articles 25 (1)	Articles 39(a) & Articles 47
7	Right to a proper social	Articles 28	Articles 38

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6.4.2. The constitutional and institutional framework of Human Rights in India.

Fundamental Right and Human Right

The judicially enforceable fundamental right which encompasses all seminal civil and political right and some of the rights of minorities are enshrined in part III of the constitution (Articles 12 to 35). This includes the right to equality, the right to freedom, the right against exploitation, the right to freedom of religions, cultural and educational right and the right to constitutional remedies.

Fundamental rights different from ordinary rights in the sense that the former or inviolable. No law, ordinance, customs, usage, or administrator to order can abridge or are taken them away. Any law, which is violeitive of any of the fundamental rights, is void. In ADM jabalpur v. Shukla, justice Beg observed " the object of making settings general aspect of right fundamental is to guarantee them against illegal invasions of this rights by executive, legislative come for judicial organ of the state "earlier, chief justice subbaRao in GolakNathv.state of Punjab had Rightly observed, " fundamental rights are the modern name for what have been traditionally known as Natural rights."

The Supreme Court of India recognizes this fundamental right as 'Natural Right' or 'Human Right'. While referring to the fundamental rights are contained in part III of the constitution, Sikri the then Chief Justice of the supreme court, in KeshavanandaBharati v. State of Kerala, observe, "I am unable to hold these provisions to show that right or not natural law in alienable rights. As a matter of fact India was supported to the universal declaration of rights... and that declaration describe some fundamental rights or in alienable." Chief justice patanjlishastri in state of west Bengal v.subodhGopal Bose referred to fundamental rights as those great and basic rights, which are recognized and guaranteed as the natural rights inherent in status of citizen of a free country.

Article 14 of Indian constitution for Proclaims the general rights of all person to Equality before the law, while article 15 prohibits the state from discrimination against any Citizen on ground of religion, race, caste, sex or place of birth, and prohibits any restriction on any citizens access to any public place, including Wells and tanks. Equality of opportunity for all citizen in matter of public employment is guaranteed under article 16. Article 17 of abolishes untouchability and makes its practice and offence punishable under law. Both article 15

NOTES

NOTES

and 16 enable the state to make special provisions for the advancement of socially and educationally backward classes, for such castes and tribes as recognised in the constitution (known as the schedule caste and Scheduled Tribes) require very special treatment for their advancement. Article 18 abolished all 9 military or non academic titles.

The right to freedom guaranteed to all citizen under the article 19 encompasses the right to freedom of speech and expression, the right to assemble peaceably without arms, the right to form Association or unions, the right to move freely throughout the territory of India, the right of residents, find the right to practice any profession, or to carry on any option, trade or business. The protection of a person is respect of conviction of offences under article 20 include protection against ex post facto criminal laws, the principle of autre food convict and the right against self incrimination. Article 21, the core of all fundamental rights provisions in the Indian Constitution, ordains: "no person shall be deprived of his life for personal liberty except according to procedure established by law". Article 21 A was added to the Constitution by the Eighty Sixth constitutional Amendment Act 2002. Article 21 a proclaims " state shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner at State make, by law, determine." The right of a person, arrested and detained by the State Authorities, is provided in article 22. This include the right to be informed of the grounds of arrest, the right to legal advice and the right to be produced before a magistrate within 24 hours of arrest (except where one is arrested under ear preventing detention law). The right against exploitation includes prohibition of trafficking in human beings and forced labour (article 23), and prosecution of employment of children below 14 years of age "to what in any factory or mine or in any other hazardous employment".

Subject to public order or morality, all persons or equally entitled to freedom of conscience and the right to profess, practice and propagate religion. (Article 25). Every religious denomination or Section also has the right to establish and maintain religious institution and manage their religious affair (Article 26). No one may be compelled to pay any religious taxes (Article 27). The holly state funded educational institutions are barred some important religious instructions (article 28).

The right of instruction of citizens or a minority to promote its distinct language, script or culture, to have access to state funded Educational Institution (article 29), and to establish and maintain educational institutions of its choice (article 30) also guaranteed.

Right to constitutional remedies is essentially the right to move the supreme court of India for enforcement of the above rights

(article 32). The Supreme Court is vested with wide constitutional powers in this regard.

They include the power to issue directions, orders or writs for the enforcement of the fundamental rights (article 32 (2)). State (i.e provincial). High courts to have identical power (article 226). As laws inconsistent with or in derogation of the right conferred by part III optical Institutions are void (Article 13), High Court have the power to adjudge constitutional validity of all laws. Furthermore, by virtue of article 141, the law declared by Supreme Court shall be binding all Courts in India. Fundamental rights guaranteed under the Indian Constitution may be divided, for the sake of convenience, into two categories viz, specified fundamental rights and other fundamental rights (rights not specifically enumerated).

Specified fundamental rights

Many rights enshrined in the covenant on civil and political rights have been recognized specially in the Indian Constitution as "fundamental rights". They may be referred to as "specified" fundamental rights because they are mentioned in the Constitution by name.

Human Right and the Indian Constitution

The constitutional of the republic of India which came into force on 26th January 1950 with 395 Articles and 8 schedules, is one of the most elaborate fundamental laws ever adopted. The preamble to the constitution declares India to be a Sovereign, socialist, secular and Democratic Republic term 'democratic' denotes that the Government gets its authority from the will of the people. It gives a feeling that they all are equal "irrespective of their race, religion, language, sex, and culture". The preamble to the constitution pledges justices, social , economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and the unity and integrity of the nation to all its citizens.

Fundamental Right and Human Right

The judicially enforceable fundamental right which encompasses all seminal civil and political right and some of the rights of minorities are enshrined in part III of the constitution (Articles 12 to 35). This includes the right to equality, the right to freedom, the right against exploitation, the right to freedom of religions, cultural and educational right and the right to constitutional remedies.

NOTES

NOTES

6.6. UNIT- END EXERCISES

1. What is obscenity?
2. Discuss the Laws and constitutional Provisions pertaining to Human Rights in India.

6.7. ANSWER TO CHECK YOUR PROGRESS

1. Obscenity

The law covering obscenity is dealt with in the India Penal Code of 1860. Interestingly, these laws are relics of the colonial period and fundamentally at variance with the constitutional guarantees of freedom of expression. These laws relating to Obscenity are directly inherited from British colonialism. A time where Britain experienced a period of what might be described as ‘Moral Fundamentalist’.

One of the most controversial issues is balancing the need to protect society against the potential harm that may flow from obscene material, and the need to ensure respect for freedom of expression and to preserve a free flow of information and idea. The Constitution guarantees freedom of expression but in Article 19(2) it also makes it clear that the state may impose reasonable restriction in the interest of public decency and morality. The culminative effect of this provision seems to the legality of any act of the state which lawfully restrains the publication of ‘obscene’ material in India

2. Laws and Constitutional Provisions pertaining to Human Rights in India

The constituent Assembly incorporated in the constitution of India the substance of the right proclaimed and adopted by the General Assembly in the universal Declaration of Human Right. Further on 10th December 1948, when the constitution of India was in the making. The General Assembly proclaimed and adopted the Universal Declaration of Human right, which surely influenced the framing of India’s constitution. Viewed from the Indian standpoint, human right have been synthesized, as it were, not as an integrated fabric by the preamble promises and various constitutional clauses of the National charter of 1950

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Fundamental Right and Human Right

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6.8. SUGGESTED READINGS

1. RadhaKrishnamurthi, Indian Press Laws, India Laws House, Delhi
2. Durga Das Basu : Laws of the Press in India, New Delhi; Prentice Hall, 2006
3. Parmjit S. Jaswal and NishthaJaswal, Human Rights and the Law Ashish Publishing House New Delhi, 1996
4. Attar Chand ,Politics of Human Rights and civil Liberties- A Global Survey UDH publishers New Delhi 1985

NOTES

UNIT – VII

- 7.1. Introduction
- 7.2. Objectives
- 7.3. Cinematograph Act 1952
- 7.4. PrasarBharathi Act
 - 7.4.1. Committees on Broadcasting and information Media
 - 7.4.2. Broadcasting Regulations-Key issues
- 7.5. GATT and Intellectual Rights regulations
- 7.6. Let us Sum up
- 7.7. Unit- End Exercises
- 7.8. Answer to Check your Progress
- 7.9. Suggested Readings

7.1. INTRODUCTION

Film Censorship was set in motion in India when the Cinematograph Act of 1918 was made law from May 1920. It allowed the exhibition of films only after they had been certified as suitable for public exhibition. Censor Boards were accordingly set up in Bombay, Calcutta, Madras, Rangoon and Lahore. All Members of the Boards were appointed by the Government. They consisted of the Commissioner of Police, The Collector of Customs, a member of Indian Educational services and Three Prominent Citizens representing Hindu, Muslim and other communities.

In the early days of censorship the Boards were” particularly sensitive to nudity, passionate or suggestive lovemaking, women in a state of drunkenness, anything that might show the white man in bad light. Scenes of western women in any contact with Oriental men and of course, any reference to political activity or ideology. Amendments to the act of 1918 in later years made film Censorship a function of the Provincial Governments. By far the largest number of Films exhibited in India from 1920s was American, and the British Government resented their influence. In October 1927 an Indian Cinematograph Committee was appointed with an Indian, T.Rangachariar as Chairman. it observed in its report submitted two years later that Censorship is certainly necessary in India, and is the only effective method of Preventing the import, production and Public exhibition of films which

might demoralize Morals, hurt religious susceptibilities or excite communal or racial animosities.

7.2. OBJECTIVES

After going through this unit you will be able to

- Understand Cinematograph Act 1952
- Explain PrasarBharathi Act
- List the committees on Broadcasting and information Media
- Discuss Broadcasting regulations-Key issues
- Analyze GATT and Intellectual Property right regulations

NOTES

7.3. CINEMATOGRAPH ACT 1952

The Cinematograph Act 1952, apart from including provisions relating to constitution and functioning of Central Board of Film Certification Known till June 1, 1983 as Central Board of Film Censors, also lays down the guidelines to be followed for Certifying films. Initially, there were only two categories of certificate “U” Universal exhibition and “A” restricted to adult audience, but two other categories were added in June 1983 “UA” for unrestricted public exhibition subject to parental guidance for Children below the age of twelve and “S” films for public exhibition restricted to specialized audience such as doctors. The 1952 Act has been amended to bring it up to date, and the last amendments were made in 1981 and 1984. The present censorship of films is governed by the 1952 Act, the Cinematograph Certification Rules promulgated in 1983 and the guidelines issued from time to time.

In keeping with this responsibility, the Central Board of Film Certification was set up in 1950 in Mumbai, with regional offices in Mumbai, Calcutta, Chennai, Bangalore, Hyderabad, Thiruvananthapuram, New Delhi, Cuttack, and Guwahati. It is a regularly body functioning under the Ministry of Information and Broadcasting. No film can be exhibition in India without being certified by the Board. Its reign has always been marred with controversy. A Film Certification Appellate Tribunal FCAT has also been constituted under section 5D of the 1952 Act for hearing appeals against nay order of the CBFC.

While the work of certification of films is a central subject, the states have to enforce these censorship provisions and bring any violations to the notice of the CBFC. The organization structure of the CBFC is based on the provisions of the 1952 Act and the

NOTES

Cinematograph certification Rules 1983. The Chairman and members are appointed for a term of three years or till such time as the Government may direct. They comprise eminent persons from different walks of life such as social sciences, law, education, art, film, and so on, thus representing a cross-section of society.

The certification rules also apply to foreign films imported into India, dubbed films and video films. In the case of dubbed films, the Board does not have any fresh censorship for the visuals in general cases. The certification does not apply to films made specifically for Doordarshan, since Doordarshan has its own system of examining such films.

7.4. PRASAR BHARATHI ACT

The following Act of Parliament received the assent of the President on the 12th September, 1990, and is hereby published for general information:-

THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) ACT, 1990

No. 25 of 1990

An Act to provide for the establishment of a Broadcasting Corporation for India, to be known as PrasarBharati, to define its composition, functions and powers and to provide for matters connected therewith or incidental thereto.

It enacted by Parliament in the Forty-first Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the PrasarBharati (Broadcasting corporation of India) Act, 1990
 - (2) it extends to the value of India.
 - (3) It shall come into force on such date as the Central Government may, by notification, appoint.
2. In this Act, unless the context otherwise requires—

- a) “ Akshvani” means the offices, stations and other establishments, by whatever name called which, immediately before the appointed day, formed part of or were under the Director-General. All India Radio of the Union Ministry of Information and Broadcasting;
- b) “appointed day” means the date appointed under section 3;
- c) “broadcasting” means the dissemination of any form of communication like signs, signal, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variations and cognate expressions shall be construed accordingly;
- d) “Board” means the PrasarBharati Board;
- e) “Broadcasting Council” means the Council established under section 14;
- f) “Chairman” means the Chairman of the Corporation appointed under section 4;
- g) “Corporation” means the PrasarBharati (Boardcasting Corporation of India) established under section 3;
- h) “Doordarshan” means the offices, Kendras and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Directorate- General Doordarshan of the Union Ministry of Information and Broadcasting;
- i) “elected Member” means a Member elected under section 3;
- j) “Executive Member” means the Executive Member appointed under section 4;
- k) “Kendra: means any telecasting centre with studios or transmitters or both and includes a relay station;
- l) “Member” means a Member of the Board;

NOTES

NOTES

- m) “Member (Finance)” means the Member (Finance) appointed under section 4;
- n) “Member (Personnel)” means the Member (Personal) appointed under section 4;
- o) “Nominated Member” means the Member nominated by the Union Ministry of Information and Broadcasting under section 3;
- p) “Non-lapsable Fund” means the Fund created from the commercial revenues of Akashvani and Doordarshan to meet expenditure on certain schemes;
- q) “Notification” means a notification published in the Official Gazette;
- r) “Part-time Member” means a Part-time Member of the Board appointed under section 4, but does not include an ex office Member, the Nominated Member or an elected Member;
- s) “Prescribed” means prescribed by rules made under this Act;
- t) “Recruitment Board” means a board established under sub-section (1) of section 10,
- u) “Regulations” means regulations made by the Corporation under this Act;
- v) “Station” means any broadcasting station with studios or transmitters or both and includes a relay station;
- w) “Whole-time Member” means the Executive Member, Member (Finance) or Member (Personnel);
- x) “Year” means the financial year.

CHAPTER II PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA)

3.(1) With effect from such date as the Central Government may by notification appoint in this behalf, there shall be established for the

purpose of this Act a Corporation, to be known as the PrasarBharati (Broadcasting Corporation of India)

(2) The Corporation shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The headquarters of the Corporation shall be at New Delhi and the Corporation may establish offices, Kendras or stations at other places in India and with the previous approval of the Central Government, outside of India.

(4) The general superintendence, direction and management of the affairs of the corporation shall vest in the PrasarBharati Board which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under this Act.

(5) The Board shall consist of—

- a) A chairman;
- b) One Executive Member;
- c) One Member (Finance);
- d) One Member (Personnel);
- e) Six Part-time Members;
- f) Director-General (Akashvani) ex officio;
- g) Director-General (Doordarshan), ex officio;
- h) One representative of the Union Ministry of Information and Broadcasting to be nominated by that Ministry ; and
- i) Two representatives of the employees of the Corporation, of whom one shall be elected by the engineering staff from amongst themselves and one shall be elected by the other employees from amongst themselves.

(6) The Corporation may appoint such committees as may be necessary for the efficient performance, exercise and discharge of its functions, powers and duties;

Provided that all or a majority of the members of each committee shall be Members and a member of any such committee who is not a Member shall have only the right to attend meetings of the committee and take part in the proceedings thereof, but shall not have the right to vote.

(7) The Corporation may associate with itself, in such manner and for such purposes as may be provided by regulations, any person whose

NOTES

NOTES

assistance or advice it may need in complying with any of the provisions of this Act and persons so associated shall have the right to take part in the discussions of the Board relevant to the purpose for which the has been associated, but shall not have the right to vote.

(8) No act or proceeding of the Board or of any committee appointed by it under sub-section (6) shall be invalidated merely by reason of –

- a) Any vacancy in or any defect in the constitution of , the Board or such committee; or
- b) Any defect in the appointment of a person acting as a Member or a member of such committee; or
- c) Any irregularly in the procedure of the Board or such committee not affecting the merits of the case.

4.(1) The Chairman and the other Members, except the ex office Members the Nominated Member and the elected Member shall be appointed by the President of India on the recommendation of committee consisting of---

- a) The chairman of the Council of states , who shall be the chairman of the committee;
- b) The chairman of the press council of India established under section 4 of the Press Council Act, 1978 and
- c) One nominee of the President of India.

(2) No appointment of a member shall be invalidated merely by reason of any vacancy in, or any defect in the constitution of the committee appointed under sub-section (1)

(3) The Chairman and the Part-time Members shall be persons of eminence in public life; the Executive shall be a person having special knowledge or practical experience in respect of such matters as administration, management, broadcasting, education, literature, culture, arts, music, dramatics or journalism; the Member (Finance) shall be a person having special knowledge or practical experience in respect of financial matters and Members (personnel) shall be a person having special knowledge or practical experience in respect of personnel management and administration .

(4) The recommendations made by the committee constituted under sub-section (1) shall be binding for the purposes of appointments under this section.

(5) The Executive Member shall be the chief executive of the corporation and shall, subject to the control and supervision of the Board, exercise such powers and discharges such functions of the Board as it may delegate to him.

(6) (1) The Chairman shall be Part-time Member and shall hold office for a term of six years from the date on which he enters upon his office.

(2) The Executive Member, the Member (Finance) and the Member (Personnel) shall be Whole-time Members and every such Member shall hold office for term of six years from the date on which the enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

(3) The term of office Part-time Members shall be six years, but one-third of such Members shall retire on the expiration of every second year.

(4) The term of office of an elected Member shall be two years or till the ceases to be an employee of the Corporation, whichever is earlier.

(5) As soon as may be after the establishment of the Corporation, the President of India may, by order, make such provision as he thinks fit for curtailing the term of office of some of the Part-time Members then appointed in order that one-third of the Members holding office as such Part-time Members shall retire in every second year thereafter.

(6) Where before the expiry of the term, of office of a person holding the office of chairman, or any other Member, a vacancy arises, for any reason whatever, such vacancy shall be deemed to be a casual vacancy and the person appointed or elected to fill such vacancy shall hold office for the unexpired period of the term for which is predecessor in office would have held office if much vacancy had not arisen.

(7) The Whole-time Members shall be the employees of the Corporation and as such shall be entitle to such salaries and allowance and shall be subject to such conditions of service in respect of leave, pension (if any), provident fund and other matters as may be prescribed:

NOTES

NOTES

Provided that the salaries and allowances and the conditions of service shall not be varied to their disadvantage after their appointment.

(8) The chairman and Part-time Members shall be entitled to such allowances as may be prescribed.

(7). (1) Subject to the provisions of sub-section (3) the chairman or any other Member, except an ex office Member, the Nominated Member and an elected Member, shall only be removed from his office by order of the President of India on the ground of Misbehaviour after the Supreme Court, on a reference being made to it by the President, has on inquiry held in accordance with such procedure as the Supreme Court may by rules provide, reported that the Chairman or such other Member, as the case may be, ought, on such ground, be removed.

(2) The President may suspend from office the Chairman or other Member, except an ex office Member, the Nominated Member or an elected member, in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1) the President may, by order, remove the chairman or any whole-time member from his office if such chairman or such whole-time Member-

- a) Ceases to be a citizen of India; or
- b) Is adjudged an insolvent; or
- c) Engages during his term of office in any paid employment outside the duties of his office; or
- d) Is convicted of any offence involving moral turpitude; or
- e) Is, in the opinion of the President , until to continue in office by reason of infirmity of body or mind;

Provided that the president may, by order, remove any Part-time Member from his office if he is adjudged an insolvent or is convicted of any offence involving moral turpitude or where he is, in the opinion of the president, unfit to continue in office by reason of infirmity of body or mind.

(4) If the chairman or any Whole-time member, except any ex officio members, the Nominated member or any elected member, is or

becomes in any way concerned or interested in any contract or agreement made by a or on behalf of the Corporation or the Government of India or the Government of state or, participate in any way in the profit thereof, or in any benefit or emolument arising there from than as a member, and in common with other members of an incorporated company, he shall, for the purpose of sub-section (1) be deemed to be guilty of misbehavior.

(5) If a Part-time Member is, or becomes in any way concerned, or interested in any contract or agreement made by or on behalf of the Corporation, he shall, for the purposes of sub-section(1) be deemed to be guilty of misbehavior.

(6) The chairman or any other member may resign his office by giving notice thereof in writing to the President of India and on which resignation being accepted, the chairman or other member shall be deemed to have vacated his office.

8.(1) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations:

Provided that there shall not be less than six meetings every year but three months shall not interval between one meeting and the next meeting.

(2) A member shall be deemed to have vacated his office if he absents himself for three consecutive meetings of the Board without the leave of the chairman.

(3) The chairman shall preside at the meetings of the Board and if for any reason he is unable to attend any meeting. The executive member and in the absence of both, any other member elected by the members present at such meeting shall provide at the meeting.

(4) All questions which come up before any meeting of the board shall be decided by a majority of the votes of the members present and voting and, in the event of a equality of votes, the chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

9. (1) Subject to such control, restrictions and conditions as may be prescribed, the Corporation may appoint, after consultation with the

NOTES

NOTES

recruitment Board, the Director-general (Akashvani). The Director-General (Doordarshan) and such other officers and others employees as may be necessary.

(2) The method of recruitment of such officers and employees and all other matters connected therewith and the conditions of service of such officers and other employees shall be such as may be provided by regulations.

10.(1) The Corporation shall, as soon as may be, after the appointed day and in such manner and subjects to such conditions and restrictions as may be prescribed, establish for the purposes of section 9, one or more recruitments Boards consisting wholly of persons other than the Members, officer and other employees of the corporation:

Provided that for the purposes of appointment to the posts carrying scales of pay which are not less than that of a Joint Secretary to the Central Government, the Requirement Board shall consist of the Chairman, other members the ex officio Members, the Nominated member and elected members.

(2) The qualifications and other conditions of service of the members constituting the recruitment Board and the period for which such members shall hold office, shall be such as may be prescribed.

