

## **Syllabus**

### **Media Laws & Ethics**

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#### **Tutorial – Media Laws & Ethics**

1. Press, Law, Society & Democracy

#### **MEDIA & PRESS LAWS**

**P**ress Laws are the laws concerning the licensing of books and the liberty of expression in all products of the printing-press, especially newspapers. The liberty of the press has always been regarded by political writers as of supreme importance.

Before the invention of printing, the Church assumed the right to control the expression of all opinion distasteful to her. When the printing press was invented, German printers established themselves at various important centres of Western Europe, where already numbers of copyists were employed in multiplying manuscripts. In 1473 Louis XI granted letters patent giving the right of printing and selling books to Uldaric Quring Ulrich Gering, who three years earlier had set up a press in the Sorbonne the theological faculty of the university at Paris, and before long Paris had more than fifty presses at work. The Church and universities soon found the output of books beyond their control. In 1496 Pope Alexander VI began to be restrictive, and in 1501 he issued a bull against unlicensed printing, which introduced the principle of

censorship. Between 1524 and 1548 the Imperial Diet in Germany drew up various stringent regulations; and in France, prohibited by edict, under penalty of death, the printing of books, This was too severe, however, and shortly afterwards the Sorbonne was given the right of deciding, a system which lasted to the Revolution.

## **1. PRESS, LAW, SOCIETY & DEMOCRACY**

Legislation in the shape of laws and acts, etc, is a convenient way of controlling the mass media. Many countries have tried this method since a long time now. Other means of suppressing media freedom are oppressive measures like raids, seizures, arrests, fines, etc. only few countries like the USA have ensured freedom of media in a direct manner. Most countries, like in India, have some indirect measures. Almost all countries have provisions that impose restrictions in a reasonable manner.

In India, much legislation has been enacted in this direction. Most governments feel that they have the right to enact such Acts and Laws with a view towards restricting the freedom of expression in the interest if the state, with regard to friendly relations with foreign states, with regard to public order, with regard to decency or morality, or in relation to contempt of court, defamation, or incitement of an offence.

## **2. CONSTITUTIONAL SAFEGUARDS TO FREEDOM OF PRESS**

The struggle from the very beginning was to win legitimacy for the right of free expression. But when the printing press offered opportunities to increase the reach and durability of the message, governments immediately saw a great threat to their power. They began placing restrictions on the ownership of printing units, and insisting on pre-censorship, etc. By the 18<sup>th</sup> century, the battles for the freedom of the press were won in America, Britain and in most of Europe. Generally, whatever restrictions were placed on the press were said to be in the interest of citizens like protection against defamation, slander or libel or the interests of the society like banning of obscene literature or material that would produce social conflicts or the interests of the state like prohibiting treasonable writing or disclosure of official secrets of damage to relations with a friendly country, etc.

These restrictions were not regarded as assaults on the freedom of the press anywhere, though with regard to sedition and official secrets, a debate is continuing for greater freedom of the press.

### **Meaning of Freedom**

In our country the concept of freedom of the press evolved over the years as a

result of the struggle, first under the British rule against restrictive press laws and after independence against such laws as the Press (Objectionable Matter) Act, 1951.

Both in the United States and India, constitutional provisions do not define freedom of the press.

**In general press freedom means freedom unless specifically prohibited by law, to gather, print and publish information and to set up technologies in pursuit of such objectives, to claim and gain access to information.** This freedom extends to press photographers too. In practice, freedom of the press means freedom of the owner of a newspaper. Journalists enjoy that much freedom as is given to them, by the owner of their newspaper/magazine. Generally, freedom always means freedom from government. But, it is recognized that there are other agencies too that threaten this freedom, for example, militants, language chauvinists and regional pressure groups. Big advertisers sometimes also threaten freedom of the press, as they are an important source of newspaper income. This freedom is also threatened by the newspaper proprietor's other businesses.

### **Basis of Democracy**

From the beginning, freedom of the press was sought and obtained on the ground that it was a prerequisite to democracy. Without the medium of the press, people had no means of judging the performance or credentials of aspirants to power in a democracy. Even otherwise, people depend on the press on a daily basis for a variety of needs. It goes without saying that all other freedoms become irrelevant without freedom of the press because denial of this freedom means the strangling of democracy.

**The press, including individual journalists and media organizations, demand freedom because of the functions they discharge for the benefit of the society.**

Both society and the state need information on a day-to-day basis. Though governments have their own machinery to gather information, they rely on the media as barometers of public opinion. The public or the citizens depend on the media for fair and impartial information regarding the government's activities. As watchdogs and neutral observers, the media are in an advantageous position to monitor and disseminate information relating to government activities.

In today's context, freedom of the press is only an extension of the citizen's right to freedom of speech and expression. It is the press, alone which can thwart the attempts of any government to deny this right to the citizen. The government takes daily hundreds of decisions, which affect the citizens directly. It is the press alone which analyses and interprets the consequences of these decisions for the citizens.

In every country, its population is dependent on the press and other mass media for information, advice and guidance on a daily basis. Without freedom, they cannot discharge the functions that the society expects from them.

Today, the press, the electronic media radio and television wherever they operate privately, has information-gathering networks spread all over the world. They are the eyes and ears of the people everywhere. In addition, they exist solely for the purpose of collecting and disseminating information unlike the government which has more important responsibilities like administration, security of the state, education, health, agriculture, economy, etc. The media, therefore, cannot collect and distribute information unless they enjoy freedom for themselves as institutions, as do individual journalists employed by them. The media accept certain restrictions on these freedoms if they impinge on the freedoms of other individuals, or if they are in the public interests.

### Reasonable Restrictions

In connection with the limitations on the freedom of the press, the very first thing we must remember is that the right of the freedom of the press is only an extension of the citizen's right to freedom of speech and expression. Therefore, all those laws imposing restrictions on this right of the citizen apply to the press too. It has no special privilege that the citizens do not enjoy in this area. Since a company generally brings out a newspaper, one may ask if the rights of the citizens could be extended to the company also. There is some fuzziness about judicial pronouncements on this matter and, therefore, the second press commission recommended that all Indian companies engaged in the business of communication and whose shareholders are citizens of India should be deemed to be Indian citizens for the purpose of the relevant clauses of Article 19.

In all western societies and in India, the constitution as well as the general laws of the countries set the limits for the exercise of freedom of the press.

Therefore, it goes without saying that with regard to freedom, the press is not on any higher footing than the ordinary citizen, because it is an extension of the individual's rights. Since the press is also a business and an industry, all those laws, which apply to business and industry, also apply to newspaper organizations. The press cannot plead exemption from laws like the Industrial Disputes Act, the Provident Fund Act, the Working Journalists Act and several other laws, which apply to corporate bodies.

### **ROLE OF JOURNALISM**

Journalism mainly involves practices of print journalism in general, and newspaper in particular, because newspaper journalism remains a good grounding career in television, radio, magazine and online journalism.

The role of press is to be a watchdog and act as a catalytic agent to hasten the

process of socially and economic change in the society. Journalism is the voice of the people about corruption, the government, and the use and misuse of power. It should be noted that Journalism too is part of the political process, craves for power, is made up of people with personal ambitions and aversions, preferences and prejudices. As perhaps the largest advertisers, the government supports and strengthens the press. Both the government and the press represent the 'power elites' and therefore reflect their interests. This is why the interests of the poor are rarely on the agenda of public discussions.

The press is so obsessed with politics that even a silly rumor hits the front page. What the Journalism profession urgently needs is creative, **investigative** and development reporting chiefly on non-political themes like unemployment, malnutrition, exploitation of the poor, miscarriage of justice, police atrocities, development schemes and the like. For example, in India, the Bofors pay-offs, the Harshad Mehta securities scam, the 'hawala' payments to top politicians etc are all incidents where follow-up investigations are lacking. Such 'crisis' reporting sells newspapers but does little to bring the guilty to book or to educate the public about the context of corruption.

**Credibility** is indeed the very life-blood of the press, no matter which government is in power. Journalism is an awesome responsibility, which rests on the shoulders of journalists because in the final analysis they are the custodians of the freedom of press. If they prefer careerism to standing up for their rights, they are letting down their profession. Unfortunately, journalists are inclined to accept many favors from government and therefore, their news stories will ultimately favor that particular government.

### **New paradigm features**

- Journalism, have a role in society to link the individual to the world. The journalists need to give the audience a sense of what it is to be in the place they are reporting and connected to the world.
- Our audience is diverse and complex. So there needs to be a consciousness of diversity: not just in terms of race and gender but also class, rural/urban and youth/aged.
- Journalism must emphasize context; interpretation; research; investigation; complete reporting and analysis.
- The journalists must foreground the storyteller the individual and the media organization.
- They should respect the audiences and engage in dialogue.
- In our use of sources the journalists should move beyond "the authorities". Audiences are also sources. They must remember to foreground and situate who the sources are.

