UNIT- III: LEGAL ASPECTS OF MEDIA FREEDOM

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3.1. Learning objectives

After going through this unit you will be able to:

- outline the concept of Media Freedom.
- analyze the Constitutional provisions of Media Freedom.
- analyze different principles of Code of Conduct for Journalists.
- discuss the concept of Defamation and its kinds.
- explain the legal provisions under the Constitution and other laws.
- discuss the provisions of Official Secrets Act, 1923.

- explain the concept of Right to Information.
- enumerate the international legislations on Right to Information.
- analyse the provisions under the Constitution and other laws.

3.2. Introduction

The legal aspects of Media Freedom cover a wide range of domestic legislations and certain constitutional provisions. In this unit you will learn about the rights associated with Media, which is a powerful institution that can act as a necessary instrument of communication. Here, we will also introduce you to the guarantees and limitations contained in the *Constitution of India* as regards the media freedom.

Defamation is another limitation on the Media Freedom. In this Unit an attempt is being made to introduce you with the penal provisions in India. Finally, the concept of Right to Information is analysed in relation to international and domestic legislations along with the constitutional provisions. We hope that after going through this unit, you will have the basic understanding of the Official Secrets Act, 1923.

In the next unit you will be introduced to the role of the Press Council of India,the evolution of Ethical Code of Conduct for journalist up to the development of its universal principles, the Working Journalists and Other Newspaper Employees (Conditions of Services & Miscellaneous Provision) Act, 1955, which was enacted keeping in view some welfare measures for the working journalists. Finally we will discuss the Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

3.3. Media Freedom: Concept

The media is a powerful institution that can act as a necessary instrument of communication. To the extent that the media is independent of government it can also have the capacity to act as a powerful critic of government. Media has been increasingly challenged as an institution that frequently abuses its power, invading people's privacy and undermining personal freedom. Freedom of Press or Media Freedom is the immunity of the communications media – including newspapers, books, periodicals, radio,

and television – from government control or censorship. Media Freedom is a guarantee by a government to the media or press for its citizens and their associations, extended to members of news-gathering organizations and journalists, and their published reporting. In many countries there are constitutional or statutory protections pertaining to media freedom or freedom of the press. Media freedom, although generally regarded as a constituent of democracy, does not have the same meaning everywhere in the world. Differences in the understanding of media freedom exist, even among the West European democracies or between Western Europe and the United States.

The principle of freedom of the press (or Media Freedom) as a constraint on government actions against the press can differ from the amount of freedom the press actually exercises at a given time. On the one hand, various social, political, and economic forces may serve to make the press freer, in fact, than it is in law. Conversely, those same forces may substantially curtail the exercise of a legal freedom. It could be seen that the government control on the media freedom is always subject to political, legal, or constitutional constraints.

3.3.1. History of Media Freedom

Media Freedom, which has been limited not only by governments but at times by churches, is absolute in no country. From the earliest times, in the West, persecution for the expression of opinion even in matters relating to science or philosophy was resorted to by both the Church and the State, to suppress alleged heresy, corruption of the youth or sedition. In the late 15th century, after the invention of printing press, licensing and censorship rules came as restraints. In the 17th century the appearance of newspapers demonstrated how powerful the Press was as a medium of expression. Newspapers came to take up the cause of Opposition against monarchial absolutism, there followed different methods of suppression.

The origin of the concept of freedom of the press took place in England. In England, the appearance of unauthorised publications resulted in a royal proclamation (1534) requiring prepublication licensing. Stronger restrictive measures were taken by the later Tudor and Stuart monarchs, and censorship came to be applied more to political criticism than religious

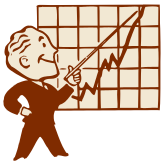
heresy. John Milton, in his *Areopagitica* (1644), attacked the licensing law and called on Parliament to suppress offensive publications after their appearance if necessary. Milton's objections to prior restraint eventually became a cornerstone of press freedom, but it was not until 1695 that the licensing and censorship laws were abolished. Severe restrictions on the press continued, however, in the form of seditious libel laws under which the government was able to arrest and punish any printer who published material in any way critical of the government. However, there was no clear definition of what constituted a seditious libel. Since the 18th century the press in Britain has been relatively free from state interference. During that time the printing of parliamentary debates had to be disguised as debates between classical figures. At this time, both true and false criticism of the government was considered a libel. In fact,the legal doctrine proclaimed that "the greater the truth the greater the libel." Only in the mid-19th century truth was admissible as a defence in English libel cases.