11.(1) Where the Central Government has ceased to perform any functions which under section 12 are the functions of the Corporation, it shall be lawful for the Central Government to transfer, by order and with effect from such date or dates as may be specified in the order to the corporation any of the officers or other employees serving in the Akashvant or Doordarshan and engaged in the performance of those functions:

Provided that no order under the this sub-section shall be made in relation to any officer or other employee in the Akashvani or Doordarshan who has, in respect of the proposal of the Central Government to transfer such officer or other employee to the corporation, intimated within such time as may be specified in this behalf by the Central Government his intention of not becoming an employee of the Corporation.

(2) The provisions of sub-section (1) shall also apply to the members of the Indian Information Service, the Central Secretariat Service or any other service or to persons borne on cadres outside Akashvaani and Doordarshan who have been working in Akashvani or Doordarshan immediately before the appointed day:

Provided that where any such member intimated, within the time specified in sub-section (1) his intention of not becoming an employee of the Corporation but a continue on deputation, he may be allowed to continue on deputation in accordance with such terms and conditions as may be prescribed.

(3) In making an order under sub-section (1) The Central Government shall, as far as may be, take into consideration the functions which the Akashvani or, as the case may be, Doordarshan has ceased or ceases to perform and the area in which such functions have been or are performed.

(4) An officer or other employee transferred by an order under sub-section (1) shall, on and from the date of transfer, cease to be an employee of the Central Government and become an employee of the Corporation with such designation as the corporation may determine and shall, subject to the provisions of the sub-section (5) and (6) be governed by such regulations as may be made as respect remuneration and other conditions of service including pension, leave and provident fund and shall continue to be an officer or other employee of the Corporation unless and until his employment is terminated by the Corporation.

(5) Every officer or other employee transferred by an order made under sub-section (1) shall , within six months from the date of transfer, exercise his option, in writing, to be governed—

- a) By the scale of pay applicable to the post held by him in the Akashvani or Doordarshan immediately before the date of transfer or by the scale applicable to the post under the Corporation to which he is transferred;
- b) By the leave, provident fund, retirement or other terminal benefits admissible to employees of the Central Government in accordance with the rules or orders of the Central Government, as amended from time to time, or leave, provident fund or other terminal benefits admissible to the employees of the Corporation under the regulations.

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And such option once exercised under this Act shall be final:

Provided that the option exercised under the clause (a) by an officer or other employee shall be applicable only in a respect of the post under the corporation to which such officer or other employee is transferred and an appointment to a higher post under the corporation he shall be eligible only for the scale of pay applicable to such higher post:

Provided further that if immediately before the date of his transfer any such officer or other employee is officiating in a higher post under the Government either in a leave vacancy or any other vacancy of a specified duration, his pay on transfer shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Government to which he would have reverted or to the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt:

Provided also that when an officer or other employee serving in the Union Ministry of Information and Broadcasting or in any of its attached or subordinate offices is promoted to officiate in a higher post in the Ministry or office subsequent to the transfer to the Corporation of any other officer or employee senior to him in that Ministry or office before such transfer, the officer or other employee who is promoted to officiate in such higher post shall, on transfer to the Corporation be entitled only to the scale of pay applicable to the post he would have held but for such promotion or the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt.

(6) No officer or other employee transferred by an order made under sub-section (1) or sub-section (2)-

- a) Shall be dismissed or removed by an authority subordinate to that competent to make a similar or equivalent appointment under the Corporation as may be specified in the regulations;
- b) Shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:

Provided that where it is proposed after such inquiry to impose upon him any such penalty, such penalty may be imposed on the basis of evidence adduced during such inquiry and it shall not be necessary to

give such person an opportunity of making representation on the proposed penalty:

Provided further that clause (b) shall not apply where an officer or other employee is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge.

12. (1) Subject to the provisions of this Act, it shall be the primary duty of the corporation to organize and conduct public broadcasting service to inform educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.

Explanation—For the removal of doubts, it is hereby declared that the provisions of this section shall be in addition to and not in derogation of the provisions of the Indian Telegraph Act, 1885.

(2) The Corporation shall, in the discharge of its functions, be guided by the following objectives, namely:-

- a) Upholding the unity and integrity of the country and the values enshrined in the constitution;
- b) Safeguarding the citizen's right to be informed freely, truth fully and objectively on all matters of public interest, national or international and presenting a fair and balanced flow of information including contrasting views without advocating any opinion or ideology of its own;
- c) Paying special attention to the fields of education and spread of literacy, agriculture, rural development, environment, health and family welfare and science and technology;
- d) Providing adequate coverage to the diverse cultures and languages of the various regions of the country by broadcasting appropriate programmes;
- e) Providing adequate coverage to sports and games so as to encourage healthy competition and the spirit of sportsmanship;
- f) Providing appropriate programmes keeping in view the special needs of the youth;
- g) Informing and stimulating the national consciousness in regard to the status and problems of women and paying special attention to the upliftment of women;

NOTES

NOTES

- h) Promoting social justice and combating exploitation in equality and such evils as untouchability and advancing the welfare of the weaker sections of the society;
 - i) Safeguarding the right of the working classes and advancing their welfare;
 - j) Serving the rural and weaker sections of the people and those residing in border regions, backward or remote areas;
 - k) Providing suitable programmes keeping in view the special needs of the minorities and tribal communities;
 - l) Taking special steps to protect the interest of children, the blind, the aged, the handicapped and other vulnerable sections of the people;
 - m) Promoting national integration by broadcasting in a manner that facilitates communication in the languages in India; and facilitating the distribution of regional broadcasting service in every state in the language of the state;
 - n) Providing comprehensive broadcast coverage through the choice of appropriate technology and the best utilization of the broadcast frequencies available and ensuring high quality reception;
 - o) Promoting research and development activities in order to ensure that radio and television broadcast technology are constantly updated; and
 - p) Expanding broadcasting facilities by establishing additional channels of transmission at various levels.
- (3) In particular, and without prejudice to the generally of the foregoing provisions, the corporation may take such steps as it thinks fit-
- a) To ensure that broadcasting is conducted as a public service to provide and produce programmes;
 - b) To establish a system for the gathering of news for radio and television;
 - c) To negotiate for purchase of, or otherwise acquire programmes and rights or privileges in respect of sports and other events,

films. Serials, occasions, meetings, functions or incidents of public interest, for broadcasting and to establish procedures for the allocation of such programmes, rights or privileges to the services;

- d) To establish and maintain a library or libraries of radio, television and other materials ;
- e) To conduct or commission from time to time, programmes, audience research, market or technical service, which may be released to such persons and in such manner and subject to such terms and conditions as the corporation may think fit;
- f) To provide such other services as may be specified by regulations.

(4) Nothing in sub-section (2) and (3) shall prevent the corporation from managing on behalf of the Central Government and in accordance with such terms and conditions as may be specified by that Government the broadcasting of external service and monitoring of broadcasts made by organizations outside India on the basis of arrangements made for reimbursement of expenses by the Central Government.

(5) For the purpose of ensuring that adequate time is made available for the prohibition of the objectives set out in this section, the Central Government shall have the power to determine the maximum limit of broadcast time in respect of the advertisement.

(6) The corporation shall be subject to no civil liability on the ground merely that it failed to comply with any of the provisions of this section.

(7) The corporation shall have power to determine and levy fees and other service charges for or in respect of the advertisements and such programmes as may be specified by regulations;

Provided that the fees and other service charges levied and collected under this sub-section shall not exceed such limits as may be determined by the Central Government from time to time.

13. (1) There shall be constituted a committee consisting of twenty-two members of parliaments of whom fifteen from the House of the people to be elected by the members thereof and seven from the council of states to be elected by the Members thereof in accordance with the system of proportional representation by means of the single

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transferable vote, to oversee that the corporation discharge its functions in accordance with the provisions of this Act and in particular the objectives set out in section 12 and submit a report thereon to Parliament,

(2) The Committee shall function in accordance with such rules as may be made by the speaker of the House of the people.

14.(1) There shall be established by notification as soon as may be after the appointed day, a council to be known as the Broadcasting council, to receive and consider complaints referred to in section 15 and to advise the corporation in the declaration of its functions in accordance with the objectives set out in section 12

(2) The Broadcasting council shall consist of---

(i) A President and ten other members to be appointed by the President of India from amongst persons of eminence in public life;

(ii) Four Members of Parliament, of whom two from the House of the people to be nominated by the speaker thereof and two from the council of states to be nominated by the chairman thereof.

(3) The President of the Broadcasting council shall be a whole-time member and every other member shall be a part-time member and the President or the Part-time member shall hold office as such for a term of three years from the date on which he enters upon his office.

(4) The Broadcasting council may constitute such number of Regional Council as it may deem necessary to aid and assist the council in the discharge of its functions.

(5) The President of the Broadcasting council shall be entitled to such salary and allowance and shall be subject to such conditions of service in respects of leave, pension (if any) provident fund and other matters as may be prescribed;

Provided that the salary and allowances and the conditions of service shall not be varied to disadvantage of the President of the Broadcasting council after his appointment.

(6) The other members of the Broadcasting council and the members of the Regional councils constituted under sub-section (4) shall be entitled to such allowance as may be prescribed.

15. (1) The Broadcasting council shall receive and consider complaints form

(i) any person or group of persons alleging that a certain programme or broadcast or the functioning of the Corporation in specific cases or in general is not in accordance with the objective for which the corporation is established;

(ii) any person (other than an officer or employee of the corporation) claiming himself to have been treated unjustly or unfairly in any manner (including unwarranted invasion of privacy, misrepresentation, distortion or lack of objectivity) in connection with any programme broadcast by the corporation.

(2) A complaint under sub-section (1) shall be made in such manner and within such period as may be specified by regulations.

(3) The Broadcasting council shall follow such procedure as it thinks fit for the disposal of complaints received by it.

(4) If the complaint is found to be justified either wholly or in part, the Broadcasting council shall advise the Executive Member is take appropriate action.

(5) If the Executive Member is unable to accept the recommendation of the Broadcasting council, he shall place such recommendation before the Board for its decision thereon.

(6) If the Board is also unable to accept the recommendation of the Broadcasting council, it shall record its reasons therefor and inform the Broadcasting council accordingly.

(7) Notwithstanding anything contained in sub-section (5) and (6) where the Broadcasting council deems it appropriate, it may, for reasons to be recorded in writing , require the corporation to broadcast its recommendations with respect to a complaint in such manner as the council may deem fit.

7.4.1. Committees on Broadcasting and information Media Broadcast content complaints council

Broadcast Content Complaints Council is a body in India, a viewer/watcher can complain about the content of a television programme. It was set up by the television industry's Indian Broadcasting Federation (IBF) in 2011. BCCC examines complaints on

NOTES

NOTES

the content of Television Channels (non-news).BCCC aims to self regulate and self-monitor the contents of television Channel and to evolve guidelines for the private broadcast rather than to draw the ire of a court or the law makers. This independent counsel comprising a thirteen member body consisting of a chairperson being retired judge of the Supreme Court or High Court and 12 other members including broadcaster and eminent non- broadcast members. The BCCC after hearing complaints and may issue directions to the Channel to modify or withdraw the objectionable content, and can further fine the Channel up to 30 lakhs.If the direction is defied , the matter may be referred to Ministry of Information and Broadcasting for further action including revocation of permission to broadcast.

Advertisement standard Council of India (ASCI)

Advertisement must be truthful. All descriptions, claims and comparisons which relate to matters of objectives ascertainable fact should be capable of substantiation. Advertise and Advertising agencies are required to produce such substantiation as and when called upon to do so by the Advertising Standards Council of India.

1. Where advertising claims are expressly stated to be based on or supported by independent research or assessment, the source and date of this should be indicated in the advertisement.
2. Advertisements shall not, without permission from the persons, firm or institution under reference, contain any reference to such person, firm or institution which confers an unjustified advantage on the product advertised or tends to bring the persons, firm or institution into ridicule or disrepute. If and when required to do so by the Advertising Standards Council of Indi, the advertiser and the advertising agency shall produce explicit permission from the person, firm or institution to which reference is made in the advertisement.
3. Advertisements shall neither distort facts nor mislead the consumer by means of implications or omissions. Advertisements shall not contain statements or visual presentation which directly or by implication or by omission or by ambiguity or by exaggeration are likely to mislead the consumer about the product advertised or the advertiser or about any other product or advertiser.

WIPO

WIPO is the global forum for intellectual property (IP) services, policy, information and cooperation. We are a self-funding agency of the United Nations, with 192 members states.

Our mission is to lead the development of a balanced and effective international IP system that enables innovation and creativity for the benefit of all. Our mandate, governing bodies and procedures are set out in the WIPO convention, which established WIPO in 1967.

Member states	Management & staff	Observes
Our 192 member states approve WIPO's strategic direction and activities in the annual meetings of the Assemblies.	Our staff (secretariat), guided by our core values, provide the skills to implement the member state's decisions and deliver WIPO's diverse programs.	Some 250 non-governmental organizations (NGOs) and intergovernmental organizations (IGOs) have official observe status at WIPO meetings.

We help governments; businesses and society realize the benefits of IP.

Provide	Activities
<p>A policy forum to shape balanced international IP rules for a changing world;</p> <p>Global services to protect IP across borders and to resolve disputes;</p> <p>Technical infrastructure to connect IP systems and share knowledge;</p> <p>Cooperation and capacity-building programs to enables all countries to use IP for economic, social and cultural development;</p> <p>A world reference source for IP information</p>	<p>Each WIPO division, led by its Director, is responsible for specific programs to achieve our nine strategic goals and objectives:</p> <ul style="list-style-type: none"> • WIPO activities by unit • The year in review: report of the DG to the WIPO Assemblies • WIPO- Making IP work (a quick introduction to WIPO and what we do)

NOTES

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7.4.2. Broadcasting Regulations-Key issues

Members of the Radio Television News Directors Association agree that their prime responsibility as journalists-and that of the broadcasting industry as the collective sponsor of news broadcasting- is to provide to the public they serve news service as accurate, full and prompt as human integrity and devotion can devise.

1. The primary purpose of broadcast journalists-to inform the public of events of importance and appropriate interest in a manner that is accurate and comprehensive.
2. Broadcast news presentation is should be designed not only to offer timely and accurate information, but also to present it in the light of relevant circumstances,
3. News should be selected on the criteria of significance, community, and regional relevance, appropriate human interest, and service to defined audiences. It excludes sensationalism or misleading emphasis in any form. Promotional or publicity material should be sharply scrutinized before use in news broadcasting.
4. Broadcast journalists shall at all times display humane respect for the dignity, privacy and the well-being of persons with whom the news deals
5. Broadcast journalist should present all news, which will serve the public interest. In place like the court, the broadcast journalists shall conduct themselves in dignity and keep broadcast equipment as unobtrusive and silent as possible.

7.5. GATT AND INTELLECTUAL RIGHTS REGULATIONS

General Agreement on Tariffs and Trade (GATT), set of multilateral trade agreements aimed at the abolition of quotas and reduction of tariff duties among contracting nations. When GATT was concluded by 23 countries at Geneva, in 1947 (to take effect from Jan 1, 1948), it was considered an interim arrangement pending the formation of a United Nations agency to supersede it. When such an agency failed to emerge, GATT was amplified and further enlarged at several negotiations. It subsequently proved to be most effective instrument of world trade liberalization, playing a major role in the massive

expansion of world trade in the second half of the 20th Century. By the time GATT was replaced by the world Trade organization (WTO) in 1995, 125 Nations were signatories to its agreements, which had become a code of conduct governing 90 percent of world Trade.

GATT's most important principle was that of trade without discrimination in which each member nation opened its markets equally to every other. As embodied in unconditional

Most favored nation clauses, this meant that once a country and its largest trading partners had agreed to reduce a tariff, that tariff cut was automatically extended to every other GATT member. GATT included a long schedule of specific tariff concessions for each contracting Nation, representing tariff rate that each country had agreed to extend to others. Another fundamental principle was that of protection through tariffs rather than through import quotas or quantitative trade restrictions; GATT systematically sought to eliminate the latter. Other general rules included uniform customs regulations and the obligation of each contracting nation to negotiate for tariff cuts upon the request of another. An escape clause allowed contracting countries to alter agreements if their domestic producers suffered excessive losses as result of trade concessions.

GATT'S normal business involved negotiations on specific trade problems affecting particular commodities or trading nations, but multilateral trade conferences were held periodically to work out tariff reductions and other issues. Seven such "rounds" were held from 1947 to 1993, starting with those held at Geneva in 1947(concurrent with the signing general agreement); at Ancey, France, in 1949; at Torquay, Eng., in 1951; and at Geneva in 1956 and again in 1960-62. The most important rounds were the so-called Kennedy Round (1964-67), the Tokyo Round (1973-79), and the Uruguay Round (1986-94), all held at Geneva. These agreements succeeded in reducing average tariffs on the world's industrial goods from 40 percent of their market value in 1947 to less than 5 percent in 1993.

The Uruguay Round negotiated the most ambitious set of trade- liberalization agreements in GATT's history. The world wide trade treaty adopted at the round's end slashed tariffs on industrial goods by an average of 40 percent, reduced agricultural subsidies, and included ground breaking new agreements on trade in services. The treaty also created a new and stronger global organization , the WTO, to monitor and regulate international trade. GATT went out of existence with formal conclusion of the Uruguay Round on April15, 1994.Its principles and the many trade agreements reached under its auspices were adopted by the WTO.

NOTES

NOTES

7.6. LET US SUM UP

Cinematograph Act 1952

The Cinematograph Act 1952, apart from including provisions relating to constitution and functioning of Central Board of Film Certification Known till June 1, 1983 as Central Board of Film Censors, also lays down the guidelines to be followed for Certifying films. Initially, there were only two categories of certificate “U” Universal exhibition and “A” restricted to adult audience, but two other categories were added in June 1983 “UA” for unrestricted public exhibition subject to parental guidance for Children below the age of twelve and “S” films for public exhibition restricted to specialized audience such as doctors. The 1952 Act has been amended to bring it up to date, and the last amendments were made in 1981 and 1984. The present censorship of films is governed by the 1952 Act, the Cinematograph Certification Rules promulgated in 1983 and the guidelines issued from time to time.

In keeping with this responsibility, the Central Board of Film Certification was set up in 1950 in Mumbai, with regional offices in Mumbai, Calcutta, Chennai, Bangalore, Hyderabad, Thiruvananthapuram, New Delhi, Cuttack, and Guwahati. It is a regularly body functioning under the Ministry of Information and Broadcasting. No film can be exhibition in India without being certified by the Board. Its reign has always been marred with controversy. A Film Certification Appellate Tribunal FCAT has also been constituted under section 5D of the 1952 Act for hearing appeals against nay order of the CBFC

THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) ACT, 1990

No. 25 of 1990

An Act to provide for the establishment of a Broadcasting Corporation for India, to be known as PrasarBharati, to define its composition, functions and powers and to provide for matters connected therewith or incidental thereto.

(1) With effect from such date as the Central Government may by notification appoint in this behalf, there shall be established for the purpose of this Act a Corporation, to be known as the PrasarBharati (Broadcasting Corporation of India)

(2) The Corporation shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire,

hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The headquarters of the Corporation shall be at New Delhi and the Corporation may establish offices, Kendras or stations at other places in India and with the previous approval of the Central Government, outside of India.

(4) The general superintendence, direction and management of the affairs of the corporation shall vest in the PrasarBharati Board which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under this Act.

(5) The Board shall consist of—

- a) A chairman;
- b) One Executive Member;
- c) One Member (Finance);
- d) One Member (Personnel);
- e) Six Part-time Members;
- f) Director-General (Akashvani) ex officio;
- g) Director-General (Doordarshan), ex officio;
- h) One representative of the Union Ministry of Information and Broadcasting to be nominated by that Ministry ; and
- i) Two representatives of the employees of the Corporation, of whom one shall be elected by the engineering staff from amongst themselves and one shall be elected by the other employees from amongst themselves.

(6) The Corporation may appoint such committees as may be necessary for the efficient performance, exercise and discharge of its functions, powers and duties;

Provided that all or a majority of the members of each committee shall be Members and a member of any such committee who is not a Member shall have only the right to attend meetings of the committee and take part in the proceedings thereof, but shall not have the right to vote.

(7) The Corporation may associate with itself, in such manner and for such purposes as may be provided by regulations, any person whose assistance or advice it may need in complying with any of the

NOTES

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provisions of this Act and persons so associated shall have the right to take part in the discussions of the Board relevant to the purpose for which the has been associated, but shall not have the right to vote.

Committees on Broadcasting and information Media

1. Broadcast content complaints council
2. Advertisement Standard council of India
3. WIPO

.Broadcasting Regulations-Key issues

1. The primary purpose of broadcast journalists-to inform the public of events of importance and appropriate interest in a manner that is accurate and comprehensive.
2. Broadcast news presentation is should be designed not only to offer timely and accurate information, but also to present it in the light of relevant circumstances,
3. News should be selected on the criteria of significance, community, and regional relevance, appropriate human interest, and service to defined audiences. It excludes sensationalism or misleading emphasis in any form. Promotional or publicity material should be sharply scrutinized before use in news broadcasting.
4. Broadcast journalists shall at all times display humane respect for the dignity, privacy and the well-being of persons with whom the news deals
5. Broadcast journalist should present all news, which will serve the public interest. In place like the court, the broadcast journalists shall conduct themselves in dignity and keep broadcast equipment as unobtrusive and silent as possible.

GATT and Intellectual Rights regulations

General Agreement on Tariffs and Trade (GATT),set of multilateral trade agreements aimed at the abolition of quotas and reduction of tariff duties among contracting nations. When GATT was concluded by 23 countries at Geneva, in 1947 (to take effect from Jan1, 1948), it was considered an interim arrangement pending the formation of a United Nations agency to supersede it. When such an agency failed to emerge, GATT was amplified and further enlarged at several negotiations. It subsequently proved to be most effective instrument of world trade liberalization, playing a major role in the massive

expansion of world trade in the second half of the 20th Century. By the time GATT was replaced by the world Trade organization (WTO) in 1995, 125 Nations were signatories to its agreements, which had become a code of conduct governing 90 percent of world Trade.

