

INDIAN CONSTITUTION AND PRESS LAWS

Unit I: Indian Constitution Overview of the Indian constitution, Fundamental Rights, Duties of citizens, Directive principles of state policy, Functions of Executive, Judiciary , Legislative, Powers and Privileges of Parliament, Provisions for declaring Emergency, Provision for amending the constitution, freedom of the press and restrictions these upon, Centre-state relations

Unit II: Media laws in India PRB Act 1867, the press(objectionable matters)Act 1957, The News Paper (prices and Pages)Act 1956, Defence of India Act, Delivery of Books and News paper (public libraries)Act, Press Council Act, Cable TV Networks (regulations)Act, The Cinematographic Act 1952, Drugs and magic remedies Act

Unit III: Civil and Criminal Laws Laws of Libel and defamation, Contempt of courts Act 1971 and contempt of Legislative, Copy right Act and IPR, Trade Mark Act and patents Act, Right to Information and Official Secrets Act, Autonomy and Prasar Bharati Act, Broadcasting Bill.

Unit IV: Code and Ethics Recommendations of press commission I and II, Mac Bridge report, Press council guide to Journalistic ethics, Self regulation and code of ethics, censorship and control of the press, press ownership and monopolies, Various committees of broadcasting, Broadcasting policies, Act regarding to working journalists.

Unit V: Cyber Laws in India Nature and scope of cyber laws, The right to publish and right to privacy, Digital signature , Piracy, Domain name registration issues, convergences bill, Media council and media ombudsman in the world. New IT Law IT 2000.

CONSTITUTION OF INDIA

I , What is Constitution?

A constitution means a document having a special legal sanctity which sets out the frame work and principal functions of the government, Constitution of a country gives idea about basic structure of the political system under which its people are to be governed. It defines the powers of the main organs of the state, demarcates their responsibilities and regulates their relationships which each other and with the people. It can also be termed as "Fundamental Law" of a country which reflects people's faith and aspirations.

2. Framing of the Constitution.

- 1. The Constitution of India was framed by a constituent Assembly set up under the Cabinet Mission Plan of 1946.**
- 2. The Assembly consisted of 389 members representing provinces (292), states (93) the Chief Commissioner Provinces (3) and Baluchistan (1)**
- 3. The Assembly held its first meeting on December 9, 1946, and elected Dr. Sachhidannand Sinha, the oldest member of the Assembly as the Provisional President.**
- 4. On December 11, 1946 the Assembly elected Dr. Rajendra Prasad as its permanent Chairman.**
- 5. The strength of the Assembly was reduced to 299 (229 representing the**

provinces and 70 representing the States) following withdrawal of the Muslim league members after the partition of the country.

- 6. The Constituent Assembly set up 13 Committees for framing the constitution. On the basis of the reports of these committees, a draft of the constitution was prepared by a seven-member. Drafting Committee under the Chairmanship of Dr. B.R. Ambedkar.**

- 7. The draft constitution was published in January, 1948 and people were given eight months to discuss the draft and propose amendments. After the draft was discussed by the people, the press, the provincial assemblies and the constituent Assembly in the light of the suggestions received, the same was finally adopted on November 26, 1949 and was signed by the President of the Assembly.**

8. **Though the major part of the constitution came into force on January 26, 1950 the provisions relating to:
Citizenship
Elections
Provisional parliament and temporary and transitional provision came into force with immediate effect viz. from November 26, 1949.**
9. **The constitution of India was not an original document. The framers of the constitution freely borrowed the good features of the Constitutions.**
10. **However, while adopting these features they made necessary modifications for its suitability to the Indian conditions and avoided their defects.**
11. **The constitutions which exercised profound influence on the Indian Constitution were that of UK, USA, Ireland, Canada etc.**
 - a). **The Parliamentary system of the government, rule of law, lawmaking procedure and single citizenship were borrowed from the British Constitution.**
 - b) **Independence of Judiciary, Judicial Review, Fundamental Rights, and guidelines for the removal of judges of the Supreme Court and High Courts were adopted from the U.S constitution.**
 - c) **The federal system, with a strong central authority, was adopted from Canada.**
 - d) **Directive Principles of State Policy were borrowed from the constitution of the Republic of Ireland**
 - e) **The idea of concurrent list was borrowed from the Austrian Constitution.**

f) **The provisions relating to emergency were influenced by the Weimar constitution.**

g) **Above all the Government of India Act 1935, exercised great influence on the Indian Constitution. The federal scheme, office of governors, powers of federal judiciary etc. were drawn from this act.**

In short, the Indian constitution incorporated the best features of several existing constitutions.

3. **Objectives of the Constitution of India.**

The objectives of the constitution were outlined in the objective Resolution moved by Pt. Jawaharlal Nehru and adopted by the constituent Assembly on January 22, 1947. The main principles outlined in the resolution were:

i) Resolved to proclaim India as an Independent sovereign republic.

- ii) **To establish a democratic Union with an equal level of self government for all the constituent parts.**
- iii) **All power and authority of the union government and governments of the constituent parts are derived from the people.**
- iv) **To guarantee and secure to all people of India. Justice, Social, Economic and Political.**
 - **equality of status, of opportunity and before law.**
 - **freedom of thought, expression, belief, faith, worship, vocation association and action.**
- v) **Adequate safeguards for minorities backward and tribal areas and depressed and other backward classes.**
- vi) **To maintain the integrity of the territory of the Republic and its sovereign rights on land, sea, and air according to justice and law of civilized nations.**
- vii) **To secure for India its rightful and honoured place in the world.**
- viii) **To contribute to the promotion of world peace and the welfare of mankind. These objectives incorporated in the Preamble of the constitution.**

4. **Salient features of the Indian Constitution**

1. The Bulkiest constitution of the world.

The constitution, originally consisting of 395 articles, now consists of 444 .Articles divided into 25 parts and 12 schedules. The main factors that led to the constitution being bulky were:

- i) **Incorporation of good provisions of the constitutions of other countries to avoid future loopholes.**
- ii) **absence of separates constitutions for the states and provision of both central and state structure in the constitution.**
- iii) **incorporation of Fundamental Rights, Fundamental Duties and Directive Principles of State Policy.**

- iv) **provisions regarding peculiar problems facing the country, such as problem of scheduled cases and scheduled tribes, backward classes, official languages etc.**
- v) **inclusion of emergency provisions in the constitution for the protection of the interests of the country and the people.**
- vi) **detailed provisions regarding the organization of the judiciary, the services, election and other transitory provision.**
- vii **codification of details regarding centre, state relations to eliminate future conflicts.**
- viii) **enumeration of central practices, which in other countries operate on the basis of conventions.**

2. Combination of Rigidity and Flexibility.

The Indian Constitution is a combination of rigidity and flexibility, while some provisions of the constitution can be amended by the Parliament by a simple majority, other require a two-thirds majority of the members of the Parliament as well as a majority in the state legislatures. Again, some provisions of the constitution can be amended by the Parliament alone by a two-third majority. Further flexibility is introduced in the constitution by the provisions which permit the parliament to supplement the provisions of the constitution by legislation.

3. Parliamentary system of Government.

The constitution provides for a parliamentary system of government under which the real executive power rests with the council of ministers and the President is only a nominal ruler. The council of ministers stay in office as long as they enjoy the confidence of the Parliament.

The framers of the constitution decided to adopt a

parliamentary system of government for several reasons.

Firstly, the system was already in existence in India and people were well acquainted with its working.

Secondly, the vast size of the country and the diversity of its culture necessitated the adoption of a parliamentary form of government.

Thirdly, the desire to avoid conflicts between the executive and the legislatures, which was a common feature in America also induced the members of the constituent Assembly to opt for a parliamentary system.

4. **Federal system with a Unitary Bias.**

The Indian constitution provides for a federation with a strong centre.

It is note worthy that the constitution has not used the word 'federation', any when, and has described India as a "Union of States", which implies that the Indian federation is not the result of any agreement among the units and the unit cannot secede from it.

India possesses most of the features of the federation but also several of the unitary features.

The Indian federal structure acquired a unitary character during emergency, where the normal distribution of powers between the centre and the states undergoes vital changes.

