PGDMC/PGDBJ - 04

Media Laws and Ethics

SEMESTER I

POST GRADUATE DIPLOMA IN MASS COMMUNICATION
POST GRADUATE DIPLOMA IN BROADCAST JOURNALISM

COURSE – 4

KRISHNA KANTA HANDIQUI STATE OPEN UNIVERSITY

Subject Experts

Prof. Partha Chatterjee, Rtd. Head & Dean, Dept. of Mass Communication, Assam University, Silchar

Dr. Manoj Kumar Patairiya, Director, Head, SERC Cell, Department of Science and Technology, Government of India, New Delhi

Dr. Ankuran Dutta, Associate Professor and Head, Department of Communication and Journalism, Gauhati University.

Course Co-ordinator : Dr. Trisha Dowerah Baruah, Assistant Professor, Bhupen Hazarika School of Mass Communication, KKHSOU

SLM Preparation Team

UNITS	CONTRIBUTORS
1-10	Neelotpal Deka, Advocate, Gauhati High Court

Editorial Team

Content	:	Professor Partha Chatterjee, Former Head of the Department of Mass Communication and Dean (Retd.), Assam University
Language	:	Prof. Robin Goswami, Senior Academic Consultant, KKHSOU
Structure, Format & Graphics	:	Dr. Trisha Dowerah Baruah

August, 2013 ; Reprint : June, 2021

This Self Learning Material (SLM) of the Krishna Kanta Handiqui State Open University is made available under a Creative Commons Attribution-Non Commercial-Share Alike 4.0 License (international): http://creativecommons.org/licenses/by-nc-sa/4.0/

Printed and published by Registrar on behalf of the Krishna Kanta Handiqui State Open University.

The University acknowledges with thanks the financial support provided by the **Distance Education Bureau, UGC**, for the preparation of this study material.

Headquarters : Patgaon, Rani Gate, Guwahati - 781017

City Office : Khanapara, Resham Nagar, Guwahati - 781022

Web : www.kkhsou.in

CONTENTS

		Page No.
Unit 1 :	**Constitutional Rights** Concept of Fundamental Rights, Types of Fundamental Rights, Fundamental Rights under the Constitution of India, Concept of Freedom of Speech and Expression, Constitutional Guarantees and Limitations Concept of Directive Principles of State Policy, Differences between Fundamental Rights and Directive Principles of State Policy	7-24
Unit2 :	**Emergency Provisions and Parliamentary Privileges** Emergency and State of Emergency : Concepts , Constitutional Emergency Provisions , Code of Conduct for the Press, 1971, Effect of Emergency Provisions on Media freedom Parliamentary and Legislative Privileges: Concept , Constitutional Provisions on Parliamentary and Legislative Privileges, Freedom of speech Right of publication of proceedings Law Courts and Privileges, Some points on Parliamentary and Legislative Privileges , Effect of Parliamentary and Legislative Privileges on Media Reporting	25-43
Unit 3 :	**Legal Aspects of Media Freedom** Media Freedom, Concept History of Media Freedom Media Freedom, Constitutional Guarantees and Reasonable Restrictions, Defamation: Concept Kinds, Defamation and Law Liabilities of Different Persons as regards Defamation, Official Secrets Act, 1923, Right to Information: Concept, Right to Information: A Human Right Right to Information, International Standards Right to Information, Indian Perspectives Right to Information Act, 2005.	44-64
Unit 4 :	**Rights of Journalists** Press Council of India, Ethics of Journalism, Working Journalists and Other Newspaper Employees (Conditions of Services & Miscellaneous Provision) Act, 1955 Prasar Bharati (Broadcasting Corporation of India) Act, 1990	65-79
Unit 5 :	**Media Freedom** Media freedom, Need for restraint on media freedom, Media and importance of ethics, Media Code of Ethics, Common elements of Media Code of Ethics, Plagiarism, Compliance of Ethical Standards, Right of Reply	80-97

Unit 6 : Media and Privacy 98-116

Media and Intrusion into Privacy, Privacy under International Law, Privacy and Indian Legal Provisions, Sensationalism: Development of the Concept, Sensationalism in Electronic Media, Sting Operations, Operation West End: Tehelka.com, Sting operations in Movies, Novels, Comics and TV Serial, Paparazzi and Celebrities, Restrictions on Paparazzi and Laws, Yellow Journalism, Yellow Journalism Today

Unit 7 : Ethics in Photojournalism 117-128

Ethics in Photojournalism, What is Photography, Ethics in Photojournalism, Plagiarism in Photography, Photographers' Code of Professional Conduct, Use of Photoshop and publishing of digital photographs, Code of Ethics and Photoshop, Photojournalism, Internet and Ethics What is Internet, Photography on the World Wide Web (www), Examples of Manipulated Photographs on the Internet

Unit 8 : Ethics in Advertising & Public Relations 129-146

Ethics in advertising, Ethical and moral principles of advertising, Advertising Standards Council of India (ASCI), ASCI's Mission and Objectives, ASCI and Its principles, Ethics in advertising of medicine, Ethics in Public Relations, Public Relations in the US, Public Relations Society of India (PRSI) & PR Codes

Unit 9 : Regulatory Organisation 147-181

Ombudsman, Press Ombudsman, Press Ombudsman in India, Readers' Editors, Press Commission, the First Press Commission in India, Recommendations of the First Press Commission, Second Press Commission and its Recommendations, Press Council Press Council of India (PCI), PCI: Complin Procedure, PCI and Principles of Media, Broadcasting Services Regulation Bill, 2006

Unit 10 : Media Self-Regulation 182-200

Self-regulation, Media Self-regulation, Code of conduct of different organizations for media personnel Code of conduct of different organisations for media personnel in India, Editors' Guild of India, All India Newspaper Editors' Conference (AINEC), The Indian Newspaper Society (INS), Objectives and Administration of INS, Functions of INS

COURSE INTRODUCTION

In law, a 'right' is the legal or moral entitlement to do or refrain from doing something, or to obtain or refrain from obtaining an action, thing or recognition in civil society. Rights serve as rules of interaction between people, and, as such, they place constraints and obligations upon the actions of individuals or groups. On the other hand, Ethics are norms for conduct that distinguish between an acceptable and unacceptable behavior. It is concerned with what is right or wrong, good or bad, fair or unfair, responsible or irresponsible, obligatory or permissible, praiseworthy or blameworthy. Ethics and standards of journalism comprise the principles of ethics and of good practice as applicable to the specific challenges faced by the professional journalists.

Course IV of the first semester of Master of Mass Communication/ PG Diploma in Mass communication or PG Diploma in Broadcast Journalism programmes introduce you to the various aspects of the media laws and ethics. The Course is divided into ten units, which are as follows –

UNIT- 1: CONSTITUTIONAL RIGHTS

In this unit, you will learn about fundamental rights and its types. You will also learn about the guarantees and limitations as regards 'freedom of speech and expression'. Here we will also introduce you to the concept of the Directive Principles of State Policy incorporated in the *The Constitution of India*. We hope that after going through this unit, you will have the basic understanding of the concept 'Fundamental Rights', 'freedom of speech and expression' and Directive Principles of State Policy.

UNIT- 2: EMERGENCY PROVISIONS AND PARLIAMENTARY PRIVILEGES

In this unit you will learn about the concepts of Emergency, State of Emergency, Parliamentary and Legislative Privileges. You will also learn about different provisions and types of Emergency and the types of Parliamentary and Legislative Privileges under the Constitution of India. You will also be given an understanding about the effect and limitations on Media Reporting because of these constitutional provisions.

UNIT- 3: LEGAL ASPECTS OF MEDIA FREEDOM

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. 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.

UNIT- 4: RIGHTS OF JOURNALISTS

In this unit you will learn about various welfare measures which are provided in the Working Journalists and Other Newspaper Employees (Conditions of Services & Miscellaneous Provision) Act, 1955 along with the administrative machinery under the Act. You will also learn about the objectives of the Prasar Bharati and the composition and functions of the Broadcasting Council.

UNIT- 5: MEDIA FREEDOM

In this Unit when you will learn about media freedom you will be introduced to media ethics which refers to the value system by which a person determines what is right or wrong, fair or unfair, just or unjust which is necessary for media to survive neutrally. You will also learn the common elements of ethics that are necessary for media — truthfulness, accuracy, objectivity, impartiality, dignity, fairness, public accountability and humanity — as these apply to the acquisition of newsworthy information. Finally, you will learn about 'Plagiarism' and the 'Right of Reply' which is a right of an individual to reply to misleading or inaccurate publications about him.

UNIT- 6: MEDIA AND PRIVACY

In this unit you will be introduced to the concept of privacy along with the concept of sensationalism and its impact on the electronic media, concept of sting operation, paparazzi and restrictions imposed by law and finally the concept of yellow journalism.

UNIT- 7: ETHICS IN PHOTOJOURNALISM

In this unit you are being introduced to the ethics of photojournalism, digital manipulation by using Photoshop and ethics concerning it. You will also be introduced to the ethical concerns of photojournalism over Internet.

UNIT- 8: ETHICS IN ADVERTISING & PUBLIC RELATIONS

In this unit you will be introduced to the ethical conduct in advertising, in advertising of medicine and also the code of conduct followed in public relations.

UNIT- 9: REGULATORY ORGANISATION

In this unit you will be introduced to "ombudsman", "press ombudsman" and "Reader's Editor" who work independently within news organisations as the interface between readers, listeners and viewers on the one hand, and journalists and editors on the other. You will also be introduced to the little history about the appointment and recommendations of the First and Second Press Commissions in India. Finally, you will be introduced to the Broadcasting Authority Bill, 2006 which prescribes the regulation of the airwaves which are public property and which in the national and public interest the airwaves needs to be regulated.

UNIT- 10: MEDIA SELF-REGULATION

In this Unit we will discuss the concept of "self-regulation" and "media self-regulation". You are then introduced very briefly to the existing code of practice or conduct for media personnel in different countries. You are also introduced to the code of conduct/practice for media in detail of different organisations like the Editors' Guild of India, the All India Newspaper Editors' Conference (AINEC) and The Indian Newspaper Society (INS) and its objectives, administration and functions.

UNIT- 1: CONSTITUTIONAL RIGHTS

UNIT STRUCTURE

1.1. Learning objectives

1.2. Introduction

1.3. Concept of Fundamental Rights

1.3.1 Types of Fundamental Rights

1.3.2. Fundamental Rights under the *Constitution of India*

1.4. Concept of Freedom of Speech and Expression

1.4.1. Constitutional Guarantees and Limitations

1.5. Concept of Directive Principles of State Policy

1.5.1. Differences between Fundamental Rights and Directive Principles of State Policy

1.6. Let Us Sum Up

1.7. Answers to Check Your Progress

1.8. Further Reading

1.9. Possible Questions

1.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- discuss the concept of Fundamental Rights
- classify the Fundamental Rights
- explain the concept of Freedom of Speech and Expression
- analyze constitutional guarantees and limitations on Freedom of Speech and Expression
- discuss the Directive Principles of State Policy

1.2 INTRODUCTION

In law, a 'right' is the legal or moral entitlement to do or refrain from doing something, or to obtain or refrain from obtaining an action, thing or recognition in civil society. Rights serve as rules of interaction between people, and, as such, they place constraints and obligations upon the actions of individuals or groups. While 'rights' bear certain obligations, legal or moral,

'Fundamental Rights' are the inalienable rights, i.e., rights that cannot be separated from a man since he is a human being. One such inseparable right is the 'freedom of speech and expression', which is important from the point of view of the media –both print and electronic.

In this unit, you will learn about fundamental rights and its types. You will also learn about the guarantees and limitations as regards 'freedom of speech and expression'. Here we will also introduce you to the concept of the Directive Principles of State Policy that governs *The Constitution of India*. We hope that after going through this unit, you will have the basic understanding of the concept 'Fundamental Rights', 'freedom of speech and expression' and Directive Principles of State Policy.

In the next unit we will discuss the concepts of Emergency, State of Emergency, Parliamentary and Legislative Privileges. We will also explain the different provisions and types of Emergency and the types of Parliamentary and Legislative Privileges under the Constitution of India etc.

1.3 CONCEPT OF FUNDAMENTAL RIGHTS

A fundamental right is a right that has its origin in a country's constitution or that is necessarily implied from the terms of that constitution. The fundamental rights usually include those rights which are considered natural human rights and these rights cannot be taken away from a man simply because he is a human being. As early as 1214 the English people were succeeded in getting a promise from King John to respect the ancient liberties in the form of *Magna Carta* which is a written document. This is the first written document relating to the fundamental rights of citizens. With this the King had to accede to different rights of his subjects from time to time. In 1989 the *Bill of Rights* was written declaring all important rights and liberties of the English citizens. In France, the Declaration of Rights of Men and the Citizen (1789) was introduced declaring the natural, inalienable and sacred rights of Man. Following the spirit of the English and French examples the Americans incorporated the *Bill of Rights* in their Constitution in 1791, giving the Bill of Rights a Constitutional status for the first time. In the most modern history of mankind, after the World War II there was gross violation of fundamental (human) rights, and there was cry for the protection of

fundamental rights. The result was the framing of the United Nations Charter, Universal Declaration of Human Rights, International Covenant on Civil and Political Rights 1966 and gradually there developed the regional systems for protection of these right through the regional legislation namely American Convention on Human Rights 1969, European Convention of Human Rights 1950 and African Charter on Human and people's Rights 1981.

Keeping this background the framers of the *Constitution of India* included a full chapter dealing with fundamental rights. This chapter on fundamental rights is in an elaborated form basically echoes the provisions of the UN Charter. The inclusion of a chapter on the fundamental rights in the *Constitution of India* is a modern democratic trend to safeguard the liberties of individuals in a free society. In India, the fundamental rights were felt necessary to protect the rights and liberties of the people against the possible misuse of the power given by them to their government. They are considered as limitations upon the powers of the government, legislative as well as executive, and they are essential for the preservation of public and private rights. In fact, in India, these fundamental rights represent the basic values of the country since the *Vedic* period. These rights protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest.

These rights are considered fundamental because they are most essential for the attainment by the individual his full intellectual, moral and spiritual status.

1.3.1 Types of Fundamental Rights

During the last three decades, a vast number of human rights have found place in the new constitutions and bills of rights of more than eighty countries. Countries which enacted these new constitutions have had the benefit of all the developments in the human rights law which have been taking place since 1950. Some rights generally recognised as fundamental world over are: Right to life, Right to marry, Right to procreate, Right to raise children free from unnecessary governmental interference, Right to freedom of association, Right to freedom of expression, Right to equal treatment

or equal protection before the law (fair legal procedures), Right to freedom of thought, Right to religious belief, Right to choose when and where to acquire formal education, Right to pursue happiness, Right to privacy, Right to vote etc.

In India, constitutional guarantees for the human rights of our people were one of the persistent demands of our leaders throughout the freedom struggle. By the year 1949, when the Constituent Assembly had completed the drafting of the Fundamental Rights Chapter, it had before it the Universal Declaration of Human Rights, 1948.

1.3.2. Fundamental Rights under the *Constitution of India*

Rights literally mean those freedoms which are essential for personal good as well as for the good of the community. The rights guaranteed under the Constitution of India are fundamental as they have been incorporated into the Fundamental Law of the Land and are enforceable in a court of law. However, this does not mean that they are absolute. The fundamental rights related to press are subject to "reasonable restrictions" and after the National Emergency, in India in 1975, the *Constitution of India* was amended to incorporate the corresponding Fundamental Duties so that the fundamental rights of the citizens and also of the media/press are not misused. The Part III of the *Constitution of India* contains the Fundamental Rights which guarantees civil liberties so that all Indians can lead their lives in peace and harmony as citizens of India. These include individual rights common to most liberal democracies, such as equality before law, freedom of speech and expression, freedom of association and peaceful assembly, freedom to practice religion, and the right to constitutional remedies for the protection of civil rights. Violations of these rights result in punishments as prescribed in the Indian Penal Code (IPC), subject to direction of the judiciary. The Fundamental Rights are defined as basic human freedoms which every Indian citizen has the right to enjoy for a proper and harmonious development of personality. These rights universally apply to all citizens, irrespective of race, place of birth,

religion, caste, creed, colour or sex. They are enforceable by the courts, subject to certain limitations. These Rights have their origins in many sources, including England's Bill of Rights, the United States Bill of Rights, France's Declaration of the Rights of Man, Irish Constitution etc. The seven fundamental rights under the *Constitution of India* are:

Right to equality (Articles 14-18)

Right to equality is an important right provided under the Constitution. It is the principal foundation of all other rights and liberties, and it guarantees equality before law, social equality and equal access to public areas, equality in matters of public employment, abolition of untouchability, abolition of Titles etc.

Right to freedom (Articles 19-22)

The *Constitution of India* contains the Right to Freedom with the view of guaranteeing individual rights that were considered vital by the framers of the constitution. The Right to Freedom in Article 19 guarantees the following six freedoms:

- *Freedom of speech and expression*, which enables an individual to participate in public activities. The phrase, "freedom of press" has not been used in Article 19, but freedom of expression includes freedom of press. Reasonable restrictions can be imposed in the interest of public order, security of State, decency or morality.
- *Freedom to assemble peacefully without arms*, on which the State can impose reasonable restrictions in the interest of public order and the sovereignty and integrity of India.
- *Freedom to form associations or unions* on which the State can impose reasonable restrictions on this freedom in the interest of public order, morality and the sovereignty and integrity of India.
- *Freedom to move freely throughout the territory of India:* reasonable restrictions can be imposed on this right in the interest of the general public; for example, restrictions may be imposed on movement and travelling, so as to control epidemics.
- *Freedom to reside and settle in any part of the territory of India* which is also subject to reasonable restrictions by the State in

the interest of the general public or for the protection of the scheduled tribes because certain safeguards as are envisaged here seem to be justified to protect the indigenous and tribal peoples from exploitation and coercion.

- *Freedom to practice any profession or to carry on any occupation, trade or business* on which the State may impose reasonable restrictions in the interest of the general public. Thus, there is no right to carry on a business which is dangerous or immoral. Also, professional or technical qualifications may be prescribed for practicing any profession or carrying on any trade.

Right against exploitation (Articles 23-24)

The right against exploitation, given in Articles 23 and 24, provides for two provisions, namely the abolition of trafficking in human beings and forced labor, and abolition of employment of children below the age of 14 years in dangerous jobs like factories and mines. Child labour is considered a gross violation of the spirit and provisions of the constitution. Trafficking in humans for the purpose of slave trade or prostitution is also prohibited by law.

Right to freedom of religion (Articles 25-28)

Right to freedom of religion provides religious freedom to all citizens of India. According to the Constitution, all religions are equal before the State and no religion shall be given preference over the other. Citizens are free to preach, practice and propagate any religion of their choice.

Cultural and educational rights (Articles 29-30)

As India is a country of many languages, religions, and cultures, the Constitution provides special measures, in Articles 29 and 30, to protect the rights of the minorities. Any community which has a language and a script of its own has the right to conserve and develop them. No citizen can be discriminated against for admission in State or State aided institutions. All minorities, religious or linguistic, can set up their own educational institutions in order to preserve and develop their own culture. In granting aid to institutions, the State cannot discriminate against any institution on the basis of the fact that it is administered by

a minority institution. But the right to administer does not mean that the State can not interfere in case of maladministration.

Right to constitutional remedies (Articles 21-35)

Right to constitutional remedies empowers the citizens to go to a court of law in case of any denial of the fundamental rights. For instance, in case of imprisonment, the citizen can ask the court to see if it is according to the provisions of the law of the country. If the court finds that it is not, the person will have to be freed. This procedure of asking the courts to preserve or safeguard the citizens' fundamental rights can be done in various ways. The courts can issue various kinds of *writs*. These writs are *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*. When a national or state emergency is declared, this right is suspended by the Central Government.

Right to Life and personal liberty (As per 86th amendment of 2002)

The constitution also guarantees the right to life and personal liberty under Article 20 and 21, with specific provisions in which these rights are applied and enforced:

- Protection with respect to conviction for offences is guaranteed in the right to life and personal liberty. According to Article 20, no one can be awarded punishment which is more than what the law of the land prescribes at that time. Moreover, no person accused of any offence shall be compelled to be a witness against himself. The other principle enshrined in this Article is that no person can be convicted twice for the same offence.
- Protection of life and personal liberty is also stated under right to life and personal liberty. Article 21 declares that no citizen can be denied his life and liberty except by law. This means that a person's life and personal liberty can only be disputed if that person has committed a crime. However, the right to life does not include the right to die, and hence, suicide or an attempt thereof, is an offence.



LET US KNOW

Some Interesting Definitions and Quotes:

- **Right:** Morally good or acceptable; what is correct

according to law or a person's duty. – *Oxford Advance Learner's Dictionary*

- **Freedom:** The right to do or say what you want without anyone stopping you. – *Oxford Advance Learner's Dictionary*
- Safeguarding the rights of others is the most noble and beautiful end of a human being. – Kahlil Gibran
- Freedom is not worth having if it does not connote the freedom to err. – Mahatma Gandhi
- In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms. The first is freedom of speech and expression.

– Franklin D. Roosevelt

- Freedom of expression - in particular, freedom of the press - guarantees popular participation in the decisions and actions of government, and popular participation is the essence of our democracy. – Corazon Aquino

Following important paragraphs are from John Milton, in *Areopagitica: A speech of Mr John Milton for the liberty of unlicensed printing to the Parliament of England* (1644) –

- When as debtors and delinquents may walk abroad without a keeper, but unoffensive books must not stir forth without a visible jailer in their title.
- As good almost kill a man as kill a good book: who kills a man kills a reasonable creature, God's image; but he who destroys a good book, kills reason itself, kills the image of God, as it were, in the eye.
- And though all the winds of doctrine were let loose to play on the earth, so Truth be in the field, we do injuriously by licensing and prohibiting misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse in a free and open encounter?



CHECK YOUR PROGRESS

Q.1: What is "Right"?

.....

.....

.....

Q.2: Why "Fundamental Rights" are so called?

.....

.....

.....

Q.3: Which of the Following is not a Fundamental Right?

(a) Right to equality (b) Right to freedom (c) Right against exploitation (d) Right to freedom of religion (e) Right to Property (f) Cultural and educational rights (g) Right to constitutional remedies (h) Right to Life and personal liberty

.....

1.4 CONCEPT OF FREEDOM OF SPEECH AND EXPRESSION

Freedom of speech and expression means the right to express one's own ideas and opinions freely by words of mouth, writing, printing, pictures or any other possible mode. It thus includes the expression of one's ideas through any communicable medium or visible representation, such as, gesture, signs and the like. It means to speak freely without censorship. The freedom of expression also includes publication and thus, the freedom of press is included in this category. The right to freedom of speech is guaranteed under international law through numerous human-rights instruments, notably under Article 19 of the Universal Declaration of Human Rights and Article 10 of the European Convention on Human Rights. In practice, the right to freedom of speech is not absolute in any country, although the degree of freedom varies greatly. Industrialized countries also have varying approaches to balance freedom with order. For instance, in the United States, First Amendment to their Constitution grants absolute freedom and on the other hand allows the State to impose limitation when the restriction of this freedom is felt necessary. In almost all liberal democratic countries, free expression is a recognised principle, but it generally comes with some limitations as exceptions.

Freedom of speech and expression is the most basic of all freedoms granted to the citizens of India under Article 19(1)(a). The freedom of speech and that of the press lie at the foundation of a democratic society, for without free political discussions, no public education is possible, which is so important for the proper functioning of the government. It allows us to express our ideas and thoughts freely through any medium such as print, visual, and voice. One can use any communication medium of visual representation such as signs, pictures, or movies. The freedom of publication is also covered under the freedom of speech. Freedom of speech serves four purposes:

- Allows an individual to attain self fulfillment.
- Assits in the discovery of truth.
- It strengthen the capacity of a person to make decisions.
- It facilitates a balance between stability and social change.

This right is not only about communicating your ideas to others but also about being able to publish and propagate other people's views as well. The fundamental principle involved here is the "people's right to know". Thus, freedom of speech and expression is linked to the people's right to know.

1.4.1 Constitutional Guarantees and Limitations

The importance of freedom of speech and expression as a basic and valuable characteristic of a society cannot be underestimated. But the freedom of speech and of the press does not give you an absolute right to express without any responsibility. Ever since the first consideration of the idea of 'free speech' came up it has been argued that the right to free speech should be subject to restrictions and exceptions and some traditional restriction on the freedom of speech and expressions emerged which are sometimes considered an assault on this freedom. Restrictions on speech that are sometimes characterised as assaults on freedom of speech include defamation (slander and libel), obscenity, threats, lying in court (perjury), talk that causes contempt of court, speaking about a trial outside the court room after the judge forbids it, speaking publicly without permission, hate speech that is defamatory or causes incitement to violence, noise

pollution, speech that contains a copyright infringement, Company secrets (trade secrets), political secrets, classified information sensitive or secret to protect the national interest, lies that cause a crowd to panic or causes clear and present danger, sedition, treason, blasphemy etc.

The *Constitution of India* also confers the Right to Freedom of Speech and Expression, but with certain restrictions as under Article 19 Clause 2, which states that "Nothing shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred in the interests of the 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." These grounds for reasonable restrictions are in the same language as we find in the international norm and these can be noted under following heads:

- Security of the State
- Friendly relations with foreign States
- Public order
- Decency and morality
- Contempt of court
- Defamation
- Incitement to an offence
- Sovereignty and integrity of India

Reasonable restrictions on these grounds can be imposed only by a duly enacted law and not by executive action.



CHECK YOUR PROGRESS

Q.4: What is 'Freedom of speech and expression'?

.....

.....

.....

.....

Q.5: Which Article of the *Constitution of India* governs the 'Freedom of Press'?

.....

.....

.....

.....

Q.6: Which of the Following is not a Reasonable Restriction on 'Freedom of speech and expression' under the *Constitution of India*?

(a) Security of the State

(b) Friendly relations with foreign States

(c) Decency and morality

(d) Public order

(e) Incitement to an offence

(f) Contempt of court

(g) Defamation

(h) Protection of indigenous people

(i) Sovereignty and integrity of India

.....

.....

1.5 CONCEPT OF DIRECTIVE PRINCIPLES OF STATE POLICY

The *Constitution of India* which lays down the basic structure of our nation's polity is built on the foundations of certain fundamental values. The vision of our founding fathers and the aims and objectives which they wanted to achieve through the Constitution are contained in the Preamble, the Fundamental Rights and the Directive Principles of State Policy. These three may be described as the soul of the Constitution.

The Directive Principles of State Policy are guidelines to the central and state governments of India, to be kept in mind while framing laws and policies, even though they are non-justiciable in nature. These provisions, contained in Part IV of the *Constitution of India*, are not enforceable by any court, but the principles laid down therein are considered fundamental in the

governance of the country, making it the duty of the State to apply these principles in making laws to establish a just society in the country. The principles have been inspired by the Directive Principles given in the Constitution of Ireland and also by the principles of Gandhian philosophy; and relate to social justice, economic welfare, foreign policy, and legal and administrative matters. Directive Principles are classified under the following categories:

- Gandhian
- Economic and socialistic
- Political and administrative
- Justice and legal, environmental
- Protection of monuments and
- Peace and security

The Directive Principles of State Policy, embodied in Part IV of the constitution, are directions given to the central and state governments to guide the establishment of a just society in the country. The Directive Principles act as a check on the government; theorised as a yardstick in the hands of the people to measure the performance of the government. If laws are made to give effect to the Directive Principles over Fundamental Rights, they shall not be invalid on the grounds that they take away the Fundamental Rights. In case of a conflict between Fundamental Rights and Directive Principles, the courts shall give more importance to the Directive Principles.

The Directive Principles of State Policy direct the Government to (1) secure all its citizens an adequate means of livelihood (2) make all material resources beneficial to the common good (3) prevent concentration of wealth (4) ensure both men and women get equal pay for equal work (5) prevent child labour (6) make provision for free legal aid to the poor (7) organise village *panchayat*s (8) secure the right to work, education and public assistance to the unemployed, aged, sick and disabled (9) provide maternity relief to working women (10) promote cottage industries (11) secure uniform civil code (12) provide free and compulsory education for children of 14 years of age (13) promote the education and economic condition of the scheduled caste, scheduled tribes and other weaker sections (14) raise the standard of living and improve public health (15) organise agriculture and animal husbandry (16) protect and improve the environment (17) safeguard forests

and wildlife (18) protect monuments of historical interest (19) separate judiciary from executive and (20) promote international peace and security.

The Directive Principles commit the State to promote the welfare of the people by affirming social, economic and political justice, as well as to fight economic inequality. The State must continually work towards providing an adequate means of livelihood for all citizens, equal pay for equal work for men and women, proper working conditions, protection against exploitation and reduce the concentration of wealth and means of production from the hands of a few. The State must provide free legal aid to ensure that opportunities for securing justice are not denied to any citizen for reason of economic or other disabilities. The State should work for organisation of village *panchayats*, provide the right to work, education and public assistance in certain cases; as well as the provision of just and humane conditions of work and maternity relief. A living wage and safe working conditions for citizens must be ensured, as must their participation in the management of industries. The State is encouraged to secure a uniform civil code for all citizens, provide free and compulsory education to children, and to work for the economic uplift of scheduled castes, scheduled tribes and other backward classes.

The Directive Principles commit the State to raise the standard of living and improve public health, and organise agriculture and animal husbandry on modern and scientific lines. The State must safeguard the environment and wildlife of the country. The State must ensure the preservation of monuments and objects of national importance and separation of judiciary from executive in public services. The State must also strive for the maintenance of international peace.

The Directive Principles have been amended to meet definite objectives. Article 45, which ensures provision for free and compulsory education for children, was added by the 86th Amendment Act, 2002. Article 48-A, which ensures Protection of the environment and wildlife, was added by the 42nd Amendment Act, 1976.

1.5.1 Differences between Fundamental Rights and Directive Principles of State Policy

Following are the basic differences between the Fundamental Rights and the Directive Principles of State Policy:

1. The Government cannot take away or abridge the Fundamental Rights. Directive Principles of State Policy are mere instructions to the Government.
2. Fundamental Rights are enforceable in law courts. Directive Principles of State Policy are not enforceable in any court.
3. The Government cannot take policy decisions on the Fundamental Rights. The Government has powers to make policy decisions on the Directive Principles of State Policy.
4. Fundamental Rights strengthen political democracy. The implementation of Directive Principles of State Policy ensures social and economic democracy.
5. Fundamental Rights are natural rights. Directive Principles of State Policy leads to protect human rights.



CHECK YOUR PROGRESS

Q.7: What are considered to be the soul of the *Constitution of India*?

.....

.....

.....

Q.8: Directive Principles of State Policy are inspired by the Constitution of which country?

.....

.....

.....

Q.9: Which of the following categories is not covered under the Directive Principles of State Policy?

(a) Gandhian

(b) Justice and legal

(c) Matrimonial and matriarchy

(d) Public order

(e) Peace and security

(f) Political and administrative

(g) Environmental

(h) Economic and socialistic

(i) Protection of monuments

.....

.....



1.6 LET US SUM UP

- In this unit you have been introduced to the basic concepts of Right, Fudamental Rights, Freedom of Speech and Expression and Directive Principles of State Policy. Let us now quickly sum up these concepts.
- A 'right' is the legal or moral entitlement to do or refrain from doing something, or to obtain or refrain from obtaining an action, thing or recognition in civil society. While 'rights' bear certain obligations, legal or moral, 'Fundamental Rights' are the inalienable rights, i.e., rights that cannot be separated from a man since he is a human being.
- A fundamental right is a right that has its origin in a country's constitution or that is necessarily implied from the terms of that constitution. In India, these fundamental rights represent the basic values of the country since the *Vedic* period. These rights protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest.
- Fundamental Rights are enforceable by the courts, subject to certain limitations. The Part III of the *Constitution of India* contains these Fundamental Rights in India. These Rights have their origins in many sources, including England's Bill of Rights, the United States Bill of Rights, France's Declaration of the Rights of Man, Irish Constitution etc. The seven fundamental rights under the *Constitution of India* are: Right to equality, Right to freedom, Right against exploitation, Right to freedom of religion, Cultural and educational rights, Right to constitutional remedies and Right to Life and personal liberty.
- Right to Freedom includes Freedom of speech and expression [Article 19(1)(a)] which means the right to express one's own ideas and opinions freely by words of mouth, writing, printing, pictures or any

other possible mode. The freedom of expression also includes publication and thus the freedom of press is included in this category. Right to Freedom of Speech and Expression comes with certain restrictions as under Article 19 Clause 2 and grounds are: Security of the State, Friendly relations with foreign States, Public order, Decency and morality, Contempt of court, Defamation, Incitement to an offence, Sovereignty and integrity of India.

- The *Constitution of India* lays down the basic structure of our nation's polity which is contained in the Directive Principles of State Policy (DPSP). These are guidelines to the central and state governments of India, to be kept in mind while framing laws and policies. DPSPs are classified under the following categories: Gandhian, Economic and socialistic, Political and administrative, Justice and legal, Environmental, Protection of monuments and Peace and security.