The struggle for freedom of the Press had its greatest triumph when it came to be guaranteed by a written Constitution, as a fundamental right. Countries with written constitutions frequently contain special protection for press freedom. In the United States the First Amendment gives constitutional status to press freedom. This means that writers, journalists, and publishers can criticize government and are free from censorship. Before that the 1776 Virginia Bill of Rights stated, "Freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments." The Canadian Charter of Rights and Freedoms also gives constitutional protection to the press. The United States, Canada, Australia, and New Zealand also have specific legislation that protects freedom of information to ensure openness and facilitate press coverage of important issues and events. The European Convention on Human Rights, under Article 10, protects the freedom to receive and impart information and ideas without interference by public authority. As a signatory to this treaty, most of the countries are likely to become increasingly influenced by constitutional protections for freedom of the press.

3.3.2. Media Freedom: Constitutional Guarantees and Reasonable Restrictions

In India, prior to independence, there were no fundamental rights and therefore there was no guarantee of the freedom of expression or of the

Press. The footing of the press was explained by the Privy Council to be the same in England, namely, that of an ordinary citizen so that it had no privileges nor any special liabilities, apart from statute law. In the first sixty years of independence, media control by the state was the major constraint on press freedom in India. The *Constitution of India*, while not mentioning the word "press", provides for *"the right to freedom of speech and expression"* under Article 19(1)(a). The Supreme Court of India lost no time in declaring that the freedom of the Press was included in that guarantee as early as 1950. However, this right is subject to Reasonable Restrictions under Article19(2), whereby this freedom can be restricted for reasons of "sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, preserving decency, preserving morality, in relation to contempt of court, defamation, or incitement to an offence". The Reasonableness of Restrictions, however, are not defined in the Constitution. Laws such as the Official Secrets Act and Prevention of Terrorism Act (POTA) have also been used to limit press freedom. Under POTA, a person could be detained for up to six months for being in contact with a terrorist or terrorist group. POTA was repealed in 2006, but the Official Secrets Act, 1923 continues. (Read this part of the Unit with 1.4. *Concept of Freedom of Speech and Expression* of the **UNIT – I**)



CHECK YOUR PROGRESS – A

1. What is Media Freedom or Freedom of Press?
2. In which country origin of the concept of freedom of the press took place?
3. Media Freedom is guaranteed under which Article of the *Constitution of India*?
4. What are the grounds of Reasonable Restrictions on the Media Freedom?
5. Which country for the first time had given Media Freedom a Constitutional status?
   (a) New Zealand (b) England (c) USA (d) Canada
6. Reasonableness of Restrictions on Media Freedom is defined in the Constitution.
   (a) Yes (b) No

3.4. Defamation: Concept

Defamation is an intentional false communication, either written or spoken, that causes injury to a person's reputation, which is considered his precious property. Defamation is an actionable wrong. The wrong of defamation consists in the publication of a false and defamatory statement in respect another person without lawful justification or excuse. A statement of defamation is one which exposes the person to hatred, ridicule, or contempt, or which causes him to be avoided by others or which has a tendency to injure him in office, profession or calling. In Kautilya's *Artha Sastra* defamation is referred to as '*Vakarushyam*' and he prescribed punishments for '*Maan haani'*. A defamatory statement, however, differs from mere insult or abuse. While insult is an injury to one's dignity or self-respect, defamation is an injury to the esteem or regard in which one is held by others.