5. **Fundamental Rights**

The constitution contains an elaborate list of Fundamental Right.

The state cannot make laws which take away or abridge any of the fundamental right of the citizens. If it does so, the courts can declare such a law as unconstitutional.

It may be noted that the fundamental rights

granted by the constitution are not absolute and are subject to certain restrictions. In other words,

the constitution seeks to strike a balance between individual liberty and social interests.

6. **Fundamental Duties**

The constitution also contains a list of 10 fundamental duties of the citizens.

These duties were added to the constitution by the 42nd amendment in 1976. These duties serve as constant reminders to the citizen that they have to observe certain basic norms of democratic conduct.

7. **Directive Principles of State Policy.**

The constitution outlines certain Directive Principles of State Policy which the government has to keep in mind. While formulating any policy. These principles seek to provide social and economic basis for democracy and the establishment of a welfare state.

Unlike the Fundamental Rights, the Directive Principles of State Policy are non-Justice-able, which implies that no action can be brought against the state before a court of law for its failure to implement the Directive Principles. However, in actually the government has accorded due importance to the Directive Principles in the formation of its policies.

8. **Secular State.**

The constitution makes India a secular state. This means that there is no state religion and state is completely detached from religious dogmas.

It also implies that citizens are free to profess, practice and propagate any religion. However, freedom of religion is not absolute and the same can be regulated in the interest of the public.

9. **Independent Judiciary.**

The constitution provides an independent judiciary

which ensures that the government is carried out in accordance with the provisions of the constitution.

It acts as the guardian of the liberties and fundamental Rights of the citizen. It also determines the limits of the powers of the centre and the states.

10. **People as source of Authority.**

The constitution draws its authority from the people and has been promulgated in the name of the people. This is evident from the preamble with states. "We the people of India.. , 8 do hereby adopt, enact and give to ourselves this constitution".

11. Universal Adult Franchise.

The constitution introduces universal adult franchise and accords the right to vote to all citizens above 18 years of age without discrimination. However it makes reservation of seats for Schedule Castes and Scheduled Tribes to provide them adequate representation.

12. **Emergency Powers.**

The constitution vests extraordinary powers in the President during emergencies arising out of armed rebellion or external aggression, emergency due to breakdown of constitutional machinery in the state and financial emergency where the credit of the country is threatened. In fact during emergency the federal constitution can virtually be converted into a unitary constitution.

13. **Single Citizenship.**

It provides single citizenship. All persons residing in different parts of the country are treated as Indian citizens and are entitled to the same rights of citizenship. There is no separate citizenship of different States.

14. **Bicameral Legislature.**

It provides a bicameral legislature at the centre consisting of the Lok Sabha and the Rajya Sabha. The former contains representatives of the people, while the latter contains representatives of the States.

15. **Special Provisions for minorities.**

The constitution makes special provision for minorities, Scheduled Castes Scheduled Tribes etc. It not only reserves seat for them in the Parliament and state legislatures, but also grants them certain special rights and privileges.

16. **Panchayati Rai.**

The constitution provides constitutional basis to Panchayati Raj institution as well as Urban local bodies. This was achieved through the seventy-third and seventy-fourth amendment to the constitution carried out in December 1992.

Preamble.

1. **The constitution of India is preceded by a preamble which outlines its aims and objectives.**

It reads:

"We the people of India having solemnly resolved to constitute India into a sovereign. socialist. secular, democratic republic and to secure to all its citizens:

Justice social, economic and political

Liberty. of thought, expression, belief, faiths and worship.

Equality of status and of opportunity and to promote among them all. Fraternity assuring the dignity of the individual and the unity and integrity of the nation.

"In our constituent Assembly this twenty sixth day of November, 1949 we do hereby adopt, enact and give to ourselves this constitution".

2. **Thus**

- a) **The preamble declares India Sovereign, Socialist, secular, democratic and a republican state which draws its authority from the people.**
- b) **It intends to provide its citizens social economic and political justice.**
- c) **It assures them liberty of thought expression, belief, faith and worship.**
- d) **It assures equality of status and opportunity.**
- e) **It aims at securing a fraternity based on dignity of the individual and**
- f) **It aims at securing the unity and integrity of the nation.**

3. **The word Sovereign means that India is both internally as well as externally free and is not dependent upon any outside authority.**

4. **The tern 'socialism' in the preamble (inserted by the 42nd Amendment) refers to some form of ownership of means, of production and distribution by the state. However, the Indian brand of socialism is quite different and holds faith in a mixed economy.**

5. **Secularism implies that the state is only concerned with relations between various citizens and is not concerned with relations of man with God. Further, it means that the state has no religion of its own.**

6. **The term Democratic implies that the government draws its authority from the people.**

The rulers are elected by the people and are accountable to them.

7.The word republic implies that the head of the state in India shall be an elected person and shall hold office for a fixed term. The president of India is the chief executive head of India.

8. **The preamble has great value and has been described as the "Key to the Constitution". It has helped courts to resolve various ambiguous points of the constitution and interpret it in the true spirit in which it was enacted by the framers.**

9. **Despite the importance of the Preamble, initially it was not regarded as part of the constitution and hence, was not treated as source of any substantive powers.**

In the Berubari Case, the Supreme Court specifically held that the Preamble could not override the express provisions of the Act. However, in the Keshavananda Bharati case of 1973, the Supreme Court took the view that the Preamble is part of the constitution.

The then CJI Justice Sikri observed "The Preamble of our constitution is of extreme importance in the light of the grand and noble vision expressed in the preamble".

The court relied on the Preamble while restricting the amending power of the Parliament under Article 368 of the constitution. It held that the basic element of the Preamble cannot be amended under Article 368. It was further held that since the Preamble was part of the constitution it can be amended subject to the condition that the 'basic feature' in the Preamble cannot be amended. The court contended that if any of the basic elements mentioned in the Preamble is removed, the structure will not survive.

MEDIA & PRESS LAWS

Press 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 of 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 freeexpression. But when the printing press offered opportunities to increase the reachand durability of the message, governments immediately saw a great threat to theirpower. They began placing restrictions on the ownership of printing units, and insisting on pre-censorship, etc. By the 18th century, the battles for the freedom ofthe 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 ofcitizens like protection against defamation, slander or libel or the interests of the society like banning of obscene literature or ma terial that would produce socialconflicts 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 pressanywhere, though with regard to sedition and official secrets, a debate iscontinuing for greater freedom of the press.

Meaning of Freedom

In our country the concept of freedom of the press evolved over the years as aresult 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 affected. 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 quoits. 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

On 23rd September 1952, the Ministry of Information and Broadcasting constituted the first Press Commission. The members of the working group were Justice J.S.Rajadhayakshaya 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 22nd 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 setup.**
- **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 14th April 1972, a Fact Finding Committee was set up which submitted its report on 14th January 1975.**
- **For protecting the main principles of the freedom of the press and to help the newspapers against monopolistic tendencies, a Newspaper Financial Corporation should be constituted. It was accepted in principle and on 4th December 1970, a Bill was also presented in the Lok Sabha, but it lapsed.**
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Second Press Commission

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

- **An attempt should be made to establish a cordial relation between the government and the press**
- **For the development of small and medium 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.**

2. 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 Sub-divisional Magistrate and authenticated by him is necessary before the newspaper is published. Similarly, no printing press can be set without making a relevant declaration.

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

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

Every time a press is shifted to a new place a fresh declaration is necessary. But if the change of the place is for a period less than 60 days, the new location also falls within the jurisdiction of the same Magistrate, and the keeper of the Press continues to be the same, no fresh declaration need to be made. In that case, 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 bi-weekly 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 leg ibly 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 upto 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 upto 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 attract 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.

9. 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 has 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.

1. 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.

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

3. 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.

4. 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.

5. 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.

6. Corrections

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

7. 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.

8. 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.

9. 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.

10. Obscenity and vulgarity to be eschewed

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

11. 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.

12. 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.

2. 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.

14. 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*.

15. 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.

16. 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.

17. 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.

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

19. 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.

20. 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.

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

22. 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.

23. 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 derivative evidence collected by a third party, not checked up from direct, authentic sources by the reporter himself.

24. 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

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

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

34. 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.