1.7 FURTHER READING

1. Dr. Madabhushi Sridhar: *The Law of Expression*
2. Dr. J. N. Pandey : *Constitutional Law of India*
3. Ajay Dash: *Freedom of Press*



1.8 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: A 'right' is the legal or moral entitlement to do or refrain from doing something, or to obtain or refrain from obtaining an action, thing or recognition in civil society. It bears certain legal and moral obligations.

Ans. to Q. No. 2: Fundamental Rights' are so called because they inalienable rights, i.e., rights that cannot be separated from a man since he is a human being. These fundamental and naturally inalienable rights allow our basic human qualities to develop that include one's intelligence, talent, thoughts and physical and spiritual needs among others.

Ans. to Q. No. 3: (e) Right to Property

Ans. to Q. No. 4: Freedom of speech and expression which means the right to express one's own ideas and opinions freely by words of mouth, writing, printing, pictures or any other possible mode. The freedom of expression also includes publication and thus the freedom of press is included in this category.

Ans. to Q. No. 5: Article 19(1)(a) of the *Constitution of India* governs the 'Freedom of Press'.

Ans. to Q. No. 6: (h) Protection of indigenous people.

Ans. to Q. No. 7: The Preamble, the Fundamental Rights and the Directive Principles of State Policy are considered to be as the soul of the Constitution.

Ans. to Q. No. 8: The Directive Principles of State Policy in the Constitution of India are inspired by the Constitution of Ireland.

Ans. to Q. No. 9: (c) Matrimonial and matriarchy



1.9 POSSIBLE QUESTIONS

Q. 1: What are Fundamental Rights? Write a note briefly on the origin of Fundamental Rights?

Q. 2: What are the Fundamental Rights guaranteed under the Constitution of India? Explain.

Q. 3: Explain the Constitutional guarantees and limitations (Reasonable restrictions) on the Freedom of Speech and Expression?

Q. 4: Explain the Directive Principles of State Policy which are enumerated under the *Constitution of India*?

Q. 5: What are the differences between Fundamental Rights and Directive Principles of State Policy?

* * * * *

UNIT- 2 : EMERGENCY PROVISIONS AND PARLIAMENTARY PRIVILEGES

Unit Structure

2.1 Learning objectives

2.2 Introduction

2.3 Emergency and State of Emergency: Concepts

- 2.3.1 Constitutional Emergency Provisions
- 2.3.2 Code of Conduct for the Press, 1971
- 2.3.3 Effect of Emergency Provisions on Media freedom

2.4 Parliamentary and Legislative Privileges: Concept

- 2.4.1 Constitutional Provisions on Parliamentary and Legislative Privileges
- 2.4.2 Freedom of speech
- 2.4.3 Right of publication of proceedings
- 2.4.4 Law Courts and Privileges
- 2.4.5 Some points on Parliamentary and Legislative Privileges
- 2.4.6 Effect of Parliamentary and Legislative Privileges on Media Reporting

2.5 Let Us Sum Up

2.6 Answers to Check Your Progress

2.7 Further Reading

2.8 Possible Questions

2.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- discuss the concept of Emergency
- explain the Constitutional provisions related to Emergency in India
- analyze the effect of Emergency provisions on media reporting
- identify the Legislative and Parliamentary privileges
- analyze the effect of Legislative and Parliamentary privileges on media reporting

2.2 INTRODUCTION

Emergency is a serious situation or occurrence that happens unexpectedly and demands immediate action. It may pose immediate risk to health, life, property or environment. Most emergencies require urgent intervention to prevent a worsening of the situation, although in some situations, solutions may not be possible and agencies may only be able to offer proper care for the aftermath. The *state of emergency* is a time of crisis, declared by a government, during which normal laws and civil rights (including Freedom of Media) can be suspended. Another important facet of the law in Media Reporting is the limitation due to 'parliamentary privilege' which refers to two significant aspects of the law relating to both Houses of Parliament and of their members and committees – Freedom of Speech and Right of publication of proceedings.

In this unit you will learn about the concepts of Emergency, State of Emergency, Parliamentary and Legislative Privileges. You will also learn about different provisions and types of Emergency and the types of Parliamentary and Legislative Privileges under the Constitution of India. You will also be given an understanding about the effect and limitations on Media Reporting because of these constitutional provisions.

In the next unit we will discuss the penal provisions in India and the concept of Right to Information is analyzed in relation to international and domestic legislations along with the constitutional provisions and finally the Official Secrets Act, 1923.



LET US KNOW

Some Interesting Definitions and Quotes:

Emergency: A sudden serious and dangerous event or situation which needs immediate action to deal with.

– Oxford Advanced Learner's Dictionary

Privileges: Privilege is an exceptional right or advantage, an exemption from some duty or burden of attendance, to which certain persons are entitled from a supposition of law that the situations they fill or the offices they are engaged in are such as require all their care, and that, therefore,

without this indulgence it would be impracticable to execute such offices as advantageously as the public good requires. – Earl Jowitt

Parliamentary Privileges: The sum of the peculiar rights enjoyed by each house collectively is a constituent part of the High Court of Parliament, and by members of each house of parliament individually, without which they cannot discharge their functions, and which exceed those possessed by other bodies or individuals.

– Sir Thomas Erskine May

2.3 EMERGENCY AND STATE OF EMERGENCY: CONCEPTS

A precise definition of an *emergency* is difficult to arrive at. This definition may vary according to the agencies involved and the procedures used. This definition is usually set by the government, whose agencies are responsible for emergency planning and management. An emergency is a situation which poses an immediate risk to health, life, property or environment. Most emergencies require urgent intervention to prevent a worsening of the situation, although in some situations, solutions may not be possible and agencies may only be able to offer proper care for the aftermath. Whilst some emergencies are self evident (such as a natural disaster which threatens many lives), many smaller incidents require the opinion of an observer (or affected party) in order to decide whether it qualifies as an emergency.

A *state of emergency* is a governmental declaration that may suspend certain normal functions of government, may work to alert citizens to change their normal behaviors, or may order government agencies to implement emergency preparedness plans. It can also suspend all civil liberties. Such declarations usually come during a time of natural disaster, during periods of civil unrest, or following a declaration of war (therefore, in democratic countries many call this martial law).

In some countries, the state of emergency and its effects on civil liberties and governmental procedure are regulated by the constitution, or a law that limits the powers that may be invoked during an emergency or rights suspended. Modification of emergency law or Constitution during the emergency is illegal.

2.3.1 Emergency Provisions under the *Constitution of India*

A state of emergency in India refers to a period of governance under an altered constitutional setup that can be proclaimed by the President of India, when he perceives grave threats to the nation from internal and external sources or from financial situations of crisis. Under the advice of the cabinet of ministers and using the powers vested in him largely by Part XVIII of the *Constitution of India*, the President can overrule many provisions of the constitution, which guarantee fundamental rights to the citizens of India and acts governing devolution of powers to the states which form the federation. In the history of independent India, there were three periods during which a state of emergency was deemed to have existed:

1. Between 26 October 1962 to 10 January 1968 during the India-China war — "the security of India" having been declared "threatened by external aggression".
2. In December 1971, originally proclaimed during the India-Pakistan war, and later extended along with the third proclamation — "the security of India" having been declared "threatened by external aggression".
3. Between 26 June 1975 to 21 March 1977 under controversial circumstances of political instability under the Indira Gandhi's prime ministership — "the security of India" having been declared as "threatened by internal disturbances".

The President can declare three types of emergencies:

- National Emergency
- State Emergency
- Financial Emergency

National Emergency under Article 352

National emergency is caused by war, external aggression or armed rebellion in the whole of India or a part of its territory. Such an emergency was declared in India in 1962 (Indo-China war), 1971 (Indo-Pakistan war), and 1975 (declared by Indira Gandhi to maintain law and order in

the country). The President can declare such an emergency only on the basis of a written request by the Council of Ministers headed by the Prime Minister. Such a proclamation must be approved by the Parliament within one month. Such an emergency can be imposed for six months. It can be extended by six months by repeated parliamentary approval. In such an emergency, Fundamental Rights of Indian citizens can be suspended. The six freedoms under Right to Freedom are automatically suspended. However, the Right to Life and Personal Liberty cannot be suspended. During Emergency the Parliament can make laws on the 66 subjects of the State List (which contains subjects on which the state governments can make laws). Also, during emergency all money bills are referred to the Parliament for its approval. During the period of Emergency the term of the Lok Sabha can be extended by a period of one year but not more than six months from the date when the emergency has ceased to exist.

State Emergency under Article 356

'President's Rule' or 'Central Rule' (State Emergency) is the term used in India when a state government is dissolved and is placed under the direct rule by the President of India. President's Rule is enabled by Article 356 of the *Constitution of India* and it is declared due to failure of constitutional machinery in a state. If the President is satisfied, on the basis of the report of the Governor of the concerned state or from other sources ,that the governance in a state cannot be carried out according to the provisions in the Constitution, he can declare emergency in the state. The state governor can dissolve the house on his own discretion, if there is no clear majority in the house, on the advice of the ruling party or by the central government. The governor then dissolves the house, placing it in 'suspended animation' for a period of six months. After six months, if there is no clear majority, then fresh elections are held.

During the State Emergency the Parliament makes laws on the 66 subjects of the State List. All money bills have to be referred to the Parliament for approval. In this situation ministers of state legislature are not allowed to perform action in state. Such an emergency must be approved by the Parliament within a period of six months. It is imposed

for six months and can last for a maximum period of three years with repeated parliamentary approval every six months. If the Emergency needs to be extended for more than three years, it can be done by a constitutional amendment. This type of amendment was carried on in case of Punjab and Jammu and Kashmir.

It is called President's Rule as the President of India governs the state instead of an elected Chief Minister, but at administrative level the state Governor is delegated the executive authority on behalf of the central government. This Article was enabled as a means for the central government to assert authority over a state if civil unrest (such as riots) occurred and the state government didn't have the means to end the unrest. Critics of president's rule argue that most of the time, it has been used as a pretext to dissolve state governments ruled by political opponents. Thus, it is seen by many as a threat to the federal state system.

Almost all states in India have undergone this type of an emergency. Since the *Constitution of India* was adopted in 1950, the central government has used this Article more than 100 times to dissolve state governments and impose President's Rule. This article was used for the first time during Vimochana Samaram (or The Liberation Struggle in the history of Kerala is the political agitation that started in 1958 against first communist government) to dismiss the democratically elected Communist Ministry of Kerala on July 31, 1959.

Financial Emergency under Article 360

If the President is satisfied that there is an economic situation in which the financial stability or credit of India is threatened, the President can declare Financial Emergency. Such an emergency must be approved by the Parliament within two months. It has never been declared in India. Such a situation had arisen once in India, but was avoided by selling off of the gold assets of India.

Financial Emergency once proclaimed remains enforced till the President revokes it. During Financial Emergency, the President can reduce the salaries of all government officials, including judges of the Supreme Court and High Courts. All money bills passed by the state

legislatures are submitted to the President for his approval. He can direct the state to observe certain principles (economy measures) relating to financial matters.

2.3.2 Code of Conduct for the Press, 1971

A Press Consultative Committee appointed by the Government of India during the Emergency of 1971 has formulated a Code of Conduct for the Press in time of Emergency. These are:

– Withhold publication of information considered by the appropriate authorities to be detrimental to national interests.
– Stop dissemination of confidential information collected in the course of professional duties.
– Withhold republication of information and comment prejudicial to national interests from foreign and internal sources.
– Avoid loose talk, as this is likely to lead to wild rumours due to the general belief in public that members of the press have access to sources not generally available.

2.3.3 Effect of Emergency Provisions on Media Freedom

There is no provision in our Constitution for suspension of Fundamental Rights except during the Emergency period as mentioned under the provisions in Part XVIII. Two Provisions relevant in this context are Articles 358 and 359. Article 358 deals with National Emergency, which empowers the state to suspend the operation of Article 19 (Right to Freedom of Speech and Expression which includes Freedom of Media) during the operation of a Proclamation of Emergency made under Article 352. Any law or order made after the coming into operation of the Proclamation of Emergency, cannot be challenged on the ground of violation of any provision of Article 19. Even after the Emergency is over, the constitutionality of the acts done or omitted to be done during Emergency cannot be challenged on the same ground. Therefore, the effect of Article 358 is enormous on the Media Freedom which is guaranteed by Article 19. As soon as the Proclamation ceases to operate, the legislative enactments passed and the executive actions taken

during the course of emergency shall be inoperative and Article 19 which remains suspended during the Emergency is automatically revived and begins to operate. The suspension of Article 19 under Article 358 applies to the whole country and covers all the States.

But after the amendment of the Article 359(1) by the 44th Amendment (1978) of the Constitution now the Fundamental Rights conferred under Article 20 (Protection in respect of conviction for offences) and 21 (Right to life and personal liberty) cannot be suspended even during the Proclamation of Emergency under Article 352 (National Emergency). The Effect of the Article 359 is that during Emergency under Article 352 a journalist who may have been imprisoned or detained under any law of preventive detention, may challenge his imprisonment or detention on the grounds available under Articles 20 and 21 even if all other Fundamental Rights are suspended under Article 358 or the enforcement of Article 19 has been barred by an Order under Article 389. Order issued under Article 359 may extend to the whole of India or may be confined to any part of the territory of India.

Proclamation of State Emergency under Article 356 will not effect Fundamental Rights at all. In fact in a National Emergency the Media has a vital role to play. During this period the role of the Media is important from the point of view of the government and the people. The strength of the people's morale and determination depends much upon the way the news and views are published and disseminated through the Media. If we take the example of a modern war, information of value to the enemy not only relates to the movement of troops, aircraft or military operations but also to such matters as food and supplies, communications, internal political conditions, etc. During State Emergency though the Media Freedom is not lifted the Media should be careful about not publishing the news and views which might either directly be of use to the enemy as affecting tactical, strategic or industrial plans or indirectly tend to strengthen the morale of the enemy.

Similarly, under Proclamation of Financial Emergency under Article 360, Fundamental Rights cannot be curtailed. Financial Emergency provisions expand executive powers only.



CHECK YOUR PROGRESS

Q.1: What is Emergency?

.....

.....

Q.2: What is State of Emergency?

.....

.....

Q.3: Which Part and Articles of the *Constitution of India* contains Emergency provisions?

.....

.....

Q.4: Choose the correct answer:

(a) National Emergency was proclaimed in India –

(i) Once (ii) Twice (iii) Thrice (iv) Four times

.....

(b) All six freedoms under the *Constitution of India* are suspended during

National Emergency except –

(i) Right to Freedom (ii) Educational Rights (iii) Cultural Rights

(iv) Right to Life and Personal Liberty

.....

(c) During the State Emergency or President's Rule thePresident of India

delegates executive authority to –

(i) Chief Minister (ii) Home Minister (iii) Governor (iv) Law Minister

.....

(d) Financial Emergency is proclaimed under Article –

(i) 352 (ii) 358 (iii) 356 (iv) 360

.....

2.4 PARLIAMENTARY AND LEGISLATIVE PRIVILEGES: CONCEPT

Parliamentary or Legislative Privileges are the legal immunities conferred upon the members of the parliament or a legislature with regard to the acts

they may perform in the legislature or on its behalf. That means no member may be held to account by an outside body or individual for words spoken within Parliament. The principal parliamentary privilege in the UK Parliament is that of freedom of speech in its proceeding, given statutory expression in Article 9 of the 1689 Bill of Rights. This marked the parliamentary victory over the royal executive in the struggle that had lasted for most of the 17th century. Similar notions exist in most other democratic legislatures. Also surviving, but of diminished importance, are the privileges of freedom from arrest in civil process, freedom of access to the monarch, and rights of punishment against those abusing parliamentary privilege or those held to be in contempt of parliament. Parliamentary Privilege is also known as Absolute Privilege.

Parliamentary privilege is controversial because of its potential for abuse; a member can use this privilege to make damaging allegations that would ordinarily be discouraged by defamation laws, without looking at the fact the such allegations are having any basis or not.

2.4.1 Constitutional Provisions on Legislative & Parliamentary Privileges

The *Constitution of India*, like that of the U.K. or the U.S.A., provides for the independence of the functioning of the Houses of legislature, both at the Union and State levels. Article 105 of the Constitution defines parliamentary privileges of both Houses of Parliament and of their members and committees and Article 194, which is an exact reproduction of Article 105, deals with the State Legislatures and their members and committees. The members are also given protection because the House cannot perform its functions without the service of its members. Since there is no difference between the terminology of Articles 105 and 194, it may be sufficient to refer only to Article 105.

Parliamentary privilege is an essential incident to the high and multifarious functions which the legislature is called upon to perform. In defining parliamentary privilege this Article 105 adopts certain method. Two privileges, namely, 'freedom of speech' and 'freedom of publication of proceedings', are specifically mentioned in clauses (1) and (2). With respect to other privileges of each House, clause (3) before its amendment in 1978 laid down that the powers, privileges and

immunities shall be those of the House of Commons of the United Kingdom at the commencement of the Constitution until they are defined by an Act of Parliament.

2.4.2 Freedom of speech

Article 105, clause (1), expressly safeguards freedom of speech in parliament. It says: there shall be freedom of speech in parliament. Clause (2) further provides that no member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in parliament or any committee thereof. Article 105 (2) confers immunity, *inter alia*, in respect of 'anything said in Parliament', the word 'anything' is of the widest import and is equivalent to 'everything'. No action, civil or criminal, will therefore lie against a member for defamation or the like in respect of things said in parliament or its committees. The immunity is not limited to mere spoken words, it extends to votes, as clause (2) specifically declares,

"any vote given by him in parliament or any committee thereof". Though not expressly stated, the freedom of speech would extend to other acts also done in connection with the proceedings of each House, such as, for Notices of Motions, questions, reports of the committee, or the resolutions.

Freedom of speech in Parliament is subject to the provisions of the Constitution relating to the procedures of Parliament, i.e., subject to the articles relating to procedures in Part V including Articles 118, 121, 208 and 211. Thus, for example, freedom of speech in Parliament would not permit a member to discuss the conduct of any judge of the Supreme Court or of a High Court. Likewise, the freedom of speech is subject to the rules of procedures of a House, such as use of unparliamentary language or unparliamentary conduct.

The freedom of speech guaranteed under clause (1) is different from that which a citizen enjoys as a fundamental right under Article 19 (1) (a). The freedom of speech as a fundamental right does not protect an individual absolutely for what he says. The right is subject to Reasonable Restrictions under Article 19(2). The term freedom of

speech used in Article 105 means that no Member of Parliament shall be liable to any proceedings, civil and criminal, in any court for the statements made in debates in the Parliament or any committee thereof. The freedom of speech conferred under this article cannot therefore be restricted under Article 19(2). Clauses (1) and (2) of Article 105 protect what is said within the house and not what a member of Parliament may say outside. Accordingly, if a member publishes his speech outside Parliament, he will be held liable if the speech is defamatory.

2.4.3 Right of publication of proceedings

Clause (2) of Article 105 expressly declares that no person shall be liable in respect of the publication by order under the authority of a House of Parliament, of any report, paper, votes or proceedings. The English Common Law accords the defence of qualified privilege to fair and accurate unofficial reports of parliamentary proceedings, published in a newspaper or elsewhere. In India, the Parliamentary Proceedings (Protection of Publication) Act, 1956 under Section 3 enacts that no person shall be liable to any proceedings, civil or criminal, in a court in respect of the publication of a substantially true report of the proceedings in either House of the Parliament, unless it is proved that the publication is made with malice. The protection under this Section is only given to newspapers or broadcasting agencies. The protection is available provided that the publication is made for public good.

2.4.4 Law Courts and Privileges

The powers, privileges and immunities of each House of Parliament and State Legislatures as well as all its members and all its committees as mentioned under Article 105 and Article 194 are subject to the laws made by the appropriate legislature and also to all other provisions of the Constitution. A House of Parliament or Legislature cannot try anyone or any case directly as a court of justice can, but it can proceed quasi-judicially in cases of contempt of its authority or take up motions concerning its privileges and immunities in order to seek removal of obstructions to the due performance of its legislative

functions. If any question of jurisdiction arises as to a certain matter, it has to be decided by a court of law in appropriate proceedings. For example, the jurisdiction to try a criminal offence such as murder, committed even within a House vests in ordinary courts and not in a Parliament or in a State Legislature. Also, a House of Parliament or State Legislature cannot in exercise of any supposed powers under Articles 105 and 194 decide election disputes for which special authorities have been constituted under the Representation of People Act, 1951 enacted in compliance with Article 329.

2.4.5 Some points on Parliamentary and Legislative Privileges

Important points on privileges of each House of Parliament and Legislative Assemblies and its members and Committees are under the *Constitution of India*, various statutes and rules:

(i) Freedom of speech in Parliament [of Article 105(1)].

(ii) Immunity to a member from any proceedings in any court in respect of any thing said or any vote given by him in Parliament or any Committees thereof [Article 105(2)].

(iii) Immunity to a person from proceedings in any court in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or Proceedings [Article 105(2)].

(iv) Prohibition on the courts to inquire into proceedings of Parliament (Article 122).

(v) Freedom from arrest of Members in civil cases during the continuance of the session of the House and forty days before its commencement and forty days after its conclusion (of section 135 of the Code of Civil Procedure).

(vi) Right of the House to receive immediate information of the arrest, detention, conviction, imprisonment and release of Member (of Rules 222A and 222B of the Rules of Procedure and Conduct of Business in Rajya Sabha).

(vii) Prohibition of arrest and service of legal process within the precincts of the House without obtaining the permission of the Chairman/Speaker.

(viii) Prohibition of disclosure of the proceeding or decision of a secret sitting of House.

(ix) Members or Officers of the House cannot give evidence or produce documents in courts of law, relating to the proceedings of the House without the permission of the House (of First Report of Committee of Privileges of Rajya Sabha presented to the House on the 1st May, 1958).

(x) Members or Officers of the House cannot attend as a witness before the other House or a Committee thereof or before a House of State Legislature or a Committee thereof without the permission of the House and they cannot be compelled to do so without their consent (of Sixth Report of Committee of Privileges of Second Lok Sabha, adopted by Lok Sabha on the 17th December, 1958 and Thirty-third Report of the Committee of Privileges of Rajya Sabha, adopted by the House on 30th March, 1993).

(xi) All Parliamentary Committees are empowered to send for persons, papers and records relevant for the purposes of the inquiry by a Committee. A witness may be summoned by a Parliamentary Committee who may be required to produce such documents as are required for the use of a Committee.

(xii) The evidence tendered before a Parliamentary Committee and its report and proceedings cannot be disclosed or published by anyone until these have been laid on the Table of the House.

2.4.6 Effect of Legislative & Parliamentary Privileges on Media Reporting

The Press is often called an extension of Parliament. It conveys to the people the substance of Parliamentary legislation and discussion and keeps the people informed of what is happening in Parliament with different reporting. Though what appears in the Press may influence the Members and provide them with necessary background, if the published report and materials do not form an authentic record of facts and exclusive reliance cannot be placed by a Member of Parliament on the matter as reported. Thus, it has been ruled by successive Presiding Officers that questions, motions and other notices which are merely

based on Press reports may not be admitted. The Member may be required to produce some other primary evidence on which his notice is based.

Media Freedom has not been expressly provided for in the Constitution, but is implicit in the fundamental right of the "freedom of speech and expression" guaranteed to the citizens under Article 19(1)(a) of the Constitution. It has been settled by judicial decisions that freedom of speech and expression includes freedom of the Press. But while enjoying the "freedom of speech and expression" it is a breach of privilege and contempt of the House to publish expunged (partly omitted) proceedings of the House. This question came up for consideration before the Supreme Court in the *Searchlight* case wherein the Court held that a report of the whole speech including the expunged portion though factually correct, law may regard it as perverted and unfaithful and the publication of such a report may, *prima facie,* be regarded as constituting a breach of privilege of the House.

Absolute immunity has been conferred under the Constitution on all personnel connected with the publication of proceedings of either House of Parliament, if such publication is made by or under the authority of the House. [of Article 105(2)]. This immunity does not, however, extend to the publication of reports of Parliamentary proceedings in newspapers, whether published by a Member of the House or by any other person, unless such publication is expressly authorised by either House. However, constitutional protection has been given to the publication in newspapers or broadcasts by wireless telegraphy of substantially true reports of any proceedings of either House of Parliament, provided the reports are for the public good and are not actuated by malice.



CHECK YOUR PROGRESS

Q.5: What is Parliamentary or Legislative Privileges?

.....

.....

Q.6: Which two Articles of the *Constitution of India* contain the main

provisions of related to Parliamentary or Legislative Privileges?

.....

.....

Q.7: What is 'Freedom of Speech' as mentioned under Article 105 of the *Constitution of India*?

.....

.....

Q.8: Which of the Following is not a Parliamentary and Legislative Privilege?

(a) Right of publication of proceedings

(b) Freedom from arrest

(c) Freedom of Speech

(d) Immunity to a member from any proceedings in any court in respect of any thing said in Parliament

(e) Immunity from Contempt of court

.....

.....



2.5 LET US SUM UP

- In this unit you have been introduced to the basic concepts of Emergency, State of Emergency and the Parliamentary and Legislative immunities along with the limitations on Media Reporting due to various constitutional provisions related to the concepts. Let us now quickly sum up these concepts.
- An emergency is a situation which poses an immediate risk to health, life, property or environment. Most emergencies require urgent intervention to prevent a worsening of the situation, although in some situations, solutions may not be possible and agencies may only be able to offer proper care for the aftermath. A *state of emergency* is a governmental declaration that may suspend certain normal functions of government, may work to alert citizens to change their normal behaviors, or may order government agencies to implement emergency preparedness plans. It can also suspend all civil liberties.

- A state of emergency in India refers to a period of governance under an altered constitutional setup that can be proclaimed by the President of India, when he perceives grave threats to the nation from internal and external sources or from financial situations of crisis. This proclamation is done under the advice of the cabinet of ministers.

The President can declare three types of emergencies :

- National Emergency under Article 352 (all Fundamental Rights are suspended, except the rights under Articles 20 and 21), State Emergency under Article 356 (No suspension of Fundamental Rights) and Financial Emergency under Article 360 (No suspension of Fundamental Rights). During the National Emergency Article 19 which guarantees Media Freedom is not operative; therefore, it affects Media Reporting.
- Parliamentary or Legislative Privileges are the legal immunities conferred upon members of a parliament or a legislature with regard to acts they may perform in the legislature or on its behalf. Parliamentary Privilege is also known as Absolute Privilege. The *Constitution of India*, under Articles 105 and 194 provide for the independence of the functioning of the Houses of legislature, both at the Union and State levels. Two main immunities provided under these Articles are Freedom of Speech and Right of publication of proceedings.
- While enjoying the "freedom of speech and expression", it is a breach of privilege and contempt of the House for the Media to publish expunged (partly omitted) proceedings of the House. However, constitutional protection has been given to the publication in newspapers or broadcasts of substantially true reports of any proceedings of either House of Parliament, provided the reports are for the public good and are not actuated by malice.



2.7 FURTHER READING

1. H. K. Saharay: *The Constitution of India – An Analytical Approach*
2. Dr. J. N. Pandey : *Constitutional Law of India*
3. Aurobindo Mozumdar: *The Law and the Newspapers*



2.6 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: *Emergency* is a serious situation or occurrence that happens unexpectedly and demands immediate action. It may pose immediate risk to health, life, property or environment. Most emergencies require urgent intervention to prevent a worsening of the situation, although in some situations, solutions may not be possible and agencies may only be able to offer proper care for the aftermath.

Ans. to Q. No. 2: A *state of emergency* is a governmental declaration that may suspend certain normal functions of government, may work to alert citizens to change their normal behaviors, or may order government agencies to implement emergency preparedness plans. It can also suspend all civil liberties.

Ans. to Q. No. 3: Articles 352 to 360 Part XVIII of the *Constitution of India* contains Emergency provisions.

Ans. to Q. No. 4: (a) (iii) Thrice

(b) (iv) Right to Life and Personal Liberty

(c) (iii) Governor

(d) (iv) 360

Ans. to Q. No. 5: Parliamentary or Legislative Privileges are the legal immunities conferred upon members of a parliament or legislature with regard to acts they may perform in the legislature or on its behalf. That means no member may be held to account by an outside body or individual for words spoken within Parliament.

Ans. to Q. No. 5: Article 104 and 194 of the *Constitution of India* contains the main provisions related to Parliamentary or Legislative Privileges.

Ans. to Q. No. 6: Article 105, clause (1), expressly safeguards freedom of speech in parliament. It says: there shall be freedom of speech in parliament. Clause (2) further provides that no member of

Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in parliament or any committee thereof.

Ans. to Q. No. 7: (e) Immunity from Contempt of court



2.8 POSSIBLE QUESTIONS

Q. 1: Enumerate the Emergency Provisions under the *Constitution of India*?

Q. 2: Analyse the effect of Emergency Provisions under the *Constitution of India* on Media Reporting.

Q. 3: Explain the Parliamentary and Legislative Privileges as enumerated under different Articles of the *Constitution of India*?

Q. 4: Analyse the effect of Parliamentary and Legislative Privileges guaranteed under the *Constitution of India* on Media Reporting?

Q. 5: State briefly different provisions on Parliamentary and Legislative Privileges under various statutes and rules other than the *Constitution of India*.

* * * * *

UNIT- 3: LEGAL ASPECTS OF MEDIA FREEDOM

Unit Structure

3.1 Learning objectives

3.2 Introduction

3.3 Media Freedom: Concept

- 3.3.1 History of Media Freedom
- 3.3.2 Media Freedom: Constitutional Guarantees and Reasonable Restrictions

3.4 Defamation: Concept

- 3.4.1 Kinds of Defamation
- 3.4.2 Defamation and Law
- 3.4.3 Liabilities of Different Persons as regards Defamation

3.5 Official Secrets Act, 1923

3.6 Right to Information: Concept

- 3.6.1 Right to Information: A Human Right
- 3.6.2 Right to Information: International Standards
- 3.6.3 Right to Information: Indian Perspectives
- 3.6.4 Right to Information Act, 2005

3.7 Let Us Sum Up

3.8 Answers to Check Your Progress

3.9 Further Reading

3.10 Possible Questions

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

Q.1: What is Media Freedom or Freedom of Press?

.....

.....

Q.2: In which country origin of the concept of freedom of the press took place?

.....

.....

Q.3: Media Freedom is guaranteed under which Article of the *Constitution of India*?

.....

.....

Q.4: What are the grounds of Reasonable Restrictions on the Media Freedom?

.....

.....

Q.5: Which country for the first time had given Media Freedom a Constitutional status?

(a) New Zealand (b) England (c) USA (d) Canada

.....

Q.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

Q.7: What is Defamation?

.....

.....

Q.8: What are the two different kinds of Defamation?

.....

.....

Q.9: Which Section of the Indian Penal Code prescribes punishments for Defamation?

.....

.....

Q.10: 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

Q.11: In which year Official Secrets Act was enacted?

.....

.....

Q.12: Under the Act what form of communication is considered as helping the enemy state?

.....

.....

Q.13: 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

Q.14: What is Information?

.....

.....

Q.15: What is Right to Information?

.....

.....

Q.16: In which country was the freedom of information first introduced under a specific law?

.....

.....

Q.17: In which year was the Right to Information Act was enacted in India?

.....

.....

Q.18: 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 FURTHER READING

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



3.9 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 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-gathering organizations and journalists, and their published reporting.

Ans. to Q. No. 2: England

Ans. to Q. No. 3: Article 19(1)

Ans. to Q. No. 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.

Ans. to Q. No. 5: (c) USA

Ans. to Q. No. 6: (b) No

Ans. to Q. No. 7: 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.

Ans. to Q. No. 8: 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).

Ans. to Q. No. 9: Section 500.

Ans. to Q. No. 10: (c) Section 499.

Ans. to Q. No. 11: 1923.

Ans. to Q. No. 12: 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.

Ans. to Q. No. 13: 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.

Ans. to Q. No. 14: Information is an idea that has been given a form, such as the spoken language or written word. It is an acquired knowl-

edge 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)].

Ans. to Q. No. 15: Right to information may be defined as the ability of the citizen to obtain information of the state.

Ans. to Q. No. 16: Sweden.

Ans. to Q. No. 17: 2005

Ans. to Q. No. 18: (a) 2001



3.10 POSSIBLE QUESTIONS

Q. 1: Briefly analyse Media Freedom or Freedom of Press? What are the constitutional guarantees and Reasonable Restrictions on Media Freedom

Q. 2: Give a brief account of the history of Media Freedom.

Q. 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*?

Q. 4: Write a short note on the Official Secret Act, 1923.

Q. 5: Write briefly about the development of the concept of Right to Information in different countries and different international legislations.

Q. 6: Write a note on the Right to Information Act, 2005.

* * * * *

UNIT- 4: RIGHTS OF JOURNALISTS

Unit Structure

4.1 Learning objectives

4.2 Introduction

4.3 Press Council of India

4.3.1 Ethics of Journalism

4.3 Working Journalists and Other Newspaper Employees (Conditions of Services & Miscellaneous Provision) Act, 1955

4.4 Prasar Bharati (Broadcasting Corporation of India) Act, 1990

4.5 Let Us Sum Up

4.6 Answers to Check Your Progress

4.7 Further Reading

4.8 Possible Questions

4.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- discuss the role of the Press Council of India
- identify the Ethics of Journalism.
- explain who is a 'working journalist'
- Know the service conditions of service of working journalist and non-journalist newspaper employees under provisions of legislation
- Know the objectives of establishing the Prasar Bharati Corporation
- Know about the establishment of a Broadcasting Council

4.2 INTRODUCTION

The Working Journalists and Other Newspaper Employees (Conditions of Services & Miscellaneous Provision) Act, 1955 was enacted keeping in view some welfare measures for the working journalists, while the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 was enacted keeping in mind the establishment of an autonomous Broadcasting Corporation. You will be introduced to the role of the Press Council of India and the evolution of Ethical Code of Conduct for journalist up to development its universal principles.