GATT's most important principle was that of trade without discrimination in which each member nation opened its markets equally to every other. As embodied in unconditional

NOTES

7.7. UNIT- END EXERCISES

1. Write a note on Cinematograph Act 1952.
2. What are the committees involved on Broadcasting and information media?
3. Expand GATT

7.8. ANSWER TO CHECK YOUR PROGRESS

1. Cinematograph Act 1952

The Cinematograph Act 1952, apart from including provisions relating to constitution and functioning of Central Board of Film Certification Known till June 1, 1983 as Central Board of Film Censors, also lays down the guidelines to be followed for Certifying films. Initially, there were only two categories of certificate "U" Universal exhibition and "A" restricted to adult audience, but two other categories were added in June 1983 "UA" for unrestricted public exhibition subject to parental guidance for Children below the age of twelve and "S" films for public exhibition restricted to specialized audience such as doctors. The 1952 Act has been amended to bring it up to date, and the last amendments were made in 1981 and 1984. The present censorship of films is governed by the 1952 Act, the Cinematograph Certification Rules promulgated in 1983 and the guidelines issued from time to time.

2 Committees on Broadcasting and information Media

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2. Advertisement Standard council of India
3. WIPO

3. GATT and Intellectual Rights regulations

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NOTES

concluded by 23 countries at Geneva, in 1947 (to take effect from Jan1, 1948), it was considered an interim arrangement pending the formation of a United Nations agency to supersede it. When such an agency failed to emerge, GATT was amplified and further enlarged at several negotiations. It subsequently proved to be most effective instrument of world trade liberalization, playing a major role in the massive expansion of world trade in the second half of the 20th Century. By the time GATT was replaced by the world Trade organization (WTO) in 1995, 125 Nations were signatories to its agreements, which had become a code of conduct governing 90 percent of world Trade.

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7.9. SUGGESTED READINGS

1. SeemHasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi, 2013.
2. AutarKrishenKoul, Guide to WTO and GATT: Economics, Law and Politics Springer 2018
3. **The Gazette of India** Extraordinary, Ministry of Law and Justice New Delhi 1990
4. Kovuuri G. Reddy, Hand Book of Journalism and Media VikasPublishing House 2015

UNIT – VIII

- 8.1. Introduction
- 8.2. Objectives
- 8.3. Cyber Laws in India
 - 8.3.1. Need for Cyber Laws, nature and Scope of Cyber Laws
 - 8.3.2. Approaches in Cyber Laws
 - 8.3.3. Cyber Crimes
 - 8.3.4. Piracy
 - 8.3.5. Convergence Bill
- 8.4. Information Technology Legislation
- 8.5. Let us Sum up
- 8.6. Unit- End Exercises
- 8.7. Answer to Check your Progress
- 8.8. Suggested Readings

NOTES

8.1. INTRODUCTION

Cyberspace is a domain characterized by the use of electronic and electromagnetic spectrum to store, modify and exchange data via networking systems and associated Physical infrastructures. The term originates in science fiction, where it also includes various kinds of virtual reality experienced by deeply immersed computer users or by entities that exists inside computer system.

Cyberspace is metaphor for describing the non-Physical terrain created by computer systems. Online systems, for example, create a cyberspace within which people can communicate with one another (via-e-mail),do research, or simply window shop. Like Physical space cyberspace contain objects (files, mail messages, graphics,etc) and different modes of transportation and delivery. Unlike real space, though exploring cyberspace does not require any physical movement other than pressing keys on a key board or moving a mouse.

Some programs, particularly computer games, are designed to create a special cyber space, one that resembles physical reality in some ways but defies it in others. In its extreme form, called virtual reality, users are presented with visual, auditory and even tactile feedback that makes cyberspace feel real.

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8.2. OBJECTIVES

After going through this unit you will be able to

- Describe Cyber laws in India- Need, nature and scope of cyber laws
- Discuss the approaches to cyber laws
- Classify the cyber crimes, piracy and convergence bill
- Explain Information Technology legislation

8.3. CYBER LAWS IN INDIA

8.3.1. Need for Cyber Laws, nature and Scope of Cyber Laws

Initially Internet was commercially introduced in our country. The beginnings of Internet were extremely small and growth of subscribers painfully slow. However as Internet has grown in our country, the need has been felt to enact the cyber laws which are necessary to regulate Internet in India. This need for cyber laws was propelled by numerous factors.

Firstly, India has an extremely detailed and well defined legal system in place. Numerous laws have been enacted and implemented and the foremost among them is the Constitution of India. We have inter alia, amongst others the Indian Penal Code, The Indian Evidence Act 187., the Banker's Book Evidence Act 1891 and Reserve Bank of India Act 1934, The companies Act and so on. However the arrival of Internet signaled the beginning of the rise of new and complex legal issues, it may be pertinent to mention that all the existing laws in place in India were enacted way back keeping in mind the political, social, economic and cultural scenario of that time. Nobody then could realize visualize about internet. Despite the brilliant acumen of our master drafts men, the requirements of cyber space could hardly ever be anticipated. As such, the coming of the Internet led to the emergence of numerous ticklish legal issues and problems which necessitated the enactment of Cyber laws.

Secondly, the existing laws of India, even with the most benevolent and liberal interpretation, could not be interpreted in the light of the emerging Cyberspace, to include all aspects relating to different activities in cyberspace. In fact, the practical experience and the wisdom of judgment found that it shall not be without major perils and pitfalls, if the existing laws were to be interpreted in the scenario of emerging cyberspace, without enacting new cyber laws.

Thirdly, none of the existing laws gave any legal validity or sanction to the activities in the cyberspace. For example, the Net is used by a large majority of users for email. Yet till today, email is not “legal “in our country. There is no law in the country, which gives legal validity, and sanction to email. Courts and Judiciary in our country have been reluctant to grant judicial recognition to the legality of email in the absence of any specific law having been enacted by the parliament.

Fourthly, Internet requires an enabling and supportive legal infrastructure in tune with the times. This legal infrastructure can only be given by the enactment of the relevant Cyber laws as traditional laws have failed to grant the same, E-Commerce, the biggest future of the Internet, can only be possible if necessary legal infrastructure compliments the same to enable its vibrant growth.

All these and other varied considerations created the conducive atmosphere for the need for enacting relevant Cyber laws in India.

8.3.2 Approaches to Cyber Laws

Some of the common cyber crimes are

Hacking

Hacker is a computer expert who uses his knowledge to gain unauthorized access to the computer network.

Virus

A computer Virus is a computer program that can copy itself and infect a computer without permission or knowledge of the user.

Email Bombing

Email bombing refers to sending a large number of emails to the victim resulting in the victims email account (in case of an individual) or mail servers(in case of company or an email service provider) crashing.

Phreaking

A phreak is someone who breaks into the telephones network illegally, to make free long-distance phone calls or to tap phone lines. In cyber terms, phreak is anyone who breaks or tries to break the security of a computer network.

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Cyber Terrorism

An intentional negative and harmful use of the information technology for producing destructive and harmful effects to the property, of others. For instance, hacking of a computer system and then deleting the useful and valuable business information of the rival competitor is a part and parcel of cyber terrorism.

Spamming: a popular name of e-mail sent to many unwilling recipients in order to sell product or service (or sometimes to cheat naïve customers)

Harassment through e-mails and smsis not a new concept. It is very similar to harassing through letters. E- Harassments are similar to the letter harassment but creates problem quite often when posted from fake ids.

Cyber stalking is the use of the internet or other electronic means to stalk someone. The use of information and communication technology, particularly the internet, by an individual or group of individuals, to harass another individual, groups of individuals, or organization is cyber stalking.

Cyber defamation: Cyber torture including libel and defamation is another common crime against women in the net. This occurs when defamation takes place with the help of computers and / or the internet. E.g. someone published defamatory matter about an individual on a website or sends e-mails containing defamatory information.

Morphing: Morphing is editing the original picture.

(a) or computer virus into any computer, computer system or computer network;

damages or causes to be damaged any computer, computer system or computer network, data, computer data base or any other programmes residing in such computer, computer system or computer network;

8.3.3. Cyber Crimes

Cyber or Electronic crime is where a computer is the target of a crime or is the means adopted to commit a crime. Most of these crimes are not new. Criminals simply devise different ways to undertake standard criminal activities such as fraud, theft, blackmail, forgery, often involving the internet.

8.3.4. Piracy

Piracy as we know it is not a new phenomenon. ‘Digital Piracy’ is a term used to refer to the act of copyright infringement via digital means. The word ‘piracy’ used in this context dates further back than one would think. It dates back to the beginning of copyright law. As a reference the term first appeared in the year 1603 to label those who violated a Royal Charter given to the Stationer’s Company of London in 1557. To understand exactly what digital piracy means, one must first look at the definition of copyright. Copyright is legal concept that aims to protect original creations from unauthorized uses. These original creations are usually owned by the author or their authorized associates. Violating copyrights includes copying and using materials without accreditation or without permission, amongst many other abuses. According to World intellectual property organization (WIPO) “Copyright legislation is part of the wider body of law Known as intellectual property. The term intellectual property refers broadly to the creations of the human mind. Intellectual property rights protect the interest of creators by giving them property rights over their creations” The second Copy right infringement, therefore, is breaking the copy right law. This can take many forms, but piracy generally refers to the unauthorized copying and distribution (feely or financial gain) of protected works. Thirdly although it is not a modern phenomena, advent of digital technology, such as internet, has greatly facilitated the practice, enabling many more people to copy and distribute protected creations. This means today, more than ever, piracy is problem artists and creators have to face. However, it is also opportunity to learn from and adapt to rapidly changing industry reliant upon digital technology and a wiser audience.

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8.3.5. Convergence Bill

On the passing of India’s first cyber law namely, the information technology Act, 2001 , the Government embarked upon the move to regulate the convergence industry given the impending scenario of convergence Technology. The new proposed convergence Law aims to promote, facilitate and develop in an orderly manner the carriage and content of communications including broadcasting, telecommunications and multimedia. It further aims to establish an autonomous commission to regulate carriage of all forms of communication.

This law mandates that no one shall use any part of the spectrum without assignment from Central Government or statutory body under the new law namely, the communications commission of India. Similarly, owing or providing any network infrastructure facility or providing any network services or any network application services without a proper license or registration under this law has been made illegal. It has been mandatory to have a license before processing any

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wireless equipment. This law seeks to establish the Communications Commission of India (CCI) as the super regulator in India in the context of convergence of Telecommunications, broadcasting, data communications, multimedia and other related technologies and services.

The objectives of the CCI range from developing communications sector in a competitive environment and consumer interests to making the communication services available at affordable costs to all. It further aims to increase access to information for greater empowerment of citizens and hopes to make strides in the direction of establishing a modern and effective communication infrastructure taking into account the convergence of information technology, media, telecommunications and consumer electronics. The Communications Commission of India (CCI) seeks to establish an open licensing policy and ensure a level playing field for all operators and to promote equitable, non-discriminatory interconnection across various networks. Towards that end of view, the CCI has been given immense powers. The new law deals the important issue of licensing or registration of specified categories of services. This law comes up with the concept of content censor, though not in words. The aim of the Bill is to establish a regulatory framework for carriage and content of communications in the scenario of convergence and telecommunications, broadcasting, data communication, multimedia and other related technologies and services.

Content has been defined in section 2(9) to mean any sound, text, data, picture (still or moving), other audio-visual representation, signal or intelligence of any nature or combination thereof which is capable of being created, processed, stored, retrieved or communicated electronically. Thus, the CCI has been given the mandatory power to specify, by regulations, programme codes and standards which may include practices to ensure fairness and impartiality of news and other programmes.

8.4. INFORMATION TECHNOLOGY ACT 2000

An act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as “electronic commerce”.

Salient features of the Act ELECTRONIC GOVERNANCE

Legal recognition of electronic records.

Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then,

notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is –

- (a) rendered or made available in an electronic form; and
- (b) Accessible so as to be usable for a subsequent reference.

PENALTIES AND ADJUDICATION

This act deals with two types of wrongs, the civil wrongs and the offences. While the civil wrongs are covered by sec 43-45, the offences are mentioned in sec 65-81.

43. Penalty for damage to computer, computer system, etc.

if any person without permission of the owner or any other person who is in charge of a computer, computer system or computer network,-

- (b) accesses or secures access to such computer, computer system or computer network ;
- (c) download copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium;
- (d) introduce or causes to be introduced any computer containments
- (e) disrupts or causes disruption of any computer, computer system or computer network;
- (f) denies or causes the denial of access to any person authorized to access any computer, computer system or computer network by any means;
- (g) provides any assistance to any person to facilities access to a computer, computer system or computer network in contravention of the provisions of this act, rules or regulations made there under;
- (h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network, he shall be liable to pay damages by way of compensation not exceeding one crore rupees to the person so affected.

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44. Penalty for failure to furnish information return, etc.

If any person who is required under this act or any rules or regulations made there under to-

- (a) furnish any document, return or report to the controller or the certifying authority fails to furnish the same, he shall be liable to a penalty not exceeding on lakh and fifty thousand rupees for each such failure;
- (b) file any return or furnish any information, books or other documents within the time specified therefor in the regulations fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty not exceeding five thousand rupees for every day during which such failure continues;
- (c) maintain books of accounts or records, fail to maintain the same, he shall be liable to a penalty not exceeding ten thousand rupees for every day during which the failure continues.

45. Residuary Penalty

Whoever contravenes any rules or regulations made under this act, for the contravention of which no penalty has been separately provided, shall be liable to pay a compensation not exceeding twenty-five thousand rupees to the person affected by such contravention or a penalty not exceeding twenty-five thousands rupees.

OFFENCES

65. Tampering with Computer source documents.

Whoever knowingly or intentionally conceal, destroys or alters or intentionally or knowingly causes another to conceal, destroy or alter any computer source code used for a computer, computer programmer, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

Explanation; For the purposes of this section. “computer source code” means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form.

66. Hacking with computer system.

(1) whoever with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means, commits hack:

(2) Whoever commits hacking shall be punished with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

67. Publishing of information which is obscene in electronic form.

On first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to ten years and also with fine which may extend to two lakh rupees.

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8.5. LET US SUM UP

Need for cyber laws

Initially Internet was commercially introduced in our country. The beginnings of Internet were extremely small and growth of subscribers painfully slow. However as Internet has grown in our country, the need has been felt to enact the cyber laws which are necessary to regulate Internet in India. This need for cyber laws was propelled by numerous factors.

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8.6. UNIT- END EXERCISES

1. Why we need cyber law? Discuss its nature, scope and approaches of cyber law.

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2. What is meant by cyber crime?
3. What is piracy?

8.7. ANSWER TO CHECK YOUR PROGRESS

1. Need for Cyber Laws, nature and Scope of Cyber Laws

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8.8. SUGGESTED READINGS

1. Seem Hasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi, 2013.
2. KevalJ.Kumar Mass Communication in India Jaico Publishing House,Ahmedabad 2015
3. **The Gazette of India** The information Technology act 2000 Ministry of Law, Justice and Company Affairs New Delhi 2000
4. Kovuuri G. Reddy,Hand Book of Journalism and Media VikasPublising House 2015
- 5.Hameling, Cess, Ethics of Cyber space, Sage Publications, 2001

BLOCK III: ETHICS AND CASE STUDIES

UNIT - IX

NOTES

- 9.1. Introduction
- 9.2. Objectives
- 9.3. Ethics
- 9.4. Role and responsibilities of Professional Bodies
- 9.5. Themes and Issues in Media Ethics
- 9.6. Principles and ethics of Journalistic conduct
- 9.7. Let us Sum up
- 9.8. Unit- End Exercises
- 9.9. Answer to Check your Progress
- 9.9. Suggested Readings

9.1. INTRODUCTION

Media or Journalism ethics is a branch of Philosophy concerned with actions that are permissible and those that are not. Media ethics assist media workers in determining what is right and how to choose the best from several alternatives. Media ethics constitutes a normative science of conduct and must therefore be applied voluntarily. Ethics should set guidelines, rules, norms, codes and principles that will lead journalists and to other media workers to make moral decisions. They should not forced to do so because ethics is applied volountarily. Normative ethics is concerned with what people and institution ought to do and how they should conduct themselves. Media workers are part of society and therefore, function within the parameters set by the expectations prevalent in a society at a particular time. Apart from society, the government of the country also informs expectations of what the media ought to do. Consequently, a nation's media, more than any other kind of institution is shaped by prevailing political power. The code of ethics aim at the following objectives:

- a) To protect the consumer readers, listeners, viewers or the public in general
- b) To protect and inspire the working journalist, broadcaster or others directly concerned with gathering, writing, procession and presenting of news and opinions

- c) To guide editors and others who take full legal responsibility for what is published and broadcast
- d) To define the responsibilities of proprietors, shareholders and government who are in apposition of absolute control over any particular form of mass media communication activity
- e) To deal with issues of advertisers and others who buy into the services of the media.

9.2. OBJECTIVES

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After going through this unit you will be able to

- Define the concept of Ethics
- Understand the role and responsibilities of Professional bodies
- Describe the Themes and issues in Media Ethics
- Explain the principle and ethics of Journalist contact

9.3. ETHICS

The concepts of ethics is very subjective and relative, therefore it would be relevant to look at the theories which can be considered to determine correct media behavior. Basically three efficient theories that are consistently employed to determine media behavior are:

1. Consequentialism
2. Utilitarianism
3. Deontology

Consequentialism:

This theory suggests that the ethical value of an action should be determined on its consequences. Consequentiality theories concentrate only on the outcome of an action without considering about the means, i.e. how the consequences came about. Hence, all actions should be considered as of their possible outcomes before being executed. The consequences of an action can be judged from two perspectives: Ethical Egoism and Ethical Altruism.

Ethical egoism does not reflect a cohesive social model as such actions can harm others while Ethical Altruism holds those actions that benefit others and can be considered good.

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Utilitarianism:

Utilitarianism theory is applicable to the media as it considers the betterment of society at large. It considers ethical as that which is designed to create the greater good for the maximum numbers. Mahatama Gandhi's concept of Sarvodaya talks about the welfare of all the reflects the utilitarian theory. However, Gandhi's Sarvodaya was not a utilitarian because he realized that the utilitarian objective of satisfying many people was not a sufficiently ethical model. Gandhi was of an opinion that asked why the well-being of the minority should be of any less value than that of the majority or why the welfare of certain people should be sacrificed. There are many arguments against consequentialism and the utilitarian theories of ethics.

The utilitarian approach encourages responsible and thoughtful behavior. Although it is possible to make mistakes in judgment, it is advisable to invest time in considering all the possible outcomes of a certain action, to determine whether the overall good is greater than the negative consequences.

Deontology:

Deontology concentrates on a person's duty as a means to determine appropriate action. Kant is believed to be the most famous follower of this theory. He was of the opinion that it was the pretention behind an action that rendered it ethical or unethical. Kant felt that there was only one virtue which was good without qualification: GOODWILL. Action inspired by goodwill are done out of respect for moral law and duty. Kant's categorical perspective- Will to act well out of duty- has three important guidelines:

- An agent should be motivated by the principle, which he would be happy to see as a universal maxim.
- Always treat people as an end in themselves and not just a means.
- Act as if you were the law maker in the kingdom of 'End'. (Kant, 1785)

It is expected from a journalist that he does his job honestly and objectively along with the protection of the sources and loyalty with the employer. These factors create dilemma at times. Hence, it is important to understand all aspects of ethical issues.

"Facts are sacred, comments are free. Facts must not be tampered with; News must be reported with complete objectivity, without any distortion. A journalist should not mix news with views and must be careful enough to clearly distinguish between the two"- as said by the editor of the Manchester Guardian (Shamsi, 2005: P-49). Refusal of moral values in community life as an individual is the source of the corruption on a mounting scale among sections of politicians,

public servants in the civil and defense services event the judiciary and others. The dominance of utilization and eroticism in the mass media especially electronic media is a part of this syndrome. Mahatma Gandhi was in favor of guiding children in the humanist morals which are common to all religions at their best. As the eminent Gandhian Shri Shambhu Dutta who has worked with Gandhi says that everyone is in the rat race or a strange competition at the cost of so many things that only time will tell, but lack of kindness and humanity in all strata of life is directly related to the lack of morality and ethics in media. When asked about the way left out to come out of this situation or to bring ethical issue in journalism, Shir Dutta replies immediately, off course Mahatma Gandhi. He throws light on the fact that Gandhian ethics of journalism set high standard to the entire journalist.

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Objective process of social-economic and media development, intensifying competition within the press and from the other new media and other kinds of economical and political pressures have introduced serious problems. Higher level of manipulations of news, analysis and public affairs information to suit the owners financial and political interest; prejudice and propaganda masquerading as professional journalism; the down warding and devaluing of editorial functions in some cases; creeping corruption are deeply worrying tendencies. His journalism was fearless and without any external pressure as Gandhi said, “a person who follows the path of dharma does not feel helpless”.

It is in this context that it would be appropriate to give consideration to the concept of ethics and what we mean by ethics and its nature. Another term for ethics is moral philosophy and the two are usually used as synonyms. The latter term, is used more in Britain. While ‘ethics’ has a Greek origin, ‘moral’ has a Latin origin. Ethics is not similar as morals, and is not even as set of morals. It is said that ‘the object of ethics, by its own account, is to determine true propositions regarding righteous or vicious conduct. Morals or a set of morals can be derived from the propositions discovered by moral philosophy that is how morals and moral philosophy, however conceptually different, are often taken together in common parlance. Morality can be taught of intuitions themselves can be based on the implicit reasoning. Philosophical analysis, explicit or implicit, is necessary in any discussion of what is moral and what is not, or what is good and what is not. It includes ethics along with sciences. Since ethics emerges in society and has much to do with social relations, it could very well be considered, as a social science.

However the majority of writers on ethics are satisfied with treating it as a branch of philosophy. Well, philosophy itself can be considered a science that of logical investigation into abstract issues concerning all sciences, arts and experiences an ultimate science. Not

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may philosophers, however, would agree that science, generally understood as an investigation into the natural world, might prove or disprove, or evaluate moral concepts. While there can be an ethical evaluation of science and technology, yet it is for ethics to evaluate moral concepts and principles.