35. 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

1a) 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 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

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Journalists & other Newspaper Employees Conditions of service) and Miscellaneous Provisions Act, 1955.

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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 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 ca se 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.

4Special 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 sixmonths.**

5 Payment of gratuity 1:where

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

ihis 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

i 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 resign on or after 1st day of July 1961 from services in that newspaper establishment on any ground what so ever 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 consecutivedays rest for a period of not less than 24 consecutive hours, the period between 10pm 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 ProvisionsRules 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 provisions 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 -

1A 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-

1A female working journalist who has put in not less than one year's 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 exceed six weeks.

30 Quarantine leave-

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

31 Extraordinary leave-

a 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 alternation 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 forgrant of gratuity after 5-year service.

4. To make it mandatory for the employers to issue appointment letters to allmofussial 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 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 isdefamatory of any person, shall be punished with simple imprisonment for a termwhich 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 and legislature is also one of thereasonable 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 wasnot definite definition of contempt of court. Later on, contempt of court was againenacted 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 to 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 threaten 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

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 consideration. One, the creator's property, that is, the original works need to be protected. Two, for advancement of knowledge in the interest of the society, there should be some amount of freedom to produce parts of other people's copyrighted works. Copyrights have been held to be a right

which person acquires in a work, which is the result of 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 exceed 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 25th 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.

In this Age of Information, its value as a critical factor in socio-cultural, economic and political development is being increasingly felt. In a fast developing country like India, availability of information needs to be assured in the fastest and simplest form possible. This is important because every developmental process depends on the availability of information.

Right to know is also closely linked with other basic rights such as freedom of speech and expression and right to education. Its independent existence as an attribute of liberty cannot be disputed. Viewed from this angle, information or knowledge becomes an important resource. An equitable access to this resource must be guaranteed.

Soli Sorabjee stressing on the need of Right to Information aim at bringing transparency in administration and public life, says, "Lack of transparency was one of the main causes for all pervading corruption and Right to Information would lead to openness, accountability and integrity".

According to Mr. P.B. Sawant, "the barrier to information is the single most cause responsible for corruption in society. It facilitates clandestine deals, arbitrary decisions, manipulations and embezzlements. Transparency in dealings, with their every detail exposed to the public view, should go a long way in curtailing corruption in public life."

Right to information in other countries

In recent years, many Commonwealth countries like Canada, Australia, and New Zealand have passed laws providing for the right

of access to administrative information. USA, France and Scandinavian countries have also passed similar laws. US Freedom of Information Act ensures openness in administration by enabling the public to demand information about issues as varied as deteriorating civic amenities, assets of senators and utilization of public funds.

It is not only the developed countries that have enacted freedom of information legislation; similar trends are seen in the developing countries as well. The new South Africa Constitution specifically provides the Right to Information in its Bill of Rights--thus giving it an explicit constitutional status. Malaysia operates an on-line data base system known as Civil Services Link, through which a person can access information regarding functioning of public administration. There is thus a global sweep of change towards openness and transparency.

In USA, the first amendment to the Constitution provided for the freedom of speech and expression. The country had already passed the Freedom of Information Reform Act 1986, which seeks to amend and extend the provisions of previous legislation on the same subject. But this right is not absolute. Recently, the US Supreme Court struck down two provisions of the Communications Decency Act CDA, 1996, seeking to protect minors from harmful material on the Internet precisely because they abridge the freedom of speech protected by the first amendment. Moreover, the vagueness in the CDA's language, the ambiguities regarding its scope and difficulties in adult-age verification, make CDA unfeasible in its application to a multifaceted and unlimited form of communications such as Internet.

Sweden has been enjoying the right to know since 1810. It was replaced in 1949 by a new Act, which enjoyed the sanctity of being a part of the country's Constitution itself. The principle is that every Swedish citizen should have access to virtually all documents kept by the State or municipal agencies.

In Australia, the Freedom of Information Act was enacted in

December 1982. It gave citizens more access to the Federal Government's documents. With this, manuals used for making decisions were also made available. But in Australia, the right is curtailed where an agency can establish that non-disclosure is necessary for protection of essential public interest and private and business affairs of a person about whom information is sought.

Even the Soviets, under Mikhail Gorbachev, have realized that "the State does not claim monopoly of truth any longer". Glasnost has cast away the cloud of secrecy and stresses the priority of human values.

Even as steps are taken to ensure openness in matters affecting the public, there has to be a greater sense of responsibility on the part of users of information in the media and elsewhere. Journalists must ensure that they seek information in public interest and not as agents of interested parties.

India has so far followed the British style of administration. In Great Britain, Official Secrets Act, 1911 and 1989 are intended to defend national security by rendering inaccessible to the public certain categories of official information. However, the government recognizes that access to information is an essential part of its accountability. A recent legislation governing access to public information includes Local Government Access to Information Act, 1985; the Environment and Safety Information Act, 1988, and the Access to Health Records Act 1990 are

such laws. On the other hand, Data Protection Act, 1984; the Access to Personal File Act; the Access to Medical Reports Act, 1988, and the Consumer Credit Act, 1974, all provide some protection for different aspects of personal information.

12.1 INTELLECTUAL PROPERTY RIGHTS



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

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

United States.

Intellectual property rights are legal rights, which result from intellectual activity in the industrial, scientific, literary and artistic fields. These rights give statutory expression to the moral and economic rights of creators in their creations. Intellectual property rights safeguard creators and other producers of intellectual goods and services by granting them certain time-limited rights to control the use made of those productions. These rights also promote creativity and the dissemination and application of its results and encourage fair-trading, which contributes to economic and social development.

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

The aim of this Convention was to help nationals of its Member States obtain international protection of their right to control, and receive payment for, the use of literary and artistic works. Both the Paris Convention and the Berne Convention set up International Bureaus to carry out administrative tasks, such as organizing meetings of the Member States. In 1893, these two small bureaus united to form an international organization called the United International Bureaus for the Protection of Intellectual Property – best known by its French acronym, BIRPI. Based in Berne, Switzerland, with a staff of seven, BIRPI was the predecessor of what is today known as the World Intellectual Property Organization or WIPO. WIPO is a specialized agency of the UN, with a mandate to administer IP matters recognized by the UN Member

States. There are about 21 international treaties in the field of intellectual property, which are administered by WIPO. The treaties fall into three groups namely treaties, which establish international protection; treaties, which facilitate international protection and treaties, which establish classification systems

Intellectual property rights in India

There is a well-established statutory, administrative and judicial framework to safeguard intellectual property rights in India, whether they relate to patents, trademarks, copyright or industrial designs. Well-known international trademarks have been protected in India even when they were not registered in India. The Indian 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 re-engineering 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'.

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 and judicious 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 rights conferred by Clause 1.

Unwritten understanding

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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. From 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 constructive 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**

Press and Social Responsibility in the USA

The United States, where the press and other media have been free for long, also witnessed intermittent debates on the performance of the press. The Pulitzer-Hearst circulation was which ended in the Spanish-American war, the New York Sun's hoax about a new form of life on the moon 1835 and the press tirade against

President Roosevelt in the 1930s led to some introspection. On the initiative of Times Magazine, Robert Hutchins, Chancellor of the University of Chicago at that time, and several others studied the performance of the US Press and came out with a report in 1946. The report shocked the American public and angered many editors,. The Hutchins report was the first scientific study of the press in the USA and first social responsibility theory formulated by Theodore Paterson, Fred S. Siebert and Wilbur Schramm in their book Four Theories of the Press. The Hutchins Commission Report said that the freedom of the press was in danger in the United States, 'because in the hand of a few gigantic business units, the media of mass communication vital to the life of our democracy, have failed to accept the full responsibility to the public'. The Commission observed that freedom of the press in America was in danger because 'those who controlled' the press did not facilitate the communication of a wide spectrum of ideas.