In this unit you will learn about various welfare measures which are provided in the Working Journalists and Other Newspaper Employees (Conditions of Services & Miscellaneous Provision) Act, 1955 along with the administrative machinery under the Act. You will also learn about the objectives of the Prasar Bharati and the composition and functions of the Broadcasting Council.

In the next block we will broadly discuss the ethics and journalistic conduct in detail.

4. 3 PRESS COUNCIL OF INDIA

Press Council is a mechanism for the Press to regulate itself. The idea is rooted in the concept that in a democratic society the press needs at once to be free and responsible. If the Press is to function effectively as the watchdog of public interest, it must have a secure freedom of expression, unfettered and unhindered by any authority, organised bodies or individuals. But, this claim to press freedom has legitimacy only if it is exercised with a due sense of responsibility. The Press must, therefore, scrupulously adhere to the accepted norms of journalistic ethics and maintain high standards of professional conduct. Where the norms are breached and the freedom is defiled by unprofessional conduct, a way must exist to check and control it. But,the control by Government or official authorities may prove destructive of this freedom.

Therefore, the best way is to let the peers of the profession, assisted by a few learned persons to regulate it through a properly structured representative impartial machinery. Hence, the Press Council.

A need for such a mechanism has been felt for a long time both by the authorities as well as the Press itself all over the world, and a search for it resulted in the setting up of the first Press Council known as the Court of Honour for the Press in Sweden in 1916. The idea gained quick acceptance in other Scandinavian countries, and later in other parts of Europe, Canada, Asia, Australia and New Zealand. Today, the Press Councils or similar other media bodies are in place in more than four dozen nations.

The Press Council of India was first set up in the year 1966 by the Parliament on the recommendations of the First Press Commission with the

object of preserving the freedom of the press and of maintaining and improving the standards of press in India. The present Council functions under the Press Council Act 1978. It is a statutory, quasi judicial body which acts as a watchdog of the press. It adjudicates the complaints against and by the press for violation of ethics and for violation of the freedom of the press respectively.

The Press Council is headed by a Chairman, who has been, by convention, been a retired judge of the Supreme Court of India. The Chairman is nominated by a Committee consisting of Chairman of Council of States (Rajya Sabha), the Speaker of the House of the People (Lok Sabha), and a person elected from amongst the Members of the Press Council. The Council consists of 28 other members of whom 20 represent the press and are nominated by the press organisations/news agencies recognised and notified by the Council as all India bodies of categories such as editors, working journalists and owners and managers of newspaper, 5 members are nominated from the two houses of Parliament and 3 represent cultural, literary and legal fields as nominees of the Sahitya Academy, University Grants Commission and the Bar Council of India. The members serve on the Council for a term of three years.

The Council is funded by revenue collected by it as fee levied on the registered newspapers in the country on the basis of their circulation. No fee is levied on newspapers with circulation less than 5000 copies. The deficit is made good by way of grant by the Central Government, through Ministry of Information and Broadcasting.

It is one of the most important bodies that sustain democracy as it has supreme power in regards to the media ensuring that freedom of speech is maintained. The Press Council deliberates on the complaints received either by the press or against the press. It may either warn or censure the errant journalists on finding them guilty. The Council is empowered to make observation in respect of conduct of any authority including the Government. If it is considered necessary, it can warn, admonish or censure the newspaper, news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist. The Press Council of India is protected by the constitution and its actions may not be questioned unless it is proved to be in violation of the constitution which makes it an exceedingly powerful body. Notwithstanding the fact that a substantial part of its funds is augmented

from the Government, it has full functional autonomy and is independent of Government control in the discharge of its statutory responsibilities.

4.3.1 Ethics of Journalism

Ethics are norms for conduct that distinguish between an acceptable and unacceptable behavior. It is concerned with what is right or wrong, good or bad, fair or unfair, responsible or irresponsible, obligatory or permissible, praiseworthy or blameworthy. Ethics and standards of journalism comprise the principles of ethics and of good practice as applicable to the specific challenges faced by the professional journalists. Historically and currently, these set of ethical standards are widely known to journalists as their professional "code of ethics". In recent years it has almost become a norm that most renowned professional journalism associations and individual print, broadcast, and online news organisations have come out with their own set of basic codes on ethics to serve the society. The fundamental objectives of these ethical codes of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner. Towards this end, the Press is expected to conduct itself in keeping with certain norms of professionalism universally recognised. These universally recognised norms are expected to apply with due discernment and adaptation to the varying circumstance of each case which definitely will help the journalists to self-regulate their conduct.

The recent flurry of code writing suggests that editors and the news staff are taking issues of ethics seriously. The process of drafting and redrafting and debating and implementing the codes has good therapeutic value in and of itself. Even better, newspapers with clearly enunciated principles and stated values, combined with strong ethical decision-making skills, can better serve their readers and the public interest. Therein lies an essential connection to credibility. Codes of ethics can help newsroom staffers make sound decisions and build journalistic credibility in respect of many ethical problems they may encounter in their professional enlargement.

There are various organisations and associations world over related to journalists and most of these associations have their own set of code of ethics. The principles of Journalistic codes of ethics of these national and international associations are designed as guides through numerous difficulties to assist journalists in dealing with ethical dilemmas. The codes and canons provide the journalists a framework for self-monitoring and self-correction as they pursue professional assignments. In India we have Editor's Charter, 1953 adopted by All India Newspaper Editor's Conference (AINEC), AINEC Code of Ethics, 1968 to cover communal incidents, Press Council Code, 1954, Press Council Code on Communal Matters, 1969, National Integration Council (NIC) Code, 1962 and Parliamentary Code of Ethics, 1976 adopted by Rajya Sabha for journalists and newspapers regarding their social and moral responsibility. While various existing codes have some differences, most share common elements and these include the principles of — truthfulness, accuracy, objectivity, impartiality, dignity, fairness, public accountability and humanity — as these apply to the acquisition of newsworthy information. Let us explain these principles in detail:

Truthfulness:

This principle extends from honesty, good faith, and sincerity of a journalist in general, to the fact or reality in particular. However, truthfulness may conflict with many other values. Salacious details of the lives of public figures is a central content element in many media. This type of publication is not necessarily justified simply because the information is true. Journalists need to keep in mind that Privacy is also a right. Revelation of military secrets and other sensitive government information may be contrary to the public interest, even if it is true. Photo journalists who cover war and disasters confront situations which may shock the sensitivities of their audiences. For example, human remains are rarely screened. The ethical issue is how far should one risk shocking an audience's sensitivities in order to correctly and fully report the truth.

Accuracy:

Accuracy is much more than simply making sure you quote someone correctly or spell their name right. It also means that

journalists put their words and opinions in the proper context. It means that you report on people and events as truthfully as possible. Journalists should not tidy up what happened to fit neatly into whatever angle you or your editor might want the story to take. It means, the report is not tainted by whatever personal feelings a journalist might have about the selected subject or people.

Objectivity:

Journalists and the public often tend to identify objectivity in its absence. Objectivity is a significant principle of journalistic professionalism, especially in the United Kingdom and United States. Journalistic objectivity can refer to fairness, disinterestedness, factuality, and nonpartisanship, but most often it encompasses all of these qualities.

Impartiality:

The journalistic principle of impartiality holds that decisions should be based on objective criteria, rather than on the basis of bias, prejudice, or preferring the benefit to one person over another for improper reasons.

Fairness:

Journalists should be careful about the fact that reporting about an incident is made objectively and that it is free from political influence or personal favouritism. They should see whatever they are writing should be fair to the people written about. The portrayal of thoughts and words should be fair and should not be adulterated in some way or the other. The journalist should himself feel comfortable reading his own story to the people involved. One of the biggest compliments a journalist can receive is being called tough but fair by someone he has written about in an uncomplimentary way.

Public Accountability:

With the principle of public accountability come such as answerability, responsibility, blameworthiness, liability and other terms associated with the expectation of account-giving. Public accountability of journalists means the obligation of journalist to explain and report publicly, fully and fairly, before and after the fact, how they are carrying out responsibilities that affect the public in important ways.

Their report about an incident should validate their fairness and completeness. In a way journalists have an obligation to explain and to justify his or her reporting.

Dignity:

The dignity of the people a journalist writes about is very important. So is the dignity of readers and newspaper. That does not mean that someone is not an aggressive journalist, but it means that he does not take cheap shots. Most hard-hitting stories are strengthened when the reporter shows respect toward the people or institutions under examination.

Humanity:

It is the principle of being humane. In the movie *Absence of Malice* there is a great scene where a wise old city editor talks about being a reporter. He says that he knows how to report the news and how not to hurt people, but he doesn't know how to do both at the same time. The best journalism usually hurts someone, often without meaning to do so. Humanity means not hurting the innocent or those who have no idea what they are getting into when they talk to a reporter. Good journalists have a special responsibility when it comes to the common masses.

The duty of the journalist is to further those ends by seeking truth and providing a fair and comprehensive account of events and issues. Conscientious journalists from all media and specialties strive to serve the public with thoroughness and honesty. Professional integrity is the cornerstone of a journalist's credibility. Ethics form the foundation on which is built the basic social contract that has to exist between the credible journalist and the public he or she serves. The stronger that foundation, the stronger are the ties between writer and reader. But that strong foundation is rarely obvious to the reader, or for that matter to the writer. Ethics almost always remains in the background, usually becoming evident only when there is a problem.



CHECK YOUR PROGRESS

Q.1: What is a Press Council?

.....

.....

Q.2: Who heads the Press Council of India?

.....

.....

Q.3: What are the fundamental objectives of these ethical codes of journalism?

.....

.....

Q.4: What are the universally common principles of Code of Conduct of Journalism?

.....

.....

Q.5: In which year was the first Press Council was set up in India?
(a) 1966 (b) 1967 (c) 1977 (d) 1978

.....

Q.6: Which of the following organisation does not have a nominee in the Press Council of India
(a) Sahitya Academy (b)University Grants Commission
(c) Sangeet Natak Academy (d) Bar Council of India

.....

4.4 WORKING JOURNALISTS AND OTHER NEWSPAPER EMPLOYEES (CONDITIONS OF SERVICES & MISCELLANEOUS PROVISION) ACT, 1955

The Working Journalists and Other Newspaper Employees (Conditions of Services & Miscellaneous Provision) Act, 1955 provides some welfare measures for the regulation of certain service conditions of the working journalists and other persons employed in newspaper establishments. A "working journalist" under the provision of the Act 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, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news-

photographer and proof-reader; but it does not include any such person who is employed mainly in a managerial or administrative capacity or employed in a supervisory capacity.

The First Press Commission found that the payments received by the journalists were not at all satisfactory. The Commission felt it necessary to fix a minimum wage for journalist employees and made recommendations relating to the minimum wage to be paid to them. The Working Journalists and Other Newspaper Employees (Conditions of Services & Miscellaneous Provision) Act, 1955 made the Industrial Disputes Act, 1947 applicable to working journalists. The Act also made the Industrial Employment (Standing Orders) Act, 1946 and the Employees Provident Fund Act, 1952 applicable in every newspaper establishment employing twenty or more employees. However, the main provisions of the Act are mainly related to:

– Special provisions in respect of certain cases of retrenchment.
– Payment of gratuity.
– Hours of work.
– Leave and earned leave on full wages.
– Fixing or revision of rates of wages in respect of working journalists.
– Enforcement of the recommendations of the wage fixation machinery like wage boards and wage tribunals.
– Employees Provident Fund
– Recovery of money due from employer

Administrative Machinery under the Act:

Under the provisions of the Act the Central Government as and when necessary shall constitute separate Wage Board to fix or revise the rates of wages for working journalists and other newspaper employees. After receipt of the recommendations of the Board, the Central Government is empowered to make an order in terms of recommendations and this order becomes applicable on the class of newspaper establishments for which the Board has recommended.

The Wage Board for working journalists shall consist of two persons representing employers in relation to newspaper establishments, two persons representing working journalists and 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 that Government as the Chairman. The Wage Board for non-journalist newspaper employees shall consist of two persons representing employers in relation to newspaper establishment, two persons representing non-journalist newspaper employees and three independent persons, one of whom shall be a person who is or has been, a Judge of a High Court or the Supreme Court and who shall be appointed by that Government as the Chairman.

All the Assistant Labour Commissioners of the Labour Department have been appointed Inspectors for carrying out the enforcement work under the Act for their respective districts. Deputy Labour Commissioners have been authorised for the recovery of the amount due to the newspaper employees under the provisions of the Act. The amount can be recovered by the issue of a certificate for the amount to the Collector for recovery of the amount as arrears of land revenue.

Penalty:

If any employer contravenes any of the provisions of the Act, he shall be punishable with fine which may extend to two hundred rupees. If the offence is committed for second time, the fine may extend to five hundred rupees.

4.5 PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) ACT, 1990

In India, it was felt in the late 1980s that media should be under the control of the public as distinct from the Government. It should be operated by a public statutory corporation or corporations, as the case may be, whose constitution and composition must be such as to ensure its/their impartiality in political, economic and social matters and on all other public issues. Prasar Bharati (Broadcasting Corporation of India) Act, 1990 came into force from 15th of September, 1997. The Prasar Bharati Act provides for establishment of an autonomous Broadcasting Corporation of India, to be known as Prasar Bharati, to define its composition, functions and powers and related matters. The Act states that it shall be the primary duty of the Corporation to organize and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.

The Act provides for the grant of autonomy to electronic media, namely, All India Radio and Doordarshan, which were earlier working as independent media units under the Ministry of Information & Broadcasting. The intention is that the Corporation shall function as a genuinely autonomous body with are innovative, dynamic and flexible approach and with a high degree of credibility. Further, the Corporation as an autonomous body shall function in a democratic manner enriching our democratic traditions and institutions, being responsible to the people and the Parliament of India and keeping in mind the different traditions, languages and cultures of the country and various sections of the society. The major objectives of the Prasar Bharati Corporation as laid down in the Prasar Bharati Act, 1990 are as follows:

– To uphold the unity and integrity of the country and the values enshrined in the Constitution;
– To promote national integration;
– To safeguard the citizens rights to be informed on all matters of public interest by presenting a fair and balanced flow of information;
– To pay special attention to the fields of education and spread of literacy, agriculture, rural development, environment, health & family welfare and science & technology;
– To create awareness about women's issues and take special steps to protect the interests of children, aged and other vulnerable sections of the society;
– To provide adequate coverage to diverse cultures, sports and games and youth affairs;
– To promote social justice, safeguarding the rights of the working classes, minorities and tribal communities;
– To promote research and expand broadcasting facilities & development in the broadcast technology.

A comprehensive review of the Act undertaken in 1991 had brought into focus certain operational difficulties that were likely to arise particularly in the area of the personnel policy and manpower employment, issue of Government directions to the Corporation, etc. The Act provides for the establishment of a Broadcasting Council consisting of a President and fourteen other Members appointed by the President of India. This Council will ensure the citizen's right to be informed freely, truthfully and objectively. The Broadcasting Council will

consider complaints about programmes broadcast by the Corporation in this context and render suitable advice to the Prasar Bharati.

The Act provides for the transfer to the Corporations of properties and funds which are vested in the Central Government for the purposes of Akashvani and Doordarshan. The Act also provides for the transfer of employees of Akashvani and Doordarshan to the Corporation and other ancillary matters and the establishment of Recruitment Boards for recommending the appointment of officers and other employees of the Corporation.



CHECK YOUR PROGRESS

Q.7: Who is a "working journalist"?

.....

.....

Q.8: Which Act is made applicable to working journalists by the Working Journalists and Other Newspaper Employees (Conditions of Services & Miscellaneous Provision) Act, 1955 made the Industrial Disputes Act, 1947?

.....

.....

Q.9: Which two Acts are applicable in every newspaper establishment employing twenty or more employees by the Working Journalists and other Newspaper Employes (Conditions of Services and MiscellaneousProvision)Act,1955made the Industrial Disputes Act,1947?

.....

.....

.....

Q.10: Broadcasting Corporation of India was established under which act?

.....

.....

Q.11: Which body considers complains about programmes broadcast by the Corporation.

.....

.....

Q.12: Choose the correct answer: Prasar Bharati is an autonomous body.

(a) Yes (b) No

.....



4.6 LET US SUM UP

- In this unit you have been introduced to the Press Council of India, Ethical Code of Conduct for journalists, Working Journalists and Other Newspaper Employees (Conditions of Services & Miscellaneous Provision) Act, 1955 and its welfare measures for working journalists. Under the provisions of the Act a "working journalist" means a person whose principal avocation is that of a journalist. The Act provides that the Central Government as and when necessary shall constitute separate Wage Board to fix or revise rates of wages for working journalist and other newspaper employees.
- Press Council is a mechanism for the Press to regulate itself. The Press Council of India was first set up in the year 1966. The present Council functions under the Press Council Act 1978. Ethics are norms for conduct that distinguish between an acceptable and unacceptable behavior. While various existing codes of conduct of journalism of different organisations have some differences, most of them share common elements and these include the principles of — truthfulness, accuracy, objectivity, impartiality, dignity, fairness, public accountability and humanity.
- You are also introduced to the Prasar Bharati (Broadcasting Corporation of India) Act, 1990. The Act came into force from 15th of September, 1997. The Prasar Bharati Act provides for establishment of an autonomous Broadcasting Corporation of India, to be known as Prasar Bharati to define its composition, functions and powers and related matters. Prasar Bharati Corporation as laid down in the Prasar Bharati Act, 1990 has some objectives keeping in view the diversity in various fields in India.



4.7 FURTHER READING

1. Vir Bala Aggarwal: *Essentials of Practical Journalism*
2. Durga Das Basu : L*aw of the Press*
3. Universal Publication: *Press, Media and Telecommunication Law*



4.8 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: Press Council is a mechanism for the Press to regulate itself. The best way to regulate the press is to let the peers of the profession, assisted by a few learned persons, regulate it through a properly structured representative impartial machinery. Hence, the Press Council.

Ans. to Q. No. 2: The Press Council is headed by a Chairman, who has by convention, been a retired judge of the Supreme Court of India.

Ans. to Q. No. 3: The fundamental objectives of the ethical codes of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner.

Ans. to Q. No. 4: These are the principles of — truthfulness, accuracy, objectivity, impartiality, dignity, fairness, public accountability and humanity.

Ans. to Q. No. 5: (a) 1966

Ans. to Q. No. 6: (c) Sangeet Natak Academy

Ans. to Q. No. 7: A "working journalist" under the provision of the Act 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 it includes an editor, a leader, writer, news-editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news-photographer and proof-reader; but it does not include any such

person who is employed mainly in a managerial or administrative capacity or employed in a supervisory capacity.

Ans. to Q. No. 8: Industrial Disputes Act, 1947.

Ans. to Q. No. 9: Industrial Employment (Standing Orders) Act, 1946 and the Employees Provident Fund Act, 1952.

Ans. to Q. No. 10: Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

Ans. to Q. No. 11: Broadcasting Council.

Ans. to Q. No. 12: (a) Yes.



4.9 POSSIBLE QUESTIONS

Q. 1: Write briefly about the role and constitution of the Press Council of India.

Q. 2: Describe the common principles of the Code of Conduct of Journalists?

Q. 3: What are the main provisions of the Working Journalists and Other Newspaper Employees (Conditions of Services & Miscellaneous Provision) Act, 1955? Write about the administrative machinery under the Act.

Q. 4: Explain the main objectives of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

* * * * *

UNIT- 5: MEDIA FREEDOM

Unit Structure

5.1 Learning objectives

5.2 Introduction

5.3 Media freedom

5.3.1 Need for restraint on media freedom

5.4 Media and importance of ethics

5.5 Media Code of Ethics

5.5.1 Common elements of Media Code of Ethics

5.5.2 Plagiarism

5.5.3 Compliance of Ethical Standards

5.6 Right of Reply

5.7 Let Us Sum Up

5.8 Answers to Check your Progress

5.9 Further Reading

5.10 Possible Questions

5.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- define the concept of 'Media Freedom'
- discuss why there should be a restraint on media freedom
- explain the concept of 'Media Ethics'
- enumerate the common elements of media ethics and their compliance
- discuss 'Plagiarism'
- explain the 'Right of Reply'

5.2 INTRODUCTION

The media is a powerful institution that can act as a necessary instrument of communication. Freedom of Press or Media Freedom is the immunity enjoyed by communications media – including newspapers, books, periodicals, radio, television, and Internet – from government control or censorship. But one should remember that every human institution is liable

to be abused, if not controlled, which may lead to disorder and anarchy. The need for controlling the Press, apart from any Emergency, arises out of this danger of the freedom of the Press being abused.

In this Unit when you will learn about media freedom you will be introduced to media ethics which refers to the value system by which a person determines what is right or wrong, fair or unfair, just or unjust which is necessary for media to survive neutrally. You will also learn the common elements of ethics that are necessary for media — truthfulness, accuracy, objectivity, impartiality, dignity, fairness, public accountability and humanity — as these apply to the acquisition of newsworthy information. Finally, you will learn about 'Plagiarism' and the 'Right of Reply' which is a right of an individual to reply to misleading or inaccurate publications about him.

In the next unit you will be introduced to the concept of privacy along with the concept of sensationalism and its impact on the electronic media, concept of sting operation, paparazzi and restrictions imposed by law and finally the concept of yellow journalism.

5.3 MEDIA FREEDOM

The media is a powerful institution that can act as a necessary instrument of communication. To the extent that the media is independent of direct government control 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, television, and Internet – 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 organisations 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.

In developed countries, media freedom implies that all people should have the right to express themselves in writing or in any other way of personal

opinion or creativity. The Universal Declaration of Human Rights states, "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 regardless of frontiers." This philosophy is usually accompanied by legislation ensuring various degrees of freedom of opinion and laws are enacted in a country which can also find place in its constitution. The concept of media freedom is often covered by the same laws as freedom of speech, thereby giving equal treatment to media and individual. But 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 of the press actually exercised at a given time. On the one hand, various social, political, and economic forces may serve to make the press free more 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.

5.3.1 Need for restraint on media freedom

Every human institution is liable to be abused, and every liberty, if left unbridled, has the tendency to lead to disorder and anarchy. The need for controlling the Press, apart from any Emergency, arises out of this danger of the freedom of the Press being abused. If no guarantee of individual right can be absolute, so is the freedom of the Press – it must be reconciled with the collective interest of the society, otherwise known as the '*public interest*'. There is a need to balance these two competing interests. i Once the need for restriction is acknowledged, the inquiry would be how much restriction would be reasonable in the public interest. The reason has been explained, in the U.S.A. which has installed freedom of the Press in the largest dimension in modern times:

"*Freedom carries with it responsibility even for the Press; freedom of the Press is not a freedom from responsibility for its exercise* …"

In most of the cases it is seen that when there is a conflict between the public interest behind a free media and some other competing interest, it is the Court which strikes a balance between the two interests. When the danger to such countervailing interests assumes a serious dimension, the State would be justified in curtailing or controlling the media freedom. Media freedom, therefore, cannot mean an uncontrolled licence for or immunity to every possible use of language. In the U.S.A., the Court would, in such a situation, interfere only where the danger to another public interest is substantial or there is a clear-and-present danger or the need for protecting the other public interest is 'compelling'. In India, the Court's role in balancing the two competing public interests is reserved in the Constitution itself, by the expression '*reasonable restrictions*' in Clauses (2)-(6) of Article 19.



LET US KNOW

"The freedom of the press is extolled as one of the great bulwarks of liberty. It is entrenched in the constitutions of the world. But it is often misunderstood …It does not mean that the press is free to ruin a reputation or to break a confidence or to pollute the course of justice or to do anything that is unlawful…"

– Lord Denning in Court of Appeal, 1981



CHECK YOUR PROGRESS

Q.1: What is 'Media Freedom'?

.....

.....

Q.2: What does the Universal Declaration of Human Rights say about media freedom?

.....

.....

Q.3: Which Article under the *Constitution of India* puts restraints on the media freedom?

.....

.....

5.4 MEDIA AND IMPORTANCE OF ETHICS

Media ethics is the subdivision of applied ethics dealing with the specific ethical principles and standards of media, including broadcast media, film, theatre, the arts, print media and the internet. The field covers many varied and highly controversial topics, ranging from war journalism to advertising.

Ethical behaviour elevates the practice of journalism. Journalism has an ethical goal – the communication of truth and facts. The problem is that the concept of truth has changed through human history. Along with this media audiences have also changed. In this context even the accepted facts and truth are subject to various interpretations among diverse viewers and readers on the basis of geography and cultural divides. Telling the truth as one views it, then, becomes a matter of possessing good moral character and the learning to recognise truth and how to convey it without distortion. Truth has somehow come to be mixed up with vision and presence. There has been much debate some years back about the means employed by the Tehelka team to record on film the extent of corruption in the Defence Ministry over the purchase of arms and ammunitions. The use of subterfuge to find the truth has been questioned at different forums of journalists. That is why the importance of ethics in the field of journalism.

Ethics is the study of what is good for an individual as also for society at large. The concept of ethics was formulated by the Greeks. They prescribed that for the individual, courage, morality and correct behaviour was a benchmark for morality and ethics. They also added the qualities of wisdom, justice and temperance to the list. Ethics refers to the value system by which a person determines what is right or wrong, fair or unfair, just or unjust. It is expressed through moral behaviour in specific situations. An individual's conduct is measured not only against his or her conscience but also against some norm of acceptability that has been socially, professionally or organisationally determined.

In present day conditions ethics has come to mean the ability to make decisions between what is good and bad, what is morally justifiable and what is not. It also denotes the ability to discern the correct choice out of many, all of which may be morally justifiable. It is the ability to explain these choices to the people that mark ethical and rational thinking, to be converted into action.

A reporter writing a story for a newspaper or for television may be called upon to take several decisions or ethical choices regarding the source of his story, his colleagues and the reading or viewing public. If his choice is correct, it cannot offend or hurt anyone of these categories involved.

Public enlightenment is the forerunner of justice and the foundation of democracy. The duty of a journalist is to further those ends by seeking truth and providing a fair and comprehensive account of events and issues. Conscientious journalists from all media and specialties strive to serve the public with thoroughness and honesty and at the same time professional integrity is the cornerstone of a journalist's credibility. Media codes of ethics are designed as guides through numerous difficulties, such as conflicts of interest, to assist journalists in dealing with ethical dilemmas. The codes and canons provide journalists a framework for self-monitoring and self-correction as they pursue professional assignments. While journalists in the United States and European countries have led in formulation and adoption of these standards, such codes can be found in the news reporting organisations in most countries with freedom of the press. The written codes and practical standards vary somewhat from country to country and organisation to organisation, but there is a substantial overlap among mainstream publications and societies.

The ethical standards for media are directed towards bringing the highest quality of news reporting to the public, thus fulfilling the mission of timely distribution of information in the service of the public interest. To a large extent, the codes and canons have evolved via observation of and response to past ethical lapses by journalists and publishers. Today, it is common for terms of employment to mandate adherence to such codes equally applicable to both the staff and freelance journalists. Sometimes journalist may face dismissal for ethical failures. Upholding professional standards also enhances the reputation of and trust in a news organisation, which boosts the size of the audience it serves.



Salacious: Showing too much interest in sexual matters.

5.5 MEDIA CODE OF ETHICS

Ethics are norms for conduct that distinguish between acceptable and unacceptable behavior. It is concerned with what is right or wrong, good or

bad, fair or unfair, responsible or irresponsible, obligatory or permissible, praiseworthy or blameworthy. Ethics and standards of journalism comprise principles of ethics and of good practice as applicable to the specific challenges faced by professional journalists. Historically and currently, these set of ethical standards are widely known to journalists as their professional "code of ethics". In recent years, it has almost become a norm that most renowned professional journalism associations and individual print, broadcast, and online news organisations has come out with their own set of basic codes on ethics to serve the society. The fundamental objectives of these ethical codes of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner. Towards this end, the Press is expected to conduct itself in keeping with certain norms of professionalism universally recognised. These universally recognised norms are expected to apply with due discernment and adaptation to the varying circumstance of each case which definitely will help the journalists to self-regulate their conduct.

The recent flurry of code writing suggests that editors and news staffs are taking issues of ethics seriously. The process of drafting and redrafting and debating and implementing the codes has good therapeutic value in and of itself. Even better, newspapers with clearly enunciated principles and stated values, combined with strong ethical decision-making skills, can better serve their readers and the public interest. Therein lies an essential connection to credibility. Codes of ethics can help newsroom staffers make sound decisions and build journalistic credibility about the many ethical problems they may encounter in their work.

There are various organisations and associations world over related to journalists and most of these associations have their own set of code of ethics. The principles of Journalistic codes of ethics of these national and international associations are designed as guides through numerous difficulties to assist journalists in dealing with ethical dilemmas. The codes and canons provide journalists a framework for self-monitoring and self-correction as they pursue professional assignments. In India we have Editor's Charter, 1953 ,adopted by All India Newspaper Editor's Conference (AINEC), AINEC Code of Ethics, 1968 to cover communal incidents, Press Council Code, 1996, Press Council Code on Communal Matters, 1968, National

Integration Council (NIC) Code, 1962 and Parliamentary Code of Ethics, 1976 adopted by the Rajya Sabha for journalists and newspapers regarding their social and moral responsibilities. While various existing codes have some differences, most share common elements and these include the principles of truthfulness, accuracy, objectivity, impartiality, dignity, fairness, public accountability and humanity as these apply to the acquisition of newsworthy information.

5.5.1 Common elements of Media Code of Ethics

Truthfulness:

This principle extends from honesty, good faith, and sincerity of a journalist in general, to the fact or reality in particular. However, truthfulness may conflict with many other values. Salacious details of the lives of public figures is a central content element in many media.

This type of publication is not necessarily justified simply because the information is true. Journalists need to keep in mind that Privacy is also a right. Revelation of military secrets and other sensitive government information may be contrary to the public interest, even if it is true. Photo journalists who cover war and disasters confront situations which may shock the sensitivities of their audiences. For example, human remains are rarely screened. Journalistic ethics may conflict with the law over issues such as the protection of confidential news sources. There is also the question of the extent to which it is ethically acceptable to break the law in order to obtain news. For example, undercover reporters may be engaging in deception, trespass and similar torts and crimes. The ethical issue is how far one should risk shocking the audience's sensitivities in order to correctly and fully report the truth.

Accuracy:

Accuracy is much more than simply making sure you quote someone correctly or spell their name right. It also means that journalists put their words and opinions in the proper context. It means that you report on people and events as truthfully as possible. Journalists should not tidy up what happened to fit neatly into whatever angle you or your editor might want the story to take. It means the report is not tainted by whatever personal feelings a journalist might have about the

selected subject or people. The information in the report should conform to reality and it should be not in any way misleading or false. This demands not only careful and thorough research but a disciplined use of language and production techniques, including visuals. Events with a single eyewitness should be reported with attribution. Events with two or more independent eyewitnesses may be reported as fact. Controversial facts are always reported with attribution. Independent fact-checking by another employee of the publisher is desirable for accuracy of a news. Corrections should be published when errors are discovered. Defendants at trial should be treated only as having "allegedly" committed crimes, until conviction, when their crimes are generally reported as fact. Reporters are expected to be as accurate as possible given the time allotted to story preparation and the space available, and to seek reliable sources.

Objectivity:

The term 'objectivity' was not applied to journalistic work until the 20th century, but it had fully emerged as a guiding principle by the 1890s. A number of communication scholars and historians agree that the idea of "objectivity" has prevailed as a dominant discourse among journalists in the United States since the appearance of modern newspapers. The rise of objectivity in journalistic method is also rooted in the scientific positivism of the 19th century, as professional journalism of the late 19th century borrowed parts of its worldview from various scientific disciplines of the day.

Today journalists and the public often tend to identify objectivity in its absence. Objectivity is a significant principle of journalistic professionalism, especially in the United Kingdom and United States. Journalistic objectivity can refer to fairness, disinterestedness, factuality, and nonpartisanship, but most often it encompasses all of these qualities. However, not many journalists would make a claim to total neutrality or impartiality. However, some strive toward a certain modicum of detachment from their own personal biases in their news work.

The journalistic ethics of objectivity has strong influence on the profession. But journalistic objectivity is not the pristine objectivity of philosophy. Instead, a journalist attempts to be objective by two methods:

1) fairness to those concerned with the news and 2) a professional process of information gathering that seeks fairness, completeness, and accuracy. As we all know, the ethical heights journalists set for themselves are not always reached. But, all in all, like politics, it is an honourable profession practiced, for the most part, by people trying to do the right thing.

Impartiality:

The journalistic principle of impartiality holds that decisions should be based on objective criteria, rather than on the basis of bias, prejudice, or to the benefit one person over another for improper reasons.