It should be noticed that ethics in the profession are only guideline, which are necessary- in the process of information dissemination. These ethics relate to language use, and means adopted in securing information for ensuring objectivity and fairness in presenting facts to the public. Collection and dissemination of information is the duty of the press. Because, the press as a mass communication channel operates in a public sphere for the benefit of the readers, the actions of the press are expected to be above ground. The public scrutinizes the actions of the press on all occasions and expects the press to reflect values and ethics of the profession. In the process of collection and dissemination of information, the press adopts different means to obtain information and occasionally suppresses news from the public because of extraneous reasons. The press is, therefore, expected to have certain norms and ethics in the collection and dissemination. Former Press Council of India Chairman P.B Sawant noted that the code of ethics all over the world emphasizes the following:

- a) Honesty and fairness
- b) Reply to critical opinions
- c) Objectivity in reporting
- d) Prohibition to receive gifts
- e) Respect for privacy
- f) Distinction between fact and opinion
- g) Not to inflame hatred
- h) Not to use dishonest means to obtain information, and
- i) General standards of decency and taste.

9.4. ROLE AND RESPONSIBILITIES OF PROFESSIONAL BODIES

Some of the professional bodies connected with the Indian press have formulated voluntary codes of conduct as part of their efforts at self-regulation. The code of ethics, evolved by the All India Newspaper Editor's Conference (AINEC), is applicable to the members of that body.

This code, though drafted in general terms, emphasizes the need for journalists to attach due importance to human and social rights in the discharge of their professional obligation, to observe special

restraint in reporting or commenting on communal matters and to promote national unity. The code is essentially persuasive in character; no sanctions have been prescribed for neither its breach nor any machinery created for its enforcement.

The code includes the following:

1. As the press is primary instrument in the creation of public opinion, journalists should regard their calling as a trust and be eager to serve and guard the public interests.
2. In the discharge of their duties journalists should attach due value to fundamental, human and social rights, and shall hold good faith and fair play in news reports and comments as essential professional obligations.
3. Journalists should observe special restraint in reports and comments dealing with tensions that are likely to lead, or leading to civil disorders.
 - a) Journalists shall particularly observe maximum restraint in publishing reports and comments relating to communal tension, communal incidents, riots, incipient situations likely to lead to communal disturbances, etc. The identification of communities, which may lead to chain reactions, should be avoided.
 - b) Journalists should endeavour at all times to promote the unity of the country and nation, pride in the country, its people, its achievements and its strengths in diversity. Journalists should be most circumspect in dealing with movements and ideas, which promote regionalism at the cost of national unity.
 - c) Any reporting on ideas of partition and secessionism must be treated with the greatest caution. Any comment likely to give comfort to the proponents of such ideas and further their interests should be avoided. The integrity of the country and of the people of India must be considered sacrosanct.
4. Journalists should Endeavour to ensure that information disseminated is factually accurate. No fact shall be distorted or the essential facts deliberately omitted. No information known to be false shall be published.

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5. Responsibility shall be assumed for all information and comments published. If responsibility is disclaimed, this should be explicitly stated.
6. Confidences shall always be respected. Professional secrecy must be preserved.
7. Any report found to be inaccurate and any comment on inaccurate reports shall be voluntarily rectified. It shall be obligatory to give fair publicly to a correction or contradiction when a report published is shown to be false or inaccurate.
8. Journalists shall not explain their status for personal purposes.
9. Journalists shall not allow personal interest to influence professional conduct
10. There is nothing so unworthy as the acceptance or demand of a bribe by a journalist or the misuse of his power to give or deny publicity to news or comments
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13. It is unprofessional to give currency to rumors affecting the private life of individuals. Even verifiable news affecting the private life of the individuals shall not be published unless the public interest as distinguished from public curiosity demands its publication.
14. The press shall refrain from publishing matters likely to encourage vice and crime

9.5. THEMES AND ISSUES IN MEDIA ETHICS

Seek Truth and Report It

Journalists should be honest, fair and courageous in gathering, reporting and interpreting information.

Journalists should:

- Test the accuracy of information from all sources and exercise care to avoid inadvertent error. Deliberate distortion is never permissible.
- Diligently seek out subjects of news stories to give them the opportunity to respond to allegations of wrongdoing.
- Identify sources whenever feasible. The public is entitled to as much information as possible on sources' reliability.
- Always question sources' motives before promising anonymity. Clarify conditions attached to any promise made in exchange for information. Keep promises.
- Make certain that headlines, news teases and promotional materials, photos, video, audio, graphics, sound bites and quotations do not misrepresent. They should not oversimplify or highlight incidents out of context.
- Never distort the content of news photos or video. Image enhancement for technical clarity is always permissible. Label montages and photo illustrations.
- Avoid misleading re-enactments or staged news events. If re-enactment is necessary to tell a story, label it.
- Avoid undercover or other surreptitious methods of gathering information except when traditional open methods will not yield information vital to the public. Use of such methods should be explained as part of the story
- Never plagiarize.
- Tell the story of the diversity and magnitude of the human experience boldly, even when it is unpopular to do so.
- Examine their own cultural values and avoid imposing those values on others,
- Avoid stereotyping by race, gender, age, religion, ethnicity, geography, sexual orientations, disability, physical appearance or social status.
- Support the open exchange of views, even views they find repugnant.
- Give voice to the voiceless; official and unofficial sources of information can be equally valid.
- Distinguished between advocacy and news reporting. Analysis and commentary should be labelled and not misrepresent fact or context.

Ethics and Case Studies

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- Distinguished news from advertising and shun hybrids that blur the lines between the two.
- Recognize a special obligation to ensure that the public's business is conducted in the open and that government records are open to inspection.

Minimize Harm

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Ethical journalists treat sources, subjects and colleagues as human beings deserving of respect.

Journalists should:

- Shows compassion for those who may be affected adversely by news coverage. Use special sensitivity when dealing with children and inexperienced sources or subjects.
- Be sensitive when seeking or using interviews or photographs of those affected by tragedy or grief.
- Recognize that gathering and reporting information may cause harm or discomfort. Pursuit of the news is not a license for arrogance.
- Recognize that private people have a greater right to control information about themselves than do public officials and others who seek power, influence or attention. Only an overriding public need can justify intrusion into anyone's privacy.
- Show good taste. Avoid pandering to lurid curiosity.
- Be cautious about identifying juvenile suspects or victims of sex crimes.
- Be judicious about naming criminal suspects before the formal filing of charges.
- Balance a criminal suspect's fair trial rights with the public's right to be informed.

Act Independently

Journalists should be free obligation to any interest other than the public's right to know.

Journalists should:

- Avoid conflicts of interest, real or perceived.
- Remain free of associations and activities that may compromise integrity or damage credibility.

- Refuse gifts, favours, fees, free travel and special treatment, and shun secondary employment, political involvement, public office and service in community organizations if they compromise journalistic integrity.
- Disclose unavoidable conflicts.
- Be vigilant and courageous about holding those with power accountable.
- Deny favored treatment to advertisers and special interests and resist their pressure to influence news coverage.
- Be wary of sources offering information for favors or money; avoid bidding for news.

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Be Accountable

Journalists are accountable to their readers, listeners, viewers and each other.

Journalists should:

- Clarify and explain news coverage and invite dialogue with the public over journalistic conduct.
- Encourage the public to voice grievance against the news media.
- Admit mistakes and correct them promptly.
- Expose unethical practices of journalists and the news media.
- Abide by the same high standards to which they hold others.

9.6. PRINCIPLES AND ETHICS OF JOURNALISTIC CONDUCT

All India newspaper editors conference (AINEC) code of ethics

Code of ethics, formulated by the all India newspaper editor conference, is applicable to its members. The code States:

1. As the press is a primary instrument in the creation of public opinion, journalist should regard their calling as a trust and the eager to serve and guard their Public Interests.

2. In the discharge of their duties, journalist should attach due value to fundamental, human and social rights and shall hold good face and fair play in news reports and comments as essential professional obligation.

3. Journalist should observe special restraint in in reports and comments dealing with tensions, likely to lead, all leading to Civil disorder.

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- a. Journalist shall particular observe maximum restraint in publishing reports and comments relating to communal tension comer incident, riots, incipient situation likely to lead to communal disturbance. The identification of communities which may lead to change reaction should be avoided.
- b. Journalist should endeavour at any times to promote the unity of the country and Nation, pride in the country, its people each achievements and its strength in diversity. Journalist should be most circumspect in dealing with women's and ideas which promote regionalism at the cost Unity.
- c. Any report on ideas of fresh petition and secessionism must be treated with the greatest caution. Any comment likely to give comfort to the proponent of such ideas and further their interest should be avoided. The integrity of the country and of Indian peoples must be considered sacrosanct and beyond question.

4. Journalist should endeavour to ensure that information disseminated is factually accurate. No fact shall be distorted are the essential fact deliberately omitted. No information known to be false shall be published.

5. Responsibility shall be assumed for all information and comment published. If responsibilities disclaimed, this will be explicitly stated.

6. Confident shall always be respected. Personal secrecy must be preserved.

7. Any report found to be inaccurate and any comment on inaccurate reports shall be voluntarily rectified. Shall be obligatory to give their publicity to a correlation of contradiction when aa report published is show to be false or inaccurate in material particulars.

8. Journalist shall not exploit their status for non journalist purposes.
9. Journalist shall not allow personal interest to influence professional contact.
10. There is nothing so unworthy as the acceptance or demand of a bribe or inducement for the exercise by a journalist of his power to give or deny publicity to News or comments.
11. Freedom in the honest collection and publication of news and Facts and their rights of their comments and criticism and principles which never journalist should always defend.
12. Journalist shall be very conscious of their obligation to their fellows in the profession and shall not seek to deprive fellow journalist of their living hood by un fair means.
13. The carrying on of personal controversy in the press in which no public interest is involved shall be regarded as derogatory to the dignity of the profession.
14. It is a professional to give a currency to rumours or loose talk affecting the private life of individuals. Even verifiable news affecting the private life of individual shall not be published unless the public interest as distinguished from public curiosity demands its Publication.

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9.7. LET US SUM UP

The concepts of ethics is very subjective and relative, therefore it would be relevant to look at the theories which can be considered to determine correct media behavior. Basically three efficient theories that are consistently employed to determine media behavior are:

1. Consequentialism
2. Utilitarianism
3. Deontology

Consequentialism

This theory suggests that the ethical value of an action should be determined on its consequences. Consequentiality theories concentrate only on the outcome of an action without considering about the means, i.e. how the consequences came about. Hence, all actions should be considered as of their possible outcomes before being

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executed. The consequences of an action can be judged from two perspectives: Ethical Egoism and Ethical Altruism.

Ethical egoism does not reflect a cohesive social model as such actions can harm others while Ethical Altruism holds those actions that benefit others and can be considered good.

Utilitarianism:

Utilitarianism theory is applicable to the media as it considers the betterment of society at large. It considers ethical as that which is designed to create the greater good for the maximum numbers. Mahatama Gandhi's concept of Sarvodaya talks about the welfare of all the reflects the utilitarian theory. However, Gandhi's Sarvodaya was not a utilitarian because he realized that the utilitarian objective of satisfying many people was not a sufficiently ethical model. Gandhi was of an opinion that asked why the well-being of the minority should be of any less value than that of the majority or why the welfare of certain people should be sacrificed. There are many arguments against consequentialism and the utilitarian theories of ethics.

The utilitarian approach encourages responsible and thoughtful behavior. Although it is possible to make mistakes in judgment, it is advisable to invest time in considering all the possible outcomes of a certain action, to determine whether the overall good is greater than the negative consequences.

Deontology:

Deontology concentrates on a person's duty as a means to determine appropriate action. Kant is believed to be the most famous follower of this theory. He was of the opinion that it was the pretention behind an action that rendered it ethical or unethical. Kant felt that there was only one virtue which was good without qualification: GOODWILL. Action inspired by goodwill are done out of respect for moral law and duty. Kant's categorical perspective- Will to act well out of duty- has three important guidelines:

- An agent should be motivated by the principle, which he would be happy to see as a universal maxim.
- Always treat people as an end in themselves and not just a means.
- Act as if you were the law maker in the kingdom of 'End'. (Kant, 1785)

It is expected from a journalist that he does his job honestly and objectively along with the protection of the sources and loyalty with the employer.

Role and responsibilities of Professional Bodies

1. As the press is primary instrument in the creation of public opinion, journalists should regard their calling as a trust and be eager to serve and guard the public interests.

2. In the discharge of their duties journalists should attach due value to fundamental, human and social rights, and shall hold good faith and fair play in news reports and comments as essential professional obligations.

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c) Any reporting on ideas of partition and secessionism must be treated with the greatest caution. Any comment likely to give comfort to the proponents of such ideas and further their interests should be avoided. The integrity of the country and of the people of India must be considered sacrosanct.

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Themes and Issues in Media Ethics

1. Seek Truth and Report It
2. Minimize Harm
3. Act independently
4. Be Accountable

Principles and ethics of Journalistic conduct

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9.8. UNIT- END EXERCISES

1. Write a note on code of Ethics
2. Explain the role and responsibility of Professional Bodies.
3. Elaborate the Principle and ethics of Journalist conduct.

9.9. ANSWER TO CHECK YOUR PROGRESS

1. The concepts of ethics is very subjective and relative, therefore it would be relevant to look at the theories which can be considered to determine correct media behavior. It should be noticed that ethics in the profession are only guideline, which are necessary- in the process of information dissemination. These ethics relate to language use, and means adopted in securing information for ensuring objectivity and fairness in presenting facts to the public. The code of ethics all over the world emphasizes the following:

- a) Honesty and fairness
- b) Reply to critical opinions

- c) Objectivity in reporting
- d) Prohibition to receive gifts
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- g) Not to inflame hatred
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2. Role and responsibilities of Professional Bodies

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3. Principles and ethics of Journalistic conduct

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9.9. SUGGESTED READINGS

1. Day, E Ethics in Media Communications: Cases and controversies
2. Leslie, Mass communication Ethics Thomson Learning, 2000
3. Seem Hasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi, 2013.
4. Keval J. Kumar Mass Communication in India Jaico Publishing House, Ahmedabad 2015
5. S.K. Aggarwal Media & Ethics Shipra Publication New Delhi 2012.

UNIT - X

Ethics and Case Studies

- 10.1. Introduction
- 10.2. Objectives
- 10.3. Comparison of ethical Norms -Codes for Radio, television and advertising
- 10.4. Case Studies in Media Ethics and Major Ethical Violations
- 10.5. Let us Sum up
- 10.6. Unit- End Exercises
- 10.7. Answer to Check your Progress
- 10.8. Suggested Readings

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10.1. INTRODUCTION

The world is undergoing globalization at a fast rate in manufacturing, transport and communications, services, religion and culture. The process has gathered its own momentum, but there is a need to intervene in it to protect both human and environmental interests. On the one hand, we are in the process of the making of a Universal Man. On the other hand, severe tensions have cultural identities which are deeply resented. Fortunately, for us leaders like Mahathma Gandhi can show a way out of crisis. Gandhian thought is meant mainly as a guide for action, and hence the application of his perspective to politics, economics and environment. Gandhi may sound too puritanical to the taste of Modern generations, but there is still a lot to learn from him and follow. Discussing ethics in Journalism Gandhi said “the debates about media ethics revolve around the media’s role in the maintenance of democratic society. Although the media plays an essential role in the formation of public opinion and personal choices, most media organization are commercial enterprises, which seek readers/viewers/listeners advertising revenues and favorable regulatory decisions. The conflict between the media social and commercial obligations on occasions results in a compromises on media ethics.

One major factor that changed the face of Journalism is Globalization. Globalization has bought basic shifts in the way journalism is conceptualized and operationalised. The technological development has introduced so many new aspects and meaning to Journalism and Journalist. Although globalization has helped in the interconnection of different cultures , countries, people but it is not that interrelated when it comes to media ethics. Hence , it has been a challenge for media ethicists to define a global code of Journalism Ethics.

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10.2. OBJECTIVES

After going through this unit you will be able to

- To compare the ethical norms- codes for radio, television and advertising
- Identify few case studies in media ethics and major ethical violations

10.3. COMPARISON OF ETHICAL NORMS-CODES FOR RADIO, TELEVISION AND ADVERTISING

Members of the Radio Television News Directors Association agree that their prime responsibility as journalists-and that of the broadcasting industry as the collective sponsor of news broadcasting-is to provide to the public they serve news service a accurate, full and prompt as human integrity and devotion can devise.

1. The primary purpose of broadcast journalists-to inform the public of events of importance and appropriate interest in a manner that is accurate and comprehensive.
2. Broadcast news presentation is should be designed not only to offer timely and accurate information, but also to present it in the light of relevant circumstances,
3. News should be selected on the criteria of significance, community, and regional relevance, appropriate human interest and service to defined audience. It excludes sensationalism or misleading emphasis in any form. Promotional or publicity material should be sharply scrutinized before use in news broadcasting.
4. Broadcast journalists shall at all times display humane respect for the dignity, privacy and the well-being of persons with whom the news deals
5. Broadcast journalist should present all news, which will serve the public interest. In places like the court, the broadcast journalists shall conduct themselves in dignity and keep broadcast equipment as unobtrusive and silent as possible.

Advertising

The term advertising is used to mean all forms of motion pictures advertising including in the following: press book, still photographs, newspapers, magazines and trade paper advertising, radio, television, and others.

1. Print advertising and illustrations should not misinterpret the message
2. Advertising shall not depict any indecent or undue exposure of the human body
3. Advertising demeaning religion, race or national origin shall not be used.
4. Cumulative overemphasis on sex, crime, violence and brutality would not be permitted.
5. Salacious posture and pictures should not be part of any advertising form.

10.4. CASE STUDIES IN MEDIA ETHICS AND MAJOR ETHICAL VIOLATIONS

We know that the distinctive features of news writing are accuracy, precision, impartiality, objectivity and public accountability. Yet these “canons of journalism” has come under serious threats in recent times. The news organization and the reporter and broadcasters overlook and sometimes disregard the “code of ethics” in the acquisition of newsworthy information and its subsequent dissemination to the public. This can be because of a variety of reasons like evoking sensationalism, increasing readership and viewership, pressure from proprietors, coercion from powerful and useful news sources and selective diffusion and retention of news items by journalists themselves due to one or several of the previously stated reasons. Let us consider the first example. Most journalistic code of ethics comprises the principle of “limitation of harm”. This involves the withholdings of certain details from news reports like the names reports, the release of which might harm someone’s reputation or life or impede the function of the administration. The Arushi murder case that set off a media frenzy is a case in point. A teenager girl named Arushi Talwar was murdered along with a domestic servant of her house in a posh Delhi locality in 2008. The double murder case came under intense media scrutiny with the manner and grammar of the

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coverage triggering a debate on the limits of the media. The media pronounced guilt and innocence without proper corroboration by the concerned authority. Media's constant pressure forced the investigation agency (the CBI) to take the help of the supreme court which passed a restraining order barring the media from any scandalous or sensational reporting on the case. Justice AltamaKabir stated 7 "We are asking the press not to sensationalize something which affects reputation's." But the broadcast media and the press cannot be unilaterally blamed. The news was in used the technique of "reconstruction" of the crime scene and incident to Accentuate hype and interest of the audience/ readers in the issue. The need to sensationalize the news emerged from the need to remain relevant and crucial in the public domain. The ethical 7 norms and legal standards make clear distinction between "in public interest" and "Interest to the public". While the first regards the issues relating to the benefit of the public, the second concerns issues which the public may find interesting. The news items which belong to the second category should be carefully chosen and judiciously presented so that it does not intrude upon the privacy of subject or impair their reputation. Mass media, being easily available and highly accessible, need to be vigilant and differentiate clearly between what and how much the general public needs to know. The issues that "interest the public" can become at times become grave threat to the security of individuals and nation. The deviation of the Indian media from established ethical standards is more prominent in the following example. I am talking about the media, especially television coverage during the 26/11 terror attacks in Mumbai in 2008. The coverage of 26/11 attacks by the television channels in India came under severe Criticism for turning a blind eye to the safety of the hostages, the security of the rescuers and above all the nation interest. While all the other attack point were freed from terrorists by the 28th morning, the Taj Hotel remained under the control of the terrorists. The television coverage helped the terrorists by showing everything in their live coverage from the vantage point of the rescuers to the possible strategies and measures to be adopted by the National Security Guards in the "Operation Black Tornado" without bothering about the impact it would have on the security concerns and delaying the rescue process. The sensationalism of live coverage of a rescue mission assisted a buoyant viewership which perhaps goaded the news channels to plan their telecast in the said manner. Neelamalar, Chitra and Darwin (2009)⁸ concluded that the newspaper's coverage of the 26/11 terror attacks was more balanced and ethical than that of electronic media. But this can be attributed to the nature of the print medium which had time to verify and present the relevant facts and stories, unlike the television channels which had to rush with their reports and had to always concentrate on "being the first in the race". Neelamalar, Chitra and Darwin (2009)⁹ stated that there was strong opposition to the way

the electronic media sensationalized the attacks and a necessity to regulate media content during emergencies was felt. The Indian government chose to respect press freedom and abstained from regulatory measure but the news Broadcaster's Association (NBA) of India developed a code to be adhered to in the time of emergencies. This instance clearly shows the media's flouting of ethical norms. The television channels can claim that the live feeds were available in the social networking sites and the internet but there is no doubt that the television was a more prominent presence and the pictures telecast by the TV cameras were uploaded by the social networking sites. The commercial viability of the transmission in terms of popularity and advertisement sponsorship muted ethical principles, It would be an interesting study to make a quantitative analysis of the Advertisement revenues for the national channels at the time of the live telecast. There have been repeated allegations against the media both press and television for conducting "sting" operations. Though sting operations provide startling revelations that benefit the society because of its exposure of truth, critics have questioned the ethical veracity of the use of the sting tactic for journalistic agenda. The sting operation can be used by the media to expose truth, espouse causes or realize societal agenda but it is attached with falsehood and bias and provides no scope to the victim to defend himself/herself under the circumstances. Such sting operations can unravel the truth but leaves a lot to desire when faced with questions on ethical propriety. The on-sided affair is a bolt on the journalistic code of fairness and impartiality. Let us take the example of "Operation West End" popularly known as "Tehelka" revelations in 2001. "Tehelka", which means sensation, a weekly newspaper released video footage of top officials and politicians receiving bribes. The footage captured by the way of a sting operations exposed corruption at the highest order. But despite its ambitious intentions, after the initial shockwaves, the public became uninterested in the proceedings of the case. The methods used by the Tehelka reporters (women, liquor and bribing unsuspecting victims and violating their right in the process found little approval of the public. The revelations created quite a stir regarding the ethical issues associated with the exposure. The Tehelka journalists were involved in false impersonations, paid bribes to the victims on false pretext and were guilty of other ethical transgressions too. The use of sting operations to expose corruptions in the society as against traditional investigative reporting techniques found few takers. Though after the Tehelka operations, several other sting operations involving Hollywood personalities, small-time politicians and government officials were undertaken the activities failed to have the desired effect. There is no doubt that traditional investigative journalism cannot be replaced by sting operations where the effects may be stark but the foundation is disparaging. According to Sadhu¹⁰, "an occasional sting operation may

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serve the cause for the time being. But it is no alternative to investigative journalism. To build its credibility and ensure its freedom under 9 democracy, the media in India will have to turn to investigative reporting.” There are various impediments like pressure of creating sensation to attract reader/ audience attraction; predetermined agenda of proprietors or editor’s or the pressure of being the first to deliver the ‘breaking news’ to the users in the face of stiff competition from numerous news channels and several hundred newspapers. The Tehelka sting question and others that followed were repeatedly aired in the national television channels in the subsequent days till the public lost interest in them.