The American view of responsibility as contained in the Hutchins Report required that:

- **The press should accept certain responsibilities towards the society**
- **These responsibilities can be discharged by giving a true, accurate, objective and balanced picture of the world**
- **The press should regulate itself, though within the context of law and other social institutions**
- **The press should reflect the pluralistic character of the society**
- **The press should play a positive role in regulating crime, violence and social conflict**

- **The press should be accountable to the society as well as to employers and the market**
- **The press should work for public good**

Thus, we see rights and responsibilities go together. Nobody, individual or institution, is exempt from responsibilities. Responsibilities arise from the consequences of communication. In every country, there were always sections of the press, which misused the right of freedom of the press with undesirable consequences to the society and the state. These led to such inquiries as the Hutchins commission in the United States and the two press commissions in India. While the Hutchins commission suggested self-regulation on a voluntary basis, the first press commission in India recommended the constitution of a statutory press council.

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.**

Standards for Motion Pictures

Motion picture producers recognize the high trust and confidence which have been placed in them by the people of the world and which have made them a universal form of entertainment. General principles are:

- 1. No picture shall be produced which will lower the moral standards of those who see it. Hence the sympathy of the audience shall never be thrown the side of crime, wrong-doing, evil or sin**

- 2. Correct standards of life, subject only to the requirements of drama and entertainment, shall be presented**
- 3. Law, natural or human, shall not be ridiculed, nor shall sympathy be created for its violation**

Standards for Advertising

The term advertising is used to mean all forms of motion pictures advertising including in the following: press book, still photographs, newspapers, magazines and trade paper advertising, radio, television, and others.

- 1. Print advertising and illustrations should not misinterpret the message**
- 2. Advertising shall not depict any indecent or undue exposure of the humanbody**
- 3. Advertising demeaning religion, race or national origin shall not be used.**
- 4. Cumulative overemphasis on sex, crime, violence and brutality would not be permitted.**
- 5. Salacious posture and pictures should not be part of any advertising form**

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 andcomprehensive**
- 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. Cinematograph Act 1952

The Cinematograph Act 1952, apart from including provisions relating to constitution and functioning of the Central Board of Film Certification known till June 1, 1983 as the Central Board of Film Censors, also lays down the guidelines to be followed for certifying films. Initially, there were only two categories of certificates "U" Universal exhibition and "A" restricted to adult audiences, but two other categories were added in June 1983 "UA" for unrestricted public exhibition subject to parental guidance for children below the age of twelve and "S" films for public exhibition restricted to specialized audiences such as doctors. The 1952 Act has been amended to bring it up-to-date, and the last amendments were made in 1981 and 1984. The present censorship of films is governed by the 1952 Act, the Cinematograph Certification Rules promulgated in 1983 and the guidelines issued from time to time.

In keeping with this responsibility, the Central Board of Film Certification was set up in 1950 in Mumbai, with regional offices in Mumbai, Calcutta, Chennai, Bangalore, Hyderabad, Thiruvananthapuram, New Delhi, Cuttack and Guwahati. It is a regulatory body functioning under the Ministry of Information and

Broadcasting. No film can be exhibited in India without being certified by the Board. Its reign has always been marred with controversy. A Film Certification Appellate Tribunal FCAT has also been constituted under section 5D of the 1952 Act for hearing appeals against any order of the CBFC.

While the work of certification of films is a central subject, the states have to enforce these censorship provisions and bring any violations to the notice of the CBFC. The organizational structure of the CBFC is based on the provisions of the 1952 Act and the Cinematograph Certification Rules 1983. The Chairman and members are appointed for a term of three years or till such time as the

Government may direct. They comprise eminent persons from different walks of life such as social sciences, law, education, art, film and so on, thus representing a cross-section of society.

The certification rules also apply to foreign films imported into India, dubbed films and video films. In the case of dubbed films, the Board does not have any fresh censorship for the visuals in general cases. The Certification does not apply to films made specifically for Doordarshan, since Doordarshan has its own system of examining such films.

Press and Social responsibility in the USA

The Hutchins report was the first scientific study of the press in the USA and first scientific formulation about its responsibilities. This report became the basis for the social responsibility theory. The Hutchins Commission Report said that the freedom of the press was in danger in the United States, 'because in the hands of a few gigantic business units, the media of mass communication vital to the life of our democracy, have failed to accept the full responsibility to the public'. The commission observed that freedom of the press in America was in danger because 'those who controlled' the press did not facilitate the communication of a wide spectrum of ideas.

The American view of responsibility as contained in the Hutchins Report required that:

- **The press accept certain responsibilities towards the society**
- **These responsibilities can be discharged by giving a true, accurate, objective and balanced picture of the world**
- **The Press should regulate itself, though within the context of law and other social institutions**
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17. CODE OF ETHICS

Writing in the issue of 14 February 1987 issue of The Illustrated Weekly of India, the late D.R. Mankekar wrote: 'a poll taken in the USA some years ago, though on a limited scale, confined to 28 editors and 25 public officials and civic leaders, showed that 65 per cent of public representatives concluded that newspapers are not to be trusted because they carry half-told or misleading stories resulting from lax standards of reportorial research and back grounding of news stories'. That charge could be equally leveled against much of Indian reporting. Suggesting a code of Ethic for Indian newspapers, Mankekar said, 'A code of Ethics for journalist will not, however, be worth the paper on which it is written unless we can graft teeth onto such a code so as to make it enforceable by an appropriate, recognized authority. The obvious and appropriate authority for that purpose is the Press Council of India, as recommended by the first press commission.

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.**

Minimize Harm

Ethical journalists treat sources, subjects and colleagues as human beings deserving of respect.

Journalists should:

- **Show compassion for those who may be affected adversely by news coverage. Use special sensitivity when dealing with children and inexperienced sources or subjects.**
- **Be sensitive when seeking or using interviews or photographs of those affected by tragedy or grief.**

- **Recognize that gathering and reporting information may cause harm or discomfort. Pursuit of the news is not a license for arrogance.**
- **Recognize that private people have a greater right to control information about themselves than do public officials and others who seek power, influence or attention. Only an overriding public need can justify intrusion into anyone's privacy.**
 - **Show good taste. Avoid pandering to lurid curiosity.**
 - **Be cautious about identifying juvenile suspects or victims of sex crimes.**
- **Be judicious about naming criminal suspects before the formal filing of charges.**
 - **Balance a criminal suspect's fair trial rights with the public's right to be informed.**

Act Independently

Journalists should be free of obligation to any interest other than the public's right to know.

Journalists should:

- **Avoid conflicts of interest, real or perceived.**
- **Remain free of associations and activities that may compromise integrity or damage credibility.**
- **Refuse gifts, favors, fees, free travel and special treatment, and shun secondary employment, political involvement, public office and service in community organizations if they compromise journalistic integrity.**
 - **Disclose unavoidable conflicts.**
 - **Be vigilant and courageous about holding those with power accountable.**
- **Deny favored treatment to advertisers and special interests and resist their pressure to influence news coverage.**
- **Be wary of sources offering information for favors or money; avoid bidding for news.**

Be Accountable

Journalists are accountable to their readers, listeners, viewers and each other.

Journalists should:

- **Clarify and explain news coverage and invite dialogue with the public overjournalistic conduct.**
- **Encourage the public to voice grievances against the news media.**
- **Admit mistakes and correct them promptly.**
- **Expose unethical practices of journalists and the news media.**
- **Abide by the same high standards to which they hold others.**

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.

Self-Regulation in Press

Some of the professional bodies connected with the Indian press have formulated voluntary codes of conduct as part of their efforts at self-regulation. The code of ethics, evolved by the All India Newspaper Editor's Conference (AINEC), is applicable to the members of that body.

This code, though drafted in general terms, emphasizes the need for

journalists to attach due importance to human and social rights in the discharge of their professional obligation, to observe special restraint in reporting or commenting on communal matters and to promote national unity. The code is essentially persuasive in character; no sanctions have been prescribed for neither its breach nor any machinery created for its enforcement.