Fairness:

Ethical journalistic practice demands that reporters and editors be fair. Journalists should be careful about the fact that reporting about an incident is made objectively and free from political influence or personal favouritism. They should see whatever they are being fair to the people you writing about. The portrayal of thoughts and words should be fair and should not be adulterated in some way or the other. The information reports should reflect equitably the relevant facts and significant points of view and should deal fairly and ethically with persons, institutions, issues and events. The journalist should himself feel comfortable reading his own story to the people involved. One of the biggest compliments a journalist can receive is to be called tough but fair by someone he has written about in an uncomplimentary way.

In the news reporting the fairness bias manifests a contention between/among political actors. Whenever one faction or politician does something or says something newsworthy, the press is compelled by this bias to get a reaction from an opposing camp. This creates the illusion that the game of politics is always contentious and never cooperative. This bias can also create situations in which one faction appears to be attacked by the press.

Public Accountability:

With the principle of public accountability come such principles as answerability, responsibility, blameworthiness, liability and other terms associated with the expectation of account-giving. Public



Pligiarism:
The action of taking work or idea of someone else and pass it off as one's own.

accountability of journalists means the obligation of journalist to explain and report publicly, fully and fairly, before and after the fact, how they are carrying out responsibilities that affect the public in important ways. Their report about an incident should validate their fairness and completeness. In a way journalists have an obligation to explain and to justify his or her reporting.

Dignity:

The dignity of the people a journalist writes about is very important. So is the dignity of readers and newspaper. That does not mean that someone is not an aggressive journalist, but it means that he does not take cheap shots. Most hard-hitting stories are strengthened when the reporter shows respect toward the people or institutions under examination.

Humanity:

It is the principle of being humane. In the movie *Absence of Malice* there is a great scene where a wise old city editor talks about being a reporter. He says he knows how to report the news and he knows how not to hurt people, but he doesn't know how to do both at the same time. The best journalism usually hurts someone, often without meaning to. Humanity means I not to hurt the innocent or those who have no idea what they are getting into when they talk to a reporter. Good journalists have a special responsibility when it comes to the common masses.

The duty of the journalist is to further those ends by seeking truth and providing a fair and comprehensive account of events and issues. Conscientious journalists from all media and specialties strive to serve the public with thoroughness and honesty. Professional integrity is the cornerstone of a journalist's credibility. Ethics form the foundation on which is built the basic social contract that has to exist between the credible journalist and the public he or she serves. The stronger that foundation, the stronger are the ties between the writer and the reader. But that strong foundation is rarely obvious to the reader, or for that matter the writer. Ethics almost always remains in the background, usually only becoming evident when there is a problem.

5.5.2. Plagiarism

'Plagiarism' is essentially the unacknowledged use of another person's work, usually by one person acting independently. It is a form of copying without acknowledgement of the work of others – published or unpublished, either verbatim or in close paraphrase, including material downloaded from computer files and the Internet. It may be the use of or close imitation of the language and thoughts of another author and the representation of them as one's own original work.

In journalism, plagiarism is considered a breach of journalistic ethics, and reporters caught plagiarising typically face disciplinary measures ranging from suspension to termination. Some individuals caught plagiarising in academic or journalistic contexts claim that they plagiarised unintentionally, by failing to include quotations or to give the appropriate citation. While plagiarism in scholarship and journalism has a century-old history, the development of the Internet, where articles appear as electronic text, has made the physical act of copying the work of others much easier, simply by copying and pasting text from one web page to another. The practice of plagiarism is being increasingly indulged in by some newspapers by lifting news from other newspapers and publishing them subsequently as their own. In India this practice is very common. Reporters consciously or unconsciously deal with many situations that could involve plagiarism. This malpractice may not be corrected to wholesale prevention or actionable as a breach of copyright, because news once published becomes public property. To get rid of unethicality of such news proper acknowledgement of the source of the report at the beginning or at the end may the news must be given. Events in a news cannot be copyrighted, but specific account of the event can be. Journalists can rewrite the article without violating the law.

One thing may be mentioned here that Plagiarism is not copyright infringement. While both terms may apply to a particular act, they bear different meanings in law. Copyright infringement is a violation of the rights of a copyright holder, when material protected by copyright is used without consent. On the other hand, plagiarism is concerned with

the unearned increment to the plagiarising author's reputation that is achieved through false claims of authorship.



Let us know

Pligiarism is not same as infringement of copyright

5.5.3. Compliance of Ethical Standards

There is a perennial concern that the standards of media ethics are being ignored. One of the most controversial issues in modern reporting is media bias, especially on political issues, but also with regard to cultural and other issues. Sensationalism is also a common complaint. Minor factual errors are also extremely common, as almost anyone who is familiar with the subject of a particular report will quickly realise. There are also some wider concerns, as the media continue to change, for example that the brevity of news reports and use of sound bites has reduced fidelity to the truth, and may contribute to a lack of needed context for public understanding. From outside the profession, the rise of news management contributes to the real possibility that news media may be deliberately manipulated. Selective reporting, double standards are commonly alleged against newspapers, and by their very nature forms of bias are not easy to establish, or guard against.

Among the leading news organizations which voluntarily adopt and attempt to uphold the common standards of media ethics there is considerable variation in respect of adherence and general quality . The professionalism, reliability and public accountability of a news organisation are three of its most valuable assets. An organisation earns and maintains a strong reputation, in part, through a consistent implementation of ethical standards, which influence its position with the public and within the print and electronic media houses.

5.6. RIGHT OF REPLY

The 'Right of Reply' is the right of an individual to reply to misleading or inaccurate publications about him. The right of reply is the right to defend

oneself against criticism. It means a person must be given the opportunity to respond to any allegations made against them in a publication. In most cases this would mean they would be contacted before publication so that their side of the story may be put across to the audience in the same article. But right to reply does not mean a person must be contacted before publication. However, it does mean that they must be given the opportunity to put their side of the story across after publication. The newspaper should promptly publish, at the instance of the person feeling aggrieved/or concerned by the impugned publication, a contradiction/reply/rejoinder sent to the editor in the form of a letter or note. The editor has the discretion either to publish it in full or in its abridged and edited version, particularly when it is inordinately long. But the rejoinder should be an effective reply to the allegations. However, the editor is not entitled to alter, omit or refuse to publish important portions of the reply/rejoinder which effectively deals with the material allegations in the news item. If the editor doubts the truth or factual accuracy of the contradiction/ reply/rejoinder, even then it is her/his duty to publish it, with liberty to add separately at the end, an editorial comment doubting its veracity, but only when this doubt is reasonably founded on unimpeachable documentary or other evidential material in her/his possession. The editor should not, in a cavalier fashion, without the application of mind, append such note, as: "We stand by our story". It must be remembered that the liberty to append an editorial comment to a rejoinder or reply is not absolute right. It is a concession which has to be availed of sparingly with due discretion and caution in appropriate cases. However, where the reply/contradiction or rejoinder is being published in compliance with the direction of the Press Council, it is permissible to append a brief editorial note to that effect.

In Europe there have been proposals to enshrine the principle in law that there is a legally enforceable right of reply that applies to all media, including newspapers, magazines, and other print media, along with radio, television, and the internet. Article 1 of the Council of Europe's draft recommendation Recital 8 *"proposes that a legally enforceable right of reply should apply to all media, including newspapers, magazines and other print media, radio, television and Internet."* It also proposes *a right of reply "offering a possibility to react to any information in the media presenting inaccurate facts...which affect...personal rights".* In Europe in Austria, Denmark, France, Germany,

Finland, The Netherlands, Norway, Spain and Sweden the right of reply is a statutory right, while in Greece it is a constitutional right.

The Sean McBride Commission, a Commission set up by the UNESCO to ensure a better flow of news suggested, "It must be recognised that communication is a personal right belonging to all individuals, not only journalists and governments, not only those who exercise political and economic power." The right to reply is a part of the right to know in the same way as the latter is a part of the right to free expression. The media`s right to know is linked to its duty to inform. If they fail to do it, the citizen will have to have the right to do it in the form of a reply or rejoinder. In Australian politics, the Opposition party in Federal Parliament is given the formal right of reply to respond to the government's budget. Two nights after the budget is presented by the Treasurer of Australia on live television, the Leader of the Opposition delivers a reply speech in Parliament that is also broadcast on live TV.



CHECK YOUR PROGRESS

Q.4: What is 'Ethics'?

.....

.....

Q.5: What are the most universally accepted common principles of Code of Conduct of Journalism?

.....

.....

Q.6: What is Journalistic objectivity?

.....

.....

Q.7: Some newspapers are found of lifting news from other newspapers and publishing them subsequently as their own – what is this practice called?

.....

.....

Q.8: "It is your right to defend yourself against criticism about you" which is published in a newspaper. This right may be termed as?

.....

.....



5.6 LET US SUM UP

- Freedom of Press or Media Freedom is the immunity of the communications media – including newspapers, books, periodicals, radio, television, and Internet – 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 does not have the same meaning everywhere in the world. 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 of the press actually exercises at a given time. The need for controlling the Press, apart from any Emergency, arises out of this danger of the freedom of the Press being abused. Freedom of the Press is not a freedom from responsibility for its exercise.
- Ethical behaviour elevates the practice of journalism. Journalism has an ethical goal – the communication of truth and facts. Media ethics is the subdivision of applied ethics dealing with the specific ethical principles and standards of media, including broadcast media, film, theatre, the arts, print media and the internet. Ethics are norms for conduct that distinguish between or acceptable and unacceptable behavior. While the various existing codes of conduct of journalism different organisations adopt have some differences, most share some common elements which include the principles of — truthfulness, accuracy, objectivity, impartiality, dignity, fairness, public accountability and humanity. But there is a perennial concern that the standards of media ethics are being ignored.
- 'Plagiarism' is essentially the unacknowledged use of another person's work, usually by one person acting independently. It is a form of copying without acknowledgement of the work of others – published or unpublished, either verbatim or in close paraphrase, including material downloaded from computer files and the Internet. In journalism, plagiarism is considered a breach of journalistic ethics, and reporters

caught plagiarising typically face disciplinary measures ranging from suspension to termination. Plagiarism is not copyright infringement. While both terms may apply to a particular act, they bear different meanings in law.

- The 'Right of Reply' is right of an individual to reply to misleading or inaccurate publications about him. The right of reply is the right to defend oneself against criticism. It means a person must be given the opportunity to respond to any allegations made against them in a publication.



5.7 FURTHER READING

1. P. K. Ravindran: *Preess Law and Ethics of Journalism*
2. Vir Bala Aggarwal : *Essentials of Practical Journalism*
3. T. Rajshekhar: *Journalism – Ethics and Objectives*
4. Raymond Wacks: *Privacy and Press Freedom*



5.8 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: 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, television, and Internet – 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 organisations and journalists, and their published reporting. In many countries there are constitutional or statutory protections pertaining to media freedom or freedom of the press.

Ans. to Q. No. 2: The Universal Declaration of Human Rights states, "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 regardless of frontiers."

Ans. to Q. No. 3: Clauses (2)-(6) of Article 19 of the *Constitution of India*.

Ans. to Q. No. 4: Ethics is the study of what is good for an individual as also for the society at large. The concept of ethics was formulated by the Greeks. Ethics refers to the value system by which a person determines what is right or wrong, fair or unfair, just or unjust. It is expressed through moral behaviour in specific situations. The Greeks prescribed that for an individual courage, morality and correct behaviour was a benchmark for morality and ethics. They also added the qualities of wisdom, justice and temperance to the list.

Ans. to Q. No. 5: Common elements of media ethics are truthfulness, accuracy, objectivity, impartiality, dignity, fairness, public accountability and humanity.

Ans. to Q. No. 6: Journalistic objectivity can refer to fairness, disinterestedness, factuality, and nonpartisanship, but most often it encompasses all of these qualities. However, not many journalists would make a claim to total neutrality or impartiality.

Ans. to Q. No. 7: Plagiarism

Ans. to Q. No. 8: Right of Reply



5.9 POSSIBLE QUESTIONS

Q. 1: What is 'media freedom'? Why is there is a need to put restraint on the media freedom? Explain.

Q. 2: Write a brief note on the importance of ethics for the media houses.

Q. 3: What is Media Ethics? Write a note on the media code of ethics.

Q. 4: What are the common principles or elements of media ethics? Write briefly on each one of them.

Q. 5: Write a brief note on the compliance of the media ethics in reporting news.

Q. 6: What is plagiarism? Explain plagiarism with reference to media ethics.

Q. 7: What is Right of Reply? Write a note on right of reply with reference to media.

* * * * *

UNIT- 6: MEDIA AND PRIVACY

Unit Structure

6.1 Learning objectives
6.2 Introduction
6.3 Media and Intrusion into Privacy
  6.3.1 Privacy under International Law
  6.3.2 Privacy and Indian Legal Provisions
6.4 Sensationalism
  6.4.1 Sensationalism: Development of the Concept
  6.4.2 Sensationalism in Electronic Media
6.5 Sting Operations
  6.5.1 Operation West End: Tehelka.com
  6.5.2 Sting operations in Movies, Novels, Comics and TV Serial
6.6 Paparazzi
  6.6.1 Paparazzi and Celebrities: Two Way Traffic
  6.6.2 Restrictions on Paparazzi and Laws
6.7 Yellow Journalism
  6.7.1 Yellow Journalism Today
6.8 Let Us Sum Up
6.9 Answers to Check Your Progress
6.10 Further Reading
6.11 Possible Questions

6.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- Discuss media's intrusion into privacy and legal provisions
- explain media's sensationalism
- define sting operations by media
- discuss the concept of Paparazzi
- explain the concept of Yellow Journalism

6.2 INTRODUCTION

Every individual has a right to privacy as part of her/his overall right to live with dignity. The right against unsanctioned invasion of privacy by the

government, corporations or individuals is part of many countries' privacy laws, and in some countries in their constitutions. Almost all countries have laws which in some way limit privacy. Not only that, right to privacy has been a part of international laws since late 1940s. Intrusion or invasion on the privacy of individuals is not permissible unless there is a genuine public interest. The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of India by the Article 21. In recent times when privacy of individuals are under threat, media's intrusion into the privacy zones has been increasing day by day in the forms of – Sensationalism, Sting Operation, Paparazzi and Yellow Journalism – in this way or the other.

In this unit you will be introduced to the concept of privacy along with the concept of sensationalism and its impact on the electronic media, concept of sting operation, paparazzi and restrictions imposed by law and finally the concept of yellow journalism.



LET US KNOW

Yellow Journalism: Journalism that exploits, distorts, or exaggerates the news to create sensations and attract readers.

– Answers.com

6.3 MEDIA AND INTRUSION INTO PRIVACY

Privacy is the state of being free from unwanted intrusion, being closely related to anonymity. Every individual has a right to privacy as part of her/his overall right to live with dignity. The term 'privacy' has been coined by Thomas Cooley, the American scholar who defined it simply as a "right to be left alone" and its object is to protect one's inviolate personality. Since then some aspects of the right of the individual to be free from and protected against highly offensive publicity, concerning private life, affairs and activities, which do not impinge upon public interest, has been recognised in several countries. It may be called media's invasion into privacy when a reporter physically intrudes into a private area to get a story or picture, when a reporter publishes a story or photograph about someone that is false but not defamatory, when a reporter discloses something about an individual's private affairs that is true but also offensive to the individual's of ordinary sensibilities,

when a reporter uses someone's name or picture in an advertisement or for similar purposes of trade.

6.3.1. Privacy under International Law

The right against unsanctioned invasion of privacy by the government, corporations or individuals is part of many countries' privacy laws, and in some countries it is also incorporated in their constitutions. Almost all countries have laws which in some way limit privacy. Not only that, right to privacy has been part of international laws since late 1940s. Privacy law is the area of law concerning the protecting and preserving of privacy rights of individuals. While there is no universally accepted privacy law among all countries, some organisations promote certain concepts to be enforced by individual countries. For example, Article 12 of the Universal Declaration of Human Rights (UDHR) and Article 12 of the International Covenant on Civil and Political Rights (ICCPR) state:

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

For Europe, Article 8 of the European Convention on Human Rights guarantees the right to respect for private and family life, one's home and correspondence. Article 8 of the Convention provides a right to respect for one's "private and family life, his home and his correspondence", subject to certain restrictions that are "in accordance with law" and "necessary in a democratic society". This article clearly provides a right to be free of unlawful searches, but the Court has given the protection for "private and family life" that this Article provides a broad interpretation, taking, for instance, that prohibition of private consensual homosexual acts violates this Article. This may be compared to the jurisprudence of the United States Supreme Court, which has also adopted a somewhat broad interpretation of the right to privacy.

The 1997 Code of Practice for Media in the UK under Section 4 deals with privacy when it states: Intrusions and enquiries into an

individual's private life without his or her consent including the use of long-lens photography to take pictures of people on private property without their consent are not generally acceptable and publication can only be justified when in the public interest.

6.3.2. Privacy and Indian Legal Provisions

It has been described as the right of the individual to be protected against intrusion into his personal life or affairs, or those of his family, by direct physical means or by publication of information. The public generally feel that media too often simply run over people's lives. For that reason and others, public confidence and respect for the press is relatively low. The perception that media peek in windows, roam around private citizens who have been thrust into the public limelight and intrude into private spaces in pursuit of a story is based partly on fact and partly on fiction.

Intrusion or invasion on the privacy of individuals is not permissible unless there is a genuine public interest. The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of India by Article 21. A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education and other matters. None can publish anything concerning the above matters without permission, whether truthful or otherwise and whether laudatory or critical. If media does so it would be violating right to privacy of an individual and would be liable in an action for damages. This rule is, however, subject to exception, that any publication concerning the aforesaid aspects becomes unobjectionable if such publication is based upon the public records including court records. This is for the reason that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by the media. But again in the interest of decency an exception to this rule may also be framed. For example, if a female is the victim of sexual assault, kidnap, abduction etc. the offence should not be given such publicity as will result in the victim. If a newspaper publishes a report or if a motion picture is made alleging that a particular woman was raped, it is held to be defamatory publication of the victim. The reason is the prevailing social atmosphere and the stigma attached to a helpless

woman suffering the wrong and consequences thereto. The Indian criminal law was amended in 1986 in tune with the western criminal law which penalises the publication of rape victim's identity. Section 228A of Indian Penal Code imposes two year punishment with or without penalty for revealing the name and identity of the victim only to protect the victim from further victimization. It is the manifestation of the right to privacy and right to reputation of the victim and the duty of the state and society to protect her from further onslaught of rights, which form a significant part of Article 21 of the Constitution.

People's right to know and freedom of the press to impart information about the working of the government and its functionaries are facts of the fundamental guarantee as stated in the Article 19 (i)(a) of the Constitution, and the said right is an essential ingredient of personal liberty. But in case of a clash between the public official's privacy and the public's right to know about his personal affairs which is having a bearing on the due discharge of his official duties, the privacy of the public official's may be exposed by the media. However, it is equally obvious that in matters of personal privacy which are not relevant to the discharge of his official duties, the public official enjoys the same protection as any other citizen.

The courts usually protect the press against invasion of privacy suits when it is reporting matters of legitimate public interest. However, there are exceptions. One is when a reporter invades someone's privacy by entering private property to get a story. One cannot trespass on a private property to get a story or take a picture even if it is newsworthy. The courts will not protect a reporter when he is a trespasser. Two, the court will also not protect a reporter if he invades someone's privacy out of carelessness.

6.4 SENSATIONALISM

Sensationalism is especially applied to something that is unusual or atypical. It is a manner by which it can grab attention and involves extreme controversy. The term is commonly used in reference to the media. Critics of media- bias of all political rank and colour often charge the media with engaging in sensationalism in their reporting and conduct. That is, the notion that media outlets often choose to report heavily on stories which have value or attention-

grabbing names or events, rather than reporting on more pressing issues to the general public.

In an extreme case of sensationalism, the media would report the news if it makes a good story, without much regard for the factual accuracy. Thus, a press release including ridiculous and false pseudo-scientific claims issued by a controversial group is guaranteed a lot of media coverage. Such stories are often perceived (rightfully, or mistakenly) as partisan or biased due to the sensational nature in which they are reported. A media piece may report on a political figure in a biased way or present one side of an issue while deriding another, or neutrally, it may simply include sensational aspects such as zealots or doomsayers.

Complex subjects and affairs are often subject to sensationalism. Exciting and emotionally charged aspects can be drawn out without providing elements such as pertinent background, investigative, or contextual information needed for the viewer to form his or her opinion on the subject. Mainstream media is sometimes duped into reprinting stories from comedy sites as facts without any factual checks. One widely reported example involved *The Onion's story on Harry Potter* causing an increased interest in Satanism. The media is also occasionally taken in by mistakes, such as a story about deep sea creatures brought by the 2004 Asian tsunami.

One presumed goal of sensational reporting is increased viewership or readership which can be sold to advertisers, the result being a lesser focus on proper journalism and a greater focus on the "juicy" aspects of a story that pull in a larger share of audience.

6.4.1 Sensationalism: Development of the Concept

Many believe that sensationalism is a practice of media corporations especially through television news whereby the use of pictures and footage overpowers the story creating a different and often biased viewpoint. However, Mitchell Stephens in his account of *The History of News* illustrates that sensationalism can be found in the Roman *Acta* (The earliest recorded effort to inform the public instituted by Julius Caesar), and was spread with enthusiasm by preliterate societies. Sensationalism can be found in books of the 16th and 17th century.It was, however, viewed differently in those times. Rather, it was used to teach moral lessons.

It is difficult, therefore, to resist the conclusion - however unpleasant and unfashionable - that the bulk of the blame for the amount of sensationalism that continues to appear in the news rests not only with media corporations, no matter how greedy, but with our natures. There is heavy use of sensationalism which aims at the lower class as they have less of a need to understand politics and the economy. But by doing this, the audience is being further educated and encouraged to find interest in the happenings of their society.

6.4.2 Sensationalism in Electronic Media

Sensationalism is often blamed for the 'infotainment style' of many of the news programs broadcast over radio and television. Yet the news has always been enjoyed for as long as it has been exchanged. The debate of sensationalism used in the media is based on a misunderstanding of its audience, especially the television audience. When sensationalism used through broadcasting is combined with this concept of the passive mass audience, it is assumed that the audience consume all information fed to them. However, the recipients of a message, no matter how sensationalised it is, ' make with it what they will, and the producer is not there to elaborate or to correct possible misunderstanding'. Thus, it is the misinterpretation of the broadcast audience as passive consumers which is problematic for the use of sensationalism.

Further more, even though the newspaper is often seen as, a more credible source than television news because of televisions use of footage over spoken information they are both sensationalised to the same extent. Television news is restricted to showing the scenes of crimes rather than the crime itself because of the unpredictability of events. Whereas newspaper writers can always recall what they did not witness. Furthermore, television news writers have room for fewer words than their newspaper counterparts. Their stories are measured in seconds, not column inches and thus, even with footage, television stories are undeniably shallower than most newspaper stories.

Sensational spellings are common in advertising and product placement. In particular, brand names such as Cadbury's "Creme Egg"

(standard English spelling: *cream*) or Kellogg's "Froot Loops" (*fruit*) may use unexpected spellings to draw attention, and also to make an everyday word copyrightable. The inscription "Fish 'n' chips" above a chip shop is similar. Sensational spelling may take on a cult value in popular culture. An example of this is the heavy metal umlaut. In esoteric circles, 'magic' is often spelled 'magick' to differentiate it from stage magic.



CHECK YOUR PROGRESS

Q.1: What is Privacy?

.....

.....

Q.2: Which Article under the *Constitution of India* protects the right to privacy?

.....

.....

Q.3: What is the common Article under the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) that protects the right to privacy?

.....

.....

Q.4: What is sensationalism?

.....

.....

Q.5: What was the earliest recorded effort to inform the public instituted by Julius Caesar that introduced sensationalism?

.....

.....

6.5 STING OPERATIONS

In law enforcement, a sting operation is a deceptive operation designed to catch a person committing a crime. A typical sting will have a law-enforcement officer or cooperative member of the public play a role as criminal partner or potential victim and go along with a suspect's actions to gather evidence of the suspect's wrongdoing. Sting operations are fraught with ethical concerns over whether they constitute entrapment. Law-enforcement may

have to be careful not to provoke the commission of a crime by someone who would not normally be inclined to do so. Additionally, in the process of such operations, the police often engage in the same so-called crimes, often victimless, such as buying or selling contraband, soliciting prostitutes, etc. In common law jurisdictions, the defendant may invoke the defence of entrapment.

For example, in the case of a drug sting if the police put pressure upon a person to sell drugs who initially refuses but is persuaded to do so then they could be seen as entrapping. However, should the police indicate they wish to purchase drugs and a person offers to sell them, then there is no entrapment. A good example of such concerns involving entrapment is *To Catch a Predator*, a reality TV show hosted by Chris Hansen. The show involves outsiders having online conversations with decoys posing as underaged females. The whole show centers around people having the intent to commit sexual acts with children.

6.5.1 Operation West End: Tehelka.com

The most outstanding case of sting operation by media in India in recent years was the Operation West End. *Tehelka* is an Indian weekly magazine under the editorship of Tarun Tejpal. The publication started life in 2000 as a news website, Tehelka.com. It was forced to close down temporarily due to hostile government action following Operation West End, a major expose on corruption in defence procurements. Operation West End was a sting operation aimed at sensationalising the corruption underlying India's large defence contracts. The original investigative piece by Tehelka in 2001 targeted several members of the then ruling coalition, the National Democratic Alliance, headed by Bharatiya Janata Party's Atal Behari Vajpayee. It showed several political figures, as well as army top brass, colluding to take bribes that approached 4% of orders totalling hundreds of crores in order to approve defense contracts. The minister in-charge of Defence, George Fernandes of the Samata Party, resigned after the tapes were made public, but he was reinstated later. Parts of the tapes show the treasurer of his party talking about accepting bribes of one crore or more. However, subsequent investigation revealed that there was no evidence linking Fernandes to the impropriety in the deals. Tehelka was accused of

fabricating allegations and carrying out a biased and motivated campaign carried out at the behest of the political foes of George Fernandes. In the Tehelka tapes, the reporter Aniruddha Bahal is posing as a representative of the fictitious large arms supplier *West End*.

6.5.2 Sting operations in Movies, Novels, Comics and TV Serial

The 1973 Robert Redford and Paul Newman film, *The Sting*, centers on two drifters and their attempts to con a mob boss through a type of sting operation. Several novels and short stories by science fiction author Philip K. Dick, such as *A Scanner Darkly*, revolve around sting operations that have gotten out of hand. 'Season Three' of the TV series *24* has its entire main plot focused on a sting operation and its unforeseen consequences. In the *Sonic the Hedgehog* issues from Archie Comics, the Freedom Fighters were involved in a sting operation against several of their foes. In the *Seinfeld* episode, The Sniffing Accountant, Jerry, Kramer, and Newman set up a sting in order to catch their suspected drug-dealing accountant. In the *Simpsons* episode, Mr. Lisa Goes to Washington, the FBI use a sting operation to prove the guilt of fictional US Senator Bob Arnold, in order to subsequently convict him of fraud through succumbing to bribery.

6.6 PAPARAZZI

The word 'Paparazzi' originated from the Italian word 'paparazzo'. 'Paparazzi' is the plural term of the Italian word. It means 'photographers' who take candid photographs of celebrities. The settings vary widely for these photographs – it may be any location from the red carpet to a private backyard. The word paparazzi was used in a 1960 film *La dolce vita* directed by Federico Fellini. One of the characters in the film is a news photographer named Paparazzo (played by Walter Santesso). In his book *Word and Phrase Origins*, Robert Hendrickson writes that Fellini took the name from an Italian dialect that describes a particularly annoying noise, that of a buzzing mosquito. In his school days, Fellini remembered a boy who was nicknamed "Paparazzo" (Mosquito), because of his fast talking and constant movements, a name Fellini later applied to the fictional character in *La dolce vita*. Fellini's

screenwriter Ennio Flaiano also said the name came from a hotel proprietor's name in a southern Italy travel narrative *By the Ionian Sea* by Victorian writer George Gissing. Fellini and Flaiano opened the book at random, saw the name, and decided to use it for the photographer.

6.6.1. Paparazzi and Celebrities: Two Way Traffic

The presence of paparazzi is not always discouraged; the arranger of an event may, in order to make the guests feel important, hire a number of photographers who pretend to be so-called paparazzi. Freelance Paparazzi usually sell their work to dozens of magazines and newspapers that publish such photos for their readers and subscribers, and hence, many paparazzi feel that they are helping celebrities and public figures in general by increasing their visibility. They often earn large sums for a particularly good, or revealing picture. Staff Paparazzi usually work for a Press Agency Photos may be sold to hundreds of magazines, newspaper, website and TV networks worldwide.

Many big media corporations are the owners of Show Biz Magazines, Celebrity website and Movie Studio at the same time. For example, TMZ, People Magazine, AOL, CNN and Warner Brothers Studio are owned by TIME WARNER MEDIA. In the same month when Warner Brothers Studio is releasing a new one hundred million dollar movie with Brad Pitt, they will order their affiliate to get pictures and videos of Brad Pitt in holidays to get more buzz around their new feature release. A lot of Paparazzi are getting their information regarding a celebrity by the star's manager, publicist or agent. Celebrities need a higher level of exposure than the rest of us; so it is a two-way street, therefore, the celebrities manipulate.

6.6.2 Restrictions on Paparazzi and Laws

Due to the reputation of paparazzi as a nuisance, some states and countries (particularly within Europe) restrict their activities by passing laws and curfews, and by staging events in which paparazzi are specifically allowed to take photographs. In Germany and France, photographers need the permission of the people in their photographs

in order for them to be released. In USA, Paparazzi are not breaking any laws when they take a photo of a celebrity, unless the photographer was on private property. Paparazzi involvement in the deaths of Princess Diana and her companion Dodi Fayed, who were killed in 1997 in a high-speed car accident in Paris, France, is well known. Although several paparazzi were briefly taken into custody, no one was ever convicted. The official inquests into the accident attributed the causes to the speed and manner of driving of the Mercedes, and to the speed and manner of driving of the following vehicles as well as to the impairment of the judgment of the Mercedes driver through alcohol.

In 1999, the *Oriental Daily News* of Hong Kong was found guilty of "scandalizing the court", an extremely rare criminal charge that the newspaper's conduct would undermine confidence in the administration of justice. The charge was brought after the newspaper had published abusive articles challenging the judiciary's integrity and accusing it of bias in a lawsuit the paper had instigated over a photo of a pregnant Faye Wong. The paper had also arranged for a "dog team" (slang for paparazzi in the Chinese language) to track a judge for 72 hours, to provide the judge with first-hand experience with what paparazzi do.

On 2006, Daniela Cicarelli went through a scandal when a paparazzo caught video footage of her having sex with her boyfriend on a beach in Spain, which was posted on YouTube. After fighting in the court, it was decided in her favour, causing YouTube to be blocked in Brazil. This caused major havoc among Brazilians, including threatening to make a boycott against MTV unless Daniela was fired from the company. Ultimately, the block lasted merely a few days, but Daniela did not get fired. However, the legal action backfired as the court decided she had no expectation of privacy by having sex in a public location.

6.7 YELLOW JOURNALISM

Yellow journalism, in short, is biased opinion masquerading as objective fact. Moreover, the practice of yellow journalism involved sensationalism, distorted stories, and misleading images for the sole purpose of boosting newspaper sales and exciting public opinion. The New York Press coined

the term 'yellow kid journalism' in early 1897 after a then popular comic strip. This was soon shortened to 'yellow journalism' with the New York Press insisting, "We called them Yellow because they are Yellow."

The term was popularised in the late 19th century in *The New York World*, run by Joseph Pulitzer and *The New York Journal*, run by William Randolph Hearst. It all started, some historians believe, with the onset of the rapid industrialisation that was happening all around the world. The Industrial Revolution eventually affected the newspaper industry, allowing newspapers access to machines that could easily print thousands of papers in a single night. This is believed to have brought into play one of the most important characteristics of 'yellow journalism' – the endless drive for circulation. And, unfortunately, the publisher's greed was very often put before ethics.

Although the actual practice of what would later become known as yellow journalism came into being during a more extended time period (between 1880-1890), the term was first coined based on a series of occurrences in and following the year 1895. The battle peaked from 1895 to about 1898, and historical usage often refers specifically to this period. Both papers were accused by critics of sensationalising the news in order to drive up circulation, although the newspapers did serious reporting as well. This was the year (1895) in which Hearst purchased *The New York Journal*, quickly becoming a key rival of Pulitzer's. The term was derived, through a series of peculiar circumstances, from a cartoon by the famous 19th century cartoonist, Robert Outcault called "The Yellow Kid". The cartoon was first published in *The World*, until Hearst hired him away to produce the strip in his newspaper. Pulitzer then hired another artist to produce the same strip in his newspaper. This comic strip happened to use a new special, non-smear yellow ink, and because of the significance of the comic strip, the term "yellow journalism" was coined by critics.

Sadly though, this period of sensationalist news delivery (where the so-called yellow press routinely outsold the more honest, truthful, unbiased newspapers) does stand out as a particularly dark era in journalistic history. One of the more disturbing features involved with the former practice of yellow journalism, and the period in which it was most active is that there is no definite line between this period of yellow journalism and the period afterwards. There only exists evidence that such practices were frowned upon by the

general public – by 1910, circulation had dropped off very rapidly for such papers. But irrespective of all these 'yellow journalism' never faded away.