- Ownership: symbolically the audience needs to feel they “own” the medium.
- Ownership: economic -this needs to be diverse and needs participation by all stakeholders in media.
- Control and structures within media organizations – there should be respect for storytellers and storytelling and these should be given status and compensation. From this we drafted the policy statement which reads: “In recognition of our role in society as storytellers; as the link between citizens and the world; we strive to promote:
  - Stories, told in a multiplicity of voices that are well researched; conceptualized; analytical; interpretive; in dialogue with, are considered respectful.

### **Role of Journalism in society**

Journalism's role is to act as a mediator or translator between the public and policymaking elites. The journalist became the middleman. When elites spoke, journalists listened and recorded the information, distilled it, and passed it on to the public for their consumption. The reasoning behind this function is that the public is not in a position to deconstruct a growing and complex flurry of information present in modern society, and so an intermediary is needed to filter news for the masses. Lippman put it this way: The public is not smart enough to understand complicated, political issues. Furthermore, the public was too consumed with their daily lives to care about complex public policy. Therefore the public needed someone to interpret the decisions or concerns of the elite to make the information plain and simple. That was the role of journalists.

Public affects the decision making of the elite with their vote. In the meantime, the elite i.e. politicians, policy makers, bureaucrats, scientists, etc. would keep the business of power running. The journalist's role is to inform the public of what the elites were doing. It was also to act as a watchdog over the elites as the public had the final say with their votes.

On the other hand, it is believed the public was not only capable of understanding the issues created or responded to by the elite; it was in the public forum that decisions should be made after discussion and debate. When issues were thoroughly vetted, then the best ideas would bubble to the surface. Thus, journalists not only have to inform the public, but should report on issues differently than simply passing on information. Journalists should take in the information, and then weigh the consequences of the policies being enacted by the elites on the public. Over time, this function of journalism has been implemented in various degrees, and is more commonly known as "community journalism."

This concept of '*Community Journalism*' is at the center of new developments in journalism. Journalists are able to engage citizens and the experts/elites in the proposition and generation of content. The shared knowledge of many is far superior to a single individual's knowledge and conversation, debate, and dialogue lie at the heart of a democracy.

### **The Power of Press**

The 'power' of the press to bring about social and political change or economical development is extremely limited. In capitalist societies, the press is primarily like any other business or industry. It exists to raise advertising revenue and circulation with the aim of making profits. 'Public service' and 'public interest' are not the main concerns. This is not to suggest that the press does not make attempts to exercise its 'power' in favor of one political or economic ideology over another or of one group or class or caste over another. These attempts, it must be acknowledged, are sometimes successful and at other times disastrous failures.

At most times, however, the attempts are not paid much heed to, unless it affects some group's interests on a radical manner. In the ultimate analysis, the 'power' of the press depends on its credibility among readers, as well as on how the news reported is understood and interpreted. Different groups 'read' the same news item in varied ways depending on their social background. How news is read is not entirely in the hands of journalists. Indeed, the press often succeeds only in reinforcing widely held beliefs and the status quo rather than bringing about change and development.

There is no doubt that the press keeps us informed about selected events, issues and people. But the public too has a role in '**setting the agenda**' of the press. The public has interests, beliefs and expectations that are catered by the press. While the press tells us what to think about, it has little power to change our ideas, beliefs and attitudes even when it attempts to do so. Only when there is a general consensus on an issue among all the elements of the press and the other media, and this consensus fits in with a community's needs, is there is some likelihood of a change being effected. Even in this case, several other factors would have to come to play before and real change can be felt. The public attitude to the 'internal emergency' imposed by Mrs. Indira Gandhi in India is a case in point. One could argue, however, that it was not so much the press that brought about the downfall of the government as the people's hostility to the crackdown on their fundamental rights. The press, after all, was easily silenced during the emergency. In the post-emergency period, the press only reflected the public's seething anger against the regime.

By and large, then the press rarely initiated a change, innovation and development. Because of its dependence on commercial interests and the

dominant groups, it is of necessity conservative and status quoists. The widespread support that the anti-Mandal riots and the 'liberalization' policies of the government have received from the 'national' and the 'regional' press is a reflection of that independence. The current news values of Indian journalist are no different from the news values of their counterparts in the west. These are timeliness, immediacy, proximity, oddity, conflict, mystery, suspense, curiosity, and novelty. The new development journalists, however, challenge these elite and immediacy-oriented values and the man-bites-dog approach to news. They believe that the voice of the silent, suffering majority should be heard through the press. Not politics, business, finance, sports should be the staple of news but rather what is of value in terms of equality, social justice and peace.

### **3. PRESS COMMISSIONS & THEIR RECOMMENDATIONS**

#### **First Press Commission 1952-54**

On 23<sup>rd</sup> September 1952, the Ministry of Information and Broadcasting constituted the first Press Commission. The members of the working group were Justice J.S. Rajadhyakshaya chairman, Dr. C.P. Ramaswamy Aiyer, Acharya Narendra Deo, Dr. Zakir Hussain, and Dr. V.K.V. Rao.

The main recommendations were:

- To protect the freedom of the press and to maintain high standards of journalism, a press council should be established. *It was accepted and the press council of India was established on July 4, 1966 which started functioning from November 16 on this date, National Press Day is celebrated 1966.*
- To prepare the account of the press and the position of every year, there should be appointment of the Registrar of Newspaper for India (RNI). It was also accepted and in July 1956, RNI was appointed.
- Price-page schedule should be introduced. It was also accepted in 1956.
- For maintaining a cordial relationship between the government and the Press, a Press Consultative Committee should be constituted. It was accepted and a Press Consultative Committee was constituted on 22<sup>nd</sup> September 1962.
- Working Journalists Act should be implemented. The government implemented this and in 1955 the working journalist and other newspaper employees conditions of services and miscellaneous Provisions Act was set up.
- There should be establishment of a fact-finding Committee to evaluate the financial position of the newspapers and news agencies. It was accepted and

on 14<sup>th</sup> April 1972, a Fact Finding Committee was set up which submitted its report on 14<sup>th</sup> January 1975.

- For protecting the main principles of the freedom of the press and to help the newspapers against monopolistic tendencies, a Newspaper Financial Corporation should be constituted. It was accepted in principle and on 4<sup>th</sup> December 1970, a Bill was also presented in the Lok Sabha, but it lapsed.

### **Second Press Commission**

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

- An attempt should be made to establish a cordial relation between the government and the press
- For the development of small and medium newspaper, there should be establishment of newspaper Development Commission
- Newspaper industries should be separated from industries and commercial interests
- There should be appointment of Board of Trustees between editors and proprietors of the newspaper
- Price-page schedule should be introduced
- There should be a fixed proportion of news and advertisements in small, medium and big newspaper.
- Newspaper industries should be relieved from the impact of foreign capital
- No predictions should be published in newspapers and magazines
- The misuse of the image of the advertisement should be discontinued
- The government should prepare a stable Advertisement Policy
- The Press information Bureau should be reconstituted
- Press laws should be amended.

## **4. PRESS & REGISTRATION OF BOOKS ACT**

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

Board of Directors of East India Company issued an instruction that copies of

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

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

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

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

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

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

Two conditions are necessary to be fulfilled for publishing a newspaper. One, the name of the editor must be clearly printed on every copy of the newspaper. Two, a declaration must be made before the district, Presidency or Sub-divisional Magistrate within whose jurisdiction the newspaper is to be published, stating the following facts: a name of the printer and publisher b premises where printing and publishing is conducted c) the title, language and periodicity of the newspaper. The printer and publisher either in person or through an authorized agent should make the declaration. If the printer or

publisher is not the owner of the paper, the declaration should specify the name of the owner. But, making a declaration does not automatically pave the way for publishing a newspaper. Publication can be started only after the said Magistrate authenticates the declaration.

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

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

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

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

The Magistrate can cancel the declaration and order closure of a newspaper, for irregular publication. If in any period of three months, a daily, a tri-weekly, a biweekly or a fortnightly newspaper publishes less than half the number of issues, which it should have published in accordance with the declaration, the newspaper shall cease to publish. A fresh declaration must be filed before it can be started again. In case of any other newspaper the maximum period of non-publication must not exceed 12 months in order to keep the declaration alive? Two copies of each issue of a newspaper and up to three copies of each book must be delivered, in a prescribed manner to the Government free of expense. The Magistrate can cancel the declaration after giving opportunity to show cause to the person concerned, if the Magistrate is satisfied on the following counts:

- The newspaper is being published in contravention of the provisions of this Act or rules made under it, or

- The newspaper bears a title which is the same as, or similar to that of any other newspaper published either in the same language or in the same state, or
- The printer or publisher has ceased to be so, or
- The declaration was made on false representation or concealment of any material fact. The Magistrate's decision can be challenged in an appeal before the Press and Registration Appellate Board. The Board comprises a Chairman and another member nominated by the Press Council of India.