The code includes the following:

- 1. As the press is a primary instrument in the creation of public opinion, journalists should regard their calling as a trust and be eager to serve and guard the public interests.**
- 2. In the discharge of their duties journalists should attach due value to fundamental, human and social rights, and shall hold good faith and fair play in news reports and comments as essential professional obligations.**
- 3. Journalists should observe special restraint in reports and comments dealing with tensions that are likely to lead, or leading to civil disorders.**
 - a) Journalists shall particularly observe maximum restraint in publishing reports and comments relating to communal tension, communal incidents, riots, incipient situations likely to lead to communal disturbances, etc. The identification of communities, which may lead to chain reactions, should be avoided.**
 - b) Journalists should endeavor at all times to promote the unity of the country and nation, pride in the country, its people, its achievements and its strengths in diversity. Journalists should be most circumspect in dealing with movements and ideas, which promote regionalism at the cost of national unity**
 - c) Any reporting on ideas of partition and secessionism must be treated with the greatest caution. Any comment likely to give comfort to the proponents of such ideas and further their interests should be avoided. The integrity of the country and of the people of India must be considered sacrosanct.**
- 4. Journalists should endeavor to ensure that information disseminated is factually accurate. No fact shall be distorted or the essential facts deliberately omitted. No information**

known to be false shall be published.

- 5. Responsibility shall be assumed for all information and comments published. If responsibility is disclaimed, this should be explicitly stated.**
- 6. Confidences shall always be respected. Professional secrecy must be preserved.**
- 7. Any report found to be inaccurate and any comment on inaccurate reports shall be voluntarily rectified. It shall be obligatory to give fair publicity to a correction or contradiction when a report published is shown to be false or inaccurate.**
- 8. Journalists shall not exploit their status for personal purposes.**
- 9. Journalists shall not allow personal interest to influence professional conduct**
- 10. There is nothing so unworthy as the acceptance or demand of a bribe by a journalist or the misuse of his power to give or deny publicity to news or comments**
- 11. Journalists shall be very conscious of their obligations to their fellow professionals in the profession and shall not seek to deprive fellow journalists of their livelihood by unfair means**
- 12. The carrying on of personal controversies in the press in which no public interest is involved shall be regarded as derogatory to the dignity of the profession**
- 13. It is unprofessional to give currency to rumors affecting the private life of individuals. Even verifiable news affecting the private life of individuals shall not be published unless the public interest as distinguished from public curiosity demands its publication**
- 14. The press shall refrain from publishing matters likely to encourage vice and crime**

Believing firmly that the Media will always remain alive to the need of introspection and proper orientation to corrective measures if and when necessary, we conclude by quoting a few inimitable lines from a poem of Rabindra Nath Thakur: -

**“Sthir Theko Tumi, Theko tumi jagi;
Pradeeper moto alasa teyagi; Eh
andhar majhe, Tumi ghumaile, phiriya**

jaibe tara”

Translation:

**Remain steadfast, remain
awake; Leaving idleness like a
night candle;**

**In this hour of darkness, if you fall
asleep, Those who need you will go
back disappointed.**

ABC

ABC’s primary objective is to arrive at and certify authentic circulation figures representing Net Paid Sales of member publications and disseminate the data for the use of space buyers. Together with the ABC Certificate, data on territorial distribution of copies in various states, major cities and small towns is included as an add on.

As ABC Certificates are regularly referred to for media selection, the publisher has a far better chance of being selected by space buyer members of ABC. By enjoying the confidence of space buyers, publishers are able to increase their Ad revenues and also improve their services.

Publisher members must maintain essential books and records to facilitate a proper ABC audit and also appoint an independent firm of Chartered Accountants from amongst the approved panel of auditors named by ABC. Admission of publishers to ABC membership is subject to a satisfactory admission audit. ABC has a system of recheck audit and surprise check audits of publications to be carried out as and when ABC deems appropriate.

ABC adds to the Publications’ success by providing advertisers the information they need to evaluate print media. The Publishers fully participate in ABC’s efforts to help them gain the credibility advertisers are looking for. Advertisers normally place their advertisements with publications that can substantiate their Circulation claims through authentic sources which are easy to understand. The Publishers should be a Member of Indian Newspaper

Society INS) and the Publications should be registered with Registrar of Newspapers for India RNI).

18. AUDIT BUREAU OF CIRCULATIONS

Audit Bureau of Circulations ABC) is one of the several organizations of the samename operating in different parts of the world.

The ABC founded in 1948 is a not for profit, voluntary organization consisting of Publishers, Advertisers and Advertising Agencies. It has done pioneering work in developing audit procedures to verify the circulation data published by those newspapers and periodicals which have earned the right to display its emblem.

ABC as it is called and understood by all is a founder member of the International Federation of Audit Bureau of Circulations. The main function of ABC is to evolve, lay down a standard and uniform procedure by which a member publisher shall compute its net paid sales. The circulation figure so arrived at is checked and certified by a firm of Chartered Accountants which are approved by the Bureau. The Bureau issues ABC certificates every six months to those publishers whose circulation figures confirm to the rules and regulations as set out by the Bureau.

From a modest beginning it has grown to remarkable proportions. ABC's membership today includes 411 Publishers of national and regional importance, 151 Advertising Agencies, 51 Advertisers & 20 New Agencies and Associations connected with print media and advertising. It covers most of the major towns in India.

An Advertiser would like to know the facts and figures before investing his money in advertising. An Advertiser ought to know how many people buy a publication and in which area. The ABC gives all these vital facts every six months. The ABC figures are not the outcome of opinions, claims or guesswork, but they are the result of rigid, in depth and impartial audits of paid circulations of member publications by independent and leading firms of

Chartered Accountants working in accordance with the rules / procedures prescribed by the Bureau.

The Working of ABC

The Policy formation body of the Bureau is the Council of Management consisting of elected representatives from publishers 8, advertisers 4 and advertising agency 4 members of the Bureau. To assist the Council of Management an Executive Committee is appointed by the Council, to guide and over see the day-to-day working of the Bureau. The Executive Committee consists of Publishers, Advertisers and Advertising Agency Members of the Council. The Council of Management and the Executive Committee meets regularly as often as required. The Chairman is elected annually by the Council of Management.

The Bureau certifies audited NET PAID circulation figures of publications enrolled with it for a continuous and definite six-monthly audit periods and supplies copies of the ABC Certificates issued for such publications to each member. Free distribution and bulk sales are also shown on the certificates provided the relevant records are adequately maintained.

Records are checked and rechecked at every level for authenticity. Facts and figures are scrutinized by impartial Auditors, and only then is the CERTIFICATE OF NET PAID CIRCULATION issued.

The day to day working of the bureau is handled by its secretariat which is headed by the Secretary General.

RNI

Introduction & Activities

The Office of the Registrar of Newspapers for India, more popularly known as RNI came into being on 1st July, 1956, on the recommendation of the First Press Commission in 1953 and by

amending the Press and Registration of Books Act 1867.

The Press and Registration of Books Act contain the duties and functions of the RNI. On account of some more responsibilities entrusted upon RNI during all these years, the office is performing both statutory as well as some non-statutory functions.

Under Statutory Functions, the following jobs are covered:

Compilation and maintenance of a Register of Newspapers containing particulars about all the newspapers published. Issue of Certificate of Registration to the newspapers published under valid declaration;

Scrutiny and analysis of annual statements sent by the publishers of newspapers every year under Section 19-D of the Press and Registration of Books Act containing information on circulation, ownership etc; Informing the District Magistrates about availability of titles, to intending publishers for filing declaration;

Ensuring that newspapers are published in accordance with the provisions of the Press and Registration of Books Act 1867 and the Rules made there under. Verification under Section 19-F of the PRB Act, of circulation claims furnished by the publishers in their Annual Statements; and preparation and submission to the Government on or before 31st December each year, a report containing all available information and statistics about the press in India with particular reference to the emerging trends in circulation and in the direction of common ownership units etc.

The following items fall under the non-statutory functions:

Formulation of Newsprint Allocation Policy - Guidelines and issue of Eligibility Certificate to the newspapers to enable them to import newsprint and to procure indigenous newsprint.