10.5. LET US SUM UP

This unit covered the comparison –code of ethics for Radio, television and Advertising and then listed few case studies in media ethics and major ethical violations.

10.6. UNIT- END EXERCISES

1. Classify the codes for radio, television and advertisement.

10.7. ANSWER TO CHECK YOUR PROGRESS

1. Codes for Radio, television and advertising

Members of the Radio Television News Directors Association agree that their prime responsibility as journalists-and that of the broadcasting industry as the collective sponsor of news broadcasting-is to provide to the public they serve news service a accurate, full and prompt as human integrity and devotion can devise.

1. The primary purpose of broadcast journalists-to inform the public of events of importance and appropriate interest in a manner that is accurate and comprehensive.
2. Broadcast news presentation is should be designed not only to offer timely and accurate information, but also to present it in the light of relevant circumstances,
3. News should be selected on the criteria of significance, community, and regional relevance, appropriate human interest and service to defined audience. It excludes sensationalism or misleading emphasis in any form. Promotional or publicity material should be sharply scrutinized before use in news broadcasting.

4. Broadcast journalists shall at all times display humane respect for the dignity, privacy and the well-being of persons with whom the news deals

5. Broadcast journalist should present all news, which will serve the public interest. In places like the court, the broadcast journalists shall conduct themselves in dignity and keep broadcast equipment as unobtrusive and silent as possible.

Advertising

The term advertising is used to mean all forms of motion pictures advertising including in the following: press book, still photographs, newspapers, magazines and trade paper advertising, radio, television, and others.

- 1 Print advertising and illustrations should not misinterpret the message
2. Advertising shall not depict any indecent or undue exposure of the human body
3. Advertising demeaning religion, race or national origin shall not be used.
4. Cumulative overemphasis on sex, crime, violence and brutality would not be permitted.
5. Salacious posture and pictures should not be part of any advertising form.

10.8. SUGGESTED READINGS

1. Leslie, Mass communication Ethics Thomson Learning, 2000
2. Seem Hasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi, 2013.
3. KevalJ.Kumar Mass Communication in India Jaico Publishing House,Ahmedabad 2015
4. S.K .Aggarwal Media& Ethics Shipra Publication New Delhi 2012.

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UNIT - XI

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- 11.1. Introduction
- 11.2. Objectives
- 11.3. Domestic violence Act
- 11.4. Tabloid and Yellow Journalism
- 11.5. Violence and brutality
- 11.6. Reporting during special sensitive situations
- 11.7. Ethical construes in investigative journalism
- 11.8. Let us Sum up
- 11.9. Unit- End Exercises
- 11.10. Answer to Check your Progress
- 11.11. Suggested Readings

11.1. INTRODUCTION

Definition of domestic violence.—For the purpose of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

- a) Harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- b) Harasses, harm, injuries or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- c) Has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clauses (a) or clauses (b); or
- d) Otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I. For the purposes of this section,--

- i) “physical abuse” means any act or conduct which is of such a nature as to cause bodily pain, harm or danger to life, limb,

- or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;
- ii) “sexual abuse” include any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violated the dignity of woman;
 - iii) “verbal and emotional abuse” includes-
 - a. Insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and
 - b. Repeated threats to cause physical pain to any person in whom the aggrieved person is interested;
 - iv) “economic abuse” includes—
 - a. Deprivation of all or any economic or financial resource to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, house hold necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared house hold and maintenance;
 - b. Disposal of household effects, any alienation of assets whether movable or immovable, valuable, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her straphang or any other property jointly or separately held by the aggrieved person; and
 - c. Prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II—For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes

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“domestic violence” under this section, the overall facts and circumstances of the case shall be taken into consideration.

11.2. OBJECTIVES

After going through this unit you will be able to

- understand the features of Domestic violence Act
- Distinguish tabloid and Yellow Journalism
- Classify Violence and brutality
- Discuss reporting during special sensitive situations
- Explain ethical construes in investigative Journalism

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11.3. DOMESTIC VIOLENCE ACT

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

Act No.43 OF 2005

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and formatters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement.-(1) This Act may be called the Protection of Women from Domestic Violence Act, 2005.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definition—in this Act, unless the context otherwise requires, --

(a) “Aggrieved person” means any women who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

(b) “Child” means any person below the age of eighteen years and include any adopted, step or foster child;

(c) “Compensation order” means an order granted in terms of section 22;

(d) “Custody order” means an order granted in terms of section 21;

(e) “Domestic incident report” means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;

(f) “domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or though a relationship in the nature of marriage, adoption or are family members living together as a joint family;

(g) “domestic violence” has the same meaning as assigned to it in section 3;

(h) “dowry” shall have the same meaning as assigned to it in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961);

(i) “Magistrate” means the Judicial Magistrate of the first class, or as the case may be, the Metropolitan Magistrate, exercising jurisdiction under the code of Criminal Procedure, 1973 (2 of 1974) in the area where the aggrieved person resides temporarily or otherwise or the respondent resides or the domestic violence is alleged to have taken place;

(j) “Medical facility” means such facility as may be notified by the State Government to be a medical facility for the purpose of this Act;

(k) “Monetary relief” means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;

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(l) “Notification” means a notification published in the Official Gazette and the expression “notified” shall be construed accordingly;

(m) “Prescribed” means prescribed by rules made under this Act;

(n) “Protection Officer” means an officer appointed by the State Government under sub-section(1) of section 8;

(o) “protection order” means an order made in terms of section 18;

(p) “residence order” means an order granted in term of sub-section (1) of section 19;

(q) “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner:

(r) “Service provider” means an entity registered under sub-section (1) of section 10;

(s) “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent or both or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;

(t) “Shelter home” means any shelter home as may be notified by the State Government to be as helter home for the purposes of this Act.

CHAPTER II

POWERS AND DUTIES OF PROTECTION OFFICERS, SERVICE PROVIDERS, ETC.

Ethics and Case Studies

4. Information to protection Officer and exclusion of liability of informant.—(1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.

(2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section(1)

5. Duties of police officers, service providers and Magistrate.—A police officer, Protection Officers, service provider or Magistrate who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person—

- a) Of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;
- b) Of the availability of services of service providers;
- c) Of the availability of services of the Protection Officers;
- d) Of her right to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987);
- e) Of the right to file a complaint under section 498A of the Indian Penal Code (45 of 1860) , wherever relevant;

Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

6. Duties of shelter homes.—If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home;

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7. Duties of medical facilities.—If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

8. Appointment of Protection Officers.—(1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officers shall exercise the powers and perform the duties conferred on him by or under this Act.

(2) The Protection Officers shall as far as possible be woman and shall possess such qualifications and experience as may be prescribed.

(3) The terms and conditions of service of the Protection Officers and the other officers subordinate to him shall be such as may be prescribed.

9. Duties and functions of Protection Officers.—(1) It shall be the duty of the Protection Officer—

- a) To assist the Magistrate in the discharge of his functions under this Act;
- b) To make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in the area;
- c) To make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order;
- d) To ensure that the aggrieved person is provided legal aid under the Legal Service Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made;
- e) To maintain a list of all service providers providing legal aid or counselling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;

- f) To make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;
- g) To get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;
- h) To ensure that the order for monetary relief under section 20 is complied with the executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 (2 to 1974);
- i) To perform such other duties as may be prescribed.

(2) The Protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act.

10. Service providers.—(1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 (21 to 1860) or a company registered under the Companies Act, 1956 (1 to 1956) or any other law of the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.

(2) A service provider registered under sub-section (1) shall have the power to-

- a) Record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took places;
- b) Get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place;

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- c) Ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place.

(3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

11. Duties of Government.- The Central Government and every State Government, shall take all measures to ensure that-

- a) The provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;
- b) The Central Government and State Government officers including the police officer and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;
- c) Effective co-ordination between the services provided by concerned Ministers and Departments dealing with law, home affairs including law and order health and human resource to address issue of domestic violence is established and periodical review of the same is conducted;
- d) Protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

11.4. TABLOID AND YELLOW JOURNALISM

By the end of 2012, more than 100 news papers across the world had moved from broad sheet format to compact, Berliner or tabloid. The last big brands to do that were The Age and Sydney Morning Herald, from Fairfax Media. This was done primarily to cope with falling circulation, to cut costs and also to appeal Younger audiences. The reshaping has had some impact on circulation. The **Times** in London, and the **Independent**, both saw double digit circulation rises, but this was in the short run. In the Long run, the decline in sales has continued. In India **Mid-Day** is probably one of the

oldest **Tabloids**. In 2007, **Mail Today** was launched in **tabloid** form. In the same year, the financial daily **Mint (from HT Media)** made its appearance in the Berliner format. Besides upsetting printing schedules and making it more convenient for people to hold the paper, how size impacts either revenues or profits is hazy. In UK market, one clearly identified downside of cutting size is that **tabloid** delivers 10 percent less saleable advertising space than does a broadsheet. The long term impact of going smaller is not clear.

The degrading kind of Journalism is known as Yellow Journalism. It is Journalism without soul. Facts are distorted or exaggerated. There is very little truth in the stories. Unethical means are adopted to increase the circulation. It is kind of Journalism which lures the readers by possible means. It makes high drama of life, a cheap melodrama. Worst of all, instead of giving its reader effective readership, it offers sex and violence.

Joseph Pulitzer, publisher of the **New York World** and **William Randolph Hearst** who in 1887 became the editor of **San Francisco Examiner** were the men responsible for the Birth of Yellow Journalism. Hearst's Association with the news paper business came from his father, who was more an aspiring politician than a 'Journalist and had originally acquired the **Examiner** for political Purpose. William Randolph Hearst ventured east to Harvard where he gained fame more for his pranks than for his studies and was eventually expelled. He did manage to acquire news paper experience on Pulitzer's **World** and on his return to San Francisco, took the lessons sensationalism from penny press and applied them to big city Journalism. Penny Press is a term that describes the mass appeal press of the early nineteenth century in New York. News Papers were sold for a penny in the streets and they made a profit from advertisers, and were oriented towards less educated, ordinary citizens). With Bold, eye-gripping headlines and various escapades to generate or report the Hearst's **Examiner** began to climb in circulation. The result was that both profit and circulation doubled and tripled.

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11.5. VIOLENCE AND BRUTALITY

The great finding from a great deal of research is that exposure to violent portrayals in the media increases the probability of an effect. The most often tested effect is referred to as learning to behave aggressively. This effect is also referred to as direct imitation of violence. Instigation or triggering of aggressive impulses, and disinhibition of socialization against aggressive behavior. Two other negative effects-desensitization and fear- are becoming prevalent in literature.

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Exposure to certain violent portrayals can lead to positive or prosodial effects. Intervention studies, especially with children, have shown that when a media-literate person talks through the action and asks questions of the viewer during the exposure, the viewer will be able to develop a counter reading of the violence: that is the viewer may learn that violent actions are wrong even though those actions are shown as successful in the media portrayal. The effects have been documented to occur immediately or over the long term. Immediate effects happen during exposure or shortly after the exposures (within about an hour). They might last only several minutes, or they might last weeks. Long-term effects do not occur after one or several exposures: they begin to show up only after an accumulation of exposures over weeks or years. Once a long-term effect eventually occurs, it usually lasts a very long period of time.

Immediate Effects:

- Exposure to violent portrayals in the Media can lead to subsequent viewer aggression through disinhibition.
- The immediate disinhibition effect is influenced by viewer demographics, viewer traits, characteristics in the portrayals and situational cues.
- Exposure to violence in the media can lead to fear effects.
- An immediate fear effect is influenced by a set of key factors about viewers and portrayals.
- Exposure to violence in the media can lead to desensitization.
- An immediate desensitization effect is influenced by a set of key factors about viewers and portrayals.

Long Term effects:

- Long term exposure to media violence is related to aggression in a person's life.
- Media violence is related to subsequent violence in society
- People exposed to many violent portrayals over a long time will come to exaggerate their chances to being victimized.

- People exposed to many violent portrayals over a long time will come to more accepting of violence

11.6. REPORTING DURING SPECIAL SENSITIVE SITUATIONS

- Avoid reporting a conflict as consisting of two opposing sides. Find other affected interests and include their stories, opinions and goals. Interview shopkeepers and consumers affected by general strikes, workers who are unable to work, refugees from the countryside who want an end to the violence.
- Avoid defining the conflict by always quoting the leaders who make familiar demands. Go beyond the elites. Report the words of ordinary people, whomay voice opinions shared by many; opinions that could even be different than those of leaders.
- Avoid only reporting what divides the sides in conflict. Ask the opposing sides questions that may reveal common ground. Report on interests or goals that they may share.
- Avoid always focusing on the suffering and fear of only one side. Treat all sides' suffering as equally noteworthy.
- Avoid words like “devastated”, “tragedy” and “terrorised” to describe what has been done to one group. These kinds of words put the reporter on one side. Do not use them yourself. Only quote someone else who uses these words.
- Avoid emotional and imprecise words. Assassination is murder of a head of State and no one else. Massacre is deliberate killing of innocent, unarmed civilians. Soldiers and policemen are not massacred. Genocide means killing an entire people. Do not minimize suffering, but use strong language carefully.
- Avoid words like terrorist, extremist or fanatic. These words take sides and make the other side seem impossible to negotiate with. Refer to people by what they call themselves.

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- Avoid making an opinion into a fact. If someone claims something, state their name, so it is their opinion and not your fact.
- Avoid waiting for leaders on one side to offer solutions. Explore peace ideas wherever they come from. Put these ideas to the leaders and report their responses

As a reporter, our most powerful tools are the words we use, along with pictures and sounds. We can use our tools to build understanding instead of fear and myths.

11.7. ETHICAL CONSTRUES IN INVESTIGATIVE JOURNALISM

Investigative reporting has three basic elements.

- a. It has to be the work of the reporter, not of others he is reporting;
- b. The subject should be of public importance for the reader to know;
- c. An attempt is being made to hide the truth from the people.

The first norm follows as a necessary corollary from

- (a) That the investigative reporter should, as a rule, base his story on facts investigated, detected and verified by himself and not on hearsay or on derivative evidence collected by a third party, not checked up from direct, authentic sources by the reporter himself.
- (b) There being a conflict between the factors which require openness and those which necessitate secrecy, the investigative journalist should strike and maintain in his report a proper balance between openness on the one hand and secrecy on the other, placing the public good above everything.
- (c) The investigative journalist should resist the temptation of quickies or quick gains conjured up from half-baked incomplete, doubtful facts, not fully checked up and verified from authentic sources by the reporter himself.

- (d) Imaginary facts, or ferreting out or conjecturing the non-existent should be scrupulously avoided. Facts and yet more facts are vital and they should be checked and cross-checked whenever possible until the moment the paper goes to press.
- (e) The newspaper must adopt strict standards of fairness and accuracy of facts. Findings should be presented in an objective manner, without exaggerating or distorting that would stand up in a court of law, if necessary.
- (f) The reporter must not approach the matter or the issue under investigation, in a manner as though he were the prosecutor or counsel for the prosecution. The reporter's approach should be fair, accurate and balanced. All facts properly checked up, both for and against the core issues, should be distinctly and separately stated, free from any one-sided inferences or unfair comments. The tone and tenor of the report and its language should be sober, decent and dignified, and not needlessly offensive, barbed, derisive or castigatory, particularly while commenting on the version of the person whose alleged activity or misconduct is being investigated. Nor should the investigative reporter conduct the proceedings and pronounce his verdict of guilt or innocence against the person whose alleged criminal acts and conduct were investigated, in a manner as if he were a court trying the accused.
- (g) In all proceedings including the investigation, presentation and publication of the report, the investigative journalist newspaper should be guided by the paramount principle of criminal jurisprudence, that a person is innocent unless the offence alleged against him is proved beyond doubt by independent, reliable evidence.
- (h) The private life, even of a public figure, is his own. Exposition or invasion of his personal privacy or private life is not permissible unless there is clear evidence that the wrong doings in question have a reasonable nexus with the misuse of his public position or power and has an adverse impact on public interest
- (i) Though the legal provisions of Criminal Procedure do not in terms, apply to investigating proceedings by a journalist, the fundamental principles underlying them can be adopted as a guide on grounds of equity, ethics and good conscience.

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11.8. LET US SUM UP

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

Act No.43 OF 2005

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and formatters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

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(b) “Child” means any person below the age of eighteen years and include any adopted, step or foster child;

(c) “Compensation order” means an order granted in terms of section 22;

(d) “Custody order” means an order granted in terms of section 21;

(e) “Domestic incident report” means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;

(f) “domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

(g) “domestic violence” has the same meaning as assigned to it in section 3;

(h) “dowry” shall have the same meaning as assigned to it in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961);

(i) “Magistrate” means the Judicial Magistrate of the first class, or as the case may be, the Metropolitan Magistrate, exercising jurisdiction under the code of Criminal Procedure, 1973 (2 of 1974) in the area where the aggrieved person resides temporarily or otherwise or the respondent resides or the domestic violence is alleged to have taken place;

(j) “Medical facility” means such facility as may be notified by the State Government to be a medical facility for the purpose of this Act;

(k) “Monetary relief” means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;

(l) “Notification” means a notification published in the Official Gazette and the expression “notified” shall be construed accordingly;

(m) “Prescribed” means prescribed by rules made under this Act;

(n) “Protection Officer” means an officer appointed by the State Government under sub-section(1) of section 8;

(o) “protection order” means an order made in terms of section 18;

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(p) “residence order” means an order granted in term of sub-section (1) of section 19;

(q) “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner:

(r) “Service provider” means an entity registered under sub-section (1) of section 10;

(s) “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a house hold whether owned or tenanted either jointly by the aggrieved person and the respondent or both or talented by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;

(t) “Shelter home” means any shelter home as may be notified by the State Government to be as helter home for the purposes of this Act.

Besides this Unit covered tabloid and Yellow Journalism, Violence and brutality. Alsodiscussed aboutthe reporting during special sensitive situations and lastly explained in detail on the ethical construes in investigative Journalism

11.9. UNIT- END EXERCISES

1. Summarize the features of Domestic Violence Act
2. Write a short Note on Tabloid and Yellow Journalism

11.10. ANSWER TO CHECK YOUR PROGRESS

- 1. THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT,2005**

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and formatters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

NOTES

1. Short title, extent and commencement.-(1) This Act may be called the Protection of Women from Domestic Violence Act, 2005.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definition—in this Act, unless the context otherwise requires, --

(a) “Aggrieved person” means any women who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

(b) “Child” means any person below the age of eighteen years and include any adopted, step or foster child;

(c) “Compensation order” means an order granted in terms of section 22;

(d) “Custody order” means an order granted in terms of section 21;

(e) “Domestic incident report” means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;

(f) “domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a

shared household, when they are related by consanguinity, marriage, or though a relationship in the nature of marriage, adoption or are family members living together as a joint family;

(g) “domestic violence” has the same meaning as assigned to it in section 3;

(h) “dowry” shall have the same meaning as assigned to it in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961);

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(i) “Magistrate” means the Judicial Magistrate of the first class, or as the case may be, the Metropolitan Magistrate, exercising jurisdiction under the code of Criminal Procedure, 1973 (2 of 1974) in the area where the aggrieved person resides temporarily or otherwise or the respondent resides or the domestic violence is alleged to have taken place;

(j) “Medical facility” means such facility as may be notified by the State Government to be a medical facility for the purpose of this Act;

(k) “Monetary relief” means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;

(l) “Notification” means a notification published in the Official Gazette and the expression “notified” shall be construed accordingly;

(m) “Prescribed” means prescribed by rules made under this Act;

(n) “Protection Officer” means an officer appointed by the State Government under sub-section(1) of section 8;

(o) “protection order” means an order made in terms of section 18;

(p) “residence order” means an order granted in term of sub-section (1) of section 19;

(q) “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and

against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner:

(r) “Service provider” means an entity registered under sub-section (1) of section 10;

(s) “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent or both or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;

(t) “Shelter home” means any shelter home as may be notified by the State Government to be as shelter home for the purposes of this Act.

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2. Tabloid and Yellow Journalism

By the end of 2012, more than 100 news papers across the world had moved from broad sheet format to compact, Berliner or tabloid. The last big brands to do that were The Age and Sydney Morning Herald, from Fairfax Media. This was done primarily to cope with falling circulation, to cut costs and also to appeal Younger audiences. The reshaping has had some impact on circulation. The **Times** in London, and the **Independent**, both saw double digit circulation rises, but this was in the short run. In the Long run, the decline in sales has continued. In India **Mid-Day** is probably one of the oldest **Tabloids**. In 2007, **Mail Today** was launched in **tabloid** form. In the same year, the financial daily **Mint (from HT Media)** made its appearance in the Berliner format. Besides upsetting Printing schedules and making it more convenient for people to hold the paper, how size impacts either revenues or profits is hazy. In UK market, one clearly identified downside of cutting size is that **tabloid** delivers 10 percent less saleable advertising space than does a broadsheet. The long term impact of going smaller is not clear.

The degrading kind of Journalism is known as Yellow Journalism. It is Journalism without soul. Facts are distorted or exaggerated. There is very little truth in the stories. Unethical means

are adopted to increase the circulation. It is kind of Journalism which lures the readers by possible means. It makes high drama of life, a cheap melodrama. Worst of all, instead of giving its reader effective readership, it offers sex and violence.