**Penalties:** If a newspaper or a book is printed or published without legibly printing the name of the printer and publisher as also the name of the place of printing/publishing, the printer or publisher can be fined up to two thousand rupees or imprisoned up to six months or punished by both. The same punishment can be awarded for keeping a press without making declaration or for making false statement or for editing, printing or publishing a newspaper without conforming to the rules. In the last case the Magistrate, may in addition to this punishment also cancel the declaration in respect of the newspaper.

Non-compliance with the requirement regarding the delivery of copies of newspaper will invite a penalty of up to Rs 30 for each default. In case of publication of a book, the value of the copies of the book may be charged.

**Registrar of Newspaper:** there is a provision for appointment of a Press Registrar by the Government of India for the whole of the country. The Press Registrar maintains a register containing the following particulars of each newspaper: Title, language, periodicity, name of the editor, printer and publisher, place of printing and publication, average number of pages per week, number of days of publication in the year, average number of copies printed, sold and distributed free, retail selling price per copy, and name and addresses of owners.

The Press Registrar also issues a certificate of registration to the publisher of the newspaper. He does this on receipt of a copy of the declaration from the Magistrate who has authenticated it.

It is the duty of the publisher to furnish to the Press Registrar an annual statement for the above particulars about his newspaper. It is also his duty to publish such of the particulars in the newspaper as may be specified by the Press Registrar. The Rules require the publication in the first issue after the last day of February each year, the name, address, nationality of the editor and publisher, and the name of all those holding one percent or more shares in the newspaper. The newspaper is also obliged to furnish returns, statistics and other information as the Press Registrar may from time to time require. Non-compliance attracts a fine of five hundred rupees. The Press Registrar has a right of

access to record and documents of the newspaper for the purpose of collection of any information about it.

## **PRESS COUNCIL**

Press Council Act, 1978 is an Act to establish a Press Council for the purpose of preserving the freedom of the press and of maintaining and improving the standards of newspapers and news agencies in India. It extends to the whole of India.

Under the Press Council Act, 1978, the Council by the name of Press Council of India has been established with effect from 1st March'79. The council is a body corporate having perpetual succession. The Council consists of Chairman and 28 other members. Section 13 of the Press Council Act lays down the objects and functions of the Council. The important functions of the Council are:

- i to help newspapers and news agencies to maintain their independence,
- ii to build up a code of conduct for newspapers, news agencies and journalists,
- iii to keep under review any development likely to restrict supply and dissemination of news of public interest and importance.
- iv to concern itself with the developments such as concentration of or other aspects of ownership of newspapers and news agencies this may affect the independence of the press.

The Press Council Act empowers the Press Council to make observations in respect of conduct of any authority including Government, if considered necessary for performance of its functions under the Act. It can warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist if it finds that a newspaper or a news agency as offended against the standards of journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct.

## **Press Councils Guide to Journalistic Ethics**

**Press Council of India** has been established to 'preserve the freedom of the press and to maintain and improve the standards of newspaper and news agencies'. The council is enjoined to 'build up' a Code of Conduct for newspapers, news agencies and journalists in accordance with high professional standards. In October 1992, the Council published 'an updated succinct of the principles of journalistic ethics. The guide to Journalistic Ethics was further revised and updated in 1995 by **Mr. Justice P.B. Sawant**. Some excerpts from the Guidelines:

### **1. Accuracy and fairness**

The press shall eschew publication of inaccurate, baseless, graceless, misleading or distorted material. All sides of the core issue or subject should be reported. Unjustified rumors and surmises should not be set forth as facts.

### **2. Pre-publication verification**

On 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 with the person or the organization concerned to elicit his / her or its version, comments or reaction and publish the same with due amendments in the report where necessary. In the event of lack or absence of response, a footnote to that effect should be appended to the report.

### **3. Caution against defamatory writings**

A newspaper should not publish anything which is manifestly defamatory or libelous against any individual organization unless after due care and checking, they have sufficient reason to believe that it is true and its publication will be for public good.

4. No personal remarks, which may be considered or construed to be derogatory in nature against a dead person, should be published except in rare cases of public interest, as the dead person cannot possibly contradict or deny those remarks.

5. The press has a duty, discretion and right to serve the public interest by drawing reader's attention to citizens of doubtful antecedents and of questionable character but as responsible journalists they should observe due restraint and caution in hazarding their own opinion or conclusion in branding these persons as 'cheats' or 'killers' etc.

### **6. Parameters of the right of the press to comment on the acts and conduct of public officials**

So far as the government, local authority and other organs / institutions exercising governmental power are concerned, 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 the truth

7. Publication of news or comments / information on public officials conducting investigations should have a tendency to help the commission of offences or to impede the prevention or detection of offences or prosecution of the guilty. The investigative agency is also under a corresponding obligation not to leak out or disclose such information or indulge in disinformation.

8. Cartoons and caricatures in depicting good humor are to be placed in a special category of news that enjoy more liberal attitude.

## **9. Right to privacy**

The press shall not intrude or invade the privacy of an individual unless outweighed by genuine overriding public interest, not being a prurient or morbid curiosity. So, however, that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by press and media among others.

10. Caution against identification: While reporting crime involving rape, abduction or kidnap of women / females or sexual assault on children, or raising doubts and questions touching the chastity, personal character and privacy of women, the names, photographs of the victims or other particulars leading to their identity shall not be published.

## **11. Recording interviews and phone conversation**

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.

12. The press shall, prior to publication, delete offensive epithets used by an interviewer in conversation with the pressperson.

13. Intrusion through photography into moments of personal grief shall be avoided. However, photography of victims of accidents or natural calamity may be in larger public interest.

## **14. Conjecture, comment and fact**

A newspaper should not pass on or elevate conjecture, speculation or comment as a statement of fact. All these categories should be distinctly stated.

## **15. Newspapers to eschew suggestive guilt**

Newspapers should eschew 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 and a reference to them is not relevant to the matter reported.

## **16. Corrections**

When any factual error or mistake is detected or confirmed, the newspaper should publish the correction promptly with due prominence and with apology or expression of regrets in a case of serious lapse.

## **17. Right of reply**

The newspaper should promptly and with due prominence, publish either in full or with due editing, free of cost, at the instance of the person affected or feeling aggrieved / or concerned by the impugned publication, a contradiction / reply / clarification or rejoinder sent to the editor in the form of a letter or note. If the editor doubts the truth or factual accuracy of the contradiction / reply / clarification or rejoinder, he shall be at liberty to 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.

18. Freedom of the press involves the readers' right to know all sides of an issue of public interest. An editor, therefore, shall not refuse to publish the reply or rejoinder merely on the ground that in his opinion the story published in the newspaper was true. That is an issue to be left to the judgment of the readers.

### **19. Letters to editor**

An editor who decides to open his columns for letters on a controversial subject, is not obliged to publish all the letters received in regard to that subject. He is entitled to select and publish only some of them either in entirety or the gist thereof. However, in exercising this discretion, he must make an honest endeavor to ensure that what is published is not one-sided but represents a fair balance between the views for and against with respect to the principal issue in controversy.

### **20. Obscenity and vulgarity to be eschewed**

Newspapers / journalists shall not publish anything, which is obscene, vulgar or offensive to public good taste.

21. Newspapers shall not display advertisements which are vulgar or which, through depiction of a woman in nude or lewd posture, provoke lecherous attention of males as if she herself was a commercial commodity for sale.

22. Whether a picture is obscene or not, is to be judged in relation to three tests; namely

i is it vulgar and indecent?

ii Is it a piece of mere pornography?

iii Is its publication meant merely to make money by titillating the sex feelings of adolescents and among whom it is intended to circulate? In other words, does it constitute an unwholesome exploitation for commercial gain?

That is to say, whether its publication serves any preponderating social or public purpose, in relation to art, painting, medicine, research or reform of sex.

### **23. Violence not to be glorified**

Newspapers / journalists shall avoid presenting acts of violence, armed robberies and terrorist activities in a manner that glorifies the perpetrators' acts, declarations or death in the eyes of the public.

24. **Glorification / encouragement of social evils to be eschewed** Newspapers shall not allow their columns to be misused for writings which have a tendency to encourage or glorify social evils like *sati pratha*.

### **25. Covering communal disputes /clashes**

News, views or comments relating to communal or religious disputes /

clashes shall be published after proper verification of facts and presented with due caution and restraint in a manner which is conducive to the creation of an atmosphere congenial to communal harmony, amity and peace. Sensational, provocative and alarming headlines are to be avoided. Acts of communal violence or vandalism shall be reported in a manner as may not undermine the people's confidence in the law and order machinery of the state.

**26. Headings not to be sensational / provocative and must justify the matter printed under them**

In general and particularly in the context of communal disputes or clashes -

a. Provocative and sensational headlines are to be avoided; b. Headings must reflect and justify the matter printed under them; c. Headings containing allegations made in statements should either identify the body or the source making it or at least carry quotation marks.

**27. Caste, religion or community references**

In general, the caste identification of a person or a particular class should be avoided, particularly when in the context it conveys a sense or attributes a conduct or practice derogatory to that caste.