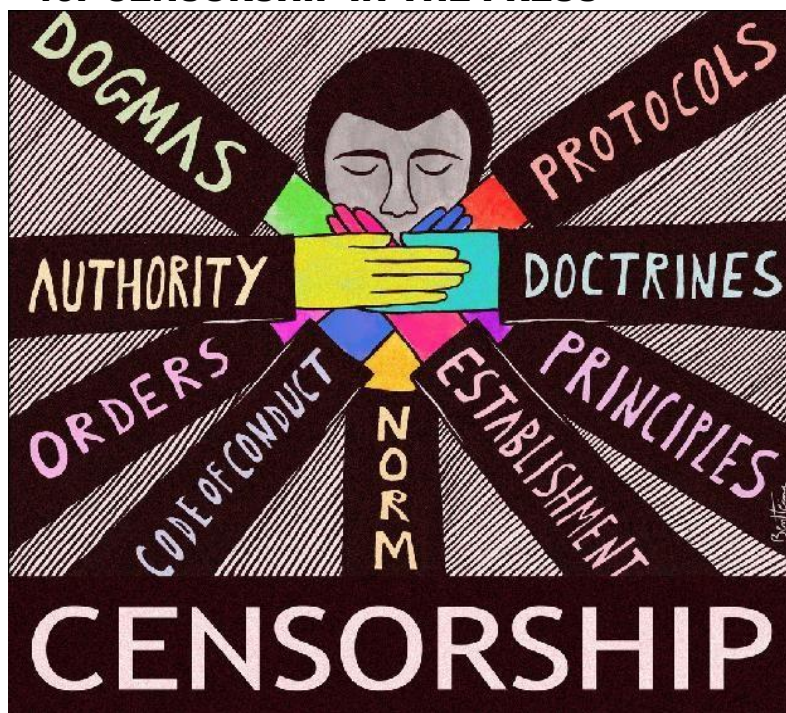
Assessing and certifying the essential need and requirement of

newspaper establishments to import printing and composing machinery and allied materials.

Starting a paper

Printing and publishing of newspapers and periodicals within India are governed by the Press and Registration of Books Act, 1867 and the Registration of Newspapers Central Rules, 1956. According to the Act, no newspaper or periodical should bear a title which is the same or similar to any other newspaper or periodical already being published, either in the same language or in the same State, unless the latter is also owned by the same person. In order to ensure compliance of this condition, the Government of India has appointed the Registrar of Newspapers, also called the Press Registrar, who maintains a register of newspapers and periodicals published in India. The Office of the Registrar of Newspapers for India is headquartered in New Delhi, and has three regional offices at Calcutta, Mumbai and Chennai to cater to the needs of publishers in all corners of the country.

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 during times of war

Censorship during times of war or civil unrest has a range of objectives -

- **suppression of 'information that would be useful to the enemy' - what most people think of as wartime censorship - including information that facilitates identification of military targets or their status after attack**
- **suppression of information that would discourage the domestic population or armed forces and thereby 'give comfort to the enemy', for example information about military losses, incompetence or corruption**
- **suppression of information that would erode relations with**

allies, neutral countries/organizations and with 'international opinion'

It has taken different forms, including -

- **jamming of enemy or neutral broadcasts and prohibition on import/dissemination of overseas publications**
- **use of the 'censor's 'blue pencil' to delete content from personal correspondence, news service reports, broadcast scripts and newspaper/journals prior to publication**
- **seizure of individual issues of newspapers or journals that 'escaped' the blue pencil with punishment or suppression of the publication for repeated breaches**
- **prohibitions on the broadcast of interviews with or even publication of statements by terrorist leaders**
- **restrictions on who gets to report news and where they are allowed to go, with for example 'official correspondents', embedded journalists and journalism pools that can only process official communiqués by military commanders rather than independently collect information from civilians and troops**
- **self censorship, whether by individual journalists and editors out of perceptions of national interest, 'responsible reporting', personal interest or merely to preempt tighter regulation or by organizations and their spokespeople**

Censorship in time of peace

Nations have used a range of mechanisms for censorship of journalism during peacetime. Zimbabwe's 2003 *Access to Information and Protection of Privacy Act* for example imposes heavy fines and jail terms for "abuse of journalistic privilege" such as publication of "falsehoods" statements that the Government deems to be untrue). It bars foreigners from working in Zimbabwe as correspondents; journalists, magazines and newspapers must be to be accredited by the government Media & Information Commission. Some nations engage in issue by issue approval and censorship of publications. In 2005 Egyptian censors for example blocked sale of *Cairo* magazine, apparently for a cover photo showing plainclothes security forces preparing to attack pro-democracy demonstrators.

Censorship and the Mutiny in India

The year of what the British historians term ‘the Sepoy Mutiny’, however, brought back the press restriction in the form of Gagging Act, 1857. Lord Canning argued for them, stating that ‘there are times in the existence of every state in which something of the liberties and rights, which it jealously cherishes and scrupulously guards in ordinary seasons must be sacrificed for the public welfare. Such is the state of India at this moment. Such a time has come upon us. The liberty of the press is no exception.’

The mutiny brought the rule of the East India Company to a close, with the crown taking over the ‘colony’ with the promise of religious toleration and press freedom. The main topics of discussion in the English and Vernacular before and after the mutiny were sati, caste, widow remarriage, polygamy, crime and opposition to the teaching of English in schools and colleges. Bombay’s Gujarati press in particular, excelled in the defense of the Indian way of life. In 1876 the vernacular press act was promulgated.

During the next two decades *The Times of India*, the *Pioneer*, the *Madras Mail*, and the *Amrit Bazaar Patrika* came into existence – all serving the interests of English educated readers. The English press played down the inaugural meeting of the Indian National Congress on December 28, 1885 in Bombay, but it was reported at length by the vernacular papers such as *Kesari* founded by Lokmanya Tilak. The *Amrit Bazaar Patrika* and *Kesari* soon gained a reputation for opposing government attempts to suppress nationalist aspirations. The *Amrit Bazaar Patrika*, for instance, denounced the deposition of the Maharaja of Kashmir, and *Kesari* was foremost in attacking the Age of Consent Bill of 1891, which sought to prohibit the consummation of marriage before a bride completed the age of 12. The *Amrit Bazaar Patrika* and *Bangabasi of Calcutta* endorsed the *Kesari*’s stand on the ground that the government has no right to interfere with traditional Hindu customs. Tilak charged the government with disrespect for the liberty and privacy of the Indian people and with negligence in

providing relief during the countrywide famine in 1896-97, which resulted in the death of over a million people.

Such savage anti-government sentiments could not be allowed free play and so Lord Elgin added sections to the Indian Penal Code to enable the government to deal with promotion of 'disaffection' against the Crown, or of enmity and hatred between different classes. Also prohibited was 'the circulation of any reports with intent to cause mutiny among British troops, intent to cause such fear or alarm among the public as to cause any person to commit an offence against the State, or intent to incite any class or community. The penalties for offences ranged from life imprisonment to short imprisonment or fines.

The man who became the most noteworthy victim of these new laws was none other than Bal Gangadhar Tilak, editor of *Kesari* and its English companion, *Mahratha*. He was arrested, convicted and jailed for six years, but *Kesari* continued to build up its reputation and influence as a national daily, as India woke to the 20th century. Other champions of press freedom who were prosecuted at the same time were Aurobindo Ghose of *Bande Mataram*, B.B.Upadhyaya of *Sandhya*, and others.

In 1910, the Indian Press Act clamped further control on newspapers in the wake of the partition of Bengal and violent attacks by terrorists in Ahmedabad, Ambala and elsewhere. The Act required owners of printing presses to deposit securities of Rs.500 to Rs.2000, which were forfeited if 'objectionable matters' were printed. The threats of seizure of the printing press, and confiscation of copies sent by post were also included in the Act. The vernacular press suffered rigorous suppression during this period. The government banned 50 works in English and 272 in the vernacular, which included 114 in Marathi, 52 in Urdu and 51 in Bengali.

World War I introduced still more severe press laws, but there were

no let-up in nationalist agitations. Annie Besant's *New India* became the mouthpiece of Home Rule advocates, ably supported by the *Bombay Chronicle* and other publications. The government reacted swiftly by exiling Annie Besant and imposing new securities on offending publications. The Rowlatt Act of 1919 infuriated Indian opinion, which now came under the leadership of Mahatma Gandhi. His Non-Cooperative Movement took the press by storm. Gandhi was to remain front-page news for years to come. His arrests and imprisonments were covered with relish by the English and the vernacular press, whose readership now was raised dramatically. The Swaraj Party led by C.S. Das, Vallabhbhai Patel and Motilal

Nehru, launched its own publications- the *Banglar Katha* in Calcutta, the *Swadesh Mitram* in the south, and *Hindustan Times*, *Pratap* and *Basumati* in the north.