In recent times "Yellow journalism" may be defined as a type of journalism that downplays legitimate news in favour of eye-catching headlines that sell more newspapers. It may feature exaggerations of news events, scandal-mongering, sensationalism, unprofessional or unethical practices by news media organisations or journalists. Yellow Press newspapers carry multi-column front-page headlines covering a variety of topics, such as sports and scandal, using bold layouts (with large illustrations and perhaps colour), heavy reliance on unnamed sources, and unabashed self-promotion. By extension, the term is used today as a pejorative term to decry any journalism that treats news in an unprofessional or unethical fashion, such as systematic political bias.

Frank Luther Mott, an American historian and journalist, in 1941, defined Yellow Journalism in terms of five characteristics:

– scare headlines in huge print, often of minor news
– lavish use of pictures, or imaginary drawings
– use of fake interviews, misleading headlines, pseudo-science, and a parade of false learning from so-called experts
– emphasis on full-colour Sunday supplements, usually with comic strips (which is now normal in the U.S.)
– dramatic sympathy with the "underdog" against the system.

Present day (successful) exponents of the yellow journalistic style would be the British red top tabloids, notably *The Sun* and its German equivalent *Bild*.

6.7.1 Yellow Journalism Today

"Yellow journalism", a phrase coined in the late 19th century because of its smear appeal, still lives on as a derogatory term for some types of publications. The term , which emerged in New York City in early 1897 to denigrate what then was called the "new journalism" of William Randolph Hearst and Joseph Pulitzer, is widely invoked these days as a shorthand sneer for journalistic sins of all kinds. It is a distinctly American idiom that has found expression in an astonishing variety of

international settings. “Yellow journalism”, for example, has been associated with bribe-taking by journalists in Thailand, and with “rumor-mongering factories” in Pakistan. “Yellow journalism” has been blamed for “creating chaos, despondency, and lies” in Kenya. A large number of complaints every year to the press commission in India are about “yellow journalism”.

A careful, and dispassionate study reveals that “yellow journalism” is a distinctive and imaginative genre, less malevolent than commonly understood. In the context of today’s media, “yellow journalism” is characterised by:

– scare headlines in huge print, often of minor news
– frequent use of multicolumn headlines, including Page One banners.
– front-page treatment for a variety of topics, including the local and national politics, war, international diplomacy, sports, and society; generous use of illustrations, photographs, graphics and maps.
– willingness to experiment with layouts. Sometimes, the front page of the Journal is was dominated by a single article and outsized illustration.
– the tendency to rely on anonymous sources, notably in dispatches of leading reporters.
– eager indulgence in self-promotion, particularly calling attention to reporting accomplishments.

Yellow journalism has its faults. It is impertinent, reluctant to acknowledge lapses in reporting. But in appearance and, to some extent, in content, the yellow press represented a provocative departure for mainstream American journalism. The yellow press also tapped eagerly the emergent technologies, investing, for example, in presses that printed multiple colours. Those presses gave rise to colour comics, an immediate and lasting success. Yellow journalism could scarcely be called boring, uninspired or predictable – the sort of criticism that is sometimes raised against contemporary U.S. newspapers. Newspapers of the early 21st century resemble in appearance the yellow press of 100 years ago more than they do the era’s gray, conservative

rivals. Although the boycott of yellow press in 1897 failed, detractors of yellow journalism did succeed in maligning and marginalising the genre.



CHECK YOUR PROGRESS

Q.6: What is a "Sting Operation"?

.....

.....

Q.7: What is Tehelka.com?

.....

.....

Q.8: What is Paparazzi?

.....

.....

Q.9: What is "yellow journalism"?

.....

.....

Q.10: Which two newspapers popularised the term "Yellow journalism"?

.....

.....



6.8 LET US SUM UP

In this chapter we are introduced to the topic, right to privacy. Privacy is the state of being free from unwanted intrusion, being closely related to anonymity. The term 'privacy' was coined by Thomas Cooley, the American scholar who defined it simply as a "right to be left alone" and its object is to protect one's inviolate personality. Since then some aspects of the right of the individual to be free from and protected against highly offensive publicity, concerning private life, affairs and activities, which do not impinge upon public interest, has been recognised in several countries. It may be called media's invasion into privacy when – a reporter physically intrudes into a private area to get a story or picture. The right against unsanctioned invasion of privacy by the government, corporations or individuals is part of many countries' pri-

vacy laws. Right to privacy has also been part of international laws since late 1940s.

- Sensationalism is a manner by which it can grab attention and involves extreme controversy. The term is commonly used referring to the media. Critics of the media bias of all political rank and colour often charge the media with engaging in sensationalism in their reporting and conduct. Sensationalism is often blamed for the 'infotainment style' of many of the news programs broadcast over radio and television.
- In law enforcement, a "sting operation" is a deceptive operation designed to catch a person committing a crime. Sting operations are fraught with ethical concerns over whether they constitute entrapment. A typical sting will have a law-enforcement officer or cooperative member of the public play a role as criminal partner or potential victim and go along with a suspect's actions to gather evidence of the suspect's wrongdoing.
- 'Paparazzi' means 'photographers' who take candid photographs of celebrities. The word 'Paparazzi' originated from the Italian word 'paparazzo'. The presence of paparazzi is not always discouraged; the arranger of an event may, in order to make the guests feel important, hire a number of photographers who pretend to be so-called paparazzi. Freelance Paparazzi usually sell their work to dozens of magazines and newspapers that publish such photos for their readers and subscribers, and hence, many paparazzi feel that they are helping celebrities and public figures in general by increasing their visibility.
- Yellow journalism, in short, is biased opinion masquerading as objective fact. In recent times "Yellow journalism" may be defined as a type of journalism that downplays legitimate news in favour of eye-catching headlines that sell more newspapers. It may feature exaggerations of news events, scandal-mongering, sensationalism, unprofessional or unethical practices by news media organisations or journalists.



6.10 FURTHER READING

1. R. S. Sarkaria: *A Guide to Journalistic Ethics*
2. Raymond Wacks: *Privacy and Press Freedom*

3. Tom Welsh, Walter Greenwood, David Banks: *Essential Law for Journalists*

6.9 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: Privacy is the state of being free from unwanted intrusion, being closely related to anonymity. Every individual has a right to privacy as part of her/his overall right to live with dignity. The term 'privacy' was coined by Thomas Cooley, the American scholar who defined it simply as a "right to be left alone" and its object is to protect one's inviolate personality.

Ans. to Q. No. 2: Article 21 of the *Constitution of India* protects the right to privacy of individuals.

Ans. to Q. No. 3: Article 12 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

Ans. to Q. No. 4: Sensationalism is a manner by which it can grab attention and involves extreme controversy. The term is commonly used in reference to the media. One presumed goal of sensational reporting is increased viewership or readership.

Ans. to Q. No. 5: The Roman *Acta*

Ans to Q No. 6 : A sting operation is a deceptive operation designed to catch a person committing a crime. Sting operations are fraught with ethical concerns over whether they constitute entrapment.

Ans. to Q. No. 7: Tehelka.com is a news website started in 2000. The portal carried the most famous case of sting operation by media in India in recent years called Operation West End. The portal started later *Tehelka*, a weekly magazine under the editorship of Tarun Tejpal.

Ans. to Q. No. 8: The word 'Paparazzi' originated from the Italian word 'paparazzo'. It means 'photographers' who take candid photographs of celebrities. The settings vary widely for these photographs – it may be any location from the red carpet to a private backyard.

Ans. to Q. No. 9: Yellow journalism is biased opinion masquerading as objective fact. Moreover, the practice of yellow journalism involves sensationalism, distorted stories, and misleading images for the sole purpose of boosting newspaper sales and exciting public opinion.



6.11 POSSIBLE QUESTIONS

Q. 1: Describe 'privacy' in relation to media's intrusion into it. Explain the provisions under international law for protection of privacy.

Q. 2: Explain the statutory/legal provisions for protection of privacy in India.

Q. 3: What is "Sensationalism"? Write a brief note on "sensationalism" in electronic media?

Q. 4: What is a "sting operation"? Explain with reference to sting operations in India.

Q. 5: What is 'Paparazzi'? Explain how 'Paparazzi' is necessary for the celebrities, yet they are dangerous for celebrities?

Q. 6: Write a brief note on restrictions and laws on 'Paparazzi' with examples.

* * * * *

UNIT- 7: ETHICS IN PHOTOJOURNALISM

Unit Structure

7.1 Learning objectives

7.2 Introduction

7.3 Ethics in Photojournalism

7.4 Use of Photoshop and publishing of digital photographs

7.5 Photojournalism, Internet and Ethics

7.6 Let Us Sum Up

7.7 Answers to Check Your Progress

7.8 Further Reading

7.9 Possible Questions

7.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- discuss the topic of ethics in photojournalism
- narrate ethics in use of Photoshop and digital manipulation
- explain photojournalism in relation to Internet
- discuss the problem of ethical concerns of photojournalism over Internet

7.2 INTRODUCTION

In the previous unit we have introduced to the concept of privacy along with the concept of sensationalism and its impact on the electronic media besides the concept of sting operation, paparazzi and restrictions imposed by law and finally the concept of yellow journalism.

Photojournalism is a particular form of journalism (the collecting, editing, and presenting of news material for publication or broadcast) that creates images in order to tell a news story. It is now usually understood to refer only to still images, and in some cases to video used in broadcast journalism or for personal use. Lots of complex issues have come up in recent years in the domain of photojournalism, such as the issues concerning copyright violations, plagiarism and observing code of ethics. In this unit you are being introduced to the ethics of photojournalism, digital manipulation by using Photoshop and

ethics concerning it. You will also be introduced to the ethical concerns of photojournalism over Internet.

7.3 ETHICS IN PHOTOJOURNALISM

What is Photography?

Photography is the process, activity and art of creating still or moving pictures by recording radiation on a sensitive medium, such as a film, or an electronic sensor. Photojournalism is a particular form of journalism (the collecting, editing, and presenting of news material for publication or broadcast) that creates images in order to tell a news story. It is now usually understood to refer only to still images, and in some cases to video used in broadcast journalism or for personal use. Photojournalism is distinguished from other close branches of photography (such as documentary photography, street photography or celebrity photography) by the qualities of - Timeliness, Objectivity and Narrative.

Ethics in Photojournalism:

Ethics in Photojournalism (or Photography) could be described as the principles of the best practice that any photographer should adopt in carrying out their practice. The majority of these principles are based on common sense, goodwill, and morality rather than on laws and regulations. However, there are areas where the law may provide a framework in which the photographer has to operate, e.g., copyright, contract law, etc. and, in some countries, privacy legislation. Privacy laws provide a legal framework in which the ethics of privacy resides. However, for those photographers not bound by legal constraints, it is in their interest not to misuse any photograph they have taken. Clearly "paparazzi" sails close to the wind in this regard, often acquiring images using long lenses and other devious means which can bring the profession into disrepute. The events leading to the death of Diana, Princess of Wales, in Paris in September 1997 are a case in point.

Plagiarism in Photography:

Plagiarism is another important issue. Basing an image on the work of another photographer without reworking, or using the text authored by someone else without giving credit, is plagiarism. This is not fraud; it is copyright infringement and comparable to theft. Care should always be exercised when receiving a brief for new work, especially if the example provided by the client is based on the work of another photographer. It is in the photographer's

interest to point out to the client the difficulties of 'copying' the ideas of another. Both the photographer's and the client's reputation may be at stake, and legal action may also ensue.

Photographers' Code of Professional Conduct:

Most professional bodies that represent photographers have a code of professional conduct that all members agree to be bound by, and which provides a standard of ethics to which they conform when working. It usually covers matters like confidentiality, exercising due skill and which provides a standard of ethics to which they conform, the upholding of professional status, issues of corruption, and so on.

Photojournalists (basically war photographers) are regularly confronted with ethical issues of an extreme kind. In photographing identifiable victims of conflict or disaster, for example, they may have to consider whether they would wish themselves or their families to be shown in such circumstances. Or, in another kind of situation, the photographer may have the choice of intervening to protect life instead of taking pictures. A third type of predicament arises when a photographer suspects that, for publicity or propaganda reasons, an atrocity or other criminal act may be taking place in order to be photographed. Finally, the photographer must ensure that his or her pictures show what they purport to show, without staging, restaging, or manipulation in the darkroom or by digital means. In practice, all these issues involve difficult grey areas, and implicate editors and newspaper proprietors as well as photographers.

The range and variety of photographic work is such that it is hard to generalise too broadly about standards of conduct. However, ethical requirements of photojournalism is that it should be legal, decent, honest, and truthful; prepared with a sense of responsibility to consumers and society. It must have regard for the principles of fair competition generally accepted in business. Based on these background the U.S. National Press Photographers Association (NPPA), and other professional organizations, maintain a Code of Ethics to address what are thought to be the proper approaches to these issues. The NPPA places emphasis on photojournalism, or journalism that presents a story through the use of photographs or moving pictures. The NPPA encourages photojournalists to reflect high standards of quality in their professional performance and in their personal code of ethics. The NPPA believes that photojournalists should operate as trustees of the public. The primary role of photojournalists is to report visually on the significant events

and on the varied viewpoints in our common world. The NPPA Code of Ethics is intended to promote the highest quality in all forms of photojournalism and to strengthen public confidence in the profession. Following are the main points of this Code:

- Be accurate and comprehensive in the representation of subjects.
- Resist being manipulated by staged photo opportunities.
- Be complete and provide context when photographing or recording subjects. Avoid stereotyping individuals and groups. Recognise and work to avoid presenting one's own biases in the work.
- Treat all subjects with respect and dignity. Give special consideration to vulnerable subjects and compassion to victims of crime or tragedy. Intrude on private moments of grief only when the public has an overriding and justifiable need to see.
- While photographing subjects should not intentionally contribute to, alter, or seek to alter or influence events.
- Editing should maintain the integrity of the photographic images' content and context. Do not manipulate images or add or alter sound in any way that can mislead viewers or misrepresent subjects.
- Do not pay sources or subjects or reward them materially for information or participation.
- Do not accept gifts, favors, or compensation from those who might seek to influence coverage.
- Do not intentionally sabotage the efforts of other journalists.



CHECK YOUR PROGRESS

Q.1: What is Photography?

.....

.....

Q.2: What is Photojournalism?

.....

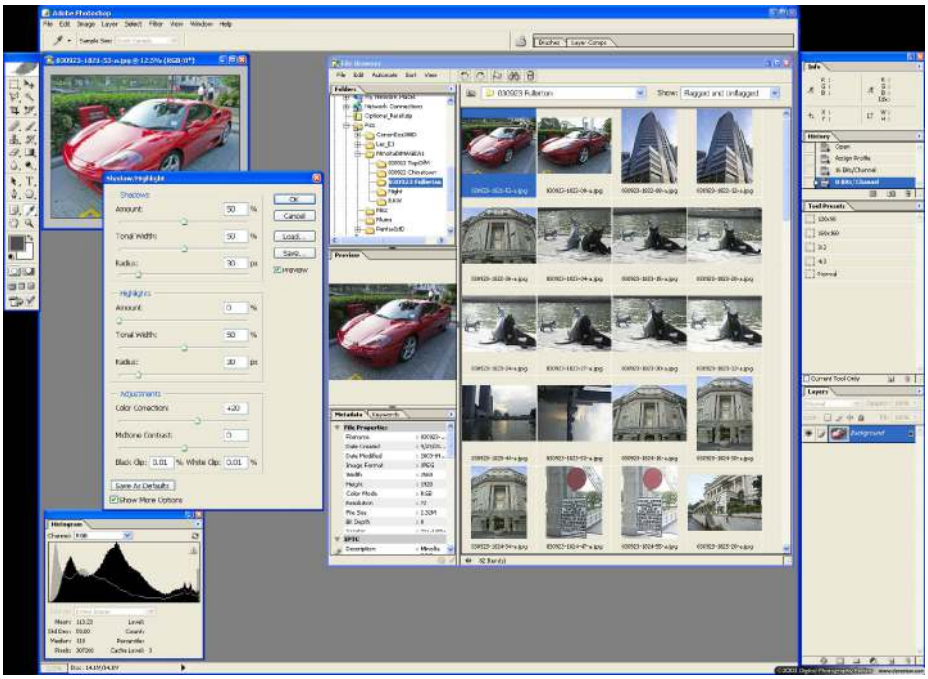
.....

7.4 USE OF PHOTOSHOP AND PUBLISHING OF DIGITAL PHOTOGRAPHS

Photojournalism works within the same ethical approaches to objectivity that are applied by other journalists. What to shoot, how to frame and how to

edit are constant considerations. In this respect the emergence of digital photography is worth mentioning because it offers new opportunities for the manipulation, reproduction, and transmission of images. In the process it has complicated many of the ethical issues involved.

Let us discuss this point in some detail.



(Digital photos how it looks in a computer)

Digital photography by definition relies on being processed with photo editing software such as the popular Adobe Photoshop which makes manipulation or sometimes distortion easier. With the availability of applications like Photoshop, an important point of discussion from ethical point of view one of the most common within the photographic community is about the appropriate use and extent of photo manipulation. Even within the world of nature and landscape there are some who feel that digital manipulation is part of the art form; there are others - the purists - who feel that minimal editing should take place to accurately represent nature. But things have been different in recent years. There is a growing number of photographers who have been found to be bending or breaking the ethics of photojournalism. An example is Reuters' freelance photographer, Adnan Hajj who was dismissed for his digitally altered images of Beirut. A former Pulitzer Prize nominated photographer, Allan Dietrich, has been caught publishing digitally manipulating photos in PDF (Portable Document Format).

Code of Ethics and Photoshop:

The guiding principle of journalistic profession is accuracy, and therefore, it is wrong to alter the content of a photograph in any way that deceives the public. Photojournalists have the responsibility to document society and to preserve its images as a matter of historical record. It is clear that the emerging electronic technologies provide new challenges to the integrity of photographic images. In light of this background, the National Press Photographers Association (NPPA), affirms in its Code of Ethics that the accurate representation is the benchmark of journalistic profession. It believes photojournalistic guidelines for fair and accurate reporting should be the criteria for judging what may be done electronically to a photograph. Altering the editorial content is a breach of the ethical standards recognised by the NPPA.

People have been faking photos since the invention of photography - this is nothing new and photojournalists have grappled with the credibility problems created by altered images since the early days of photography. But since the 20th century computers are wondrous machines and there are Photoshop artists who can digitally manipulate photos. But these Photoshop artists should remember that photo manipulation is not just about using the technology, it is about understanding our society as well. One can redecorate his/her whole house, loose ten kilos of my weight or even ten years, and leap tall building at a single bound - using a computer. This is simply magical, but people gradually would be losing faith in what they see in a photograph. And because of this ease in manipulating digital images with Photoshop, some people are questioning whether images are "real" or "art", and wondering if they can believe anything they see anymore.

Each day when a photojournalist steps out onto the street, he/she should remember that he/she has been granted a sacred trust to be truthful. Photojournalists have the responsibility to produce only honest images. It is their responsibility to show people the world and what happens in it good or bad. They have no right to distort or manipulate facts in a photograph. Fellow citizens trust them, and, if they destroy the credibility of their work, even in small ways, it destroys the credibility of their newspaper or TV station in the eyes of the people they are covering.

In the days of Photoshop and other equally good photo editing softwares, photographic truth is an elusive, often subjective concept. Photoshop is useful in many ways but must never be used for the altering original photographs to

deceive people. Photoshop can be used as a medium of artistic creations and as long as the purpose of the "art" is not to intentionally mislead or misrepresent, and the artist is clear about his methods and intentions, no one gets fooled. Of course, there are some art forms, such as magic, where the intention is specifically to deceive, and the viewer willingly goes along with it.

Therefore, a universal code of ethics is definitely something photojournalists need, but it should not restrict their options and creativity. Of course, the best way to approach a situation like that is to ask oneself if it will benefit others to see that photograph. It only becomes a problem, and a question of ethics, when the artist or photographer lies about his motivations, methods, and conclusions, and presents images with the purpose to intentionally deceive.



CHECK YOUR PROGRESS

Q.3: Digital photography relies on what that makes manipulation distortion more easier?

.....

.....

Q.4: What is Photoshop ?

.....

.....

7.5. PHOTOJOURNALISM, INTERNET AND ETHICS

What is Internet?

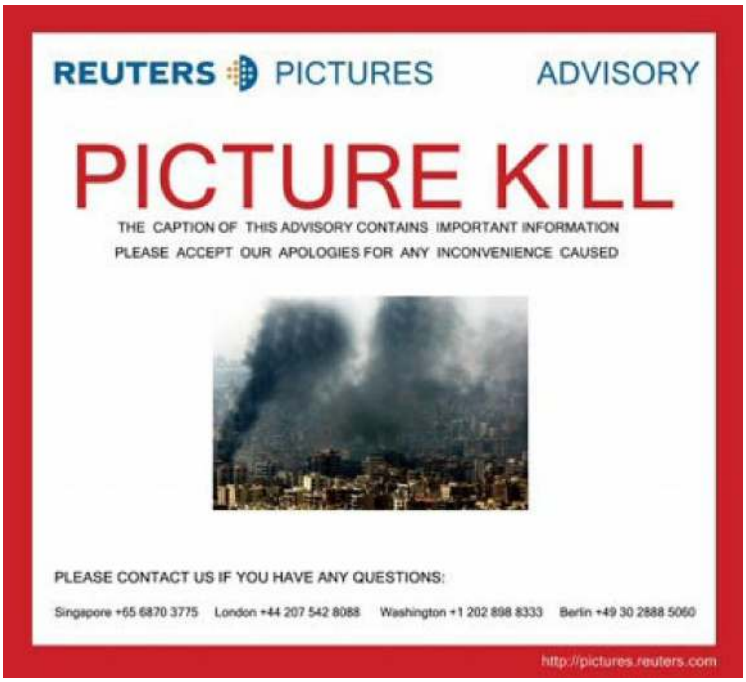
Internet is such a place where anyone with the necessary equipment and modest technical skill can have an active presence and declare his or her message to the world. It allows individuals to indulge in anonymity, role-playing, and fantasising and also to enter into community with others and engage in sharing. The technological configuration underlying the Internet has a considerable bearing on its ethical aspects. People have tended to use it according to the way it was designed, and to design it to suit that kind of use. In most of the countries major ethical issues are often addressed by law, but laws regarding photography can vary significantly from nation to nation, and the situation is further complicated as photojournalism over the Internet made in one country can be visible in all other countries simultaneously.

Photography on the World Wide Web (www)

Ever since it became practical to print photographs on newsprint, photography has been an integral part of news media. But recent advances in technology, in particular the popularisation of the World Wide Web (www) or the Internet things have become more challenging. Free and simple-to-maintain blog software has allowed anyone who cares to be heard by the world, amplify individuals' criticisms of the mainstream media. At the same time, citizen journalism of a variety of flavours has proliferated as ordinary people become accustomed to taking and uploading images of events that they witness. For the most part, mainstream media outlets seem to have adjusted to these trends, but while photojournalism online may have some troubling consequences for ethics and privacy, overall it appears that the Internet's effect on photojournalism will improve the practice if not the profession.

Examples of Manipulated Photographs on the Internet

The growth of the Internet has contributed to public skepticism about photojournalism. Numerous online communities, populated by thousands of professionals and amateurs, have sprung up around photoshopping and many websites that support digital manipulation of photographs. This skepticism has also found an outlet in the blogs, as Internet denizens critique inaccuracies in the mainstream media and suspect photographs as fakes. One of the most infamous instances of this was the "Burning Building" photograph scandal during the 2006 Israeli-Lebanon conflict. Reuters circulated a photo of Beirut showing thick smoke billowing from "burning buildings destroyed during an overnight Israeli air raid", according to the caption (Blumer). In the photograph, the smoke showed a pattern from which it could be clearly visible that it had been modified with Photoshop's "clone" tool. Some bloggers also pointed out inconsistencies in the arrangement of the buildings on the ground with other Beirut photographs, suggesting that they also had been doctored. After this controversy billowed through the Internet, Reuters issued a "Picture Kill" and took the photograph down. However, the "Burning Building" photograph remained a hot topic as bloggers wondered why such an obviously doctored picture was able to get past the Reuters editors. It seems, the long-term effect of the presence of the Internet on the mainstream media's credibility is unclear.



The Internet has also facilitated the distribution of ordinary citizens' photography, creating the possibility that their work may soon compete with traditional media outlets' photo essays. The convergence of blogs and digital photography has allowed almost anyone to create and publish his or her own photo essays. A myriad of Internet companies offer services allowing users to upload photographs and show them to the public. One of the most popular photo hosting services, Flickr, has an online community-type feature called "pooling" which makes it easy for different users to group photos related to a particular interest or element. This has been used to bring together tens, even hundreds of different users' photos of events.

In many cases, the mainstream media has also encouraged its audience's participation in photojournalism. This phenomenon became apparent during the July 2005 bombings in London when camera phones provided some of the most intense and immediate images from the scenes. Since professional photojournalists had little to no access to the blast sites afterward as security officials fenced them off, many news outlets relied instead on amateurs' images to illustrate news. Furthermore, since some of the victims also had camera phones, they were able to document the moments after the bombing - images a professional photojournalist would never have been able to capture. The mass conversion of ordinary citizens into photojournalists, while potentially democratising, could have some negative consequences. Amateur photographs pose the same credibility hazards as

professional photojournalist work; news outlets will have to find ways to accurately determine whether or not a submitted image has been doctored. In addition, amateurs do not share professional photojournalists' code of ethics.

There are organisations for self-regulation of professional photographers and who have ethical Code of Conduct for their self-regulation. The photographers involved in media normally need to follow these Code of Conduct and the reputed media houses often follow them in strict sense of these codes. But the Netizens or common Internet users do not belong to any group, organisation or media house. Therefore, while uploading a photograph, regulating the Netizens ethically, is a major concern in the coming years.



CHECK YOUR PROGRESS

Q.5: What is "www" ?

.....

.....

Q.6: What was the "Burning Building" photograph scandal?

.....

.....



7.6. LET US SUM UP

- Photography is the process, activity and art of creating still or moving pictures by recording radiation on a sensitive medium, such as a film, or an electronic sensor. Photojournalism is a particular form of journalism (the collecting, editing, and presenting of news material for publication or broadcast) that creates images in order to tell a news story. It is now usually understood to refer only to still images, and in some cases to video used in broadcast journalism or for personal use.
- Ethics in Photojournalism (or Photography) could be described as the principles of best practice that any photographer should adopt in carrying out their practice. The majority of these principles are based on common sense, goodwill, and morality rather than on laws and regulations. However, there are areas where the law may provide a framework in which the photographer has to operate. However, ethical requirements of photojournalism can be - that it be legal, decent, honest, and truthful;

prepared with a sense of responsibility to consumers and society; and have regard for the principles of fair competition generally accepted in business.

- People have been faking photos since the invention of photography - this is nothing new. But the emergence of digital photography offers new opportunities for the manipulation, reproduction, and transmission of images, that has complicated many ethical. Digital photography by definition relies on being processed with photo editing software such as the popular Adobe Photoshop. A universal code of ethics is defiantly something photojournalists need, but it should not restrict their options and creativity.
- Internet is such a virtual place which allows individuals to indulge in anonymity, role-playing, and fantasising and also to enter into community with others and engage in sharing. The technological configuration underlying the Internet has a considerable bearing on its ethical aspects. There are organisations for self-regulation of professional photographers and who have ethical Code of Conduct for their self-regulation. But the Netizens or common Internet users do not belong to any group, organisation or media house. Therefore, while uploading a photograph, regulating the Netizens ethically, is a major concern in the coming years.



7.8. FURTHER READING

1. L. Gross, J. S. Katz and J. Ruby (eds.): *Image Ethics - The Moral Rights of Subjects in Photographs, Film, and Television*
2. L. Gross, J. S. Katz, and J. Ruby (eds.): *Image Ethics in the Digital Age*
3. P. K. Ravindran : *Press Laws and Ethics of Journalism*
4. T. Rajsekhar: *Ethics and Objectives*



7.7 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: Photography is the process, activity and art of creating still or moving pictures by recording radiation on a sensitive medium, such as a film, or an electronic sensor.

Ans. to Q. No. 2: Photojournalism is a particular form of journalism (the

collecting, editing, and presenting of news material for publication or broadcast) that creates images in order to tell a news story. It is now usually understood to refer only to still images, and in some cases to video used in broadcast journalism or for personal use.

Ans. to Q. No. 3: Digital photography by definition relies on being processed with photo editing software such as the popular Adobe Photoshop which makes manipulation or sometimes distortion more easier.

Ans. to Q. No. 4: Photoshop is a software or a graphics editing program (also known as a DPD, Desktop Publishing Program) developed and published by Adobe Systems. It is the current and primary market leader for commercial bitmap and image manipulation, and is the flagship product of Adobe Systems. It has been described as "an industry standard for graphics professionals".

Ans. to Q. No. 5: World Wide Web (www).

Ans. to Q. No. 6: "Burning Building" was a photograph scandal during the 2006 Israeli-Lebanon conflict. Reuters circulated a photo of Beirut showing thick smoke billowing from "burning buildings destroyed during an overnight Israeli air raid", according to the caption (Blumer). In the photograph, the smoke showed a pattern from which it could be clearly visible that it had been modified with Photoshop's "clone" tool. Some bloggers also pointed out inconsistencies in the arrangement of the buildings on the ground with other Beirut photographs, suggesting that they also had been doctored. After this controversy billowed through the Internet, Reuters issued a "Picture Kill" and took the photograph down.



7.9. POSSIBLE QUESTIONS

Q. 1: How is Photojournalism distinguished from other close branches of photography? Write a note on ethics of photojournalism.

Q. 2: Write a note on ethical concerns as regards the use of Photoshop and digital manipulation.

Q. 3: Write a note on photojournalism and ethics in relation to Internet (World Wide Web)?

* * * * *

UNIT- 8: ETHICS IN ADVERTISING & PUBLIC RELATIONS

Unit Structure

8.1. Learning objectives

8.2. Introduction

8.3. Ethics in advertising

8.3.1 Ethical and moral principles of advertising

8.4. Advertising Standards Council of India

8.4.1. ASCI's Mission and Objectives

8.4.2. ASCI and Its principles

8.5. Ethics in advertising of medicine

8.6. Ethics in Public Relations

8.7. Let Us Sum Up

8.8. Answers to Check Your Progress

8.9. Further Reading

8.10. Possible Questions

8.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- explain the ethical and moral principles of advertising.
- discuss the Advertising Standards Council of India (ASCI) and its mission, objectives and principles.
- point out the Ethics in advertising of medicine.
- define the importance of Ethics in Public Relations.

8.2 INTRODUCTION

In the previous unit you are introduced to the ethics of photojournalism, ease digital manipulation by using Photoshop and ethics concerning it. You are also introduced to the ethical concerns of photojournalism over Internet.

Advertising is a form of communication that typically attempts to persuade potential customers to purchase or to consume more of a particular brand of product or service. Self-Regulatory ethical code of conduct for advertising has been important since a long time. Though these code of

conduct did not appear in written form till 1950, there was a need felt by different organisations. In this unit you will be introduced to the ethical conduct in advertising, in advertising of medicine and also the code of conduct followed in public relations.

In the next unit, we will discuss on the concepts of "ombudsman", "press ombudsman" and "Reader's Editor" who work independently within news organisations as the interface between readers, listeners and viewers on the one hand, and journalists and editors on the other. You will also be introduced to the little history about the appointment and recommendations of the First and Second Press Commissions in India. The recommendations led to the establishment of the Press Council of India (PCI) and the journalistic principles prescribed by the PCI. Finally the Broadcasting Authority Bill, 2006 will be enumerated which prescribes the regulation of the airwaves which are public property and in the national and public interest the airwaves needs to be regulated.

8.3 ETHICS IN ADVERTISING

Advertising is a form of communication that typically attempts to persuade potential customers to purchase or to consume more of a particular brand of product or service. An advertisement, under the Advertising Standards Council Of India (ASCI) Code for Self-Regulation in Advertising, is defined as "a paid-for communication, addressed to the public or a section of it, the purpose of which is to influence the opinions or behaviour of those to whom it is addressed." Many advertisements are designed to generate increased consumption of those products and services through the creation and reinforcement of "brand image" and "brand loyalty". For these purposes, advertisements sometimes embed their persuasive message with factual information. Every major medium is used to deliver these messages, including television, radio, cinema, magazines, newspapers, video games, the Internet and billboards.

The importance of advertising is steadily on the increase in modern society. Just as the media of social communication themselves have enormous influence everywhere, so advertising, using media as its vehicle, is a pervasive, powerful force shaping attitudes and behavior in today's world. The information provided by advertising is at the service of the common good. Advertising

has a profound impact on how people understand life, the world and themselves, especially in regard to their values and their ways of choosing and behaving. Society has a right to information based on truth, freedom, justice and solidarity. But it calls attention to moral principles and norms relevant to advertising, as to other forms of communication.