28. Newspapers are advised against the use of word 'scheduled caste' or 'harijan' which has been objected to by some persons.

29. An accused or a victim shall not be described by his caste or community when the same does not have anything to do with the offence or the crime and plays no part either in the identification of any accused or proceeding, if there be any.

30. Newspapers should not publish any fictional literature distorting and portraying religious characters in an adverse light, transgressing the norms of literary taste and offending the religious susceptibilities of large sections of society who hold those characters in high esteem, invested with attributes of the virtuous and lofty.

31. Commercial exploitation of the name of prophets, seers or deities is repugnant to journalistic ethics and good taste.

**32. Reporting on natural calamities**

Facts and data relating to spread of epidemics or natural calamities shall be checked up thoroughly from authentic sources and then published with due restraint in a manner bereft of sensationalism, exaggeration, surmises or unverified facts.

**33. Investigative journalism, its norms and parameters**

Investigative reporting has three basic elements. a. It has to be the work of the reporter, not of others he is reporting; b. The subject should be of public importance for the reader to know; c. An attempt is being made to hide the truth from the people.

a) That the investigative reporter should, as a rule, base his story on facts investigated, detected and verified by himself and not on hearsay or on derivative evidence collected by a third party, not checked up from direct, authentic sources by the reporter himself.

Imaginary facts, or ferreting out or conjecturing the non-existent should be scrupulously avoided. Facts, facts and yet more facts are vital and they should be checked and crosschecked whenever possible until the moment the paper goes to press. The newspaper must adopt strict standards of fairness and accuracy of facts. The reporter's approach should be fair, accurate and balanced

34. In all proceedings including the investigation, presentation and publication of the report, the investigative journalist's newspaper should be guided by the paramount principle of criminal jurisprudence, that a person is innocent unless the offence alleged against him is proved beyond doubt by independent, reliable evidence.

**35. Confidence to be respected**

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 it shall not be regarded as a breach of journalistic ethics if the source is voluntarily disclosed in proceedings before the council by the journalist who considers it necessary to repel effectively a charge against him / her.

**36. Caution in criticizing judicial acts**

Excepting where the court sits 'in-camera' or directs otherwise, it is open to a newspaper to report pending judicial proceedings, in a fair, accurate and reasonable manner. But it shall not publish anything --which, in its direct and immediate effect, creates a substantial risk of obstructing, impeding or prejudicing seriously the due administration of justice; or -- is in the nature of a running commentary or debate, or records the paper's own findings, conjectures, reflection or comments on issues, sub judice and which may amount to arrogation to the newspaper the functions of the court; or-- regarding the personal character of the accused standing trial on a charge of committing a crime.

**37. Newspapers to avoid crass commercialism**

While newspapers are entitled to ensure, improve or strengthen their financial viability by all legitimate means, the press shall not engage in crass commercialism or unseemly cutthroat commercial competition with their rivals in a manner repugnant to high professional standards and good taste.

38. Predatory price wars / trade competition among newspapers, laced with tones disparaging the products of each other, initiated and carried on in print, assume the color of unfair 'trade' practice, repugnant to journalistic ethics.

The question as when it assumes such an unethical character is one of the fact depending on the circumstances of each case.

### **39.Plagiarism**

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.

### **40.Advertisements**

Commercial advertisements are information as much as social, economic or political information. What is more, advertisements shape attitude and ways of life at least as much as other kinds of information and comment.

Journalistic propriety demands that advertisements must be clearly distinguishable from editorial matters carried in the newspaper.

41.A newspaper shall not publish anything, which has a tendency to malign wholesale or hurt the religious sentiments of any community or section of society.

42.Newspapers while publishing advertisements shall specify the amount received by them. The rationale behind this is that advertisements should be charged at rates usually chargeable by a newspaper since payment of more than the normal rates would amount to a subsidy to the paper.

43.Publications of dummy advertisements that have neither been paid for, nor authorized by the advertisers, constitute breach of journalistic ethics.

44.The editors should insist on their right to have the final say in the acceptance or rejection of advertisements, especially those which border on or cross the line between decency and obscenity.

45.An editor shall be responsible for all matters, including advertisements published in the newspaper. If responsibility is disclaimed, this shall be explicitly stated beforehand.

## **6. WORKING JOURNALIST ACT**

### **Chapter 1 Preliminary**

1 a) Short title and commencement. - this act may be called Working Journalists & other Newspaper Employees Conditions of service) and Miscellaneous Provisions Act, 1955.

b It extends to the whole of India, except the state of Jammu & Kashmir.

### **2 Definitions:**

• b "Newspaper" means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as many, from time to time, be notified in this behalf by central Government in the official Gazette.

- c) "Newspaper Employees" means any working Journalists and includes any other person employed to do any work in or in relation to any newspaper establishment.
- d "Newspaper Establishment" means an establishment under the control of any person or body of persons, whether incorporated or not for any production or publication of one or more newspaper or for conducting any news agency or syndicate.
- f "Working Journalists" 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 does not include any such person who
  - a) is employed mainly in a managerial or administrative capacity or
  - b being employed in a supervisory capacity, performs, either by the nature of duties attached to his office of by reasons of the power vested in him, and function mainly of a managerial nature.

## **Chapter 2 Working Journalist**

### **Chapter 1 Preliminary**

1 a) Short title and commencement. - this act may be called Working Journalists & other Newspaper Employees Conditions of service) and Miscellaneous Provisions Act, 1955.

b It extends to the whole of India, except the state of Jammu & Kashmir.

### **2 Definitions:**

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correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who

a) is employed mainly in a managerial or administrative capacity or

b) being employed in a supervisory capacity, performs, either by the nature of duties attached to his office or by reasons of the power vested in him, and function mainly of a managerial nature.

## **Chapter 2 Working Journalist**

2 Sec 25 -f of the aforesaid act, in its application to working journalist, shall be construed as in Cl. a thereof, for the period of notice referred to therein in relation to the retrenchment of a workman, the following periods in relation to the retrenchment of a working journalist has been substituted, namely - a) six months, in case of an editor, b) three months, in case of any other working Journalists.

**Termination of Service without notice-Effect thereof**-where a journalist was permitted to continue into employment even after he has attained the age of superannuating, but later on his service was terminated without giving him notice or retrenchment compensation, it was held by the court that the action of the management of the company in terminating the services was illegal and improper.

**4 Special provisions in respect of certain cases of retrenchment** - Where at any time between 14 July 1954 and 12 March 1955, any working journalist had been retrenched he shall be entitled to receive from employer -

a) wages for one month at the rate to which he was entitled immediately before his retrenchment, unless he has been given one month notice in writing before such retrenchment; and b) compensation which shall be equivalent to 15 days average pay for every completed years of service under that employer or any part thereof in excess of six months.

**5 Payment of gratuity** 1:where

a) Any working journalist has been in continuous service, whether before or after the commencement of this Act for not less than 3 years in any newspaper establishment and

i) his services are terminated by the employer in relation to that news paper establishment for any reason whatsoever, otherwise than a punishment inflicted by way of disciplinary action or

ii) he retires from services on reaching the age of superannuating or

b) Any working journalist has been in continuous service whether before or after the commencement of this Act for not less than 10 years in any newspaper establishment and he voluntarily resigns on or after 1st day of July 1961 from

services in that newspaper establishment on any ground whatsoever other than on the ground of conscience or

c) Any working journalist has been in continuous service whether before or after the commencement of this Act for not less than 3 years in any newspaper establishment and he voluntarily resigned on or after 1st day of July 1961, from services in that newspaper establishment on any ground whatsoever other than on the ground of conscience or d) Any working journalist dies while he is in service in any newspaper establishment

## **6 Hours of work**

1 Subject to any rules that may be made under this Act, no working journalist shall be required or allowed to work in any newspaper establishment for more than 144 hours during any periods of 4 consecutive weeks, exclusive of time for meals.

2. Every working journalist shall be allowed during any period of 7 consecutive days rest for a period of not less than 24 consecutive hours, the period between 10 pm and 6 pm being included therein Explanation - for the purpose of this section, "week" means a period of 7 days beginning at midnight on Saturday. The maximum hour of work for any period of consecutive weeks is 144 hours.

## **Working Journalists Condition of Service) and Miscellaneous Provisions Rules 1975**

### **Chapter 3 Hours of Work**

#### **7 Special provisions regarding editor, etc hours of work -**

The provision of this chapter shall not apply to editor, or to correspondents, reporters or news photographers 2 Notwithstanding any thing contained in sub rule 1 the following provision shall apply to every correspondent, reporter, news photographer stationed at the place at which the newspaper in relation to person is employed namely a) Subject to such agreement as may be arrived at either collectively or individually between the parties concerned, every correspondent, reporter or news photographer shall, once he enters upon duty on any day, be deemed to be on duty throughout that day till he finishes all the work assigned to him during the day.