The Indian Press Ordinance 1930, like the Press Act of 1910, and five other Ordinances gave added power to the government in dealing with acts of terrorism and inflammatory literature. The Swadeshi movement, covered prominently by the press, as in *The Hindu* Madras led to the imprisonment of leaders like Gandhi and Nehru, and the editors like S.A. Brelvi of *Bombay Chronicle*. The Indian Press Act of 1931 raised deposit securities and fines, and gave Magistrates the power to issue summary actions. Several other Acts were made law during the thirties, forcing the closure of many presses and publications.

Meanwhile, the Free Press of India, which began as a news agency, started *The Indian Express* in Madras, *Free Press Journal* in Bombay. The news agency collapsed after it forfeited Rs.20, 000 security under the Indian Press Act, but its publications continued under different owners and the Free Press editors started a new agency called the United Press of India (UPI).

Then came the Quit India Movement, and World War II, and the press in India, including the English language press and that in the Indian Native States played a commendable role in reporting the struggle for freedom fairly. It opposed communal riots and the

partition of the country, and when partition did take place in the glorious year of independence, lamented it. Indeed, it could be said that the press played so small part in India's victory to freedom. Free India's Constitution upheld the citizens' right to freedom of speech and expression, which included the freedom of the press. While the obnoxious Press Acts were repealed or amended, the Official Secrets Act and Sections of the Indian Code dealing with disaffection, communal hatred and incitement of armed forces to disloyalty were retained.

The Nehru Government passed in October 1951 the Press Objectionable Matters Act, which was reminiscent of earlier press laws enacted by the colonial rulers. The 'objectionable matters' were quite comprehensive. So fierce was the opposition to it that in 1956, it was allowed to lapse and the first Press Commission was formed.

The national and regional press covered the campaigns of the first national elections. Unlike her father, Mrs. Indira Gandhi had never been at ease with the press, 'How much freedom can the press have in a country like India fighting poverty, backwardness, ignorance, disease and superstition?' she asked the first year of her regime. The national dailies grew strident in their attacks on her government, especially on the question of nationalization of banks, privy purses, the Congress split, but joined forces with her during the Bangladesh war of liberation. The attacks reached their climax in the period prior to the emergency, with open accusations of rampant corruption, and demands for her resignation, followed by Allahabad High Court's verdict of her being guilty of corrupt election practices.

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 *Asi 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.

20. MEDIA ETHICS

Journalistic codes usually take into account the following concepts:

- a) Safeguarding freedom of information.**
- b Freedom of access to information sources.**
- c) Objectivity, accuracy, truthfulness or the non-misrepresentation of facts.**
- d Responsibility to the public, and its rights and interests and in relation to national, racial and religious communities, the nation, the State and the maintenance of peace.**
- e) The obligation to refrain from calumny, unfounded accusations, slander,violations of privacy.**
- f Integrity and independence**
- g The right of reply and of correction**
- h Respect of professional confidentiality**
- i Consideration for the cultural, social or ethnic codes of individual countries.**

However, 'the scope of professional ethics is much wider than the texts of legal codes. For, in attempting to achieve a just balance between freedom and responsibility, the ethical aspect of this dichotomy depends not only on conscious decisions by a journalist, but also on practices in the media and the general social environment.

Media ethics or journalism ethics is a branch of philosophy concerned withactions that are morally permissible and those that are not. Media ethics assist media workers in determining what is

right and how to choose the best from several alternatives. Media ethics constitutes a normative science of conduct and must therefore be applied voluntarily.

Ethics should set guidelines, rules, norms, codes and principles that will lead journalists and all other media workers to make moral decisions. They should not be forced to do so because ethics is applied voluntarily.

Normative ethics is concerned with what people and institutions ought to do and how they should conduct themselves. Media workers are part of society and therefore, function within the parameters set by the expectations prevalent in a society at a particular time. Apart from society, the government of the country also informs expectations of what the media ought to do. Consequently, a nation's media, more than any other kind of institution is shaped by the prevailing political power.

MacBride Report says that the adoption of codes of ethics at national, and some cases, at the regional level is desirable, provided that such codes are prepared and adopted by the profession itself, without government interference. It recommends that Codes of Ethics aim at the following objectives:

- a) To protect the consumer readers, listeners, viewers, or the public in general**
- b) To protect and inspire the working journalist, broadcaster or others directly concerned with the gathering, writing, procession and presenting of news and opinions**
- c) To guide editors and others who take full legal responsibility for what is published and broadcast**
- d) To define the responsibilities of proprietors, shareholders, and government who are in a position of absolute control over any particular form of mass media communications activity**
- e) To deal with issues of advertisers and others who buy into the services of the media.**

Some of the broad principles evolved by the Council of India in course of its adjudication on various subjects in respect of

standards of journalism are summarized as under:

21. JOURNALISTIC STANDARDS

1. Communal Writings

Scurrilous and inflammatory attacks should not be made on communities and individuals. Any news on communal events based on rumours will be violative of the journalistic ethics. Similarly, distorted reporting making important omissions will not be correct. While it is the legitimate function of the Press to draw attention to the genuine grievance of any community with a view to seeking redress in a peaceful and legal manner, there should be no invention or exaggeration of grievances, particularly those which tend to promote communal discord.

It will be highly conducive to the creation of a healthy and peaceful atmosphere if sensational, provocative and alarming headlines are avoided, and acts of violence or vandalism are reported in such a manner as may not undermine people's confidence in law and order machinery of the State and may at the same time have the effect of discouraging and condemning such activities.

Defaming a community is a serious matter and ascribing to it a vile, anti-national activity is reprehensible and amounts to journalistic impropriety.

There is no impropriety in publishing historical facts in order to warn the present generation against repetition of past mistakes even though these mistakes may not be palatable to a particular community.

There is no objection in making statements about religious communities if they are couched in temperate language and are not exaggerated or incorrect.

2. Journalistic impropriety

Some of the principles evolved by the Council through its adjudications in respect of journalistic impropriety are:

Any matter discussed or disclosed in confidence ought not to be published without obtaining the consent of the source. If the editor finds that the publication is in the public interest, he should clarify it in an appropriate footnote that the statement or discussion in question was being published although it had been made "off the record".

An advertisement containing anything unlawful or illegal or the one which is contrary to good taste or journalistic ethics or propriety should not be published.

Proper care should be taken by newspapers in maintaining accuracy in respect of quotations.

Where a newspaper is charged with violation of journalistic ethics, a plea that it has ceased publication will afford the editor no defense, since it is his conduct which is subject of the complaint.

3. Obscenity and Bad Taste

The meaning of taste varies according to the context. For a journalist it implies that "which on grounds of decency or propriety he should not publish". Where a matter has "a tendency to stimulate sex feelings" its publication in a journal meant for the lay public, young or old, undesirable. Exploitation of sex falls short good taste. Public taste is to be judged in relation to the environment, milieu as well notions of taste prevailing in contemporary society.

The basic test of obscenity is whether the matter is so gross or vulgar that it is likely to deprave or corrupt. Another test is whether depiction of the scene and language used can be regarded as filthy, repulsive, dirty or lewd.

Whether a story is obscene or not, will depend on such factors as

literary or cultural nature of the magazine, and the social theme of the story. The relevancy of a picture to the subject matter of a magazine or a paper has a bearing on the question whether the matter published falls below the standards of public taste. One of the relevant factors for judging whether the picture falls below the standard of public taste will be the purpose or nature of the magazine - whether it relates to art, painting, medicine, research or reform of sex.

The Press Council expressed concern over the increasing instances of obscene advertisements in the print media. It was opposed to censorship but favoured preventive steps to check any obscene material at pre-publication stage. Since most of such advertisements are routed through advertising agencies, the Council felt that this task should not be difficult if these agencies were to exercise more caution and restrain in preparing and releasing the advertisements that may be considered objectionable to family viewing by an average citizen. It felt that the Association of Advertising Agencies of India as an Umbrella organization of all these advertising agencies could play a very meaningful and positive role in the matter and sought its cooperation to contain advertisements that are likely to damage the

socio-cultural ethos of the country in the longer run. The Council appealed to the newspapers also to carefully scrutinize the advertisements received by them either directly from the advertisers or through the advertising agencies and exercise a self-restraint by rejecting such advertisements as may be considered obscene and objectionable. It has also reiterated the following guidelines framed by it to counter against obscene publication.