3.4.1. Kinds of Defamation

There are two kinds of defamation: Written and Verbal. The common law origins of defamation lie in the torts of 'slander' (harmful statement in a transitory form, especially speech) and 'libel' (harmful statement in a fixed medium, especially in writing but also a in picture, sign, or electronic broadcast), each of which gives a common law right of action. The fundamental distinction between libel and slander lies solely in the 'form' in which the defamatory matter is published. If the offending material is published in some fleeting form, as by spoken words or sounds, sign language, gestures and the like, then this is slander. If it is published in more durable form, for example, in written words, film, compact disc (CD), DVD, in virtual space like Internet and the like, then it is considered libel. In more simple language, verbal defamation is known as slander while written defamation is known as libel.

3.4.2. Defamation and Law

The law exists to protect the reputation of an individual (both his moral reputation and his professional reputation) from unjustified attack. For the

journalist, the publisher and, indeed, for anyone who earns his or her living through words, the law of defamation presents one of the greatest perils. The right to reputation is an absolute right, and the attack on one's reputation may be dealt with either as a civil or as a criminal matter. In civil law it is tort, i.e., a civil wrong for which monetary damages may be claimed.

Under Criminal Law, Indian Penal Code (Section 499), defamation is being defined as this - "Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person." Therefore, under Criminal Law three essentials are to be proved to establish the wrong of defamation –

1. There should be existence / publication of an imputation made by a person.
2. Such imputation may be words spoken or written signs, or visible representation.
3. It should be made to injure or having knowledge to believe that it will injure reputation of a person.

Civil law about Defamation is still governed by Tort Law or English Common Law rules, according to which four essentials are to be proved –

1. The statement be defamatory.
2. Reference of it to the plaintiff.
3. Publication of it by defendant.
4. Statement must be substantially untrue.

However, the Indian Penal Code has prescribed some Qualified Privileges as Exceptions (1-10) to Defamation which can be pleaded in certain cases of alleged defamation. The main principles of Qualified Privileges are –

(a) Statement made in performance of a duty that may be legal, social, or moral duty.

(b) Statement made for the protection of general or public interest.

(c) Fair report of public proceedings like judicial, parliamentary proceedings and public meetings. In these cases privilege is only considered when the statement is made without any malice.

In the recent years, looking at the emerging role of the press, a need is felt to balance the public right to free speech and expression with the

private right to reputation. Legislation about defamation is an attempt to do the same. The Indian Defamation Bill is still pending to passed in the Parliament. However, in the *Constitution of India* defamation is also seen as an important limitation on the freedom of speech and expression and press. This is the most effective and compensatory check on the free exercise of the fundamental right to speech. This is one of the grounds listed under Article 19(2) of the Constitution. Punishments for Defamation under the India Penal Code (Section 500) is imprisonment for two years, fine or both. Punishment for Defamation under the recently enacted Information Technology Act, 2000 may result in imprisonment up to two years.

3.4.3. Liabilities of Different Persons as regards Defamation

Author: Author of an article or book, is primarily liable for any illegality for the work like obscenity, defamation.

Contributor: Contributor would be liable if the article contributed by him has legal discrepancy.

Editor: Editor is individually liable for any illegal matter published in his paper, magazine, etc.

News-Vendor/Bookseller: Under Civil Law a Bookseller is not liable for defamatory publication of material sold by him unless he actually knew it was defamatory, or he could have with due diligence, come to know that it was defamatory. Under Criminal Law, Indian Penal Code (Section 5020, he shall be liable only if he knew about defamatory property of the material he sold at the time of selling it.

Printer: Printer is individually liable for printing of objectionable matter.

Proprietor: Proprietor can be made liable for any matter published in his paper, magazine, etc. only if there is positive proof that he was responsible for publishing it or for its selection for publication.

Publisher: Publisher is liable for anything published in his paper, magazine, etc which is defamatory.

Reporter: Reporter is liable like printer, publisher, editor, if he sends some work which is defamatory in character.

Defamation - Recent Law

Information Technology Act, 2000: Defamation through E-Mails will be punishable with liability for compensation. Threat may result in imprisonment up to two years.