The field of advertising is extremely broad and diverse. In general terms, of course, an advertisement is simply a public notice meant to convey information and invite patronage or some other response. As that suggests, advertising has two basic purposes: to inform and to persuade, and - while these purposes are distinguishable - both very often are simultaneously present. Advertising can be very simple - it may be at local level or national level or it can be very complex, involving sophisticated research and multimedia campaigns that span the globe. It differs according to its intended audience, so that, for example, advertising aimed at children raises some technical and moral issues significantly different from those raised by advertising aimed at competent adults. Not only are many different media and techniques employed in advertising; advertising itself is of several different kinds: commercial advertising for products and services; public service advertising on behalf of various institutions, programmes, and causes; and - a phenomenon of growing importance today - political advertising in the interests of parties and candidates.

8.3.1 Ethical and moral principles of advertising

There is nothing intrinsically good or intrinsically evil about advertising. It is a tool, an instrument: it can be used well, and it can be used badly. It can have beneficial results, it also can have a negative, harmful impact on individuals and society. Therefore, if media are to be employed correctly in advertising, it is essential that all who use them know the principles of the moral order and apply them faithfully. Advertisers - that is, those who prepare or disseminate advertising - are morally responsible for what they seek to move people to do; and this is a responsibility also shared by publishers, broadcasting executives, and others in the communications world, as well as by those who give commercial or political endorsements, to the extent that they are involved in the advertising process.

This applies also to the means and the techniques of advertising: it is morally wrong to use manipulative, exploitative, corrupt and corrupting methods of persuasion and motivation. In this regard, we note special problems associated with so-called indirect advertising that attempts to move people to act in certain ways - for example, purchase particular products - without their being fully aware that they are being swayed. The techniques involved here include showing certain products or forms of behavior in superficially glamorous settings associated with superficially glamorous people. A surrogate advertising can be an extreme example of this kind. Within this very general framework, we can identify several ethical and moral principles that are particularly relevant to advertising. A few of these important principles are: truthfulness, the dignity of the human person and social responsibility.

Truthfulness :

Some advertising is simply and deliberately untrue. Generally speaking, though, the problem of truth in advertising is somewhat more subtle, it is not that advertising is wholly false, but that it can distort the truth by implying things that are not so relevant facts or it may withhold relevant facts. To be sure, advertising, like other forms of expression, has its own conventions and forms of stylisation, and these must be taken into account when we think of truthfulness. People take for granted some rhetorical and symbolic exaggeration in advertising. Within the limits of recognised and accepted practice this may be allowed. But it is a fundamental principle that advertising may not deliberately seek to deceive, whether it does that by what it says, by what it implies, or by what it fails to say. The proper exercise of the right to information demands that the content of what is communicated be true and, within the limits set by justice and charity. The obligation is to avoid any manipulation of truth for any reason.

The Dignity of the Human Person :

There is an imperative requirement that advertising respect the human person, his right duty to make a responsible choice, his interior freedom. These abuses are not merely hypothetical possibilities but realities in much advertising today. Advertising can violate the dignity of

the human person both through its content - what is advertised, the manner in which it is advertised - and through the impact it seeks to make upon its audience. We have spoken already of such things as appeals to lust, vanity, envy and greed, and of techniques that manipulate and exploit human weakness. In such circumstances, advertisements readily become vehicles of a deformed outlook on life, on the family, and on morality - an outlook that does not respect the true dignity and destiny of the human person. This problem is especially acute where particularly vulnerable groups or classes of persons are concerned: children and young people, the elderly, the poor, the culturally disadvantaged.

Much advertising directed at children apparently tries to exploit their credulity and suggestibility, in the hope that they will put pressure on their parents to buy products of no real benefit to them. Advertising like this offends against the dignity and rights of both children and parents; it intrudes upon the parent-child relationship and seeks to manipulate it to its own base ends. Also, some of the comparatively little advertising directed specifically to the elderly or culturally disadvantaged seems designed to play upon their fears so as to persuade them to allocate some of their limited resources to goods or services of dubious value.

Social Responsibility :

It would be difficult to encompass all issues and concerns that come under the concept - "social responsibility". It is a very broad concept when it comes to discussing advertising. Among these the ecological issue is one. Advertising that fosters a lavish life style which wastes resources and despoils the environment offends against important ecological concerns. In his desire to have and to enjoy rather than to be and grow, man consumes the resources of the earth and his own life in an excessive and disordered way. Man thinks that he can make arbitrary use of the earth, subjecting it without restraint to his will. In this regard, "authentic and integral human development" is a very fundamental issue. Advertising that reduces human progress to acquiring material goods and cultivating a lavish life style expresses a false, destructive vision of the human person harmful to individuals

and society alike. Advertisers, like people engaged in other forms of social communication, have a serious duty to express and foster an authentic vision of human development in its material, cultural and religious and spiritual dimensions. Communication that meets this standard is, among other things, a true expression of solidarity.



CHECK YOUR PROGRESS

Q.1: What is Advertising?

.....

.....

Q.2: ASCI stands for what?

.....

.....

8.4 ADVERTISING STANDARDS COUNCIL OF INDIA (ASCI)

In recent years the quantity of false, misleading and offensive advertising has resulted in consumers having an increasing disbelief in advertising, and a growing resentment of it. Misleading, false advertising also constitutes unfair competition. It could lead to market-place disaster. In India, as in several advanced economies (almost 50 countries around the world), there is only one body for Self-Regulation in Advertising - the Advertising Standards Council of India (ASCI), which is concerned with safeguarding the interests of consumers whilst monitoring/guiding the commercial communications of practitioners in advertising on behalf of advertisers, for advertisements carried by the media, in their endeavours to influence buying decisions of the "consuming public".

The ASCI was established in the year 1985 to self-regulate the content of advertisements. The Council was registered as a not-for-profit company under section 25 of the Indian Companies Act. The ASCI is not a Government body, nor does it formulate rules for the public or for the relevant industries. It is a voluntary self-regulatory Council. Before the establishment of ASCI, there was no other professional association or trade or consumer body that looks into or tries to regulate the "content" of advertisements published or appearing in India, other than the observance of the prevalent laws of the land. The

advertisers' association, namely the Indian Society of Advertisers, the advertising agencies' association, namely The Advertising Agencies Association of India, the media owner's association, namely The Indian Newspapers Society, came together and took the initiative to form the ASCI.

Composition of ASCI:

The ASCI is managed by a Board of Governors consisting of 16 elected members: four each from Advertisers, from Advertising Agencies, from Media, and from Allied Professions like outdoor contractors, audio-visual producers/ distributors, consumer researchers, printers/blockmakers, etc. It has its own independent, fully staffed Secretariat of five members, headed by a Secretary General, who is an ex-Company Director. The Board of Governors appoints a Consumer Complaints Council (CCC) to examine complaints received by the Council. The composition of the CCC is as follows: nine from within the advertising industry representing advertisers, advertising agencies, media owners and allied professions and twelve from society at large, consisting of eminent consumer activists, educationists, prominent journalists, lawyers, engineers, doctors, etc. From time-to-time the Council puts out advertisements in newspapers, which are generally carried free of cost in the public interest, informing the consumers about the existence of the Council; and inviting them to complain to the Council, at no cost to themselves, should they find anything wrong or objectionable in any advertisement.

Each year the Council receives approximately 150 complaints. Of these, about 50% are upheld and it gets a voluntary compliance rate of as high as above 80% (4 out of 5 such advertisements are withdrawn or modified appropriately so as not to contravene the Code). If the advertiser refuses to accept the verdict of the CCC, then the Council uses its good offices with media owners (particularly its members), and advises them of such offending advertisements, which are in contravention of the ASCI Code.

8.4.1. ASCI's Mission and Objectives

The ASCI has one overarching goal: to maintain and enhance the public's confidence in advertising. The ASCI seeks to ensure that advertisements conform to its Code for Self-Regulation. The ASCI is a Not-For-Profit Company, under the Companies Act 1956 and the main objectives to be pursued by the Company on its incorporation are -

- To monitor administer and promote standards of advertising practices in India with a view to ensuring the truthfulness and honesty of representations and claims made through advertising and safeguarding against misleading advertising ensuring that Advertising is not offensive to generally accepted norms and standards of public decency.
- To safeguard against the indiscriminate use of advertising for the promotion of products or services which are generally regarded as hazardous to society or to individuals or which are unacceptable to society as a whole ensuring that advertisements observe fairness in competition and the canons of generally accepted competitive behaviour.
- To codify, adopt and from time to time modify the code of advertising practices in India and implement, administer and promote and publicize such a code.
- To provide facilities and machinery in the form of one or more Consumer Complaints Councils having such composition and with such powers as may be prescribed from time to time to examine complaints against advertisements in terms of the Code of Advertising practices and report thereon.
- To give wide publicity to the Code and seek adherence to it of as many as possible of those engaged in advertising.
- To print and publish pamphlets, leaflets, circulars or other literature or material, that may be considered desirable for the promotion of or carrying out of the objectives of the Company and disseminate it through any medium of communication.

8.4.2. ASCI and Its principles

The Advertising Standards Council of India has adopted a Code for Self-Regulation in Advertising. It is a commitment to honest advertising and to fair competition in the market-place. It stands for the protection of the legitimate interests of consumers and all concerned with advertising - advertisers, media, advertising agencies and others who help in the creation or placement of advertisements. As the Code becomes increasingly accepted and observed pro-actively, certain

things will begin to happen: fewer false and misleading claims, fewer unfair advertisements and increasing respectability. This only means more freedom for advertisers to practise their craft or carry on your business effectively. As a member of ASCI, a Firm can mould the course of Self-Regulation and participate in the protection of healthy, effective advertising. A Firm can have a say, through the Board of Governors, in the further development of the Code and future appointments to the Consumer Complaints Council (CCC). Membership of the ASCI (open only to Firms) entitles a Firm to appoint its nominee to discharge its function as a member, including standing for election to the Board of Governors and voting at general meetings.

The Council's Code for Self-Regulation in Advertising specifies that all advertising should be truthful, honest, decent, legal, safe for consumers particularly minors, and fair to the competition. The Code was adopted by the ASCI under Article 2(ii)f of its Articles of Association at the first meeting of the Board of Governors held on November 20, 1985 and amended in February 1995 and in June 1999. This Code for Self-Regulation has been drawn up by people in professions and industries in or connected with advertising, in consultation with representatives of people affected by advertising and has been accepted by individuals, corporate bodies and associations engaged in or otherwise concerned with the practice of advertising with the following principles with a view to achieve the acceptance of fair advertising practices in the best interests of the ultimate consumer:

– To ensure the truthfulness and honesty of representations and claims made by advertisements and to safeguard against misleading advertisements.
– To ensure that advertisements are not offensive to generally accepted standards of public decency. Advertisements should contain nothing indecent, vulgar or repulsive which is likely, in the light of generally prevailing standards of decency and propriety, to cause grave or widespread offence.
– To safeguard against the indiscriminate use of Advertising in situations or of the promotion of products which are regarded as hazardous or harmful to society or to individuals, particularly

minors, to a degree or of a type which is unacceptable to society at large.

– To ensure that advertisements observe fairness in competition so that the consumer's needs to be informed on choices in the market-place and the canons of generally accepted competitive behaviour in business are both served. Both the general public and an advertiser's competitors have an equal right to expect the content of advertisements to be presented fairly, intelligibly and responsibly. The Code applies to advertisers, advertising agencies and media.

The responsibility for the observance of this Code lies with all who commission, create, place or publish any advertisement or assist in the creation or publishing of any advertisement. All advertisers, advertising agencies and media are expected not to commission, create, place or publish any advertisement which is in contravention of this Code. This Code applies to advertisements read, heard or viewed in India even if they originate or are published abroad so long as they are directed to consumers in India or are exposed to significant number of consumers in India.



CHECK YOUR PROGRESS

Q.3: Advertising Standards Council of India was established in which year?

(a) 1950 (b) 1980 (c) 1984 (d) 1985

Q.4: Under ASCI what is the CCC?

.....

.....

Q.5: Who appoints a Consumer Complaints Council to examine complaints received by the Council?

.....

.....

8.5 ETHICS IN ADVERTISING OF MEDICINE

Advertising presents archetypes of human life and its style, promising that a particular product will elevate or empower one to become or to remain what one ought to be. Key notions in forming these archetypes are, for

example, 'independence,' 'youth,' 'health,' 'beauty,' 'status,' 'control,' 'affluence,' and 'pleasure.' These general remarks are valid for medicinal products, too, at least to the extent that they are produced for sale. There is a certain reluctance, however, to regard health as a mere commodity, since it is often, at least in Western culture, valued in conjunction with human rights.

Advertising strategies of the medicine industry:

Advertising strategies of the medicine industry promise to recuperate for the patient. It is, therefore, not completely surprising that pharmaceutical advertisements would carry religious overtones, for just as salvation religiously speaking is somewhat dependent upon means, advertising promises to provide such in order to overcome the contingencies humans may experience, be it in health, hygiene, nourishment, mobility, or social interaction. When analysing the advertising strategies in the medicine industry, gaining knowledge about human mind requires transparence, since one can only understand what is clear to the mind.

Tenets of advertising of medicine:

It is necessary, then, that even in advertising of medicine, transparent communication is used. This is somewhat analytically evident, for the industry has to comply with rules of ethical conduct and their legal interpretation governing all individual and juridical persons forming a society if it indeed intends to act ethically correct and in accordance with law, both attitudes stemming from free decisions subject to powers of internal or, in particular in the case of the latter, external enforcement. In other words, the information on products should be clear, true, and respectful. Advertising strategies of the medicine industry have to tell what they seek. If a new product is featured in print media, it should be presented as an advertisement and not as a journalistic item.

Closely intertwined with the notion of transparence is that of honesty, reflecting the degree to which fair human interaction depends upon openness. For promoting medicinal products, this entails an obligation not to promise more than what can be fulfilled. Even though exaggeration is a standard means of advertising rhetoric, one should remember that a suffering person does not necessarily understand the presentation of a new colitis drug on equal terms with the ways in which washing powder is presented as constantly improving its bleaching and cleansing qualities.

Fairness requires that products are designed and promoted according to the same standards in the various regions of the world, which includes truthful and comprehensive information on the contents and effect of a particular drug. It would be a violation of this principle to omit such information or to present a product less specifically, simply because one considers the local population to be less educated or critical than, e.g., their Western counterparts. Likewise, it is unfair to exclude vital information on grounds that national legislation does not require it, since this attitude reflects a temptation to seek marginal advantages in the market.

Medicinal advertising is a crucial tool in the quest for correcting human inadequacies so tightly connected with the modern project. The martial language of 'killing pains,' 'fighting disease,' and 'the battle for public health' reveals the assumption of an ideal human state to which those not finding themselves in it at present need to be elevated or transformed. Endearing as such may be an ideal thought, but it fails to understand the entrapment of our condition, which hardly is free from at least instances of deprivation of body and mind. It might be more liberating to accept the condition of bad health rather than continue to desire its fundamental transformation in vain, which human beings nevertheless seem to enjoy so very much.

8.6 ETHICS IN PUBLIC RELATIONS

Public Relations (PR) is the practice of managing the flow of information between an organisation and its publics. Public Relations - often referred to as PR - gains an organisation or individual exposure to their audiences using topics of public interest and news items. Common activities in PR include speaking at conferences, working with the press, and employee communication. PR can be used to build rapport with employees, customers, investors, voters, or the general public. According to Public Relations Society of America (PRSA), the essential functions of public relations include research, planning, communications dialogue and evaluation.

8.6.1. Public Relations in the US

In 1950, the Public Relations Society of America (PRSA) enacted the first "Professional Standards for the Practice of Public Relations," a forerunner to the current Code of Ethics, last revised in 2000 to include six core values and six code provisions. The six core values are

"Advocacy, Honesty, Expertise, Independence, Loyalty, and Fairness" and these six code provisions are to be followed considering the "Free Flow of Information, Competition, Disclosure of Information, Safeguarding Confidences, Conflicts of Interest, and Enhancing the Profession."

The current state of ethics in public relations practice depends heavily on codes of ethics held by the major professional associations. Membership in these groups is voluntary, meaning that one is not required to belong to such an association in order to practice public relations. Members agree to abide by a code of ethics that is written for the entire group. Some codes of ethics are written in terms that forbid a list of certain activities; other codes of ethics espouse a set of ethical principles which should be followed. Whether written in positive or negative terms, most of the professional associations in public relations have a code of ethics. These codes of ethics do not vary greatly by country but by the professional organization; some codes strive to offer guidance of a practical, professional nature toward agency practitioners (such as PRSA), while other codes attempt to identify general moral principles of ethical behavior, such as the focus on dignity, respect, and human rights.

Moreover, in recent years, the ability to engage in ethical reasoning in public relations is growing in demand, in responsibility, and in importance. Academic research, university and continuing education, and professional practice are all attending more than ever to matters of ethics and the public relations function stands at a critical and defining juncture: whether to become an ethics counselor to top management or to remain outside the realm of the strategic decision making core. How we choose to respond to the crisis of trust among our publics will define the public relations of the future. Careful and consistent ethical standard facilitate trust, which enhances the building and maintenance of relationships - that is the ultimate purpose of the public relations function.

8.6.2. Public Relations Society of India (PRSI) & PR Codes

The Public Relations Society of India (PRSI) was established in 1958 to promote the recognition of Public Relations as a profession

and to formulate and interpret the objectives and the potentialities of public relations as a strategic management function to the public. It is the pioneer organization that has been trying to develop the PR as a profession and it always tries to maintain the standard of the PR practitioners' job.

The society functioned as an informal body till 1966 when it was registered under the Indian Societies Act XXVI of 1961, with headquarters in Mumbai. Leter on, registration clasped because of certain technical reasons and a few years back it was registered afreash with its head quarter at New Delhi. Presently, the society has as many as 33 chapters in various parts of the country.

The society is recognized as the national PR organization by the International Public Relations Association, and is one of the founder members of the Global Alliance of Public Relations and Communications Management. The Regional Chapters of the society regularly organize seminars, lectures on various aspects of public relations. PRSI today has 3000 members in the country. The society adopted its code of conduct for the PR professionals of the country.

The society declares an important Code of Conduct that each and every PR practitioner should follow the principles. If a member of the Society is found to have infringed this Code in course of his professional duties, he will be deemed to be guilty of serious misconduct calling for an appropriate penalty.

Accordingly, each Member of the Society shall endeavour -

1. to contribute to the achievement of the moral and cultural conditions enabling human beings to reach their full stature and enjoy the indefeasible rights to which they are entitled, under the "Universal Declaration of Human Rights".
2. to establish communication patterns and channels which, by fostering the free flow of essential information, will make each member of the group feel that he is being kept informed -and also give him an awareness of his own personal involvement and responsibility and of his solidarity with other members.
3. to conduct himself always and in circumstances in such a manner as to deserve and secure the confidence of those with whom he comes into contact.

4. to bear in mind that, because of the relationship between his profession and the public, his conduct, even in private, will have an impact on the way in which the profession as a whole is appraised.

Each Member of the Society shall undertake -

5. to observe, in the course of his professional duties, the moral principles and rules of the "Universal Declaration of Human Rights".
6. to pay due regard to and uphold human dignity and to recognize the right of each individual to judge for himself;
7. to establish the moral, psychological and intellectual condition for dialogue in its true sense, and to recognize the right of the parties involved to state their case and express their views.
8. to act in all circumstances in such a manner as to take account of the respective interests of the parties involved, both the interests of the organization which he serves and the interests of the public concerned.
9. to carryout his undertakings and commitments which are always to be so worded as to avoid any misunderstanding and to show loyalty and integrity in all circumstance as to keep the confidence of the clients or employers, past or present, and of all the public that are affected by his actions.
10. subordinating the truth to other requirements.
11. will not take circulating information, which is not based on established and ascertainable facts.
12. taking part in any venture or undertaking, which is unethical dishonest or capable of impairing human dignity and integrity.
13. using any "manipulative" methods or techniques designed to ate subconscious motivations which the individual cannot control of own free will and so cannot be held accountable for the action on the hints for Organize Public Meetings.
14. Arranging meetings is often the task of P.R.O.

The above mentioned codes were adopted by the PRSI in accordance with the International Public Relations Association (IPRA) codes. IPRA code of professional conduct and ethics was primarily adopted by the International Public Relations Association at its general assembly in Venice, in May 1961 and it was finally adopted by the IPRA council at its 1965 meeting in Athens, Greece. It is popularly known as

the' Code of Athens'. This code and its principles were inspired by the UN declaration of human right.



CHECK YOUR PROGRESS

Q.6: PRSA stands for what?

.....

.....

Q.7: When the Public Relations Society of India (PRSI) was established?

.....

.....



8.7 LET US SUM UP

- Advertising is a form of communication that typically attempts to persuade potential customers to purchase or to consume more of a particular brand of product or service. There is nothing intrinsically good or intrinsically evil about advertising. It is a tool, an instrument: it can be used well, and it can be used badly. Within this very general framework, we can identify several ethical and moral principles that are particularly relevant to advertising. A few of these important principles are: truthfulness, the dignity of the human person and social responsibility.
- In India, as in several advanced economies there is only one body for Self-Regulation in Advertising - the Advertising Standards Council of India (ASCI), which is concerned with safeguarding the interests of consumers whilst monitoring/guiding the commercial communications of practitioners in advertising on behalf of advertisers, for advertisements carried by the media. The ASCI has adopted a Code for Self-Regulation in Advertising. The ASCI has one overarching goal: to maintain and enhance the public's confidence in advertising.
- Advertising strategies of the medicine industry promise to recuperate for the patient. It is necessary, then, that even in advertising, transparent communication is used. Closely intertwined with the notion of transparence is that of honesty. In advertising medicinal products the information on products should be clear, true, and respectful.

- Public Relations (PR) is the practice of managing the flow of information between an organisation and its publics. Advocacy, Honesty, Expertise, Independence, Loyalty, and Fairness are the six core values of public relations and are to be followed considering the "Free Flow of Information, Competition, Disclosure of Information, Safeguarding Confidences, Conflicts of Interest, and Enhancing the Profession."



8.9 FURTHER READING

1. P. K. Ravindran : *Press Laws and Ethics of Journalism*
2. T. Rajsekhar: *Ethics and Objectives*
3. S. K. Pandya: *Advertising remains unethical even in the digital age - Issues in Medical Ethics*
4. Kathy Fitzpatrick and Carolyn Bronstein: *Ethics in Public Relations*
5. Patricia J. Parsons: *Ethics in Public Relations*



8.8 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: Advertising is a form of communication that typically attempts to persuade potential customers to purchase or to consume more of a particular brand of product or service. An advertisement, under the Advertising Standards Council Of India (ASCI) Code for Self-Regulation in Advertising, is defined as "a paid-for communication, addressed to the public or a section of it, the purpose of which is to influence the opinions or behaviour of those to whom it is addressed."

Ans. to Q. No. 2: Advertising Standards Council of India.

Ans. to Q. No. 3: (d) 1985.

Ans. to Q. No. 4: Consumer Complaints Council

Ans. to Q. No. 5: The Board of Governors appoints a Consumer Complaints Council to examine complaints received by the Council

Ans. to Q. No. 6: Public Relations Society of America

Ans. to Q. No. 7: The Public Relations Society of India (PRSI) was established in 1958



8.10 POSSIBLE QUESTIONS

Q. 1: What is advertising? Write a note on the Ethical and moral principles of advertising?

Q. 2: What is Advertising Standards Council of India (ASCI)? Write a note on ASCI's Code for Self-Regulation in Advertising?

Q. 3: Write a note on ethics in advertising of medicine.

Q. 4: Write a short note on ethics in Public Relations.

Q. 5: Discuss the PRSI code of conduct for the PR Professionals.

* * * * *

UNIT- 9: REGULATORY ORGANISATION

Unit Structure

9.1. Learning objectives

9.2. Introduction

9.3. Ombudsman

- 9.3.1. Press Ombudsman
- 9.3.2. Press Ombudsman in India

9.4. Readers' Editors

9.5. Press Commission

- 9.5.1 The First Press Commission in India
- 9.5.2. Recommendations of the First Press Commission
- 9.5.3. Second Press Commission and its Recommendations

9.6. Press Council

- 9.6.1. Press Council of India (PCI)
- 9.6.2. PCI: Complain Procedure
- 9.6.3. PCI and Principles of Media

9.7. Broadcasting Services Regulation Bill, 2006

9.8. Let us sum up

9.9. Answers to check your progress

9.10. Further Reading

9.11. Possible Questions

9.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- explain the concepts of "ombudsman", "press ombudsman" and "Reader's Editor".
- discuss the appointment and recommendations of Press Commissions in India.
- outline the establishment, complaint procedure role of Press Council of India (PCI).
- name the journalistic principles and norms prescribed by the PCI.
- explain the proposed Broadcasting Authority Bill, 2006.

9.2 INTRODUCTION

In the previous unit we have discussed the ethical conduct in advertising, in advertising of medicine and also the code of conduct followed in public relations.

There are statutory provisions that prescribe the limits of media self-regulation, but at the same time media needs to be self-regulated for the faith and expectations reposed on it. An institutional mechanism is essential for its self-regulation. In this unit you are being introduced to "ombudsman", "press ombudsman" and "Reader's Editor" who work independently within news organisations as the interface between readers, listeners and viewers on the one hand, and journalists and editors on the other. You are also introduced to the little history about the appointment and recommendations of the First and Second Press Commissions in India. The recommendations led to the establishment of the Press Council of India (PCI) and the journalistic principles prescribed by the PCI. Finally, you are introduced to the Broadcasting Authority Bill, 2006 which prescribes the regulation of the airwaves which are public property and which in the national and public interest the airwaves needs to be regulated.

In the next unit or the last unit of this course, you will be acquainted with the concept of "self-regulation" and "media self-regulation". You will be then introduced very briefly to the existing code of practice or conduct for media personnel in different countries. You will also be introduced to the code of conduct/practice for media in detail of different organisations like the Editors' Guild of India, the All India Newspaper Editors' Conference (AINEC) and The Indian Newspaper Society (INS) and its objectives, administration and functions.

9.3 OMBUDSMAN

The origin of the word 'Ombudman' is found in Old Norse and the word umbuds man means "representative". An "ombudsman" is a government official, usually appointed by the government or by the parliament, charged with representing the interests of the public by investigating and addressing complaints reported by individual citizens and addressing them, usually

through mediating a settlement. The term arose from its use in Sweden in 1552, with the Parliamentary ombudsman instituted in 1809 to safeguard the rights of citizens by establishing a supervisory agency independent of the executive branch. The word ombudsman and its specific meaning has since 19th century been adopted in to English as well as other Scandinavian languages such as the Icelandic "umbodsmadur", the Norwegian "ombudsmann" and the Danish "ombudsmand".

An "ombudsman" doesn't necessarily have to be appointed by government, but there may be an "ombudsman" of a non-governmental organisation that may work only for its own members or for the general public. Ombudsman has also been instituted by governments in different countries and organisations such as the European Union. In some jurisdictions, the Ombudsman is referred to, at least officially, as the 'Parliamentary Commissioner', e.g., the Western Australian state ombudsman. In some countries, an Inspector General may have similar duties as or have overlapping duties with an ombudsman appointed by the legislature. Whether an "ombudsman" works only for the members of the organisation or for the general public, he/she does obviously not carry any special powers or sanction abilities. To make a complaint to an ombudsman is usually free of charge.

Lokpal (Lokayukta) in India :

In India, Ombudsman is called as Lokpal or Lokayukta. An Administrative Reforms Commission (ARC) was set up on 5th January, 1966 under the Chairmanship of late Prime Minister Morarji Desai. It recommended a two-tier machinery, namely, Lokpal at the Centre and one Lokayukta each at the State level for the redressal of people's grievances. The central Government introduced the first Lokpal and Lokayuktas Bill in 1968 and lastly in 2005, which has also not so far been enacted. Lokayukta institution has come into existence in different years, in different States in India. The first Lokayukta institution was established in the State of Orissa in the year 1970. There after, this institution was established in different States in different years namely: Maharashtra (1972), Bihar (1974), Uttar Pradesh (1977), Madhya Pradesh (1981), Andhra Pradesh (1983), Himachal Pradesh (1983), Karnataka (1984), Assam (1986), Gujarat (1988), Delhi (1995), Punjab (1996),

Kerala (1998), Chhattishgarh (2002), Uttaranchal (2002) and West Bengal (2003) and Haryana (2004). The Government of India has also designated several ombudsmen, called Chief Vigilance Officer or CVO, for the redressal of grievances and complaints from individuals in the banking, insurance and other sectors being serviced by both private and public bodies and corporations.

9.3.1. Press Ombudsman

An ombudsman need not be appointed by a legislature; they may work for a corporation, a newspaper, an NGO, as an organizational ombudsman; or for the general public in a city, appointed by a mayor, like the executive ombudsman. The ombudsman works independently within news organisations as the interface between readers, listeners and viewers on the one hand, and journalists and editors on the other. That the presence of an ombudsman fosters this relationship with positive benefit to the employer as well as to society at large seems to be supported both anecdotally by ombudsmen who believe that their activities strengthen trust and loyalty, and by more formal tests. The appointment of an ombudsman is a unilateral act by the newspaper or broadcast outlet that sends a strong signal to readers, listeners or viewers.

Origin of Ombudsman:

The idea of ombudsman is of Swedes origin. In Sweden the press ombudsman is not appointed by any newspaper organisation, but by all the newspapers organisations together. Ombudsman generally means an intermediary, investigating complaints by private citizens against government officials or agencies. However, at present private or voluntary organisations are also having ombudsman to decide public complaints made against themselves or their members. In India, the Lok Ayuktas in some states are called ombudsman. Though both the word and concept of ombudsman originated in Sweden, it was first adopted by the press in the USA. In 1967, an ombudsman was appointed for Counter-Journal and its sister publication Louisville Times, and thus for the first time in the world, newspaper ombudsman came into

existence. At present there are about forty ombudsman in USA and Canada. The other countries that have this institution are Britain Sweden and Japan.

The idea of having resident ombudsmen in news organisations, although still taken up by only a tiny minority of publications and broadcasting channels, has been around for a little over 50 years. It originated, in the principal form in which it now exists, in the United States in the 1960s. It has existed in Japan, in a somewhat different form, for much longer than that. Most of those now practising as ombudsmen, in newspapers, television and radio channels around the world, owe a good deal to the American model.

In the Swedish print media "press ombudsman nen" is a person whose role is to determine whether the actions of a newspaper is in line with good journalistic practice. Complaints regarding the practices of print media can be reported by the general public to the "press ombudsman nen" who determines whether a complaint should be brought before the Swedish Press Council. The Press Council can determine whether the offending publication shall pay a fee for having breached good journalistic practice.

In Ireland, the Office of the Press Ombudsman is part of a new system of independent regulation for the printed media. The job of the Ombudsman is to investigate complaints that breach a new Code of Practice which the press industry signed up to in 2007. Its aim is to provide the public with a quick, fair and free method of resolving any complaints they may have in relation to newspapers and periodicals that breach the Code. One can make a complaint to the Office of the Press Ombudsman about an article or about the behaviour of a journalist. For a complaint to be examined by the Office of the Press Ombudsman it must breach the Code of Practice for Newspapers and Periodicals, and the person making the complaint must show that they have been directly affected by, and involved in the article or behaviour in question. The Ombudsman's Office attempts to resolve the matter by making direct contact with the editor of the publication concerned. It outlines the complaint to the publication and seek to resolve the matter

by a process of conciliation. If conciliation is not possible, the Ombudsman will examine the case and make a decision. He may refer significant or complex cases to the Press Council of Ireland.

9.3.2. Press Ombudsman in India

In India, there is no effort by professional bodies or other agencies to monitor whether the existing codes are being observed. Meanwhile, the Times of India set a new trend by appointing Juctice P. N. Bhagawati, former Chief Justice of India, as its internal ombudsman. But the paper does not publicise this fact in the paper. The Nav Bharat Times, a Hindi daily of the Times of India group also appointed Mr. T. N. Chaturvedi, former Comptroller and Auditor General of India, as its ombudsman.

Further, the World Association of Press Councils (WAPC), is an organisation that preaches universal acknowledgement of the need for a free and unrestricted flow of information beyond the boundaries. The media, in this regard, embraces the role of a public trust that is subjected to only one restriction - the internal or self regulation. The WAPC states in its Preamble to the Constitution (adopted in 1992) for the establishment of the body:

"AND WHEREAS the creation of such organs as independent Press Councils and the institution of the office of press ombudsman are recognised as methods whereby the freedom, the responsibility and the accountability of the press may be maintained and enhanced."

This idea strongly puts forward the world view for the necessity of press ombudsman in print and electronic media across the world.

9.4 READERS' EDITORS

Freedom of the press is important. So is its social responsibility, which must begin with interaction with and accountability to readers. For a daily newspaper, this must happen on a daily basis. We have already discussed internal press ombudsman. Readers' Editor almost has the same responsibilities of an ombudsman. The key objectives of the appointment of a Readers' Editor are:

- to institutionalise the practice of self-regulation, accountability, and transparency;

- to create a new visible framework to improve accuracy, verification, and standards in the newspaper; and

- to strengthen bonds between the newspaper and its millions of print platform and online readers.

A Readers' Editor is normally appointed to collect, consider, investigate, respond to and, where appropriate, to come to a conclusion about readers' comments, concerns, and complaints in a prompt and timely manner, from a position of independence within the paper. Readers' Editor is appointed to create new channels of communication with and greater responsiveness to readers, whether by email, telephone, the Internet, surface mail, or through the columns of the paper. He seeks the views and, where appropriate, the written comments, of journalists whose work is the focus of the readers' concerns. He is to take these views into account while responding to the readers, and makes critical appraisals, if considered necessary, on an objective and fully-informed basis.