Provided that if such correspondent, reporter or news photographer has had at his disposal for rest any interval or intervals for a total period of two hours or less between any two or more assignments of work, he shall not be on duty during such period. Provided further that where the total period of such interval or intervals exceeds two hours he shall be deemed to be on duty during the period, which is in excess of the said period of two hours.

b Any period of work in excess of 36 hours during any week which shall be considered as a unit of work for the purpose of this sub rule shall be compensated by rest during the succeeding week and shall be given in one or more spells of not more than three hours each.

Provided that where the aggregate of the excess hours worked falls short of three hours, the duration of rest shall be limited only to such excess.

**8 Normal working days** The number of hours which shall constitute a normal working day for working journalists exclusive of time for meals shall exceed six hours per day in case of a day shift and five and half hours per day in case of night shift and no working journalist shall ordinarily be required or allowed to work for longer than the number of hours constituting a normal working day.

### **10 Compensation for overtime work—**

When a working journalist works for more than six hours on any day in the case of day shift, and more than five and half hours in case of night shift, he shall in respect of that overtime work, be compensated in the form of hours of rest equal in number to the hours for which he has worked overtime.

### **Chapter 4 Holidays**

13 The number of holidays in a year

A working journalist shall be entitled to 10 holidays in a calendar year and

15 Shall be entitled to wages on all holidays if he was on duty.

16 A working journalist shall be entitled to wages for weekly day of rest if he was on duty.

### **Chapter 5 leave)**

#### **Leaves**

Without prejudice to such holidays, casual leave or other kind of leave as may be prescribed, every working journalists shall be entitled to 25 a) Earned leave on full wages for not less than one -eleventh of the period spent on duty, provided that he shall cease to earn such leave when the earned leave due amounts to ninety days. 28 Leave on medical certificate: 1 A working journalists shall be entitled to leave on medical certificate on one-half of wages for not less than one-eighteenth of the period of service

#### **25 Earn leave -**

1 A working journalist shall be entitled to earned leave on full wages for a period not less than one month for every eleven months spent on duty provided that he shall cease to earn such leave due amount to 90 days.

2 The period spent on duty shall include weekly days of rest, holidays, casual

leave and quarantine leave.

### **29 Maternity leave-**

1 A female working journalist who has put in not less than one years service in the newspaper establishment in which she is for the time being employed shall be granted maternity leave on full wages on production of a medical certificate from an authorized medical practitioner for a period which may extend for three months from the date of its commencement or six weeks from the confinement whichever is earlier.

2 Leave of any other may be granted in continuation of maternity leave.

3 Maternity leave shall also be granted in case of miscarriage, including abortion, subject to the condition that the leave does not exceeds six weeks.

### **30 Quarantine leave-**

Quarantine leave on full wage shall be granted by newspaper establishment on the certificate of authorized medical practioneer for a period not exceeding 21 days or in exceptional circumstances, 30 days.

### **31 Extraordinary leavea**

working journalist who has no leave to his credit may be granted, at the discretion of newspaper establishment in which such working journalist is employed leave not due.

33 Study leave may be granted in same pattern.

### **34 Casual leave-**

1 A working journalist shall be eligible for casual leave at the discretion of newspaper establishment for 15 days in a calendar year.

#### **Setting of the wage board**

For the purpose of fixing or revising rates of wages in respect of working journalists the Central Government shall as and when necessary constitute a wage board which shall consist of –

a) Three persons representing employers in relation to newspaper establishments

b Three persons re presenting working journalists

c) Four independent persons, one of whom shall be a person who is or has been a judge of High court or Supreme court and who shall be appointed by the Government as the Chairman.

#### **Powers of Central Government to enforce recommendations of the wage board**

After the receipt of the recommendations of the wage board the Central Government without affecting the important alteration in the character of the recommendation can modify it. Friday May 30, 2003

### **Indian Journalists Union's Demands to amend the working journalist Act**

1. An amendment to make the non-implementation of wage awards a cognizable offence to ensure that no newspaper management gets away into not to implementing it.
2. Amendment to increase the age of superannuating from 58 to 60 years.
3. To amend the provisions of gratuity in working journalists act to provide for grant of gratuity after 5-year service.
4. To make it mandatory for the employers to issue appointment letters to all full-time and part-time correspondents.

## **7. LAW OF LIBEL & DEFAMATION**

Defamation simply means tarnishing somebody's image. It is an injury to a man's reputation. It means speaking or writing something damaging or diminishing the

status or personality or prestige of a person or an organization. There are two types of defamation:

1. **Libel**- it is a written form of defamation
2. **Slander**- it is a spoken form of defamation

Section 499 of the Indian Penal Code defines defamation as-

'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 having reason to believe that such imputation will harm the reputation of such person, is said except in cases here in after expected, to defame that person.'

There are four explanation and 10 exceptions of section 499. The four explanations are:

### **'It may amount to defamation'**

1. To impute anything to a deceased person. If the imputation would harm the reputation of that person if living and is intended to be harmful to the feelings of his family or other near relatives;
2. To make an imputation concerning a company or an association or collection of persons as such;
3. To make an imputation in the form of an alternative or expressed ironically
4. But no imputation is said to harm a person's reputation unless that imputation directly or indirectly in the estimation of others lowers the moral or intellectual character of that person or lowers that character of that person in respect of his caste or his calling, or lowers the credit of that person or

causes it to be believed that the body of that person is in a loathsome state or in a state generally considered as disgraceful'

**First Exception:** it is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or

published. Whether or not, it is for the public good is a question of fact.

**Second Exception:** it is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public

functions, or respecting his character, so far as his character appears in that conduct and no further.

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

**Fourth Exception:** it is not defamation to publish a substantially true report of the proceeding of a court of justice, or the result of any such proceedings

**Fifth Exception:** It is not defamation to express in good faith any opinion. Whatever respecting the merits of any case, civil or criminal, which has been decided by a court of justice or respecting the conduct of any person as party witness or agent, in any case such of respecting the character of such person as far as his character appears in that conduct and no further.

**Sixth Exception:** it is not defamation to express in good faith any opinion. Whatever respecting the merits of any performance, which its author has submitted

to the judgment of the public, or respecting the character of the author so far as his character appears in such performance and no further.

**Seventh Exception:** it is not defamation if a person having over another any authority, either conferred by law or arising out of any lawful contact made with that other to pass in good faith any censure on the conduct of that other in matters

to which such lawful authority relates

**Eighth Exception:** it is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over the person with respect to the subject matter of accusation.

**Ninth Exception:** It is not defamation to make an imputation on the character of another provided that imputation be made in good faith for the protection of the interest of the person making it or of any other person, or for the public good.

**Tenth Exception:** It is not defamation to convey a caution in good faith to one

person against another provided that, such caution in be intended for the good of the person to whom it is conveyed, or of same person in whom that person is interested, or for the public good.

**Punishment for Defamation:** Section 500, 501, and 502 of the Indian Penal Code deals with the punishment for defamation.

Section 500 of the Indian Penal Code lays down, 'whoever defames another shall be punished with simple imprisonment for a term which may extend to two years or with fine or with both.

Section 501 of the Indian Penal Code lays down, ' whoever prints or engrave s any matter, knowing or having god reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years or with fine or with both.

Section 502 of the Indian Penal Code lays down, 'whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years or with fine or with both.

## **8. Contempt of Court:**

**Contempt of Court:** contempt of court and legislature is also one of the reasonable restrictions under Article 19 20 of the Indian constitution. Contempt of court was enacted for the first time in the year 1952. But under this act, there was not definite definition of contempt of court. Later on, contempt of court was again enacted in 1971, which was further amended in 1976.

According to this Act, a person is said to be offender of contempt of courts under following circumstances:

1. Charging the judge with unreasonably and inability
2. Expressing doubts on the prestige, status, rights or fairness of the judiciary
3. Publication of any comment on the matters which are under the proceedings of the court and which may mislead the general public and which lead them to be prejudiced
4. To cast aspersion or to attempt in influence or the judge, jury, advocates or witness of any matters which are under the proceeding of the court
5. To interfere in the judicial administration
6. To threat the witnesses
7. To attempt to obstruct the police inquiry
8. Against the order of the judge, publication of the proceedings of the court or the publications of the picture of the accused
9. Publications of the report of the proceedings of the court and distorting the facts

10. Wrongful publication of the proceeding of the courts and distorting the facts.

## **9. OFFICIAL SECRET ACT**

This is an act, which consolidates the law relating to official secrets, and deals with offences like spying and wrongful communication of secret information. Section 3 of the Act says that it is an offence if any person for the purpose prejudicial to the public safety and the interest of the state:

- Approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place, or
- Makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be directly or indirectly useful to any other person any secret official code or password, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India the security of the state or friendly relations with foreign states;

In a prosecution for an offence punishable under section 3 i of the Act, with imprisonment for a term which may extend to 14 years.

It is not necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the state, and notwithstanding that no such act is proved against him, he may be convicted if from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was prejudicial to the safety or interest of the state. However, there have not been many cases of prosecution under this act.