CHECK YOUR PROGRESS – B

1. What is Defamation?
2. What are the two different kinds of Defamation?
3. Which Section of the Indian Penal Code prescribes punishments for Defamation?
4. Under which Section of the Indian Penal Code defamation is defined?

   (a) 500 (b) 502 (c) 499 (d) 498

3.5. Official Secrets Act, 1923

The Official Secrets Act, 1923 (OSA) is a comprehensive document relating to official secrets and it defines a number of offences. The Act is aimed at maintaining the security of the State against leakage of secret information, sabotage and the like. It is India's anti-espionage legislation held over from British colonisation. It states clearly that any action which involves helping an enemy state against India is liable. It also states that one cannot approach, inspect, or even pass over a prohibited government site or area. According to this Act, helping the enemy state can be in the form of communicating a sketch, plan, model of an official secret, or of official codes or passwords, to the enemy. The disclosure of any information that is likely to affect the sovereignty and integrity of India, the security of the State, or friendly relations with foreign States, is punishable by this act. The Act is important from the points of view of the Press since many of the acts prohibited by law may be committed by newspapers and journalists, as private individual, while performing their duties.

The OSA, 1923 broadly has two parts – One relating to spying for the enemy (Section 3 & 4). The other relates to unauthorised communication of any other official code or pass words, or any sketch, plan, model, article, note, document or information (Section 5).

Punishments under the Act range from three to fourteen years imprisonment. A person prosecuted under this Act can be charged with the crime even if the action was unintentional and not intended to endanger the

security of the state. The Act only empowers persons in positions of authority to handle official secrets, and others who handle it in prohibited areas or outside them are liable for punishment.

In any proceedings against a person for an offence under this Act, the fact that he has been in communication with, or attempted to communicate with a foreign agent, whether within or outside India is relevant and enough to necessitate prosecution. Journalists also have to help members of the police forces above the rank of the sub-Inspector and members of the Armed forces with investigation regarding an offence, up to and including revealing his sources of information (If required). When a company is seen as the offender under this Act, everyone involved with the management of the company including the board of directors can be liable for punishment. In the case of a newspaper everyone including the editor, publisher and the proprietor can be jailed for an offence.



CHECK YOUR PROGRESS – C

1. In which year Official Secrets Act was enacted?
2. Under the Act what form of communication is considered as helping the enemy state?
3. What is punishable under Section 5 of the Act?

3.6. Right to Information: Concept

Information is an idea that has been given a form, such as the spoken language or written word. It is an acquired knowledge or knowledge of facts which lead to the acquisition of knowledge. Information, under the Right to Information Act, 2005, means any material in any form relating to the administration, operations or decisions of a public authority [S.3(d)]. Right to information may be defined as the ability of the citizen to obtain information of the state. Some states provide access information in their constitutions and laws, while others do not. Even where access is recognised, it is invariably subject to limitations. In addition, states may impose fees, and require the payment of administrative costs before citizens actually obtain the information they are seeking.

3.6.1. Right to Information: A Human Right

The right to information has been recognised as a fundamental human right, intimately linked to respect for the inherent dignity of all human beings. There is an exciting global trend towards recognition of the right to information by States, intergovernmental organisations, civil society and the people. There is a growing body of authoritative statements supporting the right to information, made in the context of official human rights mechanisms, including at the United Nations, the Commonwealth, the Organisation of American States and the Council of Europe.

3.6.2. Right to Information: International Standards

Right to information is felt necessary because without information citizens cannot possibly make informed electoral choices or participate in decision-making processes. The right to information is also essential to accountability and good governance; secrecy is a breeding-ground for corruption, abuse of power and mismanagement. No government can now seriously deny that the public has a right to information or that fundamental principles of democracy and accountability demand that public bodies operate in a transparent fashion. Despite this global recognition of the fundamental right to information most countries in South Asia maintain colonial era Official Secrets Acts, as well as other secrecy legislations, laws which actively undermine information disclosure. The impact of these repressive laws is exacerbated by a pervasive culture of secrecy, and even arrogance, in the public sector.