The Readers' Editor looks for ways of improving the paper's work and performance, in the broadest sense, by collating and analysing readers' concerns, ideas, and suggestions and by identifying the possible new or alternative courses of action and ways to develop the paper for the benefit of its readers and the paper itself. He may also write a regular column addressing one or several aspects of the readers' concerns, suggestions, and complaints. He can decide on the content independently and not by seeking prior approval by the Editor-in-Chief or others on the staff, except in respect of matters of fact and style.

The Readers' Editor may use his/her column as a platform and forum for readers' views. He/she may require the Editor-in-Chief of the newspaper to take steps to ensure the full and prompt co-operation of the staff with the Readers' Editor by providing assistance in responding to to readers' concerns and complaints. Similarly, the management and marketing departments of the newspaper insofar as their activities relate to readers' concerns about editorial content should extend similar cooperation.

In consultation with the Editor-in-Chief and/or his or her nominee, the Readers' Editor may decide whether and when a correction should be published and apologies may be tendered. In order to keep fully in touch with the workings of the paper, the Readers' Editor should have an established right of access to the Editor-in-Chief, to heads of department meetings, to planning and review meetings, to daily editorial and news conferences, and to other relevant forums. The Readers' Editor should be available to report, on an ad hoc basis, to the Editor-in-Chief and to these other groupings. The existence of the Readers' Editor, and how to contact him or her, should be advertised fairly prominently on a daily basis in the paper. If the terms of reference of a newspaper prescribes, a Readers' Editor may refer to an external ombudsman any substantial grievances or matters whereby the newspaper's journalistic integrity has been called into question.

Most of the newspapers in the west have Ombudsman or a Readers' Editor. The Hindu, the national daily in India acknowledged that it has been inspired to appoint a Readers' Editor by the exemplary practice and experience of The Guardian, U.K., over the past decade in a crucial area of newspaper performance. The Hindu has announced its appointment of the first Readers' Editor in its 127 year old history. The Readers' Editor The Hindu is an independent, full-time internal ombudsman.



CHECK YOUR PROGRESS

Q.1: Who is an "ombudsman"?

.....

.....

Q.2: How "ombudsman" in known in India?

.....

.....

Q.3: Who is a "press ombudsman"?

.....

.....

Q.4: The idea "ombudsman" originated first in Sweden. Which country adopted "press ombudsman" first?

.....

.....

Q.5: Who is a Reader's Editor? Which is the first newspaper in India to

.....

.....

9.5 PRESS COMMISSION

Press Commission is a regulatory body for printed newspapers and magazines, consisting of representatives of the major publishers. Press Commission is funded by newspapers and magazines. It has no legal powers, but all newspapers and magazines voluntarily contribute to the costs of, and adhere to the rulings of, the Commission, making the industry self-regulating. Press Commission helps in maintaining high standards of ethics in journalism. However, at times newspapers in different countries breached these standards, while some others were unsatisfied with the effectiveness of a Press Commission. Therefore, there have been discussions at different level whether a body with formal legal powers should be created to regulate the industry.

9.5.1 The First Press Commission in India

Pandit Jawaharlal Nehru while defending press freedom, warning of the danger its irresponsible exercise entails said: "If there is no responsibility and no obligation attached to it, freedom gradually withers away. This is true of a nation's freedom and it applies as much to the Press as to any other group, organisation or individual." In India, the First Press Commission was appointed on 23rd September, 1952 as a Commission of inquiry for the purpose of making an inquiry into the state of the press in India, its past, present and future lines of development. The First Press Commission that ended in 1954 was headed by Justice G. S. Rajadhyaksha and it took up several vital areas of the Indian press:

– The control, management and ownership and financial structure of newspapers, periodicals, news agencies and feature syndicates.

- The effect of holding companies, the distribution of advertisement, and other external influences on healthy journalism.
- The working of monopolies and chains and their effect on the presentation of accurate news and fair views.
- The method of recruitment and training of journalists.
- Newsprint supplies, and printing and composing machinery.
- Machinery for ensuing high standard of journalism, liaison between government and the press.
- The functioning of Press Advisory Committee and organisations of editors and working journalists.
- Freedom of the press and repeal or amendment of laws not in consonance with it.

But the cooperation with the Commission from the press and other agencies was minimal. It is the point of view of the public that dominated the Report and it is within this framework that the Commission deals with the overriding social aspect, the true nature of the freedom of the press, the need for restraint and regulation, the healthy growth of the press, the place of small newspapers, the working of news agencies or the meaning of editorial freedom. Even the recommendations on collective bargaining and service conditions had to be viewed within the framework of public interest. The Commission's recommendations were aimed at the development of a public service oriented press. A major recommendation was the appointment of a Press Registrar to maintain accurate data on the press, and its working.

The Commission, however, pointed out that the well-established newspapers had, on the whole, maintained a high standard of journalism. They had avoided "cheap sensationalism and unwarranted intrusion into private lives." But it remarked that "whatever the law relating to the Press may be, there would still be a large quantum of objectionable journalism which, though not falling within the purview of the law, would still require to be checked." It was of the view that the best way of maintaining professional standards of journalism would be to bring into existence a body of people principally connected with the industry whose

responsibility it would be to arbitrate on doubtful points and to censure any one guilty of infraction of the code of journalistic ethics.

9.5.2. Recommendations of the First Press Commission

The Commission recommended :

1. The setting up of a Press Council with the following objectives:
   (i) to safeguard the freedom of the press
   (ii) to ensure by the Press the maintenance of high standards of public taste and to foster the rights and responsibilities of citizenship, and
   (iii) to encourage sense of responsibility and public service among all those engaged in the profession of journalism.
2. The establishment of the Council on a statutory basis in order to give it the legal authority to make inquiries.
3. The appointment of men as members who command general confidence and respect of the profession.
4. That there should be 25 members excluding the Chairman in the Council and the Chairman should be a retired Judge of a High Court. He is to be nominated by the Chief Justice of India.

9.5.3. Second Press Commission and its Recommendations

The Second Press Commission was set up in May 1978 and the Report was submitted in 1982. It was, in brief, was set up to "inquire into the growth and status of the Indian press since the last Press Commission reported and suggest how it how it should develop in future." The Report of the Second Press Commission recommended:

1. The amendment of Press Council Act to enable the council to review the quality and adequacy of training facilities for journalists and for monitoring the performance of newspapers.
2. The inclusion of "respect for privacy" as mentioned in the Press Council Act, 1978.
3. That the editor is to the responsibility for all matter published in his newspaper, including advertisement.

4. That the Council should examine the violation of the code of ethics governing advertisements.
5. The establishment of a Commission to promote the development of the press in directions that facilitates its growth, particularly of the Indian-language newspapers irrespective of circulation and also small and medium size publications in terms of circulation.



CHECK YOUR PROGRESS

Q.6: In which year was a Press Commission appointed in India?

(a) 1951 (b) 1952 (c) 1953 (d) 1954

.....

Q.7: Who headed the First Press Commission in India?

.....

.....

Q.8 The inclusion of "Respect to Privacy" by press was recommended by the Second Press Commission (1978) by amending which Act?

.....

.....

Q.9: Which Press Commission recommended the establishment of a

.....

.....

9.6 PRESS COUNCIL

Press Council is a mechanism for the Press to regulate itself. The idea is rooted in the concept that in a democratic society the press needs at once to be free and responsible. If the Press is to function effectively as the watchdog of public interest, it must have a secure freedom of expression, unfettered and unhindered by any authority, organised bodies or individuals. But, this claim to press freedom has legitimacy only if it is exercised with a due sense of responsibility. The Press must, therefore, scrupulously adhere to the accepted norms of journalistic ethics and maintain high standards of professional conduct. Where the norms are breached and the freedom is

defiled by unprofessional conduct, a way must exist to check and control it. But, the control by Government or official authorities may prove detrimental to this freedom. Therefore, the best way is to let the peers of the profession, assisted by a few learned persons to regulate it through a properly structured representative impartial machinery. Hence, the Press Council was established.

A need for such a mechanism has been felt for a long time both by the authorities as well as the Press itself all over the world, and a search for it resulted in the setting up of the first Press Council known as the Court of Honour for the Press in Sweden in 1916. The idea gained quick acceptance in other Scandinavian countries, and later in other parts of Europe, Canada, Asia, Australia and New Zealand. Today, the Press Councils or similar other media bodies are in place in more than four dozen nations.

9.6.1. Press Council of India (PCI)

The Press Council of India was first set up in the year 1966 by the Parliament on the recommendations of the First Press Commission with the object of preserving the freedom of the press and of maintaining and improving the standards of press in India. The present Council functions under the Press Council Act 1978. It is a statutory, quasi judicial body which acts as a watchdog of the press. It adjudicates the complaints against and by the press for violation of ethics and for the violation of the freedom of the press respectively.

Composition of the Press Council of India:

The Press Council is headed by a Chairman, who has by convention, been a retired judge of the Supreme Court of India. The Chairman is nominated by a Committee consisting of Chairman of Council of States (Rajya Sabha), the Speaker of the House of the People (Lok Sabha), and a person elected from amongst the Members of the Press Council. The Council consists of 28 other members of whom 20 represent the press and are nominated by the press organisations/ news agencies recognised and notified by the Council as all India bodies of categories such as editors, working journalists and owners and

managers of newspaper, 5 members are nominated from the two houses of Parliament and 3 represent cultural, literary and legal fields as nominees of the Sahitya Academy, University Grants Commission and the Bar Council of India. The members serve on the Council for a term of three years.

Funding of the Press Council of India:

The Council is funded by the revenue collected by it as fee levied on the registered newspapers in the country on the basis of their circulation. No fee is levied on newspapers with a circulation of less than 5000 copies. The deficit is made good by way of grant by the Central Government, through the Ministry of Information and Broadcasting.

Functions and Powers of Press Council of India:

It is one of the most important bodies that sustain democracy as it has the supreme power in regards to the media ensuring that freedom of speech is maintained. The Press Council deliberates on the complaints received either by the press or against the press. It may either warn or censure the errant journalists on finding them guilty. The Council is empowered to make observation in respect of conduct of any authority including the Government. If it is considered necessary, it can warn, admonish or censure the newspaper, news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist. The Press Council of India is protected by the constitution and its actions may not be questioned unless it is proved to be in violation of the constitution. This has made it an exceedingly powerful a body. Even though a substantial part of its funds is augmented from the Government, it has full functional autonomy and is independent of Government control in the discharge of its statutory responsibilities.

9.6.2. PCI: Complaint Procedure

If anyone has a complaint against a newspaper, for any publication which he/she finds objectionable and which affects him/her personally, or for the non-publication of a material, he/she should first take it up

with the editor or other representative of the publication concerned. If the complaint is not resolved to satisfaction, he/she may refer it to the Press Council of India. The complain must be specific and in writing and should be filed/lodged within two months of the publication of impugned news item in case of dailies and weeklies and four months in all other cases, along with the original/photostat copy of the impugned clipping (English translation if the matter is in vernacular). The aggrieved person must state in what manner the publication/non-publication of the matter is objectionable within the meaning of the Press Council Act, 1978 and must enclose a copy of letter to the editor, pointing out why you consider the matter is considered objectionable. His reply thereto or published rejoinder, if any, may also be attached to it. Declaration stating that the matter is not pending in any court of law is also required to be filed.

If a newspaper or journalist is aggrieved by any action of any authority that may impinge on the freedom of the press, he can also file a complaint with the Council. The aggrieved newspaper or journalist may inform the Council about the possible reason for the action of the authorities against him, i.e., if it is as a reprisal measure taken by the authorities due to critical writings or as a result of the policy that may affect the freedom of the press (supporting documents, with English translation, if they are in vernacular, should be filed). Declaration regarding the non-pendency of the matter in any court of law is also necessary.

On receipt of a complaint made to it or otherwise, if the Council is prima facie satisfied that the matter discloses sufficient ground for inquiry, it issues show cause notice to the newspaper(s)/respondents and then considers the matter through its Inquiry Committee on the basis of written and oral evidence tendered before it. If, on inquiry, the Council has reason to believe that the respondent newspaper has violated journalistic norms, the Council, keeping in view the gravity of the misconduct committed by the newspaper, warns, admonishes or censures the newspaper or disapproves the conduct of the editor or the journalist as the case may be. It may also direct the respondent

newspaper to publish the contradiction of the complainant or a gist of the Council's decision in its forthcoming issue.

Similarly, when the Council upholds the complaint of the aggrieved newspaper/journalist the Council directs the concerned government to take appropriate steps to redress the grievance of the complainant. The Council may, if it considers it necessary, make such observations, as it may think fit, in any of its decisions or reports, respecting the conduct of any authority, including the Government.

9.6.3. PCI and Principles of Media

Every profession functions by certain norms of conduct evolved by years of practice with the objective to improve its standards, to prevent its abuse and above all to contribute to the society and social development. There was a time when journalism was a mission. Soon it became a profession and is now run as a full-fledged business activity like any other enterprise. Journalism has expanded its role and activities and has also grown in power. Codification of its work ethics and principles is therefore an imperative need. The Press Council of India (PCI), in keeping with its mandate to build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards, has on the basis of its adjudications of cases from time to time, built up a code of journalistic norms. Though these codes have emerged out of cases relating to print media, the fundamental principles evolved in the process are equally relevant to radio and television journalism. The 2005 edition of "Norms of Journalistic Conduct" released by the PCI updates the Norms evolved since 1996 on the basis of adjudications and other pronouncements and cover to a large extent almost every aspect of compulsions and compunctions in journalistic practice. An effort has been made in this edition not only to divide the norms covering similar situation under one heading for easy referencing, but also to provide a comprehensive access to subject specific guidelines. These norms and principles of journalistic conduct are designed to serve public interest and to be of immense benefit to journalists, lawyers, judges and general public alike.

The fundamental objective of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner. There should be a pre-publication verification on the receipt of a report or article of public interest and benefit containing imputations or comments against a citizen. The editor should check with due care and attention its factual accuracy apart from other authentic sources. A newspaper should not publish anything which is manifestly defamatory or libelous against any individual or organisation unless after due care and checking, they have sufficient reason to believe that it is true and its publication will be for public good. There are certain parameters of the right of the press to comment on the acts and conduct of public officials. They cannot maintain a suit for damages for acts and conduct relevant to the discharge of their official duties unless the official establishes that the publication was made with reckless disregard for truth. However, judiciary, which is protected by the power to punish for contempt of court, and the Parliament and legislatures, as their privileges are protected by Articles 105 and 194 respectively, of the Constitution of India, represent exception to this rule. The Official Secrets Act 1923 or any similar enactment or provision having the force of law equally bind the press or media though there is no law empowering the state or its officials to prohibit, or to impose a prior restraint upon the press/media. The following restrictions can be noted:

– The press shall not intrude upon or invade the privacy of an individual unless outweighed by genuine overriding public interest.
– The Press shall not tape-record anyone's conversation without that person's knowledge or consent except where the recording is necessary to protect the journalist in a legal action, or for other compelling good reason.
– Newspapers should avoid suggestive guilt by association. They should not name or identify the family or relatives or associates of a person convicted or accused of a crime, when they are totally innocent.

- The caste identification of a person or a particular class should also be avoided.
- When any factual error or mistake is detected or confirmed, the newspaper should publish the correction promptly with due prominence and with apology.
- The newspaper should promptly and prominently publish a contradiction/reply/clarification/rejoinder sent to the editor by a person affected by the impugned publication in the form of a letter or note. However, if the editor doubts the truth or factual accuracy of the contradiction/ reply/ clarification or rejoinder, he can add separately at the end a brief editorial comment doubting its veracity, but only when this doubt is reasonably founded on unimpeachable documentary or other evidential material in his/her possession.
- Newspapers/journalists shall not publish anything which is obscene, vulgar or offensive to public good taste.
- Newspapers shall not display vulgar advertisements depicting a woman in nude or lewd posture.
- Newspapers/journalists shall not present acts of violence, armed robberies, and terrorist activities in a manner that glorifies the perpetrators' acts, in the eyes of the public.

Newspapers must take care in publishing :

- news, views or comments relating to communal or religious disputes/clashes. They shall be published only after proper verification of facts and presented with restraint in a manner which is conducive to maintaining an atmosphere congenial to communal harmony, amity and peace.

Newspapers should avoid :

- sensational, provocative and alarming headlines.

Newspapers shall exercise :

- as matter of self-regulation, due restraint and caution in presenting any news, comment or information which may endanger or harm the paramount interests of the State and society, or the rights of individuals.

Article 19(2) of the Constitution of India has guaranteed the freedom of speech and expression, but a journalist must not pass off the writings of another man as his own without crediting the source. Using or passing off the writings or ideas of another as one's own, without crediting the source, is an offence against the ethics of journalism.

Principles of Investigative Reporting:

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. The authentic sources are to be checked by the reporter himself. 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. If information is received from a confidential source, the confidence should be respected. The journalist cannot be compelled by the Press Council to disclose such source. But there are some exceptions as well.

Some exceptions:

There are some exceptions to these restrictions.

– Newspapers may, in the public interest, make reasonable criticism of a judicial act or the judgment of a court for public good, they shall not cast scurrilous aspersions on, or impute improper motives or personal bias to the judge.

– They shall not scandalise the court or the judiciary as a whole or make personal allegations of lack of ability or integrity against a judge.



CHECK YOUR PROGRESS

Q.10: What is a Press Council?

.....

.....

Q.11: Who heads the Press Council of India (PCI)?

.....

.....

Q.12: In which year was the first Press Council set up in India?

(a) 1966 (b) 1967 (c) 1977 (d) 1978

.....

Q.13: Which of the following organisation does not have a nominee in the Press Council of India

(a) Sahitya Academy (b) University Grants Commission

(c) Sangeet Natak Academy (d) Bar Council of India

.....

9.7 ELECTRONIC MEDIA LAWS IN INDIA

With rapidly changing technologies, and increasing business investments, the broadcast sector has become the site of contention between various interests –broadcast companies, the government, public interest groups, community radio and television channels, and an increasingly diverse audience that has been broadly categorized as the 'public'. An important aspect of this tussle is the legal regulation of both existing and emerging technologies. This compilation attempts to examine the existing legal framework that applies to various broadcast technologies that are currently in use in India. The VII the Schedule of the Constitution of India empowers the Central Government to make laws on the electronic media. Let us look at some of the important laws related to electronic media in India.

9.7.1 Indian Telegraph Act 1885

The statutory basis of government monopoly of the broadcast sector, which waswidespread until the emergence of satellite television in the 1990s can be traced to the 123 year old Indian Telegraph Act of 1885. The Act states that the Central Government has the exclusive privilege of establishing, maintaining and working telegraphs within India.5 The Act and its subsequent amendments define telegraph broadly to include most modern communication devices irrespective of their underlying technology. Judicial decisions have also held that the term 'telegraph' includes the term telephone, television, and radio,

wireless, mobile and video equipment. The Act authorizes the Central Government to take temporary possession of a telegraph in cases involving public emergencies or public safety. Section 5(2) enables the government to lawfully intercept telegraph messages on certain grounds. These include India's sovereignty and integrity, state security, friendly relations with foreign states, public order, and preventing the commission of an offence.9 The Act empowers the government to revoke a telegraph license for breach of any terms and conditions or for a default in making license fee payments.

9.7.2 Indian Wireless Telegraphy Act, 1933

This particular is meant to regulate the possession of wireless telegraphy apparatus across the whole of India. 'Wireless telegraphy apparatus' has been described as any apparatus, appliance, instrument or material used or capable of use in wireless communication, and includes any article determined by rule made under section 10 to be wireless telegraphy apparatus, but does not include any such apparatus, appliance, instrument or material commonly used for other electrical purposes, unless it has been specially designed or adapted for wireless communication or forms part of some apparatus, appliance, instrument or material specially so designed or adapted, nor any article determined by rule made under section 10 not to be wireless telegraphy apparatus.

Section 4 of this Act states that no person shall possess wireless telegraphy apparatus except under and in accordance with a license issued under this Act.

Offence and penaly : Whoever possesses any wireless telegraphy apparatus, other than a wireless transmitter in contravention of the provisions of section 3 shall be punished, in the case of the first offence, with fine which may extend to one hundred rupees, and, in the case of a second or subsequent offence, with fine which may extend to two hundred and fifty rupees.

It has also been mentioned in the Act that whoever possesses any wireless transmitter in contravention of the provisions of section 3

shall be punished with imprisonment which may extend to three years, or with fine which may extend to one thousand rupees or with both.

Power of Central Government to exempt persons from provisions of the Act : The Central Government may by rules made under this Act exempt any person or any class of persons from the provisions of this Act either generally or subject to prescribed conditions, or in respect of specified wireless telegraphy apparatus.

Issue of licenses : The telegraph authority constituted under the Indian Telegraph Act, 1885 (13 of 1885), shall be the authority competent to issue licenses to possess wireless telegraphy apparatus under this Act, and may issue licenses in such manner, on such conditions and subject to such payments, as may be prescribed.

9.7.3 Telecom Regulatory Authority of India Act, 1997

This Act ,which came into effect from 25th January, 1997 provides for the establishment of theTelecom Regulatory Authority of India and the Telecom Disputes Settlement and Appellate Tribunal .This particular act covers the whole of India and its main function is to regulate the telecommunication services, adjudicate disputes, dispose of appeals and to protect the interests of service providers and consumers of the telecom sector, to promote and ensure orderly growth of the telecom sector and for matters connected therewith or incidental thereto.

Chapter II of this Act provides for the establishement and incorporation of Telecom Regulatory Authority which shall consist of a Chairperson and not less than two and not exceeding six members ti be appointed by the Central Government. The head office of the TRAI is located at New Delhi. The Chairperson shall be a person who is or has been a Judge of the Supreme Court or who is or has been Chief Justice of a High Court. A Member shall be a person who has special knowledgeof, any professional experience, in telecommunication, industry, finance, accountancy, law, management and consumer affairs; The Chairperson shall hold office for a term of five years from the date on which he enters upon his office A member shall hold office for a

term of five years from the date on which he enters upon his office or until he attains the age of sixty five years, whichever is earlier.

The main functions of the Authority shall be -

i. to recommend the need and timing for introduction of new service provider; recommend the terms and conditions of licence to a service provider;
ii. ensure technical compatibility and effective inter-connection between different service providers;
iii. regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication services;
iv. ensure compliance of terms and conditions of licence;
v. recommend revocation of licence for non-compliance of terms and conditions of licence;
vi. laydown and ensure the time period for providing local and long distance circuits of telecommunication between different service providers;
vii. facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services;
viii. protect the interest of the consumers of telecommunication regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication services;
ix. ensure compliance of terms and conditions of licence;
x. recommend revocation of licence for non-compliance of terms and conditions of licence;
xi. laydown and ensure the time period for providing local and long distance circuits of telecommunication between different service providers;
xii. facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services;
xiii. protect the interest of the consumers of telecommunication service;

xiv. monitor the quality of service and conduct the periodical survey of such provided by the service providers;

xv. inspect the equipment used in the network and recommend the type of equipment to be used by the service providers;

xvi. maintain register of interconnect agreements and of all such other matters as may be provided in the regulations;

xvii. keep register maintained under clause (l) open for inspection to any member of public on payment of such fee and compliance of such other requirements as may be provided in the regulations;

xviii. settle disputes between service providers; service;

xix. monitor the quality of service and conduct the periodical survey of such provided by the service providers;

xx. inspect the equipment used in the network and recommend the type of equipment to be used by the service providers;

xxi. maintain register of interconnect agreements and of all such other matters as may be provided in the regulations;

xxii. keep register maintained under clause (l) open for inspection to any member of public on payment of such fee andcompliance of such other requirements as may be provided in the regulations;

xxiii. settle disputes between service providers;

xxiv. render advice to the Central Government in the matters relating to the development of telecommunication technology and any other matter reliable to telecommunication industry in general;

xxv. evy fees and other charges at such rates and in respect of such services as may be determined by regulations;

xxvi. ensure effective compliance of universal service obligations;

xxvii. perform such other functions including such administrative and financial functions as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act.

9.7.4 Cinematograph Act 1952

This Act was enacted to make provision for the certification of cinematograph films for exhibition and or regulating exhibitions by means of cinematographs.

Parts I, II and IV extend to the whole of India of this Act extends to the wholoe of India and Part III Extends to Union Teritories only.

In this particular Act, certian terms have been defined as follows-

– "adult" means a person who has completed his eighteenth year;
– "Board" means the Board of Film Certification constituted by the Central Government under section 3
– "certificate" means the certificate granted by the Board under section 5A'
– "cinematograph" includes any apparatus for the representation of moving pictures or series of pictures;
– "district magistrate", in relation to a presidency-town, means the commissioner of police;
– "film" means a cinematograph film
– "place" includes a house, building, tent and any description of transport, whether by sea, land or air;
– "prescribed" means prescribed by rules made under this Act; (g) 4
– "regional officer" means a regional officer appointed by the Central Government under section 5 and includes an additional regional officer and an assistant regional officer;
– "Tribunal" means the Appellate Tribunal constituted under section 5D.

The Act provides for the constitution of a Board known as the Central Board of Film Certification. This Board consists of a Chairman and 8 other members (not less than twelve and not more than twnty-five) that will be appinted by the Central Government.

In order to obtain a certificate from the Board, any person who wishes to screen his/her film will have to make an application in

prescribed format to the respective Board . The Board after properly examining the film shall -

(i) sanction the film for unrestricted public exhibition

(ii) anction the film for public exhibition restricted to adults;

(iii) direct the applicant to carry out such excisions or modifications in the film as it thinks necessary before sanctioning the film for public exhibition , or

(iv) refuse to sanction the film for public exhibition.

The Central Board of Film Certification has nine Regional offices, one each at Mumbai (headquarter), Kolkata, Chennai, Bangalore, Thiruvananthapuram, Hyderabad, New Delhi, Cuttack and Guwahati. The Regional Offices are assisted in the examination of films by Advisory Panels. The members of the panels are nominated by Central Government by drawing people from different walks of life for a period of 2 years.

Films are usually certified under 4 categories. Initially, there were only two categories of certificates – "U" (unrestricted public exhibition) and "A" (restricted to adult audiences). Two more categories were added in June 1983 – "U/A" (unrestricted public exhibition subject to parental guidance for children below the age of twelve) and "S" (restricted to specialized audiences such as doctors or scientists).

For the purpose of hearing appeals against any order of the Board under section 5C, the Central Government shall, by notification in the Official Gazette, constitute an Appellate Tribunal. The head of office of the Tribunal shall be at New Delhi and it shall consist of a Chairman and not more than four other members appointed by the Central Government.

9.7.5. Prasar Bharati (Broadcasting Corporation of India) Act, 1990

In India, it was felt in the late 1980s that media should be under the control of the public as distinct from the Government. It should be operated by a public statutory corporation or corporations, as the case

may be, whose constitution and composition must be such as to ensure its/their impartiality in political, economic and social matters and on all other public issues. Prasar Bharati (Broadcasting Corporation of India) Act, 1990 came into force from 15th of September, 1997. The Prasar Bharati Act provides for establishment of an autonomous Broadcasting Corporation of India, to be known as Prasar Bharati, to define its composition, functions and powers and related matters. The Act states that it shall be the primary duty of the Corporation to organize and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.

The Act provides for the grant of autonomy to electronic media, namely, All India Radio and Doordarshan, which were earlier working as independent media units under the Ministry of Information & Broadcasting. The intention is that the Corporation shall function as a genuinely autonomous body with are innovative, dynamic and flexible approach and with a high degree of credibility. Further, the Corporation as an autonomous body shall function in a democratic manner enriching our democratic traditions and institutions, being responsible to the people and the Parliament of India and keeping in mind the different traditions, languages and cultures of the country and various sections of the society. The major objectives of the Prasar Bharati Corporation as laid down in the Prasar Bharati Act, 1990 are as follows:

– To uphold the unity and integrity of the country and the values enshrined in the Constitution;
– To promote national integration;
– To safeguard the citizens rights to be informed on all matters of public interest by presenting a fair and balanced flow of information;
– To pay special attention to the fields of education and spread of literacy, agriculture, rural development, environment, health & family welfare and science & technology;
– To create awareness about women's issues and take special steps to protect the interests of children, aged and other vulnerable sections of the society;

- To provide adequate coverage to diverse cultures, sports and games and youth affairs;
- To promote social justice, safeguarding the rights of the working classes, minorities and tribal communities;
- To promote research and expand broadcasting facilities & development in the broadcast technology.

A comprehensive review of the Act undertaken in 1991 had brought into focus certain operational difficulties that were likely to arise particularly in the area of the personnel policy and manpower employment, issue of Government directions to the Corporation, etc. The Act provides for the establishment of a Broadcasting Council consisting of a President and fourteen other Members appointed by the President of India. This Council will ensure the citizen's right to be informed freely, truthfully and objectively. The Broadcasting Council will consider complaints about programmes broadcast by the Corporation in this context and render suitable advice to the Prasar Bharati.

The Act provides for the transfer to the Corporations of properties and funds which are vested in the Central Government for the purposes of Akashvani and Doordarshan. The Act also provides for the transfer of employees of Akashvani and Doordarshan to the Corporation and other ancillary matters and the establishment of Recruitment Boards for recommending the appointment of officers and other employees of the Corporation.

9.7.6 Cable Television Networks (Regulation) Act, 1995

The main objective of the Cable Television Networks (Regulation) Act, 1995 is to provide for the regulation of the operation of cable television networks in the country and the matters connected therewith or incidental thereto. This Act wa passed by the Parliament of India in the forty-sixth year of the Republic of India and published in the gazette of India, Extra, Part II, Sect. 3(1). dated 25th March, 1995. This Act is a special penal law and extends to the whole of India.

The Act has been divided into five chapters with 23 sections. The first chapter discusses the scope and extent of the Act and meaning of

the terms used in the Act. The second chapter deals with "Regulation of Cable Television Network". The third chapter relates to "Seizure and Confiscation of certain Equipments". The fourth chapter focuses on "Offences and Penalties". The fifth chapter covers other miscellaneous provisions.

According to this Act, a person must get himself/herself registered as a cable operator for operating a cable television network. As per the CAble Televisio Networks (Regulation) Amendment Act, 2000 (w.e.f. 1.9.2000), it is mandatory for cable operators to retransmit at least two Doordarshan terrestrial channels and one regional language channel of a State in the prime band.It has been mentioned in the Act that no person shall have a right to transmit or retransmit through a cable service any programme or advertisement which is not in confirmity with the Programme and Advertisement Code prescribed under rule 6 and 7 of the Cable Television Network Rules, 1994.

9.7.7 Broadcasting Services Regulation Bill, 2006

The policy makers in India at different points of time felt that the airwaves are public property and it was felt necessary to regulate the use of such airwaves in national and public interest, particularly with a view to ensuring proper dissemination of content and in the widest possible manner. In view of this the Government has issued guidelines from time to time, with the approval of the Union Cabinet, for regulating the Broadcasting Services and it is felt necessary to give a statutory effect to these guidelines with retrospective effect.

Purpose of the Broadcasting Services Regulation Bill:

The Broadcasting Services Regulation Bill, 2006 is a Bill to promote, facilitate and develop in an orderly manner the carriage and content of broadcasting, to provide for regulation of broadcasting services in India for offering a variety of entertainment, news, views and information in a fair, objective and competitive manner and to provide for regulation of content for public viewing and matters connected therewith. The Bill proposes to provide for the establishment of an

independent authority to be known as the Broadcast Regulatory Authority of India for the purpose of regulating and facilitating development of broadcasting services in India.

Licensing, public interest and powers for the Central Government under the Bill:

The Bill prescribes that broadcasting services shall not be without license. After the commencement of this Act no person shall provide any broadcasting service, or broadcast any program or channel, without obtaining a license for such service or permission for such program or registration of such channel, in accordance with the policy guidelines prescribed under this Act for regulating such broadcasting service, program or channel.

The Bill prescribes some powers for the Central Government in public interest. The Central Government may at any time, if it appears necessary or expedient to do so in public interest, in respect of any broadcasting service, which is considered prejudicial to friendly relations with a foreign country, public order, communal harmony or security of the State, direct the Licensing Authority to suspend or revoke its license or direct the service provider to stop broadcasting its service or transmit in its broadcasting service such announcements in such manner as may be considered necessary, and the service provider shall immediately comply with all or any such directions.

The Broadcast Regulatory Authority of India established under this proposed Bill shall be a body corporate 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. The Authority shall consist of one Chairperson and not more than six whole-time Members, to be appointed by the Central Government. The head office of the Authority shall be New Delhi.

The Authority shall have the power to notify the terms and conditions of licenses for various categories of service providers, in accordance with the policy guidelines prescribed by the Government. It can recommend to the Central Government, guidelines or norms or

amendments of prescribed guidelines or norms, in the light of its experience in the discharge of its functions, as well as on such other issues as may be referred to it by the Government. It has the power to grant registration to TV and Radio channels as provided under Section 4 of the Bill. It has the power to lay-down the standards of quality of service to be provided by the service providers and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of broadcasting service. The Authority shall formulate and determine conditions for fair, equitable and non discriminatory access to broadcasting services.