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Joseph Pulitzer, publisher of the **New York world** and **William Randolph Hearst** who in 1887 became the editor of **San Francisco Examiner** were the men responsible for the Birth of Yellow Journalism. Hearst's Association with the news paper business came from his father, who was more an aspiring politician than a 'Journalist and had originally acquired the **Examiner** for political Purpose. William Randolph Hearst ventured east to Harvard where he gained fame more for his pranks than for his studies and was eventually expelled. He did manage to acquire news paper experience on Pulitzer's World and on his return to San Francisco, took the lessons sensationalism from penny [ress and applied them to big city Journalism. Penny Press is a term that describes the mass appeal press of the early nineteenth century in New York..News Papers were sold for a penny in the streets and they made a profit from advertisers, and were oriented towards less educated, ordinary citizens).With Bold, eye-gripping headlines and various escapades to generate or report the Hearst's **Examiner** began to climb in circulation. The result was that both profit and circulation doubled and tripled.

11.11. SUGGESTED READINGS

1. **Gazette of India** The Protection of women From Domestic Violence Act, 2005 Act No.45 of 2005
2. KevalJ.Kumar Mass Communication in India Jaico Publishing House,Ahmedabad 2015
3. B.Radhakrishnamurthi: Indian Press laws,Guntur: India House 1980.
4. Seem Hasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi,2013.
5. VanitaKohhli-Khandekar The India Media Business Sage Publications,2013

BLOCK IV: COPY RIGHTS AND VARIOUS PRESS RELATED COUNCIL

*Copy Rights and Various
Press Related Council*

Unit - XII

- 12.1. Introduction
- 12.2. Objectives
- 12.3. Law of Copy Right
- 12.4. Major Copyright issues/cases
- 12.5. WIPO
- 12.6. Piracy of media Products and the IT Act 2001
- 12.7. Let us Sum up
- 12.8. Unit- End Exercises
- 12.9. Answer to Check your Progress
- 12.10. Suggested Readings

NOTES

12.1. INTRODUCTION

Copyright is generally defined as an ‘exclusive right granted to the owner of an original work (e.g. lyrics, movies, computer programs, paintings, designs, logos) for a limited period of time .Copyright inheres not in ideas but rather in the unique expression of ideas. Copyright offers a legal protection granted to an artist or creative writer to reproduce, prepare derivative works, distribute, perform and display the publicly. Interestingly the Copy right act(1957) does not attempt to define Copyright but rather describes its various types and spells out a great length what constitutes or does not constitute ‘infringement’ of Copyright.

There are three types of works in which copyrights subsists according to Copyright Act of India

1. Original, literary, dramatic, musical and artistic works. Literary works include tables, compilations, and computer programs: dramatic work includes plays, staged plays, scripts, recitations and choreography: and artistic works include painting, sculpture, drawing, comic strips and Photographs

2. Cinematograph films

NOTES

3. Sound recordings, such as on tapes, records, disks, perforated rolls, etc.

12.2. OBJECTIVES

After going through this unit you will be able to

- Understand Law of Copyright
- Analyze major Copyright issues/cases
- Explain WIPO
- Discuss piracy of media Products and the IT Act 2001

12.3. LAW OF COPY RIGHT

A work of literature, drama, music or art is an intellectual Property. It must be protected from illegal copying or reproducing it. The copy right Act 1957 accords this protection. This law is based on two competing consideration. One, the creator's property, that is the original works need to be protected. Two, for advancement of Knowledge in the interest of the society, there should be some amount of freedom to produce parts of other people's copyrighted works. Copyrights have been held to be a right which person acquires in a work, which is the result of the intellectual labor. This Primary function of the copyright law is to protect from annexation by other people the fruits of man's work, labor or Skill.

In respect of the Press, copyright means, under section 14 of the copyright act 1957, the exclusive right in the case of literary, dramatic or musical work, to do and authorize the doing in substantive form of any of the following acts, namely:

- To Produce the work in any material form
- To publish the work
- To make any adoption of a work
- To reproduce or publish translation of the work

Punishment for Knowingly infringing or abetting the infringement of copyright is imprisonment, which may exceed up to one year or fine or both.

12.4. MAJOR COPYRIGHT ISSUES/CASES

First owner of copyright.- Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein.

Provided that –

- (a) In the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work;
- (b) Subject to the provision of clause (a), in the case of photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- (c) In the case of a work made in the course of the author's employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- [(cc) in the case of any address or speech delivered in public, the person who has delivered such address
- (d) In the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- [(dd) in the case of a work made or first published by or under the direction or control of any public undertaking, such public undertaking shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

NOTES

Assignment of copyright:- (1) The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof:

NOTES

In the case of the assignment of copyright in any future work, the assignment shall take effect only when the work comes into existence.

Mode of assignment:- No assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or by his duly authorised agent.

Right of author to relinquish copyright:- The author of a work may relinquish all or any of the rights comprised in the copyright in the work by giving notice in the prescribed form the Registrar of Copyright and thereupon such rights shall, subject to the provisions of sub-section (3), cease to exist from the date of the notice.

TERM OF COPYRIGHT

Term of copyright in published literary, dramatic, musical and artistic works:- Copyright shall subsist in any literary, dramatic, musical or artistic work (other than a photograph) published within the lifetime of the author until fifty years from the beginning of the calendar year next following the year in which author dies.

Explanation: - In this section the reference to the author shall, in the case of a work of joint authorship, be construed as a reference to the author who dies last.

Term of copyright in posthumous work:- in the case of any such work of joint authorship, at or immediately before the date of the death of the author who dies last, but which, or any adaptation of which, has not been published before that date, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published or, where an adaptation of the work is published in any earlier year, from beginning of the calendar year next following that year.

Term of copyright in photographs:- In the case of photograph, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph is published.

Term of copyright in cinematograph films:- In the case of a cinematograph film, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the film is published.

Term of copyright in records:- In the case of a record, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the record is published.

Term of copyright in Government works:- In the case of Government work, where Government is the first owner of the copyright therein, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

Term of copyright in works of international organization: - In the case of a work of an international organisation, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

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REGISTRATION OF COPYRIGHT

Register of copyrights :- There shall be kept at the Copyright Office a register in the prescribed form to be called the Register of Copyrights in which may be entered the names or title of works and the names and addresses of authors, publisher and owners of copyright and such other particulars as may be prescribed.

INFRINGEMENT OF COPYRIGHT.

When copyright is infringed: - Copyright in a work shall be deemed to be infringed---

- (a) When any person, without a license granted by the owner of the Copyright or the Register of Copyrights under this Act or in contravention of the conditions of a license so granted or of any condition imposed by a competent authority under this Act---

(i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright, or

(ii) permits for profit any place to be used for the performance of the work in public where such performance constitutes an infringement of the copyright in the work unless he was not aware and had no reasonable ground for believing that such performance would be an infringement of copyright, or

- (b) When any person---

(i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or

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(ii) Distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or

(iii) By way of trade exhibits in public, or

(iv) Imports (except for the private and domestic use of the importer) into India, any infringing copies of the work.

Certain acts not to be infringement of copyright: - (1) the following acts shall not constitute an infringement of copyright, namely: ----

(a) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of---

(i) research or private study;

(ii) criticism or review, whether of that work or of any other work;

(b) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of reporting current events in a newspaper, magazine or similar periodical, or by radio-diffusion or in a cinematograph film or by means of photographs;

(c) the reproduction of a literary, dramatic, musical or artistic work for the purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding;

(d) the reproduction or publication of a literary, dramatic, musical or artistic work in any work prepared by the Secretariat of a Legislature or, where the Legislature consists of two Houses, by the Secretariat of either House of the Legislature, exclusively for the use of the members of that Legislature;

(e) The reproduction of any literary, dramatic or musical work in a certified copy made or supplied in accordance with any law for the time being in force;

(f) The reading or recitation in public of any reasonable extract from a published literary or dramatic work;

(g) the publication in a collection, mainly composed of non-copyright matter, intended for the use of educational institutions, of short passages from published literary or dramatic work, not themselves published for the use of educational institutions, in which copyright subsists;

Provided that not more than two such passages from works by the same author are published by the same publisher during any period of five years.

Explanation;- In the case of a work of joint authorship, references in this clause to passages from works shall include references to passages from works by any one or more of the authors of those passages or by any one or more of those authors in collaboration with any other person;

(h) The reproduction of a literary, dramatic, musical or artistic work-

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(i) By a teacher or a pupil in the course of instruction; or

(ii) as part of the questions to be answered in an examination; or

(iii) In answers to such questions;

(i) the performance in the course of the activities of an educational institution, of a literary, dramatic or musical work by the staff and students of the institution, or of a cinematograph film or a record, if the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution;

(j) The making of records in respect of any literary dramatic or musical work if—

(i) Records recording that work have previously been made by, or with the license or consent of, the owner of the copyright in the work; and

(ii) The person making the records has given the prescribed notice of his intention to make the records, and has paid in the prescribed manner to the owner of the copyright in the work royalties in respect of all such records to be made by him, at the rate fixed by the Copyright Board in this behalf:

Provided that in making the records such person shall not make any alternations in, or omission from, the work, unless records recording the work subject to similar alternations and omissions have been previously made by, or with the license or consent of, the owner of the copyright or unless such alternations and omissions are reasonably necessary for the adaptation of the work to the records in question;

NOTES

(k) The causing of a recording embodied in a record to be heard in public by utilizing the record,--

(i) At any premises where persons reside, as part of the amenities provided exclusively or mainly for residents therein, or

(ii) As part of the activities of a club, society or other organization which is not established or conducted for profit;

(l) the performance of a literary, dramatic or musical work by an amateur club or society, If the performance is given to a non-paying audience, or for the benefit of a religious institution;

(m) the reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topics, unless the author of such article has expressly reserved to himself the right of such reproduction;

(n) The publication in a newspaper, magazine or other periodical of a report of a lecture delivered in public;

(o) the making of not more than three copies of a book (including a pamphlet, sheet of music, map, chart or plan) by or under the direction of the person in charge of a public library for the use of the library if such books in not available for sale in India:

(p)the reproduction, for the purpose of research or private study or with a view to publication, of an unpublished literary, dramatic or musical work kept in a library, museum or other institution to which the public has access:

Provided that where the identity of the author of any such work or, in the case of a work of joint authorship, of any of the authors is known to the library, museum or other institution, as the case may be, the provisions of this clause shall apply only if such reproduction is made at a time more than fifty years from the date of the death of the author or, in the case of a work of joint authorship, from the death of the author whose identity is known or, if the identity of more authors than one is known from the death of such of those authors who dies last;

(q) The reproduction or publication of—

(i) any matter which has been published in any Official Gazette except an Act of a Legislature;

(ii) Any Act of a Legislature subject to the condition that such Act is reproduced or published together with any commentary thereon or any other original matter;

(iii) the report of any committee, commission, council, board or other like body appointed by the Government if such report has been laid on the Table of the Legislature, unless the reproduction or publication of such report is prohibited by the Government;

(iv) any judgment or order of a court, tribunal or other judicial authority, unless the reproduction or publication of such judgment or order is prohibited by the court, the tribunal or other judicial authority, as the case may be;

(r) The production or publication of a translation in any Indian language of an Act of a Legislature and of any rules or orders made there under—

(i) If no translation of such Act or rules or orders in that language has previously been produced or published by the Government; or

(ii) where a translation of such Act or rules or orders in that language has been produced or published by the Government, if the translation is not available for sale to the public;

Provided that such translation contains a statement at a prominent place to the effect that the translation has not been authorized or accepted as authentic by Government;

(s) The making or publishing of a painting, drawing, engraving or photograph of an architectural work of art;

(t) the making or publishing of a painting, drawing, engraving or photograph of a sculpture, or other artistic work falling under sub-clause (iii) of clause (c) of section 2, if such work is permanently situate in a public place or any premises to which the public has access;

(u) The inclusion in a cinematograph film of—

(i) Any artistic work permanently situate in a public place or any premises to which the public has access; or

(ii) Any other artistic work, if such inclusion is only by way of background or is otherwise incidental to the principal matters presented in the film.

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(v) the use by the author of an artistic work, where the author of such work is not the owner of the copyright therein, of any mould, cast, sketch, plan, model or study made by him for the purpose of the work;

Provided that he does not thereby repeat or imitate the main design of the work;

(w) the making of an object of any description in three dimensions of an artistic work in two dimensions, if the object would not appear, to persons who are not experts in relation to objects of the description, to be a reproduction of the artistic work;

(x) The reconstruction of a building or structure in accordance with the architectural drawings or plans by reference to which the building or structure was originally constructed:

Provided that the original construction was made with the consent or license of the owner of the copyright in such drawings and plans;

(y) In relation to literary, dramatic, or musical work recorded or reproduced in any cinematograph film, the exhibition of such film after the expiration of the term of copyright therein:

Provided that the provisions of sub-clause (ii) of clause (a), sub-clause (i) of clause (b) and clauses (d), (f), (g), (m) and (p) shall not apply as respects any act unless that act is accompanied by an acknowledgement

(i) Identifying the work by its title or other description; and

(ii) Unless the work is anonymous or the author of the work has previously agreed or required that no acknowledgement of his name should be made, also identifying the author.

(3) The provisions of sub-section (1) shall apply to the doing of any act in relation to the translation of literary, dramatic, or musical work or the adaptation of a literary, dramatic, musical or artistic work as they apply in relation to the work itself.

CIVIL REMEDIES

Civil remedies for infringement of copyright :- (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by

way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for believing that copyright subsisted in the work, the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement and a decree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the court may in circumstances deem responsible.

(2) Where, in the case of a literary, dramatic, musical or artistic work, a name purporting to be that of the author or the publisher, as the case may be, appears on copies of the work as published or in the case of an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceeding in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be.

(3) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the direction of the court.

OFFENCES.

Offence of infringement of copyright or other rights conferred by this Act :- Any person who knowingly infringes or abets the infringement of the copyright in a work, or any other right conferred by this Act, shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

12.5. WIPO

WIPO

WIPO is the global forum for intellectual property (IP) services, policy, information and cooperation. We are a self-funding agency of the United Nations, with 192 members states.

Our mission is to lead the development of a balanced and effective international IP system that enables innovation and creativity for the benefit of all. Our mandate, governing bodies and procedures are set out in the WIPO convention, which established WIPO in 1967.

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Member states	Management & staff	Observes
Our 192 member states approve WIPO's strategic direction and activities in the annual meetings of the Assemblies.	Our staff (secretariat), guided by our core values, provide the skills to implement the member state's decisions and deliver WIPO's diverse programs.	Some 250 non-governmental organization (NGOs) and intergovernmental organizations (IGOs) have official observe status at WIPO meetings.

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We help governments; businesses and society realize the benefits of IP.

Provide	Activities
<p>A policy forum to shape balanced international IP rules for a changing world;</p> <p>Global services to protect IP across borders and to resolve disputes;</p> <p>Technical infrastructure to connect IP systems and share knowledge;</p> <p>Cooperation and capacity-building programs to enables all countries to use IP for economic, social and cultural development;</p> <p>A world reference source for IP information</p>	<p>Each WIPO division, led by its Director, is responsible for specific programs to achieve our nine strategic goals and objectives:</p> <ul style="list-style-type: none"> • WIPO activities by unit • The year in review: report of the DG to the WIPO Assemblies • WIPO- Making IP work (a quick introduction to WIPO and what we do)

Accountability

*Copy Rights and Various
Press Related Council*

Result, program and budget	Financial reporting	oversight
The objectives, performance measures and budgetary planning for all WIPO's proposed activities are set out in our program and Budget. We report to member states on the results each year in the Program Performance Report.	we submit two-yearly financial management reports and annual financial statements to the Assemblies of the Member States, prepared in accordance with the International Public Sector Accounting Standards (IPSAS)	Our operations and activities are overseen and evaluated by external and internal bodies: <ul style="list-style-type: none"> • WIPO independency Advisory oversight Committee (IAOC) • External Auditor • Internal Oversight Division (IOD)

NOTES

Working with WIPO

WIPO careers	Individual contractors	Procurement	Cooperation
We employ talented individuals from around the globe to help us meet our challenges.	We engage experts and accredited service providers as external resources to cover our business.	We procure goods and service from suppliers worldwide. We focus on achieving the best value	We work in close partnership with IP offices, IGOs, NGOs, and other public and private.

12.6. PIRACY OF MEDIA PRODUCTS AND THE IT ACT 2000

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Piracy as we know it is not a new phenomenon. ‘Digital Piracy’ is a term used to refer to the act of copyright infringement via digital means. The word ‘piracy’ used in this context dates further back than one would think. It dates back to the beginning of copyright law. Initially piracy was a big problem but not for completely the same reason as today. Early copyright law was basic and untested. International cooperation was low and it only covered a small spectrum of media and rights. The largest impact has been the technological revolution experienced during the end of last millennium and the beginning of the current one. The advances happened so fast the legal protection and the industry have not been able to keep up, and according to some opinions, they still haven’t. The basic cause of piracy can be summed up in two words: Customer dissatisfaction. Piracy fills a gap in the market that isn’t covered by industry professionals. or at least it did; now some companies are taking advantage of the situation to flourish. Some of the most successful businesses since the turnoff the millennium are those that have embraced head on new technology, that have adapted to the times they work in and ultimately deliver a quality service to the customer. That is not to say that this wasn’t in case in the past but the change has been rapid. Selling ice used to be a hug industry, netting its traders a handsome chunk of profits, but that was before the fridge-freezer became a common household appliance and after it did the ice trade was not worth it any more. The point is: the old system the media industry operated on is becoming obsolete. Physical media is less in demand, people are becoming accustomed to paying less and ultimately the way funding and profits work is changing. Online retailers are more popular than ever, replacing in store sales. Profits may not come sales of the actual product, but from secondary sources such as concert and event tickets in the case of music or merchandising and license fees for films. Even Video games are changing, some are released as free to play. They cost no money whatsoever to download and install, but if you want to have an advantage over your competitor or possess a certain aesthetic item you must buy it in game, from which the creator makes money. Sometime piracy is only exasperated by the industry’s attempt to stop it, as is often the case with intrusive DRM tools or region locks. That said with the right strategy, the industry can fight back. Services like Netflix have proved that if you give the customer and affordable way to reach what they want with great convenience then file sharing will decrease. Customer satisfaction is important. They need to feel good about the service they are using. They need to feel that the company deserves their hard earned money. They don’t want feel like criminals if they are taking the legal route. Netflix and

YouTube traffic accounts for staggering 50 percent of the internet traffic. All of this assumes that piracy is doing harm to the industry. Undoubtedly it is doing some harm but the extent is difficult to determine and the figures often aren't accurate. Studies have found occasional benefits to piracy. Does this mean piracy is alright? Not necessarily. It just means that perhaps a different approach and attitude is needed.

INFORMATION TECHNOLOGY ACT 2000

An act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as "electronic commerce",.

NOTES

Salient features of the Act

ELECTRONIC GOVERNANCE

4. Legal recognition of electronic records.

Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is –

- (e) rendered or made available in an electronic form; and
- (f) Accessible so as to be usable for a subsequent reference.

PENALTIES AND ADJUDICATION

This act deals with two types of wrongs, the civil wrongs and the offences. While the civil wrongs are covered by sec 43-45, the offences are mentioned in sec 65-81.

43. Penalty for damage to computer, computer system, etc.

if any person without permission of the owner or any other person who is in charge of a computer, computer system or computer network,-

- (b) accesses or secures access to such computer, computer system or computer network ;
- (c) download copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium;

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- (d) introduce or causes to be introduced any computer containments
- (e) disrupts or causes disruption of any computer, computer system or computer network;
- (f) denies or causes the denial of access to any person authorized to access any computer, computer system or computer network by any means;
- (g) provides any assistance to any person to facilities access to a computer, computer system or computer network in contravention of the provisions of this act, rules or regulations made there under;
- (h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network, he shall be liable to pay damages by way of compensation not exceeding one crore rupees to the person so affected.

44. Penalty for failure to furnish information return, etc.

If any person who is required under this act or any rules or regulations made there under to-

- (d) furnish any document, return or report to the controller or the certifying authority fails to furnish the same, he shall be liable to a penalty not exceeding on lakh and fifty thousand rupees for each such failure;
- (e) file any return or furnish any information, books or other documents within the time specified therefor in the regulations fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty not exceeding five thousand rupees for every day during which such failure continues;
- (f) Maintain books of accounts or records, fail to maintain the same, he shall be liable to a penalty not exceeding ten thousand rupees for every day during which the failure continues.

45. Residuary Penalty

Whoever contravenes any rules or regulations made under this act, for the contravention of which no penalty has been separately provided, shall be liable to pay a compensation not exceeding twenty-five thousand rupees to the person affected by such contravention or a penalty not exceeding twenty-five thousands rupees.

OFFENCES

*Copy Rights and Various
Press Related Council*

65. Tampering with Computer source documents.

Whoever knowingly or intentionally conceal, destroys or alters or intentionally or knowingly causes another to conceal, destroy or alter any computer source code used for a computer, computer programmer, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

Explanation; For the purposes of this section. “computer source code” means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form.

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66. Hacking with computer system.

(1) whoever with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means, commits hack:

(2) Whoever commits hacking shall be punished with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

67. Publishing of information which is obscene in electronic form.

On first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to ten years and also with fine which may extend to two lakh rupees.

12.7. LET US SUM UP

Law of Copy Right

A work of literature, drama, music or art is an intellectual Property. It must be protected from illegal copying or reproducing it. The copy right Act 1957 accords this protection. This law is based on two competing consideration. One, the creator’s property, that is the original works need to be protected. Two, for advancement of Knowledge in the interest of the society, there should be some amount of freedom to produce parts of other people’s copyrighted works.

Copyrights have been held to be a right which person acquires in a work, which is the result of the intellectual labor. This Primary function of the copyright law is to protect from annexation by other people the fruits of man's work, labor or Skill.

In respect of the Press, copyright means, under section 14 of the copyright act 1957, the exclusive right in the case of literary, dramatic or musical work, to do and authorize the doing in substantive form of any of the following acts, namely:

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- To Produce the work in any material form
- To publish the work
- To make any adoption of a work
- To reproduce or publish translation of the work

Punishment for knowingly infringing or abetting the infringement of copyright is imprisonment, which may exceed up to one year or fine or both.