The media's role in society includes acting as a watchdog of government, and enhancing the free flow of information to the public. Their ability to undertake this key function is undermined not only by government secrecy, which denies the media access to information on matters of public interest, but also by laws which unduly restrict freedom of expression.

The history of freedom of information laws can be traced back to Sweden where, in 1766, the Parliament passed the Freedom of the Press Act, which required the disclosure of official documents upon request. This Act is now part of their Constitution after 1949. During the French Revolution,

the 1789 Declaration of the Rights of Man included a provision, in Article 14, giving access to information on the Budget and making it freely available. Another country with a long history of freedom of information legislation is Colombia, whose 1888 Code of Political and Municipal Organization allowed individuals to request documents held by government agencies or in government archives. The USA passed a freedom of information law in 1967 and this was followed by legislation in Australia, Canada and New Zealand – all in 1982. In Asia, a number of countries have passed freedom of information laws in the last few years. The Philippines recognised the right to access information held by the State relatively early, passing a Code of Conduct and Ethical Standards for Public Officials and Employees in 1987. Followed by Hong Kong (1995) Thailand (1997) Japan (2001) India (2005).

Right to Information under different International Legislations:

Article 19, Universal Declaration of Human Rights, 1948:
Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 19, International Covenant on Civil and Political Rights 1966:
Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any media of his choice.

Article 13, United Nations Convention on the Rights of the Child, 1989:
The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

Article 13, American Convention on Human Rights, 1969:
Everyone has the right to freedom of thought and expression. This right

shall include freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.

Article 10, European Convention of Human Rights, 1950:
Everyone has the right to freedom of expression. This right shall include freedom to opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

Article 11, African Charter on Human and people's Rights, 1981:
Every individual shall have the right to receive information.

3.6.3. Right to Information: Indian Perspectives

In India, the right to information has been developed through diverse strands for almost the entire period of the country's independent history. The phrase 'freedom of information' has itself become a subject of debate in India. Many local activists and legal experts prefer to use the term 'right to information' as they see 'freedom' as signifying mere prohibition of government interference. There has been a long public feeling that in order to stop corruption at different levels of Government the right to information required statutory recognition.

In India, no direct right to information was enshrined in the 1950 Constitution but Article 19(1)(a) contained provisions for freedom of expression and speech. Also, this right is an integral part of right to life and personal liberty. Although Article 19 does not specifically mention the right to information, the Supreme Court held the right to information as inherent in Article 19. Almost all jurists feel that by implication this article includes the right of access to information. Article 21 of the India Constitution states, "No person shall be deprived of his life or personal liberty except according to procedure established by law." The right to life covers the right to basic needs such as food, education, health and personal liberty covers freedom from illegal and unnecessary restraint. Denial of information relating to these aspects is often the denial of the right itself.

In 1996, the Government of India itself initiated a debate on Effective and Responsive Administration. Then in January, 1997, a Working Group

on Right to Information and Promotion of Open and Transparent Government was set up with H.D. Shourie as Chairman and Soli J. Sorabjee as one of the members. As a result the Freedom of Information Act (which is now repealed) was drafted and certain amendments were carried out in the Official Secrets Act, the Indian Evidence Act, Civil Procedure Code, Criminal Procedure Code and Central Civil Services (Conduct) Rules in order to bring these more in conformity with the new ideas which the Working Group had advocated. This Act was severely criticised for permitting too many exemptions, not only under the standard grounds of national security and sovereignty, but also for requests that would involve "disproportionate diversion of the resources of a public authority". Before the Freedom of Information Act, 2002 was enacted some 17 states in India adopted right to information legislation, these include — Tamil Nadu (1997), Goa (1997), Rajasthan (2000), Karnataka (2000), Delhi (2001), Maharashtra (2002), Madhya Pradesh (2003), and Jammu and Kashmir (2004). The Maharashtra and Delhi state level enactments are considered to have been the most widely used. The Assam Right to Information Act, 2001 received the assent of the Governor on May 1, 2002.