In India, it has been widely demanded that section 3 of the official Secrets Act, which inhibits free reporting, should be done away with. It prescribes a punishment with imprisonment upto five years or fine or with both for a person who voluntarily receives or communicates any official secret. The Act does so with out defining an official secret. This means that any official information, which has been deemed by the authorities as secret, can be published only on the pain of punishment.

The law does not recognize the fact that it may be in the public interest to punish certain information, which, in the opinion of the authorities, should not be revealed. Thus, there is a clash of public interest. The question involved here is between the public's right to open government and government's need for secrecy.

The Second Press Commission and the Press Council of India have recommended that Section 5 be scrapped. The commission has suggested its replacement by provisions modeled on those of the British Freedom of

Information Bill, 1978. The Council has asked for the repeal of the Official Secrets Act, 1923 and to enact a new legislation, which may be called Freedom of Information Act. Exception or permissible restriction to this freedom may be specified in the proposed Act.

## **10. Parliamentary Privileges**

The concept of privileges of Parliament rests on the principles that a sovereign legislature should be able to perform its legislative and deliberative functions independently and effectively. For this it should possess certain inherent or conferred powers to punish for breach of such privileges.

Articles 105 3 and 194 3 of the Constitution empower Parliament and state legislatures respectively to enact laws codifying their privileges. However, neither Parliament nor any of the legislatures of the states has so far done so. Therefore, according to the Constitution itself, the privileges enjoyed by them are the same as through the rulings, customs and practices of the House of Commons. One has to wade through the rulings, customs, and practices of the House of Commons and to seek guidance for the Rules of Business and Conduct of Proceedings of the House.

Breach of privileges of either House of central or state legislature is usually known as 'contempt of Parliament' like the contempt of courts.

A journalist or editor can be punished with imprisonment a warning, admonition or reprimand for the breach of privilege of the House. His privileges like facilities to enter the precincts of the House and cover its proceedings can be withdrawn. He can be asked to publish an apology. However, no fines are imposed.

There are a number of cases on privileges of the Houses. They include Karanjia Case 1961, Keshav Singh Case 1965, and Eenadu Case 1988.

In the Keshav Singh Case, the speaker of the Uttar Pradesh Vidhan Sabha, committed Keshav Singh to prison for contempt of the House for writing a disrespectful letter to him. On this an advocate filed a petition in the High Court for his release. The Lucknow Bench of the Allahabad High Court released him on bail. Appraised of this order, the UP Assembly passed a resolution that not only Keshav Singh, and his advocate had committed contempt of the House by moving the petition before the High Court, but the two judges were also guilty of contempt.

The resolution directed that all these persons should be brought into custody before the house. Then the Full Bench of the High Court issued an interim order, restraining the Speaker and the Marshal of the Assembly from implementing the resolution of the House. After the interim order, the

Assembly passed another resolution, which made the previous resolution milder. At this stage the president of India made a reference to the Supreme Court for its opinion on the case.

In its opinion the Supreme Court said that neither the two judges nor the Advocate had committed contempt of the House by moving or dealing with the petition.

Contempt has a wider sweep than breach of privilege. Contempt can be committed by an act or utterance, which undermines the dignity of the House even without violating any particular privilege of the legislature.

But it is not a breach of privilege to publish without malice a substantially true report of the proceeding of the House even if it is defamatory, seditious or obscene in nature. No civil or criminal proceedings can be launched in a court of law for publication of such a report even if it offends the laws relating to official secrets, defamation, sedition, obscenity or other offences under the IPC. The legislature in India has not enacted any law codifying its privileges, mainly because any such law will be subject to a judicial review in respect of the citizens, fundamental rights. The Press has been rightly demanding that the privileges of

Parliament should be codified so that it knows the scope and limits of its freedom vis-à-vis the legislature.

## **11. RIGHT TO INFORMATION**

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

This law was passed by Parliament on 15 June 2005 and came fully into force on 12 October 2005. The first application was given to a Pune police station. Information disclosure in India was restricted by the Official Secrets Act 1923 and various other special laws, which the new RTI Act relaxes. It codifies a fundamental right of the citizens of India.

## 12. Copyright Act

A work of literature, drama, music or art is an intellectual property. It must be protected from illegal copying or reproducing it. The Copyright Act, 1957 accords this protection.

This law is based on two competing considerations. One, the creator's property, that is, the original works need to be protected. Two, for advancement of knowledge in the interest of the society, there should be some amount of freedom to produce parts of other people's copyrighted works. Copyrights have been held to be a right which person acquires in a work, which is the result of his intellectual labor. This primary function of the copyright law is to protect from annexation by other people the fruits of a man's work, labor or skill.

In respect of the Press, copyright means, under section 14 of the Copyright Act, 1957, the exclusive right in the case of a literary, dramatic or musical work, to do and authorize the doing in substantive form of any of the following acts, namely:

- To reproduce the work in any material form
- To publish the work
- To make any adoption of a work
- To reproduce or publish translation of the work

Punishment for knowingly infringing or abetting the infringement of a copyright is imprisonment, which may extend upto one year or fine or both

## Right to Information

'**Information**' as a term has been derived from the Latin words 'Formation' and 'Forma' which means giving shape to something and forming a pattern, respectively.

Information adds something new to our awareness and removes the vagueness of our ideas. Information is Power, and as the Prime Minister Atal Behari Vajpayee stated, the Government wants to share power with the humblest; it wants to empower the weakest. It is precisely because of this reason that the Right to Information has to be ensured for all.

The Freedom of Information Bill 2000 introduced in the Lok Sabha on 25<sup>th</sup> July 2000 says that:

- a) **Information** means any material in any form relating to the administration, operations or decisions of a public authority;
- b) The bill defines public authority as any authority or body established or constituted,

By or under the Constitution,

- By any law made by the appropriate Government,
- And includes any other body owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government.

c) Freedom of information means the right to obtain information from any public authority by means of-

- Inspection, taking of extracts and notes,
- Certified copies of any records of such public authority and
- Diskettes, floppies or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

It will be interesting to mention that Press Council of India prepared a draft Bill in 1996 to make a provision for securing right to information. This draft Bill was named Right to Information Bill, 1996. The Institute of Rural Development, Hyderabad also prepared a bill in 1997. Both the bills initiated a national debate on the issue of Effective and Responsive Administration. The Govt. of India appointed a working group on January 2, 1997. The terms of reference of the Working Group included the examination of feasibility and need to introduce a full fledged Right to Information Bill. This group recommended that legislation in this regard is not only feasible but is also vitally necessary. The Working Group recommended that the bill should be named as Freedom of Information Bill as the Right to Information has already been judicially recognized as a part of the fundamental right to free speech and expression.

### **Constitutional aspect of the right to information**

Article 191 a) of the Constitution guarantees the fundamental rights to free speech and expression. The prerequisite for enjoying this right is knowledge and information. The absence of authentic information on matters of public interest will only encourage wild rumors and speculations and avoidable allegations against individuals and institutions. Therefore, the Right to Information becomes a constitutional right, being an aspect of the right to free speech and expression, which includes the right to receive and collect information. This will also help the citizens perform their fundamental duties as set out in Article 51A of the Constitution. A fully informed citizen will certainly be better equipped for the performance of these duties. Thus, access to information would assist citizens in fulfilling these obligations.

### **Right to information is not absolute**

As no right can be absolute, the Right to Information has to have its limitations. There will always be areas of information that should remain protected in public and national interest. Moreover, this unrestricted right can have an adverse effect of an overload of demand on administration. So the information has to be properly, clearly classified by an appropriate authority.

The usual exemption permitting Government to withhold access to information is generally in respect of the these matters: 1 International relations and national security; 2 Law enforcement and prevention of crime; 3 Internal deliberations of the government; 4 Information obtained in confidence from some source outside the Government; 5 Information which, if disclosed, would violate the privacy of an individual; 6 Information, particularly of an economic nature, when disclosed, would confer an unfair advantage on some person or subject or government; 7 Information which is covered by legal/professional privilege, like communication between a legal advisor and his client and 8 Information about scientific discoveries and inventions and improvements, essentially in the field of weapons.

These categories are broad and information of every kind in relation to these matters cannot always be treated as secret. There may be occasions when information may have to be disclosed in public interest, without compromising the national interest or public safety. For example, information about deployment and movement of armed forces and information about military operations, qualify for exemption. Information about the extent of defense expenditure and transactions for the purchase of guns and submarines and aircraft cannot be totally withheld at all stages.

### **Need for Right to Information**

The Right to Information has already received judicial recognition as a part of the fundamental right to free speech and expression. An Act is needed to provide a statutory framework for this right. This law will lay down the procedure for translating this right into reality.

Information is indispensable for the functioning of a true democracy. People have to be kept informed about current affairs and broad issues – political, social and economic. Free exchange of ideas and free debate are essentially desirable for the Government of a free country.

### **Intellectual property rights in India**

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

privacy, which is not protected even in some developed countries, has been recognized in India.