Major Copyright issues/cases

- First owner of the copyright
- Assignment of copyright
- Mode of Assignment
- Right of author or relinquish copyright
- Term of copyright
- Registration of copyright
- Infringement of copyright
- Civil remedies
- Offences of infringement

WIPO

WIPO is the global forum for intellectual property (IP) services, policy, information and cooperation. We are a self-funding agency of the United Nations, with 192 members states.

Our mission is to lead the development of a balanced and effective international IP system that enables innovation and creativity for the benefit of all. Our mandate, governing bodies and procedures are set out in the WIPO convention, which established WIPO in 1967.

Member states	Management & staff	Observes
Our 192 member states approve WIPO's strategic direction and activities in the annual meetings of the Assemblies.	Our staff (secretariat), guided by our core values, provide the skills to implement the member state's decisions and deliver WIPO's diverse programs.	Some 250 non-governmental organization (NGOs) and intergovernmental organizations (IGOs) have official observe status at WIPO meetings.

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We help governments; businesses and society realize the benefits of IP.

Provide	Activities
<p>A policy forum to shape balanced international IP rules for a changing world;</p> <p>Global services to protect IP across borders and to resolve disputes;</p> <p>Technical infrastructure to connect IP systems and share knowledge;</p> <p>Cooperation and capacity-building programs to enables all countries to use IP for economic, social and cultural development;</p> <p>A world reference source for IP information</p>	<p>Each WIPO division, led by its Director, is responsible for specific programs to achieve our nine strategic goals and objectives:</p> <ul style="list-style-type: none"> • WIPO activities by unit • The year in review: report of the DG to the WIPO Assemblies • WIPO- Making IP work (a quick introduction to WIPO and what we do)

Piracy of media Products and the IT Act 2000

Piracy as we know it is not a new phenomenon. 'Digital Piracy' is a term used to refer to the act of copyright infringement via digital means. The word 'piracy' used in this context dates further back than one would think. It dates back to the beginning of copyright law. Initially piracy was a big problem but not for completely the same reason as today. Early copyright law was basic and untested. International cooperation was low and it only covered a small spectrum of media and rights. The largest impact has been the technological

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revolution experienced during the end of last millennium and the beginning of the current one. The advances happened so fast the legal protection and the industry have not been able to keep up, and according to some opinions, they still haven't. The basic cause of piracy can be summed up in two words: Customer dissatisfaction. Piracy fills a gap in the market that isn't covered by industry professionals. or at least it did; now some companies are taking advantage of the situation to flourish. Some of the most successful businesses since the turnoff the millennium are those that have embraced head on new technology, that have adapted to the times they work in and ultimately deliver a quality service to the customer. That is not to say that this wasn't in case in the past but the change has been rapid. Selling ice used to be a hug industry, netting its traders a handsome chunk of profits, but that was before the fridge-freezer became a common household appliance and after it did the ice trade was not worth it any more. The point is: the old system the media industry operated on is becoming obsolete. Physical media is less in demand, people are becoming accustomed to paying less and ultimately the way funding and profits work is changing .Online retailers are more popular than ever, replacing in store sales. Profits may not come sales of the actual product, but from secondary sources such as concert and event tickets in the case of music or merchandising and license fees for films. Even Video games are changing; some are released as free to play. They cost no money whatsoever to download and install, but if you want to have an advantage over your competitor or posses a certain aesthetic item you must buy it in game, from which the creator makes money. Some time piracy is only exasperated by the industry's attempt to stop it, as is often the case with intrusive DRM tools or region locks. That said with the right strategy, the industry can fight back. Services like Netflix have proved that if you give the customer and affordable way to reach what they want with great convenience then file sharing will decrease. Customer satisfaction is important. They need to feel good about the service they are using. They need to feel that the company deserves their hard earned money. They don't want feel like criminals if they are taking the legal route. Netflix and YouTube traffic accounts for staggering 50 percent of the internet traffic.All of this assume that piracy is doing harm to the industry. Undoubtedly it is doing some harm but the extent is difficult to determine and the figures often aren't accurate. Studies have found occasionally benefits to piracy. Does this mean piracy is alright? Not necessarily. It just means that perhaps a different approach and attitude is needed.

12.8. UNIT- END EXERCISES

1. Discuss the significant of Copyright act

2. What is **WIPO**?

3. Write a short note on Piracy.

12.9. ANSWER TO CHECK YOUR PROGRESS

1. Law of Copy Right

A work of literature, drama, music or art is an intellectual Property. It must be protected from illegal copying or reproducing it. The copy right Act 1957 accords this protection. This law is based on two competing consideration. One, the creator's property, that is the original works need to be protected. Two, for advancement of Knowledge in the interest of the society, there should be some amount of freedom to produce parts of other people's copyrighted works. Copyrights have been held to be a right which person acquires in a work, which is the result of the intellectual labor. This Primary function of the copyright law is to protect from annexation by other people the fruits of man's work, labor or Skill.

In respect of the Press, copyright means, under section 14 of the copyright act 1957, the exclusive right in the case of literary, dramatic or musical work, to do and authorize the doing in substantive form of any of the following acts, namely:

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2. WIPO

WIPO is the global forum for intellectual property (IP) services, policy, information and cooperation. We are a self-funding agency of the United Nations, with 192 members states.

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Member states	Management & staff	Observes
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We help governments; businesses and society realize the benefits of IP.

Provide	Activities
<p>A policy forum to shape balanced international IP rules for a changing world;</p> <p>Global services to protect IP across borders and to resolve disputes;</p> <p>Technical infrastructure to connect IP systems and share knowledge;</p> <p>Cooperation and capacity-building programs to enables all countries to use IP for economic, social and cultural development;</p> <p>A world reference source for IP information</p>	<p>Each WIPO division, led by its Director, is responsible for specific programs to achieve our nine strategic goals and objectives:</p> <ul style="list-style-type: none"> • WIPO activities by unit • The year in review: report of the DG to the WIPO Assemblies • WIPO- Making IP work (a quick introduction to WIPO and what we do)

3. Piracy

Piracy as we know it is not a new phenomenon. 'Digital Piracy' is a term used to refer to the act of copyright infringement via digital means. The word 'piracy' used in this context dates further back than one would think. It dates back to the beginning of copyright law. Initially piracy was a big problem but not for completely the same reason as today. Early copyright law was basic and untested. International cooperation was low and it only covered a small spectrum of media and rights. The largest impact has been the technological revolution experienced during the end of last millennium and the beginning of the current one. The advances happened so fast the legal protection and the industry have not been able to keep up, and

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12.10. SUGGESTED READINGS

1. C.R. Subramanian India and Computer: A study on Planned development Oxford University Press New Delhi 1992
2. A.N. Rai Digital communication in India Authors Press New Delhi 2000
3. Seem Hasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi,2013.
4. KevalJ.Kumar Mass Communication in India Jaico Publishing House,Ahmedabad 2015.
5. **The Gazette of India** The information Technology act 2000 Ministry of Law, Justice and Company Affairs New Delhi 2000.

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UNIT - XIII

- 13.1. Introduction
- 13.2. Objectives
- 13.3 The limits of the Right to Know
- 13.4. Journalism ethics and Patriotism
- 13.5. New roles of Journalism and Public opinion
- 13.6. Journalist code of contact
- 13.7. Broadcast content complaints council
- 13.8. Let us Sum up
- 13.9. Unit- End Exercises
- 13.10. Answer to Check your Progress
- 13.11. Suggested Readings

13.1. INTRODUCTION

Information is a term derived from the Latin words ‘formation’ and forma’ which means giving shape to something and forming a pattern respectively. Information adds something new to awareness and removes the vagueness of our ideas. The Freedom of information bill 2000 introduced in the Loksabhaon 25th july2000 says that:

a) Information means any material in any form relating to the administration, operations or decisions of the Public Authority:

b) The Bill defines public Authority as any authority or body established or constituted,

i) By or under Constitution,

ii)By any law made by the appropriate Government,

iii) And include any other body owned, controlled or substantially financed by funs provided directly or indirectly by the appropriate Government.

c) Freedom of information means the right to obtain information from any public authority by means of

i) Inspection, taking of extracts and notes,

Ii) Certified copies of any records of such public authority and

iii) Diskettes, floppies or in any other electronic mode or through printouts where such information is stored in a computer or any other device.

As no right can be absolute, the Right to information has to have limitations. There will always be areas of information that should remain protected in public and national interest. Moreover this unrestricted right can have an adverse effect of an overload of demand on administration. So the information has to be properly, clearly classified by an appropriate authority.

13.2. OBJECTIVES

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After going through this unit you will be able to

- Understand the Limits of right to Know
- Analyze Journalism ethics and patriotism
- Explain new roles of journalism and public opinion
- Describe Journalist code of conduct
- Explain BCCC

13.3 THE LIMITS OF THE RIGHT TO KNOW

It is the duty of the media and of journalists to provide the public with comprehensive and accurate information. The quality of that information is determined by journalists' training and the discipline they exercise. This should be interpreted as encouraging and not as a dry or conformist approach, lacking all imagination, but rather, as one of thoroughness, accuracy, integrity and deep respect for the individual and for the facts. The press must report facts and events without distortion. Resorting to sensationalism may lead to exaggeration and inaccurate interpretations of facts and events, which can mislead the public as to the value and significance of the information being transmitted.

The information produced by the media is the result of choices that must be made in a spirit of fairness and justice. These choices can only be judged using a combination of qualitative and quantitative measures. While the length of an article or broadcast cannot be ignored, the importance of the information and the degree of public interest are often more pertinent, and in accusing coverage, it is important to look not only at one or two days' stories but at how an ongoing story has been covered over a period of time. It is also the responsibility of the press to guard against attempts by individuals, groups or organizations to manipulate public opinion with incomplete or slanted information by enlisting the aid of willing or unsuspecting journalists.

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The media are responsible for all that they publish or broadcast, and should never try to excuse lapses in professional standards by blaming them on administrative problems, time constraints or other such reasons. Press outlets should define and make public their editorial policies. They should foster a high degree of professional ethics and support the ongoing training of their staff. The fact that media outlets are responsible for what they publish or broadcast in no way absolves individual journalists or other information professionals of responsibility for their own actions and output.

13.4. JOURNALISM ETHICS AND PATRIOTISM

1. A free press can flourish only in a free society, communalism is a threat to the fabric of our free society and to the nation's solidarity.
2. The press has a vital role to play in the consummation of the fundamental objectives enshrined in our Constitution, namely, democracy, secularism, national unity, and integrity and the rule of law. It is the duty of the press to help promote unity and cohesion in the hearts and minds of the people, and refrain from publishing material tending to excite communal passions or inflame communal hatred.
3. To this end the press should adhere to the following guidelines in reporting on communal incidents in the country:
 - a) All editorial comments and other expressions of opinion whether through articles, letters to the Editors, or in any other form should be restrained and free from scurrilous attacks against leaders or communities, and there should be no incitement to violence.
 - b) Generalized allegations casting doubts and aspersions on the Patriotism and loyalty of any community should be eschewed.
 - c) Likewise, generalized charges and allegations against any community of unfair discrimination, amounting to inciting communal hatred and distrust, must also be eschewed.
 - d) Whereas truth should not be suppressed, a deliberate slanting of news of communal incidents should be avoided.

- e) News of incidents involving loss of life, lawlessness, arson, etc. should be described, reported, and headlined with restraint in strictly objective terms and should not be heavily displayed.
- f) Items of news calculated to make for peace and harmony and help in the restoration and maintenance of law and order should be given prominence and precedence over other news
- g) The greatest caution should be exercised in the selection and publication of pictures, cartoons, poems, etc. so as to avoid arousing communal passions or hatred.
- h) Names of communities should not be mentioned nor the terms “majority” and “minority” communities be ordinarily used in the course of reports.
- i) The source from which casualty figures are obtained should always be indicated.
- j) No facts or figures should be published without fullest possible verification. However, if the publication of the facts or figures is likely to have the effect of arousing communal passions, those facts and figures may not be given.

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13.5. NEW ROLES OF JOURNALISM AND PUBLIC OPINION

Editorials and Commentary The freedom to express opinion that editorial writers and commentators enjoy is not absolute: it must be exercised with due respect for democratic values and human dignity. Editorial writers and commentators must respect the facts and show intellectual integrity and discipline in their writing. In order to avoid confusion, the media must differentiate opinion pieces from news reports.

Columns, opinion pieces and criticism Writers of columns, opinion pieces and criticism are free to promote or denounce ideas and actions, as long as they adhere to high standards of intellectual integrity and discipline while doing so. The distortion of facts and the use of innuendos to buttress an argument are serious violations of journalistic ethics. It is important that the pertinent facts be clearly summarized before opinions are expressed, so that the reader may develop an informed opinion on the issue.

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Cartoons Caricature, by its very nature, confers on its authors wide—but not absolute- latitude. The cartoonist is required to respect the same standards as other journalists when expressing opinions. The incitement of hatred, in any form, is intolerable in a democratic society.

Telephone call-in Shows Telephone call-in, or “open line”, shows are subject to the same norms as other forms of journalism. Because of the spontaneous nature of the programs as well as their tendency to ignite passion about controversial subjects, these shows require that their hosts display a high degree of discipline and good judgement. An overview of the facts pertinent to the subject of discussion should be provided, and balance and fairness should be maintained. Offensive, vulgar, racist or hate-mongering comments and diatribes are to be avoided. Hosts must show respect for callers and not make remarks or use tones of voice likely to offend them. Hosts are also expected to refrain from imposing their own views and excluding callers who do not agree with them. Hosts are not required to self-censor, but they should keep their own prejudices and preferences in check.

13.6. JOURNALIST CODE OF CONTACT

Journalistic codes usually take into account the following concepts:

- a) Safeguarding freedom of information.
- b) Freedom of access to information sources
- c) Objectivity, accuracy, truthfulness or the non-misrepresentation of facts.
- d) Responsibility to the public, and its rights and interests and in relation to national, racial and religious communities, the nation, the State and the maintenance of peace.
- e) The obligation to refrain from calumny, unfounded accusations, slander, violations of privacy.
- f) Integrity and independence
- g) The right of reply and of correction
- h) Respect of professional confidentiality
- i) Consideration for the cultural, social or ethnic codes of individual countries.

However, ‘ the scope of professional ethics is much wider than the texts of legal codes. For, in attempting to achieve a just balance between freedom and responsibility, the ethical aspect of this dichotomy depends not only on conscious decisions by a journalist, but also on practices in the media and the general social environment.

13.7. BROADCAST CONTENT COMPLAINTS COUNCIL

*Copy Rights and Various
Press Related Council*

Broadcast Content Complaints Council is a body in India, a viewer/watcher can complain about the content of a television programme. It was set up by the television industry's Indian Broadcasting Federation (IBF) in 2011. BCCC examines complaints on the content of Television Channels (non-news). BCCC aims to self regulate and self-monitor the contents of television Channel and to evolve guidelines for the private broadcast rather than to draw the ire of a court or the law makers. This independent counsel comprising a thirteen member body consisting of a chairperson being retired judge of the Supreme Court or High Court and 12 other members including broadcaster and eminent non- broadcast members. The BCCC after hearing complaints and may issue directions to the Channel to modify or withdraw the objectionable content, and can further fine the Channel up to 30 lakhs. If the direction is defied, the matter may be referred to Ministry of Information and Broadcasting for further action including revocation of permission to broadcast.

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13.8. LET US SUM UP

The limits of the Right to Know

It is the duty of the media and of journalists to provide the public with comprehensive and accurate information. The quality of that information is determined by journalists' training and the discipline they exercise. This should be interpreted as encouraging and not as a dry or conformist approach, lacking all imagination, but rather, as one of thoroughness, accuracy, integrity and deep respect for the individual and for the facts. The press must report facts and events without distortion. Resorting to sensationalism may lead to exaggeration and inaccurate interpretations of facts and events, which can mislead the public as to the value and significance of the information being transmitted

The information produced by the media is the result of choices that must be made in a spirit of fairness and justice. These choices can only be judged using a combination of qualitative and quantitative measures. While the length of an article or broadcast cannot be ignored, the importance of the information and the degree of public interest are often more pertinent, and in accusing coverage, it is important to look not only at one or two days' stories but at how an ongoing story has been covered over a period of time. It is also the responsibility of the press to guard against attempts by individuals, groups or organizations

to manipulate public opinion with incomplete or slanted information by enlisting the aid of willing or unsuspecting journalists.

Journalism ethics and Patriotism

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1. A free press can flourish only in a free society; communalism is a threat to the fabric of our free society and to the nation's solidarity.

2. The press has a vital role to play in the consummation of the fundamental objectives enshrined in our Constitution, namely, democracy, secularism, national unity, and integrity and the rule of law. It is the duty of the press to help promote unity and cohesion in the hearts and minds of the people, and refrain from publishing material tending to excite communal passions or inflame communal hatred.

3. To this end the press should adhere to the following guidelines in reporting on communal incidents in the country:

a) All editorial comments and other expressions of opinion whether through articles, letters to the Editors, or in any other form should be restrained and free from scurrilous attacks against leaders or communities, and there should be no incitement to violence.

b) Generalized allegations casting doubts and aspersions on the Patriotism and loyalty of any community should be eschewed.

c) Likewise, generalized charges and allegations against any community of unfair discrimination, amounting to inciting communal hatred and distrust, must also be eschewed.

d) Whereas truth should not be suppressed, a deliberate slanting of news of communal incidents should be avoided.

e) News of incidents involving loss of life, lawlessness, arson, etc. should be described, reported, and headlined with restraint in strictly objective terms and should not be heavily displayed.

f) Items of news calculated to make for peace and harmony and help in the restoration and maintenance of law and order should be given prominence and precedence over other news

g) The greatest caution should be exercised in the selection and publication of pictures, cartoons, poems, etc. so as to avoid arousing communal passions or hatred.

h) Names of communities should not be mentioned nor the terms “majority” and “minority” communities be ordinarily used in the course of reports.

i) The source from which casualty figures are obtained should always be indicated.

j) No facts or figures should be published without fullest possible verification. However, if the publication of the facts or figures is likely to have the effect of arousing communal passions, those facts and figures may not be given.

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New roles of Journalism and Public opinion

1. Editorials and commentary
2. Columns, opinion pieces and criticism
3. Cartoons Caricature
4. Telephone call in shows

Journalist code of conduct

Journalistic codes usually take into account the following concepts:

- a) Safeguarding freedom of information.
- b) Freedom of access to information sources
- c) Objectivity, accuracy, truthfulness or the non-misrepresentation of facts.
- d) Responsibility to the public, and its rights and interests and in relation to national, racial and religious communities, the nation, the State and the maintenance of peace.
- e) The obligation to refrain from calumny, unfounded accusations, slander, violations of privacy.
- f) Integrity and independence
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- i) Consideration for the cultural, social or ethnic codes of individual countries.

Broadcast content complaints council

Broadcast Content Complaints Council is a body in India, a viewer/watcher can complain about the content of a television programme. It was set up by the television industry's Indian

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Broadcasting Federation (IBF) in 2011. BCCC examines complaints on the content of Television Channels (non-news). BCCC aims to self regulate and self-monitor the contents of television Channel and to evolve guidelines for the private broadcast rather than to draw the ire of a court or the law makers. This independent counsel comprising a thirteen member body consisting of a chairperson being retired judge of the Supreme Court or High Court and 12 other members including broadcaster and eminent non- broadcast members. The BCCC after hearing complaints and may issue directions to the Channel to modify or withdraw the objectionable content, and can further fine the Channel up to 30 lakhs. If the direction is defied, the matter may be referred to Ministry of Information and Broadcasting for further action including revocation of permission to broadcast.

13.9. UNIT- END EXERCISES

1. Write a note on Journalist code of conduct
- 2.. Elaborate BCCC

13.10. ANSWER TO CHECK YOUR PROGRESS

1.. Journalist code of conduct

Journalistic codes usually take into account the following concepts:

- a) Safeguarding freedom of information.
- b) Freedom of access to information sources
- c) Objectivity, accuracy, truthfulness or the non-misrepresentation of facts.
- d) Responsibility to the public, and its rights and interests and in relation to national, racial and religious communities, the nation, the State and the maintenance of peace.
- e) The obligation to refrain from calumny, unfounded accusations, slander, violations of privacy.
- f) Integrity and independence
- g) The right of reply and of correction

- h) Respect of professional confidentiality
- i) Consideration for the cultural, social or ethnic codes of individual countries.

*Copy Rights and Various
Press Related Council*

2. Broadcast content complaints council

Broadcast Content Complaints Council is a body in India, a viewer/watcher can complain about the content of a television programme. It was set up by the television industry's Indian Broadcasting Federation (IBF) in 2011. BCCC examines complaints on the content of Television Channels (non-news). BCCC aims to self regulate and self-monitor the contents of television Channel and to evolve guidelines for the private broadcast rather than to draw the ire of a court or the law makers. This independent counsel comprising a thirteen member body consisting of a chairperson being retired judge of the Supreme Court or High Court and 12 other members including broadcaster and eminent non- broadcast members. The BCCC after hearing complaints and may issue directions to the Channel to modify or withdraw the objectionable content, and can further fine the Channel up to 30 lakhs. If the direction is defied, the matter may be referred to Ministry of Information and Broadcasting for further action including revocation of permission to broadcast.

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13.11. SUGGESTED READINGS

1. Kovuuri G. Reddy, Hand Book of Journalism and Media Vikas Publishing House 2015
2. S.K. Aggarwal Media & Ethics Shipra Publication New Delhi 2012
3. Seem Hasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi, 2013.
4. Keval J. Kumar Mass Communication in India Jaico Publishing House, Ahmedabad 2015

UNIT - XIV

NOTES

- 14.1. Introduction
- 14.2. Objectives
- 14.3. Codes of ethics for media Professionals
- 14.4. Role of Press council of India and other Professional councils
- 14.5. Let us sum up
- 14.6. Unit- End Exercises
- 14.7. Answer to Check your Progress
- 14.8. Suggested Readings

14.1. INTRODUCTION

Media ethics is branch of Philosophy concerned with action that is morally permissible and those that are not. Media ethics assist media workers in determining what is right and how to choose the best from several alternatives. Media ethics constitutes a normative science of conduct and must therefore applied voluntarily. Ethic should set guidelines, rules, norms, codes and principles that will lead journalists and all other media workers to make moral decisions. They should not be forced to-do so because ethics is applied voluntarily. Journalistic code usually takes into account the following concepts:

- ✓ Safe guarding freedom of expression
- ✓ Freedom of access to information sources
- ✓ Objectivity, accuracy, truthfulness or non-misrepresentation of facts
- ✓ Responsibility to the public, its rights and interests and relation to national, racial and religious communities, the nation, the state and maintenance of peace
- ✓ The obligation of refrain from calumny, unfounded accusations, slander and violation of privacy
- ✓ Integrity and independence
- ✓ The right reply and of correction
- ✓ Respect of Professional confidentiality
- ✓ Consideration for the cultural, social or ethic codes of Individual countries

14.2. OBJECTIVES

After going through this unit you will be able to

- Understand Code of ethics for Media Professional
- Explain the role press council of India and other Professional councils
- List the few case studies of major ethical violations by the Indian media

14.3. CODES OF ETHICS FOR MEDIA PROFESSIONALS

It start with principles and it talk about the fundamental objective of journalism which is to serve the people in a fair, accurate, and unbiased and decent manner. In this part the focus is on accuracy.