3.6.4. Right to Information Act, 2005

In 2005, the Right to Information Act 2005 (Act No. 22/2005) was enacted by the Parliament of India giving citizens of India access to records of Central Government and State Governments. The Preamble of the RTI Act sets out that it has been passed "in order to promote transparency and accountability in the working of every public authority". It also states that the Act will "harmonise" "the conflicting interests" of "revelation of information" with "public interests including efficient operations of the Governments" and "the preservation of confidentiality of sensitive information".

It is applicable to all constitutional authorities, including the 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" provided by the government are

also covered in the Act's ambit. Under the Act, all complying departments must appoint their Public Information Officer (PIO). Any citizen of India may submit a request to the PIO for information in any format, paper or electronic. It is the PIO's responsibility to ensure that the information is obtained from the appropriate department or section. If the request pertains to another public authority (in whole or part) it is the PIO's responsibility to transfer/forward the concerned portions of the request to a PIO of the other within 5 days.

Under the provisions of the Act, any citizen may request for information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days, failing which penalty is imposed. The Act also requires every public authority to computerise their records for wide dissemination and to proactively publish certain categories of information so that the citizens need minimum recourse to request for information formally. So far, Information disclosure in India was restricted by the Reasonable Restrictions under Article 19(2) of the Constitution, Official Secrets Act 1923 and various other special laws, which the new RTI Act now relaxes.

The Preamble of the RTI Act sets out that the Act has been passed "in order to promote transparency and accountability in the working of every public authority". It also states that the Act will "harmonise" "the conflicting interests" of "revelation of information" with "public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information". These informations can be obtained from the concerned authorities by the citizens from almost any type of material that include records, documents, memos, e-mail, circulars, press releases, orders, contracts, reports and samples.

To seek information all public authorities are included in the Act's jurisdiction. Beside the central and the state governments, *panchayati raj* institutions and local bodies and all public authorities whether controlled, owned or financed by governments are included. NGOs which receive Government assistance will naturally fall within the purview of the Act. But informations affecting the sovereignty and integrity of the nation, Cabinet papers including records of the Council of Ministers, Secretaries and other officials may not be sought as information under the present Act. This effectively shields the whole process of decision-making from mandatory disclosure. Many of the sections of the Act give the executive wide discretion to withhold information. This is compounded by the fact that there are no provisions whatsoever which hold public officials responsible for abuse of

that discretion. But in a judgment recently the Central Information Commission has decided that copies of notings in the files can be claimed as documents. Similarly, cabinet papers also must be supplied, when asked for, after the cabinet decision sought has been taken.

The Act places the onus on the citizen who is being given "freedom to secure access to information consistent with public interest". The Act does not, therefore, appear to seek primarily to enforce people's democratic and fundamental right to information. In the Act, terms like "to which it has reasonable access" and "which in its opinion should be known to them in the best interests of maintenance of democratic principles" are controversial. In a country with low literacy levels, geographical remoteness and inaccessibility of several rural and indigenous peoples' areas, active government dissemination of information to the people is crucial. But yet, active dissemination of information about issues pertaining to life, health and the environment should be added to the Act.

The Act failed to take private bodies into its ambit. The failure to include private bodies within the ambit of the Act is a concern which has been voiced all over the country. Private bodies, especially where their activities affect the fundamental rights of the public, must be required to disclose information. A few laws – for example, those regulating water and air pollution – already set out a limited right to obtain documents from such bodies.



CHECK YOUR PROGRESS – D

1. What is Information?
2. What is Right to Information?
3. In which country was the freedom of information was first introduced under a specific law?
4. Freedom of Information is covered under which two Articles of the *Constitution of India*?
5. In which year was the Right to Information Act was enacted in India?
6. In which year was the Right to Information Act was enacted in Assam?

   (a) 2001 (b) 2002 (c) 2004 (d) 2005

3.7. Let us sum up

In this unit you have been introduced to the basic concepts of Media Freedom, Defamation, Right to Information and Official Secrets Act, 1923. Let us now quickly sum up these concepts.