Mandatory Provisions for Cable TV Operators under the Bill:

The Bill makes it mandatory for every cable operator that it shall carry Lok Sabha and Rajya Sabha channels and at least two Doordarshan terrestrial channels and one regional language channel of a state in the prime band. The Prasar Bharati (Broadcasting Corporation of India) established under Section 3(1) of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 may, by notification in the Official Gazette, specify the additional number and name of every Doordarshan channel to be re-transmitted by the cable operators in their cable service and the manner of reception and transmission of such channels.

Offences and Punishments under the Bill:

The Broadcasting Services Regulation Bill, 2006, to regulate private broadcasting also provides for punishment like revocation of licence and fines to those who violate the proposed broadcast guidelines, including the new Content Code under preparation. A person who in contravention of the provisions of this Act, provides, distributes or receives any broadcasting service which is not licensed or broadcasts a channel which is not registered or a programme which is not permitted or abets or assists transmission or distribution of such service or content, as the case may be, in any manner shall be guilty of committing an offence of illegal broadcasting, and on conviction, shall be punishable with imprisonment which may extend up to three years, or with fine

which may extend up to rupees twenty five Lakhs or both, and for subsequent offence and conviction such imprisonment may extend to five years or fine up to rupees fifty Lakhs, or with both.



9.8 LET US SUM UP

- An "ombudsman" is a government official, usually appointed by the government or by the parliament, charged with representing the interests of the public by investigating and addressing complaints reported by individual citizens and addressing them, usually through mediating a settlement. An "ombudsman" doesn't necessarily have to be appointed by government, but there may be an "ombudsman" of a non-governmental organisation that may work only for its own members or for the general public. A press ombudsman works independently within news organisations as the interface between readers, listeners and viewers on the one hand, and journalists and editors on the other. Readers' Editor almost has the same responsibilities of an ombudsman. The key objectives of appointment of a Readers' Editor are to institutionalise the practice of self-regulation, accountability and transparency.
- In India, the First Press Commission was appointed on 23rd September, 1952 as a Commission of inquiry for the purpose of making an inquiry into the state of the press in India, its past, present and future lines of development. The First Press Commission that ended in 1954. It recommended the establishment of a Press Council in India (PCI). The Second Press Commission was set up in May 1978 and the Report was submitted in 1982.
- Press Council is a mechanism for the Press to regulate itself. The Press Council of India was first set up in the year 1966. The Press Council of India was first set up in the year 1966 by the Parliament. The present Council functions under the Press Council Act 1978. PCI follows a complain procedure. If anyone has a complaint against a newspaper for publication of an objectionable material, one may first take it up with

the editor or other representative of the publication concerned. If the complaint is not resolved to satisfaction, he/she may refer it to the PCI. The PCI also has set certain principles and norms for the media. The fundamental norms as prescribed by the PCI is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner.

- The policy makers in India at different points of time felt that the airwaves are public property and it is felt necessary to regulate the use of such airwaves in national and public interest. The proposed Broadcasting Services Regulation Bill, 2006 is a Bill to promote, facilitate and develop in an orderly manner the carriage and content of broadcasting. It is a Bill to provide for regulation of broadcasting services in India for offering a variety of entertainment, news, views and information in a fair, objective and competitive manner.



9.10 FURTHER READING

1. S. Kundra: *Media Laws and Indian Constitution*
2. Jan R. Hakemulder, Fay A.C. de Jonge, P. P. Singh: *Media, Ethics and Laws*
3. Durga Das Basu: *Law of the Press*
4. Sama, Dr. Umar(2007) Law of Electronic Media. New Delhi : *Deep & Deep Publications Pvt. Ltd.*



9.9 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: An "ombudsman" is a government official, usually appointed by the government or by the parliament, charged with representing the interests of the public by investigating and addressing complaints reported by individual citizens and addressing them, usually through mediating a settlement.

Ans. to Q. No. 2: Lok Ayukta

Ans. to Q. No. 3: Any organisation may appoint an organizational ombudsman. The press ombudsman works independently within news organisation(s) as the interface between readers, listeners and viewers on the one hand, and journalists and editors on the other.

Ans. to Q. No. 4: USA

Ans. to Q. No. 5: Readers' Editor almost has the same responsibilities of an ombudsman. The key objectives of appointment of a Readers' Editor are to institutionalise the practice of self-regulation, accountability, and transparency; to create a new visible framework to improve accuracy, verification, and standards in the newspaper; and to strengthen bonds between the newspaper and its millions of print platform and online readers.

The Hindu is the first newspaper in India to appoint a Reader's Editor.

Ans. to Q. No. 6: 1952

Ans. to Q. No. 7: Justice G. S. Rajadhyaksha

Ans. to Q. No. 8: Press Council Act, 1978

Ans. to Q. No. 9: First Press Commission (1952-1954)

Ans. to Q. No. 10: Press Council is a mechanism for the Press to regulate itself. The best way is to regulate the press to let the peers of the profession, assisted by a few learned persons to regulate it through a properly structured representative impartial machinery. Hence, the Press Council.

Ans. to Q. No. 11: The Press Council is headed by a Chairman, who has by convention, been a retired judge of the Supreme Court of India.

Ans. to Q. No. 12: (a) 1966

Ans. to Q. No. 13: (c) Sangeet Natak Academy



9.11 POSSIBLE QUESTIONS

Q. 1: What is the difference between "ombudsman" and "press ombudsman". Write briefly about the history of press ombudsman and also its development in India.

Q. 2: Write briefly about the role of Reader's Editor to institutionalise the practice of self-regulation, accountability and transparency press.

Q. 3: Write briefly about the recommendations of the two press commissions in India?

Q. 4: What is the importance of a Press Council? Write a note on the Press Council of India.

Q. 5: Write a brief note on the complain procedure before the Press Council of India.

Q. 6: Write a note on the principles and norms set out by the Press Council of India for self-regulation of the press in India.

* * * * *

UNIT- 10: MEDIA SELF-REGULATION

Unit Structure

10.1. Learning objectives

10.2. Introduction

10.3. Self-regulation

10.3.1. Media Self-regulation

10.4. Code of conduct of different organisations for media personnel

10.5. Editors' Guild of India

10.6. All India Newspaper Editors' Conference (AINEC)

10.7. The Indian Newspaper Society (INS)

10.7.1. Objectives and Administration of INS

10.7.2. Functions of INS

10.8. Let Us Sum Up

10.9. Answers to Check Your Progress

10.10.Further Reading

10.11.Possible Questions

10.1. LEARNING OBJECTIVES

After going through this unit you will be able to:

- define the concept of "self-regulation" and "media self-regulation".
- describe very briefly about code of conduct or practice of different organisations for media personnel in different countries.
- explain the Editors' Guild of India
- discuss the All India Newspaper Editors' Conference (AINEC)
- elucidate the Indian Newspaper Society (INS) and its objectives, administration and functions

10.2. INTRODUCTION

Prior to this unit you are introduced to "ombudsman", "press ombudsman" and "Reader's Editor" who work independently within news organisations as the interface between readers, listeners and viewers on the one hand, and journalists and editors on the other. You are also introduced to

the little history about the appointment and recommendations of the First and Second Press Commissions in India. The recommendations led to the establishment of the Press Council of India (PCI) and the journalistic principles prescribed by the PCI. Finally you are introduced to the Broadcasting Authority Bill, 2006 which prescribes the regulation of the airwaves which are public property and in the national and public interest the airwaves needs to be regulated.

In today's world media self-regulation is an important factor looking at the danger of the platform of media being misused by interested parties. Media self-regulation is a joint endeavour by media professionals to set up voluntary editorial guidelines and abide by them in a learning process open to the public. By doing so, the independent media accept their share of responsibility for the quality of public discourse in the nation, while fully preserving their editorial autonomy. Self-regulation helps the media respond to legitimate complaints, and correct mistakes in a trial-and-error way in shaping it.

In this Unit you are introduced to the concept of "self-regulation" and "media self-regulation". You are then introduced very briefly to the existing code of practice or conduct for media personnel in different countries. You are also introduced to the code of conduct/practice for media in detail of different organisations like the Editors' Guild of India, the All India Newspaper Editors' Conference (AINEC) and The Indian Newspaper Society (INS) and its objectives, administration and functions.

10.3. SELF-REGULATION

The term "self-regulation" has a range of definitions. The term means different things to different people. At one end of the spectrum, the term is used quite narrowly, to refer only to those instances where the government has formally delegated the power to regulate. At the other end of the spectrum, the term is used when the private sector perceives the need to regulate itself for whatever reason.

The word "self" refers to the actor. It could mean a single company. The word "regulation" refers to what the actor is doing. Regulation has three components:

(1) legislation, that is, defining appropriate rules;

(2) enforcement, such as initiating actions against violators; and

(3) adjudication, that is, deciding whether a violation has taken place and imposing an appropriate sanction.

Thus, the term "self-regulation" means that the industry or profession rather than the government is doing the regulation. However, it is not necessarily the case that government involvement is entirely lacking. Instead of taking over all three components of regulation, industry may be involved in only one or two. For example, an industry may be involved at the legislation stage by developing a code of practice, while leaving enforcement to the government, or the government may establish regulations, but delegate enforcement to the private sector.

Self-regulation has several advantages over governmental regulation which may include - efficiency, increased flexibility, increased incentives for compliance, and reduced cost. For example, it is argued that industry participants are likely to have superior knowledge of the subject compared to [a] government agency. Therefore, it is more efficient for government to rely on the industry's collective expertise than to reproduce it at the agency level. Secondly, it is argued that self-regulation is more flexible than government regulation. It is easier for a trade association to modify rules in response to changing circumstances than for a government agency to amend its rules. Thirdly, it is argued that self-regulation is less costly to the government because it shifts the cost of developing and enforcing rules to the industry. Of course, the government may still be involved in supervision, but supervision requires fewer resources than direct regulation.

10.3.1. Media Self-regulation

Media self-regulation is a joint endeavour by media professionals to set up voluntary editorial guidelines and abide by them in a learning process open to the public. By doing so, the independent media accept their share of responsibility for the quality of public discourse in the nation, while fully preserving their editorial autonomy. Self-regulation helps the media respond to legitimate complaints, and correct mistakes in a trial-and-error way in shaping it.

By promoting standards, self-regulation helps maintain the media's credibility with the public. This is particularly welcome in new democracies, most of which are also new to an independent press. Media self-regulation helps convince the public that the free media are not irresponsible. At the same time, self-regulation protects the right of journalists to be independent, and to be judged for professional mistakes not by those in power but by their colleagues. When it comes to correcting factual errors or violations of personal rights by the press, satisfaction over the judgments of self-regulatory bodies lessens pressure on the judiciary system to sanction journalists.

Self-regulation of the media is helpful for the public as well. It is quite natural for media consumers to seek guarantees about the value of journalists' information. Codes of ethics provide guidance on editorial standards, while complaint mechanisms offer a kind of "quality insurance". Complaints launched with self-regulatory bodies come at no cost, unlike court proceedings. This is a considerable advantage for the average citizen. There are benefits for complaining politicians, such as the speedy resolution of disputes, and the satisfaction of seeing mistakes acknowledged publicly and voluntarily by the press.

Self-regulation of the media is important in a democracy too. Democracy is not only about disputes. It is also about a shared culture of disputing in a rational and fair manner. Governments, even if freely elected, are participants in the political contest and therefore are not best-suited to enforce rationality and fairness. Besides, democracy is incompatible with state custody of the press. Media self-regulation is an effort to impose democracy's political culture, independent of political forces. It also advances the transition from a government-owned, state-controlled press to one owned and controlled by civil society.



CHECK YOUR PROGRESS

Q.1: What is Self regulation

.....

.....

Q.2: ASCI stands for what?

.....

.....

10.4. CODE OF CONDUCT OF DIFFERENT ORGANISATIONS FOR MEDIA PERSONNEL

Journalism has an ethical goal - the communication of truth and facts. It is an established fact that media organisations for its personnel need code of conduct/practice for the trust and faith reposed on it by the people. The media organisations are aware of the fact that for the freedom they exercise, they equally also have responsibilities, to maintain the goodwill they have earned through years. The media organisations throughout past one century or so have developed its own code of conduct and it is evident from the code of conduct of different media organisations. The British Broadcasting Corporation (BBC) is committed to delivering the highest editorial and ethical standards, and therefore, it has the Editorial Guidelines to balance the right to freedom of expression and information with their responsibilities. In Canada, the Canadian Broadcasting Corporation (CBC) occupies a unique position of trust. Not only is it the most substantial and broadly-based broadcast media organisation in Canada, it is funded, through Parliament, by the people of Canada. The Journalistic Standards and Practices in Canada provide the policy framework within which CBC journalism seeks to meet the expectations and obligations it faces. Media in Asian countries like Cambodia China, Hong Kong, Indonesia, Japan, Malaysia, Philippines, Singapore, South Korea, Sri Lanka, Taiwan and Thailand have their own code of practice or conduct.

Code of conduct of different organisations for media personnel in India :

The first effort in India to evolve a code of conduct was the Press (Objectionable Matters) Act of 1951, to which the All India Newspaper Editors' Conference (AINEC) and the Indian Federation of Working Journalists (IFWJ) formally extended support, after suggesting amendments to the term "objectionable matter", which were accepted. The AINEC developed a code of conduct for editors of newspapers called Editors' Charter, 1953 and then it adopted the AINEC Code of Ethics for the Press in Reporting and Commenting

on Communal Incidents, 1968. Both of which applied more to editors that other categories in the newsroom. The Press Council of India Code, 1954 was formulated to help the media perform their respective roles harmoniously in difficult situations. The Press Council also has Code of Ethics on Communal Matters. The Rajya Sabha in 1976 also adopted a Code of Ethics for journalists and newspapers regarding their social and moral responsibilities. Further, the Editors' Guild of India, the Indian Newspaper Society and News Broadcasters Association of India (NBA) too have their own Code of Conduct for journalists.

With terrorism taking the centre stage in recent years the News Broadcasters Association of India (NBA) has recently came out with a set of six guidelines that include no live contact with hostage takers, no mention of security operation details and no distressing images in future broadcasts. These Guidelines were agreed upon by the Indian news broadcasters after wide criticism of their coverage of the Mumbai terrorist attacks on 26th November, 2008. The Canadian Broadcasting Corporation too has Code of Conduct for terrorism and hostage taking to ensure not to endanger the lives of the hostages by their actions and not to interfere with efforts of authorities to secure hostages' release. This code of conduct stipulates that "any direct communication from terrorists/hostage takers which contains information about current or contemplated acts of terrorism should be reported immediately to the senior officer in information programming." Further it states that "no live coverage of a statement by or interview with a terrorists/hostage taker or hostage may occur without authorisation from the senior officer in information programming."



CHECK YOUR PROGRESS

Q.3: In India, Press (Objectionable Matters) Act was adopted in which year?

.....

.....

Q.4: AINEC stands for what?

.....

.....

10.5. EDITORS' GUILD OF INDIA

The Editors' Guild of India, an apex body of journalists, is a body of editors of newspapers, news agencies, news magazines and television news channels in the country. It takes up issues of freedom of the press, independence of editors and raising the standards and ethics of journalism. It has evolved a code of practice for journalists. The 'Code of Practice for Journalists' issued by the Guild very much vocal about fairness in reporting. Journalists normally resist any kind of Code for their profession as something repugnant to the freedom of expression. The code is very much expressive about the fact that newspapers should exercise balance and fairness in reporting any event. The Code further states the need for editors and journalists to resist attempts to make them carriers of hatred, venom, misinformation and rumours. In recent years the media has come under intense scrutiny for allegedly inaccurate and biased coverage, and in view of this the Editors' Guild stated that "a good code imposes no fetters. It may only flag some pitfalls discovered by those who have gone before, so that those who follow may anticipate and avoid them."

Among the many guidelines, under the Code of the Editors' Guild, advising media persons on ensuring ethics in their work were:

– Avoid exaggerating, show equal respect to all religious communities and do not resort to subterfuge to extract information.

– Verify facts and weed out inaccuracies from field reports. The publication must keep a reference library. Conjecture should not be allowed to masquerade as fact.

– Allegations against public servants should be doubly checked as rules of service often deny them the right to reply.

– Suppression of facts under pressure is dereliction of duty.

– In reporting crime, particularly crimes of sex and those involving children, the report should not become a punishment that may blast a life without warrant.

It is often difficult to forego this Code of Practice entirely, because in that case the less affluent among the media might not be able to provide even unbiased coverage of many events. But the Editors' Guild's Code of

Practice prescribes three kinds of precautions - First, the better-off media should set an example in providing self-supporting coverage. Second, where there is a choice between accepting offers of perks and favours (as invitation for foreign visits and travel, whether from government, industrial and commercial organisations, or other centres of power and patronage) or denying suitable coverage to audience, the media concerned should acknowledge that such facilities have been offered and accepted. Third, the offer should be made directly to the editor, leaving it to him to decide whom he deputes for the coverage to keep it free from extraneous considerations. The Editors' Guild's Code of Practice, further, talks about Editor's Domain and Staff's Domain. In Editor's Domain, the Code makes the editor the custodian of the image of a newspaper and states four aspects of editing. These are:

– The publication must maintain and promote high standards of good taste.

– Maintaining the credibility of the publication.

– Respect accuracy and editor's obligation to resist suppression of facts.

– Editor's obligation to inculcate respect for the obligations in the minds of staff of the publication. To create a harmony it would be better if the editor makes it a standard practice to discuss with the staff the rights and wrongs of his own and their decisions in specific cases.

In the Staff's Domain, of the Code of Practice there are altogether 22 Guidelines, not only for the sub-editors, but all members of the staff should follow these norms, among which following norms stand out important: verify facts and weed out inaccuracies from field report, segregate facts from direct or indirect comments, right to reply, avoid undue publicity to the personal affairs of personalities if public interest is not clearly at stake, suppression of facts, etc.

10.6 ALL INDIA NEWSPAPER EDITORS' CONFERENCE (AINEC)

The All India Newspaper Editors' Conference (AINEC) situated at the Theatre Communication Buildings, Connaught Place, New Delhi, was started in 1940. It is a voluntary organisation of the editors of Indian newspapers and

periodicals. Its main objects are to preserve the high traditions and standards of journalism, to safeguard freedom and rights of the Press; to secure all facilities and privileges to the press for the discharge of its responsibilities; to establish liaison between the Press and the Government, between the Press and the public; to develop contacts with association having similar objects in other countries.

The AINEC as a process of self-regulation by the media has so far adopted the Editors' Charter, 1953 and the Code of Ethics for the Press in Reporting and Commenting on Communal Incidents, 1968. Under the Editors' Charter, 1953 it is specifically stated that "the editor shall enjoy complete freedom in respect of the implementation of the editorial policy and the staffing and conduct of the newspaper" and at the same time "the editor's decision shall be final in all matters concerning the editorial staff and the contents of the newspaper." But the editor shall have the obligation to maintain high standards, to resist all pressures, to generate a cooperative spirit among members of the editorial department and to serve impartially the interest of the society.

The AINEC Code of Ethics for the Press in Reporting and Commenting on Communal Incidents, 1968 is applied more to editors than other categories in the newsroom. The summary of this Code is that a free press can flourish only in a free society and communalism is a threat to the fabric of our free society and to the nation's solidarity. In this the press has a vital role to play, in the consummation of the fundamental objectives enshrined in the Constitution of India, 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. To this end the press should adhere to certain guidelines in reporting on communal incidents in the country. All editorial comments and other expressions of opinion, whether through articles, letters to the Editor, 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. Generalised allegations casting doubts and aspersions on the Patriotism and loyalty of any community should be avoided. Likewise, generalised charges and allegations against any community of unfair discrimination, amounting to inciting communal hatred and distrust,

must also be avoided. Names of communities should not be mentioned nor the terms "majority" and "minority" communities be ordinarily used in the course of reports. Truth should not be suppressed, yet a deliberate slanting of news of communal incidents should be avoided. The press should give prominence and precedence to news items calculated to make for peace and harmony and help in the restoration and maintenance of law and order over other news. 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.



CHECK YOUR PROGRESS

Q.5: What is Editors' Guild of India?

.....

.....

Q.6: How many Guidelines are there in the Staff's Domain of the Code of Practice of the Editors' Guild of India?

.....

.....

Q.7: In which year All India Newspaper Editors' Conference (AINEC) was established?

.....

.....

Q.8: In which year AINEC adopted its Editors' Charter?

.....

.....

Q.9: In which year AINEC adopted its Code if Ethics for the Press in Reporting and Commenting on Communal Incidents?

.....

.....

Q.10: The AINEC Code of Ethics for the Press in Reporting and Commenting on Communal Incidents prohibits use of two terms while referring to

.....

.....

10.7. THE INDIAN NEWSPAPER SOCIETY (INS)

The early beginnings of The Indian Newspaper Society (INS) can be traced back to October 11, 1927, when a Society bearing the name, The India, Burma & Ceylon Newspapers' London Committee came into being, the name of which was changed to Indian & Eastern Newspaper Society (IENS) on October 4, 1935. This was an organization based in London representing and acting solely under the authority of newspapers, magazines, reviews and other journals published in India, Burma, Ceylon and other countries of Asia. The need, however, was felt for the establishment of a coordinating body in this country, comprising the proprietors of newspapers, which could deal directly and more expeditiously with the various day-to-day problems arising out of newspaper production. Thus, The Indian and Eastern Newspaper Society came into being. It was inaugurated at a meeting of the representatives of the following founding publications on February 27, 1939, at the Statesman House, New Delhi, with Mr. Arthur Moore, Editor of The Statesman in the Chair, with the primary object was of serving as a Central Body for promoting the common interests of newspapers in India, Burma and Ceylon. Its fourteen founding members were The Bombay Chronicle, The Times of India, The Rangoon Gazette, The Amrita Bazar Patrika, The Hindustan Times, The Hindustan Standard, Advance, The Pioneer, The Leader, The Tribune, The Civil and Military Gazette, The Hindu, The Madras Mail and The Statesman.

The Indian and Eastern Newspaper Society, now renamed as The Indian Newspaper Society (INS), enjoys a unique position as the accredited spokesman of the newspaper industry. The INS now acts as the central organisation of the Press in India. It is an organisation which plays a major role in protecting and promoting the freedom of press in India. Its Headquarter at the Rafi Marg, New Delhi houses the Secretariat of the Society and about 90 offices of member publications. The foundation of the Society, in the year of the beginning of World War II, was the first step in giving direction and cohesion to a vital industry. The Press till then had been growing at random, without organisational support and mutual co-ordination or any protection from the numerous pressure groups.

The INS is proud to have played a significant role in protecting and promoting the freedom of the Press in the world's largest democracy. The greatest strength of the Society stems from a unity of purpose. Over 990 dailies, bi-weeklies, weeklies, fortnightlies and monthlies published in 18 languages from all over the country form the nucleus that accounts for over 90% of the country's readership. From newsprint to advertising, from licenses for machinery to freedom of the Press, INS today is involved in many spheres of activities. Sometimes successful, sometimes not. But always persevering and untiringly using its only resource - the power of persuasion. Today, in step with the changing times and the communication revolution, The Indian Newspaper Society is gearing itself to play a large role. Stepping into newer areas to improve the quality of the Press - the quality of the voice of democracy.

10.7.1. Objectives and Administration of INS

The Indian Newspaper Society has its own set of objectives, but the objective of the INS may be enlarged at any time. The INS was established to acts as a central organisation of the press of India, Burma and Ceylon. It promotes and safeguards such business interests of members as may be affected or are likely to be affected by the action of Legislatures, Governments, the Law Courts, municipal and local bodies and associations or organisations commercial or formed for any other purpose and to take such steps as may seem desirable to that end. It collects information upon all topics having a practical interest for members and to communicate the same to them. It was established to promote co-operation in all matters affecting the common interests of members and to make rules to govern the conduct of its members, to provide penalties for the infringement thereof, and to provide means of determining whether there has been such infringement. For that matter the INS holds periodical conferences of its members to discuss and determine action on matters of common interest. The INS maintains a permanent Secretariat in India to watch over the interests of members and to permit of a constant interchange of information and views.

When it comes to administration the INS has one Executive Committee. Under the Executive Committee there are several Sub-

Committees, they are - Advertising Committee, Newsprint Committee, Building-Finance-Staff Committee, Industrial Relations & Legal Affairs Committee. The INS has also got its Regional Committees in - Andhra Pradesh, Chandigarh, N. C. R. (Delhi), Gujarat, Karnataka, Kerala, Kolkatta- Bihar - Jharkand , Madhya Pradesh, Maharashtra, Mumbai, North East, Rajasthan, Tamil Nadu, Uttar Pradesh.

10.7.2. Functions of INS

Born in 1939, The Indian Newspaper Society has completed 70 years of its existence in 2009. The INS has entered the new millennium as a mature and well established organisation serving the newspaper industry of the country.

Advertising :

One of the key functions performed by the society is to provide assistance to member publications in regard to monitoring the recovery of their dues from advertising agencies and advertisers. Advertisements, for long, have been a major source of revenue for the newspapers and periodicals. The growth of revenue from this source has been sluggish due to the phenomenal expansion of the electronic media, which has diverted revenues, to a considerable extent, away from the print media. For bringing to the notice of advertisers, media managers and public, the advantages of advertising in the newspapers and periodicals, INS has decided to launch a sustained campaign code-named " Project Press". This campaign is being financed entirely through voluntary contributions from member publications.

Accreditation of Advertising Agencies:

An institutionalised system of granting accreditation to advertising agencies enabling them, upon such accreditation, to access certain facilities from the members, has been in vogue for several decades. The system operates in terms of the "Rules Governing Accreditation of Advertising Agencies and Rulings of the Society" adopted by the Society, initially in the year 1943, and subsequently amended from time to time. Currently the total number of agencies which enjoy full Accreditation

from the Society is 576 and those which are Provisionally Accredited are 182. Thus the total number of accredited agencies is 758.

Monitoring of Payments to Publications:

The Society monitors payments to publications from the advertising agencies through a system of Monthly Review Verification (MRV). The Society constantly endeavors to enforce the Accreditation Rules, so that payments are made within the credit period allowed and the offering of commission/discounts etc, which is not permissible, is not resorted to.

Resolution of Disputes between Publications and the Agencies:

Both publications and agencies are encouraged to mutually resolve their disputes but wherever it becomes imperative, the Society advice the agencies involved to bilaterally settle the disputes.

Advertising Committee:

The entire gamut of the activities of the Society, relating to the area of advertising, is overseen by the Advertising Committee of the INS. All policy matters, position of arrears of advertising agencies, action taken against agencies for defaults including ratification of notices of dis-accreditation, cancellation of accreditation, granting of Provisional and Full Accreditation etc. are considered and decided at the meetings of the Advertising Committee.

News Print :

Newsprint is the lifeline of the newspaper industry, being the primary raw material constituting 50% to 60% of the total cost of production. The Newsprint Committee of the INS keeps a close watch on all the developments in this regard and seeks appropriate relief, from time to time, on the issues affecting the interests of the industry.

Industrial Relations :

The INS being the central body for newspaper establishments has also helped members by placing their views as an industry before the government on the recommendations of the wage boards for working journalists and non-journalists employees so that the Central Government takes a realistic view and the newspaper industry, despite

the onslaught of the electronic media, may survive and play its role in the democratic process.

Press Freedom:

The Press Freedom Committee of the Society has always continued its efforts for maintaining the freedom of the press and takes up related issues from time to time like attack on newspaper establishments/journalists, issues concerning entry of foreign media etc. The Society always puts in its efforts to ensure that the newspapers could be publishes by the employees without any for their lives and damage to the assets of the newspaper establishments. The Society has always decided against the entry of foreign media in any shape into the country.

Seminars:

The Society conducts seminars and workshops from time to time for its member publications. The Society also makes sure that the database of all the members is complied and put together in the form of INS Handbook, which is regularly updated and maintained.

Modernisation :

To keep pace with technology the Society has developed a new software for making its core functions fully automated which makes information dissemination easier to its members.



CHECK YOUR PROGRESS

Q.11: What is the original name of the Indian and Eastern Newspaper Society?

.....

.....

Q.12: How many Guidelines are there in the Staff's Domain of the Code of Practice of the Editors' Guild of India?

.....

.....

Q.13: In which year The Indian and Eastern Newspaper Society became The Indian Newspaper Society?

.....

.....

Q.14: In which regions in India the INS has its Regional Committees?

.....

.....

Q.15: Which among the following is not a founding member of the INS?

(a) The Times of India (b) The Hindustan Times

(c) The Hindustan Standard (d) The Telegraph

.....



10.8. LET US SUM UP

- The term "self-regulation" has a range of definitions. The term means different things to different people. At one end of the spectrum, the term is used quite narrowly, to refer only to those instances where the government has formally delegated the power to regulate. At the other end of the spectrum, the term is used when the private sector perceives the need to regulate itself for whatever reason. Media self-regulation is a joint endeavour by media professionals to set up voluntary editorial guidelines and abide by them in a learning process open to the public. Self-regulation has several advantages over governmental regulation which may include - efficiency, increased flexibility, increased incentives for compliance, and reduced cost.
- The media organisations are aware of the fact that for the freedom they exercise, they equally also have responsibilities, to maintain the goodwill they have earned through years. The media organisations throughout past one century or so have developed its own code of conduct and it is evident from the code of conduct of different media organisations. Code of conduct of BBC, CBC and organisations like All India Newspaper Editors' Conference (AINEC), the Indian Federation of Working Journalists (IFWJ), the Press Council of India, Editors' Guild of India, the Indian Newspaper Society and News Broadcasters Association of India (NBA) are the examples.

- The Editors' Guild of India, an apex body of journalists, is a body of editors of newspapers, news agencies, news magazines and television news channels in the country. It takes up issues of freedom of the press, independence of editors and raising the standards and ethics of journalism.
- The All India Newspaper Editors' Conference (AINEC) is a voluntary organisation of the editors of Indian newspapers and periodicals. Its main objects are to preserve the high traditions and standards of journalism, to safeguard freedom and rights of the Press; to secure all facilities and privileges to the press for the discharge of its responsibilities; to establish liaison between the Press and the Government, between the Press and the public; to develop contacts with association having similar objects in other countries.
- The Indian Newspaper Society (INS) enjoys a unique position as the accredited spokesman of the newspaper industry. It acts as the central organisation of the Press in India. The INS is proud to have played a significant role in protecting and promoting the freedom of the Press in the world's largest democracy.



10.10. FURTHER READING

1. P. K. Ravindran: *Press Laws and Ethics*
2. T. Rajsekhar (eds.) : *Journalism - Ethics and Objectives*
3. Angela J. Campbell: *Self-Regulation and the Media*



10.9. ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: The term "self-regulation" has a range of definitions. The term means different things to different people. At one end of the spectrum, the term is used quite narrowly, to refer only to those instances where the government has formally delegated the power

to regulate. At the other end of the spectrum, the term is used when the private sector perceives the need to regulate itself for whatever reason.

Ans. to Q. No. 2: Media self-regulation is a joint endeavour by media professionals to set up voluntary editorial guidelines and abide by them in a learning process open to the public. By doing so, the independent media accept their share of responsibility for the quality of public discourse in the nation, while fully preserving their editorial autonomy. Self-regulation helps the media respond to legitimate complaints, and correct mistakes in a trial-and-error way in shaping it.

Ans. to Q. No. 3: 1951.

Ans. to Q. No. 4: All India Newspaper Editors' Conference.

Ans. to Q. No. 5: The Editors' Guild of India, an apex body of journalists, is a body of editors of newspapers, news agencies, news magazines and television news channels in the country. It takes up issues of freedom of the press, independence of editors and raising the standards and ethics of journalism. It has evolved a code of practice for journalists.

Ans. to Q. No. 6: 22 Guidelines.

Ans. to Q. No. 7: 1940.

Ans. to Q. No. 8: 1953.

Ans. to Q. No. 9: 1968.

Ans. to Q. No. 10: "Minority" and "Majority".

Ans. to Q. No. 11: The India, Burma & Ceylon Newspapers' London Committee

Ans. to Q. No. 12: 1940.

Ans. to Q. No. 13: 1939.

Ans. to Q. No. 14: Andhra Pradesh, Chandigarh, N. C. R. (Delhi), Gujarat, Karnataka, Kerala, Kolkatta- Bihar - Jharkand , Madhya Pradesh, Maharashtra, Mumbai, North East, Rajasthan, Tamil Nadu, Uttar Pradesh.

Ans. to Q. No. 15: (d) The Telegraph.

Ans. to Q. No. 18: Advertising, News Print, Industrial Relations, Press Freedom, Seminars and Modernisation.



10.11. POSSIBLE QUESTIONS

Q. 1: Write a note on "self-regulation" and "media self-regulation". Explain how self-regulation of media is helpful to the public and to a democracy.

Q. 2: Write a note on Code of conduct of different organisations for media personnel in different countries.

Q. 3: Write a note on the Editors' Guild of India and its media Code of conduct.

Q. 4: Write a note on the All India Newspaper Editors' Conference (AINEC) and its Code of Conduct adopted in 1953 and 1968.

Q. 5: Write a brief history of The Indian Newspaper Society (INS) stating its objectives.

Q. 6: Write a note on the functions of The Indian Newspaper Society (INS).

* * * * *