Accuracy and fairness

One of the important needs of any news report is accuracy. It mean that the information should be given in a truthful manner and without distortion, exaggeration, sensation. Following are the reason why inaccurate reporting must be avoided in any circumstances:

- It can cause irreparable personal harm to the person or persons featuring in the news report.
- It can prevent the general public from making informed decisions(from investing in securities to voting for a particular candidate)
- It could adversely affect the journalist concerned and her/ his media organisation integrity as well as credibility.

Check and cross check to avoid error.

All journalists need to check and cross check fact carefully a report or article of public interest and it is one of the most important aspect free publications of any information. Whenever or whenever there is a doubt, it needs to be verified and if verification is not possible it should be clearly mentioned in the report. PCI also talk about that any document that forms a basis of news reports should be preserved at least for 6 months.

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Avoid defamatory writing

All media has the right to comment and criticize but it must avoid defamatory writing against any individual or organisation. It should not distort or misrepresent yes start and comment should be an honest expression of opinion. Newspaper cannot climb privilege for licence to malign a person or body climbing Special Protection or immunity on the plea having published the item as a satire under special columns such as 'gossip', 'parody', etc. Publication of Udaipur military news by one paper does not give licence to other to publish News or information reproducing or repeating the same.

Avoid plagiarism:

PCI clearly show your instruction against plagiarism as it says, using are passing of the writing or ideas of another as own, without crediting the source, is an offence and against the Ethics of journalism. It is also mentions that the practice of lifting news from other newspaper, publishing them subsequently as their own, ill-comport the highest standards of journalism. To remove it and ethically, the "lifting" newspaper dulay acknowledge the source of the report. The position of featuring articles shall not be lifted without permission and proper acknowledgement. Depression not reproduce in any form of offending portions for accept from proscribed book' (PCI, 2010).

Avoid intrusion to the privacy of an individual:

Press Council of India also issued guidelines regarding right to privacy it mentions that the press shall not intrude the privacy of an individual, and less about weighed buy genuine overriding Public Interest, not being a prurient or morbid curiosity. so, however, that once a matter becomes a matter of public record, the right privacy no longer subsist and it becomes legitimate subject for comment by the press and the media, among others. It explains that the things, concerning a person homes, family, religion, health, sexuality, personal life and private affair are covered by the concept of privacy expecting where any of these impinges upon the public or Public Interest.

Privacy of public figures.

Press Council of India mentions that although right to privacy is an important human right but degree of privacy differs from person to person and from situation to situation. Propose who has become a public figure cannot expect to be afforded the same degree of privacy as a private person. His act and contact as are of public interest even if conducted in private may be brought to public knowledge through the medium of the press.

The press as however, a parallel duty to make sure that the information about such acts and conduct of public interest of the public person in obtained through fair means, is properly verified and then

reported correctly. PCI process that the interview for articles for humans pertaining to public person which border on events that are in public knowledge, if reported correctly e, cannot be termed as interference into private life. There is a very thin line between public and private life and public person should not be too sensitive to criticism.

Norms for Interview and phone conversation:

According to the PCI, the press will tape record anyone's conversation after their permission except where the recording is necessary to protect a journalist in a legal action, or other compelling good reason and press shall, prior to Publication, remove offensive epithets used by a person whose statements are being reported. Apart from the interferences through photography into moments of person graph shall be avoided. However, photography of victims of accident or natural calamity maybe in larger Public Interest.

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Impartiality:

The PCI advises that any information that contradicts aspect of a published report should be published. It includes contradictory evidence and comment. A newspaper should publish all replies given on matter of public interest to enable readers to judge their value.

To maintain impartiality adjective should be avoided accept why required and there should be a clear distinction between opinion and fact. When opinion is presented as fact in mis guides the readers and a more so when no opinion is treated as Fact and the journalist personality is Apparent, it will serve to undermine her/his professional credibility. PCI also stresses on the fact that journalist should be free of any obligation to news source and interested group, including political parties.

Correction and apologize for error:

The PCI state,' penny factual error are mistake is dictated or confirmed, the newspaper should promptly publish the correction with due prominence and with apology for expression of regrets in case of serious Lapse. The newspaper should promptly and with due prominence, publish either in field or with new editing, free of cost, at the instance of the person affected or feeling aggrieved/or concerned by the impugned application, a contradiction/reply/clarification for rejoinder sent to the editor in the form of a letter or not. If they edited doubts the truth or actual accuracy of the contradiction/ reply/ clarification on Re joinder, he shall be at liberty to add separately at the end, a brief editorial comment doubting it's veracity, but only when this doubt is reasonably founded on unimpeachable documentary or other evidential material in his/her possession. This is our concession which

was to be avoided of sparingly with due discretion and caution in appropriate cases.

However, where there replay/contradiction or rejoinder is being published in compliance with the direction of the first council, it is permissible to append a brief editorial note to that effect. Right to rejoiners cannot be climbed through the medium of the Press Conference, as Publication/ coverage of news of a conference is within the discretionary power of an editor.

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Freedom of the press involves the reader's right to know all sides of an issue of public interest. An editor, therefore, shall not refuse to publish the reply or rejoinder merely on the ground that in his opinion the story published in the newspaper was true. That is an issue to be left to the judgement of the readers. It also does not behove an editor to show contempt towards a reader.

The council further states. 'An editor who decides to open his columns for letters on a controversial subject is not obliged to publish all the letter received in regards to that subject. He is entitled to select and publish only some of them either in entirety or the gist thereof. However, is exercising this discretion, he must make an honest endeavour to ensure that what is published is not one-sided but represents a fair balance between the views for and against with respect to the principal issue in controversy. In the event of rejoinder upon rejoinder being sent by two parties on a controversial subject, the editor has the discretion to decide at which stage to close the continuing column'.

Avoid obscenity and vulgarity:

The press council of India state, 'Newspaper/journalist shall not publish anything which is obscene, vulgar offensive to public good taste and newspaper shall not display advertisement which are vulgar or which, through depiction of a women in nude or lewd posture, provoke lecherous attention of males as if she herself was a commercial commodity for sale.

Its also says,' the globalisation and liberalisation does not given license to the media to misuse freedom of the press and to lower the value of the society. The media performs a distinct role and public purpose which require it to rise above commercial consideration guiding other industries and businesses. So far as that role is concerned, one of the duties of the media is to preserve and promote our cultural heritage and social values'.

14.4. ROLE OF PRESS COUNCIL OF INDIA AND OTHER PROFESSIONAL COUNCILS

*Copy Rights and Various
Press Related Council*

Press council of India

On the recommendation of the First Press commission and the National Integration council, The Press council Act was passed by parliament in 1965 and it was set up on July 4, 1966. The Press council act was however repealed in 1976. But a fresh legislation providing for the establishment of Press council was enacted by the Press council Act 1978. The Act came in to force on March 1, 1979.

Under section 5 the Press council Act 1978, the Council shall comprise of 28 members apart from the Chairman who is nominated by a committee consisting of the Chairman of the Rajya Sabha, the Speaker of the Lok Sabha and a person elected by the members of the council. The council consists of a Chairman and 25 other members. Of the 25 members, 3 were to represent the two houses of parliament, 13 were to be from amongst the working journalists, of which not less than 6 were to be editors who did not own or carry on the business of management of news papers and rest were to be the persons having special knowledge or practical experience in respect of education, science, law, literature and culture. By the amendment of the act 1970, the membership of the council raised by one to provide a seat for persons managing the news agencies. These members were to be selected by a three-man selection committee comprising of chief justice of India, chairman of the Press council and nominee of the President of India. The Chairman and member were to hold office for a period of three years provided that no member could hold office for period exceeding six years in the aggregate.

To preserve the Freedom of the Press and to maintain and improve the standards of news papers and news Agencies are the main objectives of the Press Council of India. The important tasks of the council are:

1. To build up code for News papers, news agencies and journalists in accordance with high Professional standards.
2. To help news papers and news agencies to maintain their independence.
3. To ensure maintenance of high standards of public taste on the part of news papers and news agencies and journalists.
4. To encourage the growth of sense of responsibility and public service among all those engaged in journalism.

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5. To concern itself with developments such as concentration or other aspects of ownership of news papers and news agencies this may affect the independence of the Press.

6. To keep under review cases of assistance received by any news paper or news agency in India from foreign source.

Functioning of the council

The council discharges its functions primarily through the medium of its Inquiry committees, adjudicating on complaint cases received by it against the Press for a violation of the norms of journalism or by the Press for interference with its freedom by the authorities.

Functions of the council

1. To encourage the growth of sense of responsibility and public service among all those engaged in the profession of Journalism.

2. To keep under review any development likely to restrict the supply and dissemination of news of public interest and importance.

3. To keep under review such cases of assistance received by any news paper or news agency in India from Foreign sources, as are referred to it by the Central Government.

4. Provided that nothing in this clause shall preclude the Central Government from dealing with any case of assistance received by a news paper or news agency in India from foreign sources in any other manner it things fit.

5. To promote the establishment of such common service for supply and dissemination of news to news papers as may, from time to time, appear to it to be desirable.

6. To Provide facilities for the proper education and training of persons in the profession of Journalism

7. To promote a proper functional relationship among all classes of persons engaged in the production and publication of news papers; of the above functions.

8. To study developments which may tend towards monopoly or concentration of ownership of news papers, including a study of the ownership or financial structure of news papers and if necessary to suggest remedies therefore.

9. To Promote technical or other research

10. To do such other acts as may be incidental or conducive to the discharge.

*Copy Rights and Various
Press Related Council*

Advertisement council of India (ASCI)

Advertisement must be truthful. All descriptions, claims and comparisons which relate to matters of objectives ascertainable fact should be capable of substantiation. Advertise and Advertising agencies are required to produce such substantiation as and when called upon to do so by the Advertising Standards Council of India.

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2. Where advertising claims are expressly stated to be based on or supported by independent research or assessment, the source and date of this should be indicated in the advertisement.

3. Advertisements shall not, without permission from the persons, firm or institution under reference, contain any reference to such person, firm or institution which confers an unjustified advantage on the product advertised or tends to bring the persons, firm or institution into ridicule or disrepute. If and when required to do so by the Advertising Standards Council of Indi, the advertiser and the advertising agency shall produce explicit permission from the person, firm or institution to which reference is made in the advertisement.

4. Advertisements shall neither distort facts nor mislead the consumer by means of implications or omissions. Advertisements shall not contain statements or visual presentation which directly or by implication or by omission or by ambiguity or by exaggeration are likely to mislead the consumer about the product advertised or the advertiser or about any other product or advertiser.

News Broadcasters Association

The self regulatory body for news and current affairs Channels is the News Broadcasters Association which has set up the News Broadcasting Standards Authority to adjudicate complaints in relation to broadcast content on News Channels. The NBA only of organizations that are members and submit themselves to regulation by the NBA. Therefore, Jurisdiction of NBSA is restricted only to members. The NBA has in a place a code of Ethics to regulate television content. The NBSA is empowered to warn, admonish, censure, express disapproval and fine any broadcaster in violation of the Code a sum up to Rs 1 lakh.

14.5. CASE STUDIES IN MEDIA ETHICS AND MAJOR ETHICAL VIOLATIONS

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We know that the distinctive features of news writing are accuracy, precision, impartiality, objectivity and public accountability. Yet these “canons of journalism” has come under serious threats in recent times. The news organization and the reporter and broadcasters overlook and sometimes disregard the “code of ethics” in the acquisition of newsworthy information and its subsequent dissemination to the public. This can be because of a variety of reasons like evoking sensationalism, increasing readership and viewership, pressure from proprietors, coercion from powerful and useful news sources and selective diffusion and retention of news items by journalists themselves due to one or several of the previously stated reasons. Let us consider the first example. Most journalistic code of ethics comprises the principle of “limitation of harm”. This involves the withholdings of certain details from news reports like the names reports, the release of which might harm someone’s reputation or life or impede the function of the administration. The Aarushi murder case that set off a media frenzy is a case in point. A teenager girl named Arushi Talwar was murdered along with a domestic servant of her house in a posh Delhi locality in 2008. The double murder case came under intense media scrutiny with the manner and grammar of the coverage triggering a debate on the limits of the media. The media pronounced guilt and innocence without proper corroboration by the concerned authority. Media’s constant pressure forced the investigation agency (the CBI) to take the help of the supreme court which passed a restraining order barring the media from any scandalous or sensational reporting on the case. Justice Altama Kabir stated 7 “We are asking the press not to sensationalize something which affects reputation’s.” But the broadcast media and the press cannot be unilaterally blamed. The news was in used the technique of “reconstruction” of the crime scene and incident to Accentuate hype and interest of the audience/ readers in the issue. The need to sensationalize the news emerged from the need to remain relevant and crucial in the public domain. The ethical 7 norms and legal standards make clear distinction between “ in public interest” and “ Interest to the public”. While the first regards the issues relating to the benefit of the public, the second concerns issues which the public may find interesting. The news items which belong to the second category should be carefully chosen and judiciously presented so that it does not intrude upon the privacy of subject or impair their reputation. Mass media, being easily available and highly accessible, need to be vigilant and differentiate clearly between what and how much the general public needs to know. The issues that “interest the public” can become at times become grave threat to the security of individuals and nation. The deviation of the Indian media from

established ethical standards is more prominent in the following example. I am talking about the media, especially television coverage during the 26/11 terror attacks in Mumbai in 2008. The coverage of 26/11 attacks by the television channels in India came under severe Criticism for turning a blind eye to the safety of the hostages, the security of the rescuers and above all the nation interest. While all the other attack point were freed from terrorists by the 28th morning, the Taj Hotel remained under the control of the terrorists. The television coverage helped the terrorists by showing everything in their live coverage from the vantage point of the rescuers to the possible strategies and measures to be adopted by the National Security Guards in the “Operation Black Tornado” without bothering about the impact it would have on the security concerns and delaying the rescue process. The sensationalism of live coverage of a rescue mission assisted a buoyant viewership which perhaps goaded the news channels to plan their telecast in the said manner. Neelamalar, Chitra and Darwin (2009)⁸ concluded that the newspaper’s coverage of the 26/11 terror attacks was more balanced and ethical than that of electronic media. But this can be attributed to the nature of the print medium which had time to verify and present the relevant facts and stories, unlike the television channels which had to rush with their reports and had to always concentrate on “being the first in the race”. Neelamalar, Chitra and Darwin (2009)⁹ stated that there was strong opposition to the way the electronic media sensationalized the attacks and a necessity to regulate media content during emergencies was felt. The Indian government chose to respect press freedom and abstained from regulatory measure but the news Broadcaster’s Association (NBA) of India developed a code to be adhered to in the time of emergencies. This instance clearly shows the media’s flouting of ethical norms. The television channels can claim that the live feeds were available in the social networking sites and the internet but there is no doubt that ⁸ the television was a more prominent presence and the pictures telecast by the TV cameras were uploaded by the social networking sites. The commercial viability of the transmission in terms of popularity and advertisement sponsorship muted ethical principles, It would be an interesting study to make a quantitative analysis of the Advertisement revenues for the national channels at the time of the live telecast. There have been repeated allegations against the media both press and television for conducting “sting” operations. Though sting operations provide startling revelations that benefit the society because of its exposure of truth, critics have questioned the ethical veracity of the use of the sting tactic for journalistic agenda. The sting operation can be used by the media to expose truth, espouse causes or realize societal agenda but it is attached with falsehood and bias and provides no scope to the victim to defend himself/herself under the circumstances. Such sting operations can unravel the truth but leaves a lot to desire when

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faced with questions on ethical propriety. The on-sided affair is a bolt on the journalistic code of fairness and impartiality. Let us take the example of “Operation West End” popularly known as “Tehelka” revelations in 2001. “Tehelka”, which means sensation, a weekly newspaper released video footage of top officials and politicians receiving bribes. The footage captured by the way of a sting operations exposed corruption at the highest order. But despite its ambitious intentions, after the initial shockwaves, the public became uninterested in the proceedings of the case. The methods used by the Tehelka reporters (women, liquor and bribing unsuspecting victims and violating their right in the process found little approval of the public. The revelations created quite a stir regarding the ethical issues associated with the exposure. The Tehelka journalists were involved in false impersonations, paid bribes to the victims on false pretext and were guilty of other ethical transgressions too. The use of sting operations to expose corruptions in the society as against traditional investigative reporting techniques found few takers. Though after the Tehelka operations, several other sting operations involving Bollywood personalities, small-time politicians and government officials were undertaken the activities failed to have the desired effect. There is no doubt that traditional investigative journalism cannot be replaced by sting operations where the effects may be stark but the foundation is disparaging. According to Sadhu¹⁰, “an occasional sting operation may serve the cause for the time being. But it is no alternative to investigative journalism. To build its credibility and ensure its freedom under 9 democracy, the media in India will have to turn to investigative reporting.” There are various impediments like pressure of creating sensation to attract reader/ audience attraction; predetermined agenda of proprietors or editor’s or the pressure of being the first to deliver the ‘breaking news’ to the users in the face of stiff competition from numerous news channels and several hundred newspapers. The Tehelka sting question and others that followed were repeatedly aired in the national television channels in the subsequent days till the public lost interest in them.

14.6 LET US SUM UP

Code of Ethics for Media Professionals

- Accuracy and fairness
- Check and cross check to avoid error
- Avoid defamatory writing
- Avoid plagiarism
- Avoid intrusion to the privacy of an individual
- Impartiality
- Avoid obscenity and vulgarity etc.,

Role of Press council of India

1. To encourage the growth of sense of responsibility and public service among all those engaged in the profession of Journalism.
2. To keep under review any development likely to restrict the supply and dissemination of news of public interest and importance.
3. To keep under review such cases of assistance received by any news paper or news agency in India from Foreign sources, as are referred to it by the Central Government.
4. Provided that nothing in this clause shall preclude the Central Government from dealing with any case of assistance received by a news paper or news agency in India from foreign sources in any other manner it things fit.
5. To promote the establishment of such common service for supply and dissemination of news to news papers as may, from time to time, appear to it to be desirable.
6. To Provide facilities for the proper education and training of persons in the profession of Journalism
7. To promote a proper functional relationship among all classes of persons engaged in the production and publication of news papers; of the above functions.
8. To study developments which may tend towards monopoly or concentration of ownership of news papers, including a study of the ownership or financial structure of news papers and if necessary to suggest remedies therefore.
9. To Promote technical or other research
10. To do such other acts as may be incidental or conducive to the discharge.

Other professional councils are News Broadcasters Association, Broad cast content complaints council, Advertisement standard council of India and General Agreement on Tariffs and Trade (GATT) etc,

14.7. UNIT- END EXERCISES

1. List the code of ethics for media professionals

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2. Summarize the functions of the Press council of India.
3. Write a short note on Advertisement standard council of India

14.8 ANSWER TO CHECK YOUR PROGRESS

1. Code of Ethics for Media Professionals

- Accuracy and fairness
- Check and cross check to avoid error
- Avoid defamatory writing
- Avoid plagiarism
- Avoid intrusion to the privacy of an individual
- Impartiality
- Avoid obscenity and vulgarity etc.,

2. Functions of the Press council

1. To encourage the growth of sense of responsibility and public service among all those engaged in the profession of Journalism.
2. To keep under review any development likely to restrict the supply and dissemination of news of public interest and importance.
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3.. Advertisements shall neither distort facts nor mislead the consumer by means of implications or omissions. Advertisements shall not contain statements or visual presentation which directly or by implication or by omission or by ambiguity or by exaggeration are likely to mislead the consumer about the product advertised or the advertiser or about any other product or advertiser.

14.9. SUGGESTED READINGS

1. RadhaKrishnamurthi, Indian Press Laws, India Laws House, Delhi

2. Gauravoberoi, Media & Press Laws

3. SeemaHasan, Mass Communication Principles and Concepts, CBS Publishers, New Delhi, 2013.

4. Website: <http://presscouncil.nic.in>

MODEL QUESTION PAPER
M.A. Degree Examination
Journalism and Mass Communication
Media Laws and Ethics

Time: 3 Hours

Maximum Marks: 75

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Section-A (10 x 2 =20)

Answer all questions

1. What is privilege?
2. Write a note on Fundamental rights.
3. Write any two laws related to Media.
4. What do you mean by ethics?
5. Define: sedition
6. Expand GATT
7. What is obscenity?
8. What is Piracy?
9. Write a note on Censorship.
10. what is meant by cyber Crime?

Section-B

(5 x 5=25)

Answer all questions choosing (a) Or (b)

11. (a).Summarize the Fundamental Rights
(OR)
(b) Write a note on powers and privileges of the parliament.
12. (a) Explain the press and Registration of Books Act 1867.
(OR)
(b) Briefly Explain the Official Secret Act1923
13. (a) Summarize the laws of deformation.
(OR)
(b) Explain the Cinematography Act 1952
14. (a) Explain the cyber laws in online Journalism
(OR)

(b) Write a note on IPR.

15. (a) Write a short note on Press council.

(OR)

(b) Explain the laws deals with crime against Women and Children.

Section-C

(3 x10=30)

Answer any three questions

1. Discuss the Fundamental rights enshrined in the Indian Constitution.
2. Write an Essay on Indian Constitution and Media in India
3. Elaborate the Press council and discuss about the powers and functions of Press council of India.
4. PrasarBharathi – Elaborate
5. Right to Information empowers individual citizens to demand information: Explain and Comment

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