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

These include:

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

In addition to the above legislative changes, the Government of India has taken **several measures to streamline and strengthen the intellectual property administration system** in the country. Projects relating to the modernization of patent information services and trademarks registry have been implemented with help from WIPO/UNDP. The Government of India is implementing a project for modernization of patent offices at a cost of Rs.756 million incorporating several components such as human resource development, recruiting additional examiners, infrastructure support and strengthening by way of computerization and reengineering work practices, and elimination of backlog of patent applications. An amendment to the Patent Rules was notified on June 2, 1999 to simplify the procedural aspects.

The Trade Marks Registry is also proposed to be further strengthened and modernized. A project for modernization was earlier implemented during 1993-96.

Further strengthening of the Registry is being taken up at a cost of Rs.86 million.

The main thrust now is to strengthen the infrastructure of the Trade Marks Registry and the early removal of backlog of pending applications, transfer of records to CD-ROM's, re-engineering of work processes, appointment of additional examiners, etc.

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

### **13. SOCIAL RESPONSIBILITY OF PRESS & FREEDOM OF EXPRESSION**

Pt. Jawaharlal Nehru once said, 'there is no such thing as absolute freedom. Freedom is always accompanied by responsibility. Freedom always entails an obligation, whether it is a nation's freedom or individual's freedom or a group freedom or the freedom of the press'.<sup>14</sup> Ethics, Self-Regulation & Freedom of Expression In a society everyone has a responsibility to each other. Individual and institutional rights are to be exercised in a manner that they do not hurt the reasonable rights of elected legislature. Each member of the legislature is accountable to his constituency. The theory of responsibility is simple- that everyone is responsible for the consequences of his actions. An old legal maxim says, 'no rights without responsibilities'.

Therefore, freedom of the press is also linked with responsibilities. At least, the freedom should not be abused.

#### **Responsibility & its Rationale**

Here, there is a need to distinguish between responsibility and accountability. When we say that somebody is responsible, we mean that he has a duty to do something; when we say someone is accountable; we mean that if he fails to do what is his duty, he is accountable to some person or an institution or the state. Thus, the right to freedom of speech and expression carries with it, among other things, a duty not to disturb public peace. If he so disturbs it he is accountable to the state for such breach of responsibility.

The press and other media derive their rights to free speech and expression because they do a service to the society. The rights arise from the role and

functions the media are entrusted with, in a society and responsibility and accountability co-exist with these rights. Since the media circulates information for the obvious consumption of individual members of the society, it is natural that they should be responsible judicious<sup>0</sup> in the dissemination of the information. With every increase in the power of the media, this responsibility towards the society also increases.

The principle of rights and responsibilities is evident from Article 19 of our own constitution. Article 19 a confers the right to free speech and expression. On the other hand, Article 19 b defines areas where the media have to keep in mind several right conferred by Clause 1.

### **Unwritten understanding**

We often hear editors and others saying that they have a right to inform the public.

You may call these self-imposed responsibilities. These arise from an unwritten understanding between the media and society. The public has several information needs, the most important being the need to know how the government is functioning. This knowledge helps them to take correct decisions in relation to the government. Form the early days, the media assumed this responsibility to inform the public. On that basis the media have fought for and gained the right to free speech and expression.

Just as the press has assumed certain responsibilities, the state too assumes responsibilities to benefit the society. As a result, the state imposes certain responsibilities on the press. For example, it is the duty of the states to maintain public order. Therefore, the state imposes an obligation responsibility on the media not to publish anything that leads, or has a tendency to lead to, a breakdown of contrast to, self-imposed responsibilities. Thus, the state imposes on the media such responsibilities, which are in the end intended to protect individuals and institutions from libel, defamation or invasion of privacy.

### **3. Press Commissions of India**

The first press commission appointed in 1952 was asked to look into factors, which influence the establishment and maintenance of high standards of journalism in India. The commission was appointed because after independence the role of the press was changing. It was fast turning from a mission to business.

The commission found that there was a great deal of scurrilous writing often directed against communities or groups, of indecency and vulgarity and personal attacks on individuals. The commission also noted that yellow journalism was on the increase in the country and was not particularly confined to any area or language. The commission, however, found that the well

established, newspapers on the whole, had maintained a high standard of journalism.

It remarked that whatever the law relating the press may be, there would still be a large quantity of objectionable journalism, which, though not falling within the purview of the law, would still require some checking. It felt 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 ensure the punishment of any one guilty of infraction of good journalistic behavior. An important recommendation of the commission was the setting up of a Statutory Press Commission at the national level, consisting of press people and lay members. It did not say though that the council should have teeth. The government of India appointed a Second Press Commission in 1978 after the internal emergency in the country ended. During the emergency the press had to face the heavy curbs on its freedom.

The second press commission wanted the press to be neither a mindless adversary nor an unquestioning ally. The commission wanted the press to play a responsible role in the development process. The press should be widely accessible to the people if it is to reflect their aspirations and problems. The question of urban bias too has received attention of the commission. The commission said that for development to take place, internal stability was as important as safeguarding national security. The commission also highlighted the role and, therefore, responsibility of the press in preventing and deflating communal conflict. The positive role of the press in bringing together diverse elements in the nation's life was given statutory power to recommend actions against the newspapers, which consistently violated the council's rulings. Both press commissions of India included several respectable members from the press. The recommendation of the first press commission for the first time provides idea of what a responsible press should be. The second press commission formulated in a clear manner that development should be the central focus of the press in a country, which is building itself to become a self-reliant and prosperous society. The commission declared that a responsible press could also be a free press and vice versa. Freedom and responsibility are complimentary but not contradictory terms. From the role that the two commissions recommended for the press, we could summarize the responsibilities of the press thus:

- Help the country in its development process both by making constructions suggestions as well as criticism of delays and distortions in the development process
- Give the widest possible access to people, reflecting the pluralistic composition of Indian society

- Maintain internal stability and safe guard external security
- Prevent and deflate social conflict

## **14. CODE OF ETHICS & SELF-REGULATION**

From time to time, complaints are heard throughout the world that a section of the press functions without regard to its responsibilities to the society. The law of the land generally takes care of any breach of violation of a specific law by the press.

But there are always areas, which are outside the jurisdiction of law. There is a vast area not covered by any legal regime. Media ethics apply mostly to cases not specifically covered by law. For instance, there is no law laying down principles of objectivity. Since a picture of public affairs, not informed by objectivity, is likely to mislead the audience, media organizations have voluntarily accepted objectivity as a sacred media tradition.

A lot of irresponsible journalism in the United States provoked the appointment of the Hutchins Commission and introspection among the leading media organizations. The nagging question was whether there was objectivity in the US press. The birth of journalism schools and departments and the sudden surge in communication research together imparted a great boost to the ideal of objectivity.

Of course, one can always trace the birth of objectivity to the birth of news agencies whose primary obligation was reporting only facts. However, facts themselves sometimes could lead to social conflict. In such cases, objectivity alone does not save a situation.

This is where responsibility too should be an important element in journalism.

### **New Conditions**

The advances in communication and information technologies have imparted greater power to communication and, therefore, a sharper edge to its consequences.

A moving and talking picture of an event is a hundred times more impact than a printed word or still picture. This has imparted a new urgency to the entire debate of responsibility and the need to draft and re-draft existing code of ethics. Today, the magnitude and the economics of mass media operations have resulted in primacy of being accorded to market objectives. Consequently, there has been a reshuffle in media priorities. This editor's role is governed by the advertisement and circulation department needs.

In Indian situation, the growth of investigative journalism, after the internal emergency, led to a new phenomenon. This new phenomenon has done a lot of

service to Indian public life, but no less dis-service too. The Press Institute of India recently cautioned the Fourth Estate against a decline in professional and ethical standards, half-baked investigation and poor editing. Its Director said that journalists were no more as committed to the profession as they used to be. He was very critical of what he called partisan reporting in Indian newspapers. Some of the recent finding of the press council calls for a return to objective journalism. The council mildly chided the Times of India for its reporting of Indira Gandhi's assassination. The council advised that in reporting on or writing about communal or other sensitive matters, newspapers should exercise proper restraint and caution.

Such sub-standard journalism exists everywhere. Therefore, responsible journalists called for a variety of agencies to ensure responsible performance by the press.

They are the **code of ethics, press council and press ombudsman.**

### **Code of Ethics for Journalists**

The primary function of newspapers is to communicate to the human race what its members do, feel and think. Journalism, therefore, demands of its practitioners the widest range of intelligence, or knowledge, and of experience, as well as natural and trained powers of observation and reasoning.