Freedom of Press or Media Freedom is the immunity of the communications media – including newspapers, books, periodicals, radio, and television – from government control or censorship. The *Constitution of India*, while not mentioning the word "press", provides for *"the right to freedom of speech and expression"* under Article 19(1)(a). The Supreme Court of India lost no time in declaring that the freedom of the Press was included in that guarantee as early as 1950. However, this right is subject to Reasonable Restrictions under Article 19(2).

Defamation is an intentional false communication, either written or spoken, that causes injury to a person's reputation. Defamation is an actionable wrong under civil and criminal wrong (under India Penal Code). There are two types of defamation. Verbal defamation is known as slander while written defamation is known as libel.

The Official Secrets Act, 1923 (OSA) is a comprehensive document relating to official secrets and it defines a number of offences. The Act is aimed at maintaining the security of the State against leakage of secret information, sabotage and the like.

Right to information may be defined as the ability of the citizen to obtain information of the state. Right to Information is recognized as a fundamental human right in several international human rights legislations. Right to personal liberty under Article 21 of the *Constitution of India* covers freedom from illegal and unnecessary restraint. Denial of information relating to these aspects is often the denial of the right itself. In 2005, the Right to Information Act 2005 was enacted by the Parliament of India giving citizens of India access to records of Central Government and State Governments.



3.8. Answers to check your progress

A

1. Media Freedom is a guarantee by a government to the media or press for its citizens and their associations, extended to members of news-gath-

ering organizations and journalists, and their published reporting.

2. England

3. Article 19(1)

4. Media Freedom can be restricted for reasons of "sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, preserving decency, preserving morality, in relation to contempt of court, defamation, or incitement to an offence" under Article 19 (2) of the Constitution.

5. (c) USA

6. (b) No

B

1. Defamation is an intentional false communication, either written or spoken, that causes injury to a person's reputation, which is considered as his property. Defamation is an actionable wrong. A statement of defamation is one which exposes the person to hatred, ridicule, or contempt, or which causes him to be avoided or which has a tendency to injure him in office, profession or calling.

2. There are two kinds of defamation: Written and Verbal. The common law origins of defamation lie in the torts of 'slander' (harmful statement in a transitory form, especially speech) and 'libel' (harmful statement in a fixed medium, especially writing but also a picture, sign, or electronic broadcast).

3. Section 500.

4. (c) Section 499.

C

1. 1923.

2. Forms of communicating a sketch, plan, model of an official secret, or of official codes or passwords are considered to be helping the enemy state.

3. The disclosure of any information that is likely to affect the sovereignty and integrity of India, the security of the State, or friendly relations with foreign States, is punishable by this Act under Section 5.

D

1. Information is an idea that has been given a form, such as the spoken language or written word. It is an acquired knowledge or knowledge of facts

which lead to the acquisition of knowledge. Information, under the Right to Information Act, 2005, means any material in any form relating to the administration, operations or decisions of a public authority [S.3(d)].

2. Right to information may be defined as the ability of the citizen to obtain information of the state.

3. Sweden.

4. 2005

5. (a) 2001



3.9. Further Readings

- **Durga Das Basu:** ***Law of the Press***
- **Dr. J.N. Pandy:** ***Constitutional Law of India***
- **Justice P.S. Narayana and Dr. G.B. Reddy :** ***Right to Information and Law***
- **Rodney D. Ryder;** ***Right to Information, Law – Policy - Practice***



3.10. Possible questions

1. Briefly analyse Media Freedom or Freedom of Press? What are the constitutional guarantees and Reasonable Restrictions on Media Freedom
2. Give a brief account of the history of Media Freedom.
3. Write about the law of Defamation as enumerated under the Indian Penal Code. Is Defamation a ground of limitation under the *Constitution of India*?
4. Write a short note on the Official Secret Act, 1923.
5. Write briefly about the development of the concept of Right to Information in different countries and different international legislations.
6. Write a note on the Right to Information Act, 2005.