1. **Responsibility-** it is the right of the public's right to know events and the purpose of distributing news and enlightened opinion is to serve the general welfare. Journalists who use their professional status as representatives of the public for selfish other unworthy motives violate a high trust.
2. **Freedom of press-** freedom of the press is to be guarded as right of people in a free society. It carries with it the responsibility to discuss, question, and challenge actions and utterance of the government, public and private institutions.
3. **Ethics-** Journalist must be free of obligations to any interest other than the public's right to know the truth. Gifts, favors, special treatments can compromise the integrity of journalists.
4. **Accuracy & Objectivity-** trust is the ultimate goal of the journalist. Objectivity in reporting the news is another goal, which serves as the mark of an experienced professional. There is no excuse for inaccuracies or lack of thoroughness.
5. **Fair Play-** journalists at all times should show respect for the dignity, privacy, rights, and well-being encountered in the course of gathering and presenting the news. The news media should not communicate unofficial charges affecting reputation or moral character without giving the accused a chance to reply. Journalists should be accountable to the public for their

reports and the public should be encouraged to voice its grievances against the media. Open dialogue with the readers, viewers, and listeners should be fostered.

6. **Pledge**- journalists should actively censure and try to prevent violations of standards as adherence to this code of ethics is intended to preserve the bond of mutual trust and respect between journalists and the public.

## **15. BROADCASTING CODES**

Members of the Radio Television News Directors Association agree that their prime responsibility as journalists-and that of the broadcasting industry as the collective sponsor of news broadcasting-is to provide to the public they serve news service as accurate, full and prompt as human integrity and devotion can devise.

1. The primary purpose of broadcast journalists-to inform the public of events of importance and appropriate interest in a manner that is accurate and comprehensive
2. Broadcast news presentation is should be designed not only to offer timely and accurate information, but also to present it in the light of relevant circumstances,
3. News should be selected on the criteria of significance, community, and regional relevance, appropriate human interest, and service to defined audiences. It excludes sensationalism or misleading emphasis in any form. Promotional or publicity material should be sharply scrutinized before use in news broadcasting.
4. Broadcast journalists shall at all times display humane respect for the dignity, privacy and the well-being of persons with whom the news deals
5. Broadcast journalist should present all news, which will serve the public interest. In places like the court, the broadcast journalists shall conduct themselves in dignity and keep broadcast equipment as unobtrusive and silent as possible.

## **16. CODE OF ETHICS**

### **Seek Truth and Report It**

Journalists should be honest, fair and courageous in gathering, reporting and interpreting information.

Journalists should:

- Test the accuracy of information from all sources and exercise care to avoid inadvertent error. Deliberate distortion is never permissible.
- Diligently seek out subjects of news stories to give them the opportunity to respond to allegations of wrongdoing.

- Identify sources whenever feasible. The public is entitled to as much information as possible on sources' reliability.
- Always question sources' motives before promising anonymity. Clarify conditions attached to any promise made in exchange for information. Keep promises.
- Make certain that headlines, news teases and promotional material, photos, video, audio, graphics, sound bites and quotations do not misrepresent. They should not oversimplify or highlight incidents out of context.
- Never distort the content of news photos or video. Image enhancement for technical clarity is always permissible. Label montages and photo illustrations.
- Avoid misleading re-enactments or staged news events. If re-enactment is necessary to tell a story, label it.
- Avoid undercover or other surreptitious methods of gathering information except when traditional open methods will not yield information vital to the public. Use of such methods should be explained as part of the story
- Never plagiarize.
- Tell the story of the diversity and magnitude of the human experience boldly, even when it is unpopular to do so.
- Examine their own cultural values and avoid imposing those values on others.
- Avoid stereotyping by race, gender, age, religion, ethnicity, geography, sexual orientation, disability, physical appearance or social status.
- Support the open exchange of views, even views they find repugnant.
- Give voice to the voiceless; official and unofficial sources of information can be equally valid.
- Distinguish between advocacy and news reporting. Analysis and commentary should be labeled and not misrepresent fact or context.
- Distinguish news from advertising and shun hybrids that blur the lines between the two.
- Recognize a special obligation to ensure that the public's business is conducted in the open and that government records are open to inspection.

### **A Code of Ethics in Indian Journalism**

1. A free press can flourish only in a free society. Communalism is a threat to the fabric of our free society and to the nation's solidarity.
2. The press has a vital role to play in the consummation of the fundamental objectives enshrined in our Constitution, namely, democracy, secularism, national unity, and integrity and the rule of law. It is the duty of the press to help promote unity and cohesion in the hearts and minds of the people, and refrain from publishing material tending to excite communal passions or

inflame communal hatred.

3. To this end the press should adhere to the following guidelines in reporting on communal incidents in the country:

a) All editorial comments and other expressions of opinion, whether through articles, letters to the 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.

b) Generalized allegations casting doubts and aspersions on the Patriotism and loyalty of any community should be eschewed.

c) Likewise, generalized charges and allegations against any community of unfair discrimination, amounting to inciting communal hatred and distrust, must also be eschewed.

d) Whereas truth should not be suppressed, a deliberate slanting of news of communal incidents should be avoided.

e) News of incidents involving loss of life, lawlessness, arson, etc. should be described, reported, and headlined with restraint in strictly objective terms and should not be heavily displayed.

f) Items of news calculated to make for peace and harmony and help in the restoration and maintenance of law and order should be given prominence and precedence over other news.

g) The greatest caution should be exercised in the selection and publication of pictures, cartoons, poems, etc. so as to avoid arousing communal passions or hatred.

h) Names of communities should not be mentioned nor the terms "majority" and "minority" communities be ordinarily used in the course of reports.

i) The source from which casualty figures are obtained should always be indicated.

j) No facts or figures should be published without fullest possible verification. However, if the publication of the facts or figures is likely to have the effect of arousing communal passions, those facts and figures may not be given.

## **19. CENSORSHIP IN THE PRESS**

**Censorship** is the control of speech and other forms of human expression. In many cases, it is exercised by governing bodies. The visible motive of censorship is often to stabilize or improve the society that the government would have control over. It is most commonly applied to acts that occur in public circumstances, and most formally involves the **suppression** of ideas by criminalizing or regulating expression. Furthermore, discussion of censorship often includes less formal means of controlling perceptions by excluding various ideas from mass communication.

Sanitization removal and whitewashing are almost interchangeable terms that refer to a particular form of censorship via omission, which seeks to "clean up" the portrayal of particular issues and/or facts that are already known, but that may be in conflict with the point of view of the censor. Some may consider extreme political correctness to be related, as a socially-imposed type of restriction, which, if taken to extremes, may qualify as self-censorship. Not everything is fit to print. There is to be regard for at least probable factual accuracy, for danger to innocent lives, for human decencies, and even, if cautiously, for nonpartisan considerations of the national interest. In practice there is disagreement about fitness, risk and dangers in print and broadcast journalism.

### **Censorship in India**

With the return of the emergency regime in 1978 in India, the threats against the freedom of the press grew more ominous than ever. In a case involving a newspaper, the Supreme Court ruled that 'the freedom of press rests on the assumption that the widest possible dissemination information from diverse and antagonistic sources is essential to the welfare of the public'. It also held that 'it would certainly not be legitimate to subject the press to laws which would curtail circulation'.

The newsprint advisory committee of the Central Government once considered proposals to deny newsprint to papers 'indulging in anti-national activities', and also to those 'found guilty by a court of law or censured by the Press Council for publishing material which is obscene or against good taste or which advocates violence, spreads ill-feeling between various communities or is likely to endanger the unity and integrity and defense of the country'. Such a move would kill whatever semblance of press freedom we have today, for as the Editors' Guild of India's response indicates, 'the powers sought by the government are omnibus in nature and the so-called defenses are vaguely defined'. As though the monopolistic control in newsprint were not enough, the government has licensed all import of printing machinery, and prohibited any direct subscription to a foreign news agency. It has to be channeled through the government. Yet another lever of control exercised tactfully by the government is the issue of advertisements by the Directorate of Advertising and Visual Publicity (DAVP) – a body that undertakes visual publicity campaigns on behalf of various ministries, departments and autonomous bodies. Besides, state governments too have their own publicity departments. Medium and small newspapers are beholden to these bodies for very often their very sustenance depends on the largesse from them.

Threats of pre-censorship, of confiscation of printed copies and seizure of printing presses, and of the cutting off of electricity to newspaper

establishments-all reminiscent of the dark days of the emergency-are not imaginary fears. The suppression of the *Asli Bharat* and some other publications that reported the Moradabad riots, and of the Assam press during the agitations in that state, are still fresh in freedom-lovers' minds. The Assam High Court's striking down of the Assam State's Special Powers Press Act, under which pre-censorship was clamped, demonstrates how the only protection press freedom in India can hope to get is from the Courts. Or from a vigilant public, as the withdrawal of the Bihar Press Bill 1982 demonstrates. Far more worryin g than the external threats of censorship are the internal threats from proprietors, senior journalists and news editors who would rather play safe that endanger their own interests, both professional and material. 'self-censorship' in journalism, not so of a desire to curry favour with local politicians, advertisers and other lobbyists, has led to a decline in the credibility of the press. In Maharashtra, for instance, it is a regular practice for journalists to act as the public relations agents of sugar barons, builders and local politicians.