"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 commercial commodity for sale".

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 feeling of adolescents and among whom it is intended to circulate? In other words, does it constitute an unwholesome exploitation for commercial gain?

Other relevant considerations are whether the picture is relevant to the subject matter of the magazine. 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.

4. Right of Reply

The prime principle that emanates from the various adjudications on this subject upholds the editor's discretion in publication of letters. He would, however, be expected to voluntarily rectify an incorrect statement or report on a matter of public nature; the general reader can claim a locus standing on the basis of the public right to know. Besides, any person who has been specifically referred to in a publication can claim an automatic right to reply in the columns of the paper. Though the Council does not have the power to force a newspaper to publish, a rejoinder it may direct it to publish the particulars of the inquiry against it.

5. Pre-verification of News

Verification of news is necessary before publication, especially when the report has slanderous or libelous overtones or could lead to communal tension; nor can the publication of rumours as views of a cross-section of people be justified under any circumstances. The editor shall make necessary amends when any false or distorted publication is brought to his notice.

6. Defamation - Scurrilous writings

Under the second exception to Section 499 of the Indian Penal Code 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. The Council has accordingly held the opinion that fair comments on the public life cannot be held to be improper. But if any factual statements are made, they must be true and correct. In case a defamatory element is involved, more good faith will not be a defense in any civil action for damages.

7. Right to privacy Vs. Public figures

The Press Council of India formulated guidelines to achieve a balance between the right to privacy of the public persons and the right of the press to have access to information of public interest and importance. The issue under heated debate at both national and international level and the international conference of the World Association of Press Councils (WAPC) held in April 1998 in Delhi stressed that there is a need for reconciliation between three competing constitutional values at play on this count, viz:

a) An individual's right to privacy, b freedom of the press, and c) the people's right to know about public figures in public interest.

The Council has prepared a report on the issue and framed the guidelines as follows:-

"Right to privacy is an inviolable human right. However, the degree of privacy differs from person to person and from situation to situation. The public person who functions under public gaze as a representative of the public cannot expect to be afforded the same degree of privacy as a private person. His acts and conduct are of public interest ('public interest' being distinct and separate from 'of interest to the public') even if conducted in private may be brought to public knowledge through the medium of the press. The press has, however, a corresponding duty to ensure that the information about such acts and conduct of public interest of the public person is obtained through fair means, is properly verified and then reported accurately. For obtaining the information in respect of

acts done or conducted away from public gaze, the press is not expected to use surveillance devices. For obtaining information about private talks and discussions, while the press is expected not to badger the public persons, the public persons are also expected to bring more openness in their functioning and co-operate with the press in its duty of informing the public about the acts of their representatives".

Media Laws

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

- 1. The Indian Penal Code, 1860 which makes it an offence a) to incite enmity between different classes of citizens b) to spread any rumours or reports likely to incite members of the Armed Forces to mutiny or failure of duty c) to cause alarm to any section of the Public whereby there is an inducement to commit an offence against the State or against public peace d) to incite one class or community against another e) to utter words or to make visible representations with intent to wound religious feelings or beliefs of another person, or of any class of citizens**
- 2. The Indian telegraph Act, 185 which empowers the state to intercept, detain, or not to transmit any message, in the interest of public safety, public order, the sovereignty & integrity, and security of the state. Press messages intended to be published in India by correspondents accredited to the central government or the state government can be intercepted or detained only during a public emergency.**
- 3. Indian Post Office Act, 1898 which gives the state or its representatives the right to intercept, detain or not to send any indecent or obscene publications or representations.**
- 4. The Police incitement to Disaffection Act, 1922, which provides for a penalty for spreading disaffection among the police and for related offences.**

5. **Official Secrets Act, 1923, which prohibits obtaining, collecting, recording or publishing of secret government documents or photographs or sketches or models. It is this Act which prevents Indian Journalists from publishing inside information about the government.**
6. **The Security and Public Safety Acts of the various States. These deal with penalties for inciting commission of 'subversive' acts.**
7. **The Drugs and Magic Remedies Objectionable Advertisements Act, 1954, which, in the interests of public health, bans advertisements of magic cures of sexual ailments and the like.**
8. **Section 11 of the Customs Act, 1962 which gives Government the power to ban import and export of goods in the interests of security, public order, and decency and morality.**
9. **The Criminal Procedure Code, 1973 which empowers the State to forfeit copies of a publication that offends Indian Penal Code provisions relating to public order or security of the state.**
10. **The Young Persons Harmful Publications Act, 1956 disallows publication and circulation of any literature likely to encourage anti-social tendencies among children**
11. **Contempt of Courts Act, 1971 relates to the willful disobedience of judicial orders and the like, and to any publication which interferes with or undermines the administration of justice. For example, a journalist is guilty of contempt of court if he or she publishes a report on a case held in camera in the private chamber of the judge)**
12. **the Copyright Act, 1957 as amended up to August 1984 which protects the original works of writers, artists, musicians, dramatists, film and video producers and other creative persons from being pirated.**

CONCLUSION

In the new media today there is growing practice of masquerading paid publicity as genuine news. In this era of economic opening up, lobbyist or even foreign powers can fill news columns with inspired stories if they settle for the right

PR/advertisement firm. Surprisingly, the established ones with decisive market domination often indulge in this pernicious practice of selling news columns. The colour pictures supplements with “pages 3” meet the requirements of both the patrons and clients. Exaggerated pressures from the television and satellite news are used as a pretext for further trivialisation of news columns which, in turn, promotes more commercialisation. If the present trend catches on, there will be no way to stop it. We need to be alive to the danger before it is too late.

The threat has to be met, not by trivialisation, but by more in depth and public interest stories and background on which the print media is on a stronger wicket. Market surveys create cherished myths like the ‘Generation Now’ is disinterested in serious political and economic news and everyone casually glances the colour advertisements. It is not the free market competition but competitive marketing of the media that creates a generation of false notions. Mindless marketing by interested sections could be countered only by better understanding of what the public wants. Media should not forget that its main aim is to provide information to create a sound citizenry.

Realising how important and powerful the media, whether print or electronic, have become today, its responsibilities towards society have also increased manifold. The Preamble of the constitution proclaims the resolve of the people of India to secure:

**Justice, social economic and political; Liberty of thought, expression; Belief, faith and worship; and Equality of status and of opportunity;
And to promote among them
all
Fraternity, assuring the dignity of the individual
And the unity and integrity of
the Nation**

Media can play a significant role in achieving the aim, which the founders of the Constitution have set. The journalists are urged to recollect the glorious role media had played during the freedom struggle and set higher standards for themselves. Imitation of western media without appreciating the context of Indian Society is not going to help the nation, or the press fraternity.

SUMMARY

The term "mass media" refers to the means of public communication reaching a large audience. When members of the general public refer to "the media" they are usually referring to the mass media, or to the news media, which is a section of the mass media. Sometimes mass media are referred to as the "corporate media".

Press 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.

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 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.

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.

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.

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**

Official secret act consolidates the law relating to official secrets, and deals with offences like spying and wrongful communication of secret information. 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 without 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.

Intellectual property IP is a term referring to a number of distinct types of creations of the mind for which property rights are recognized—and the corresponding fields of law. Under intellectual property law, owners are granted certain exclusive rights to a

variety of intangible assets, such as musical, literary, and artistic works; discoveries and inventions; and words, phrases, symbols, and designs. Common types of intellectual property include copyrights, trademarks, patents, industrial design rights and trade secrets in some jurisdictions. Although many of the legal principles governing intellectual property have evolved over centuries, it was not until the 19th century that the term *intellectual property* began to be used, and not until the late 20th century that it became commonplace in the United States.

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.

The Hutchins report was the first scientific study of the press in the USA and first scientific formulation about its responsibilities. This report became the basis for the social responsibility theory. The Hutchins Commission Report said that the freedom of the press was in danger in the United States, 'because in the hands of a few gigantic business units, the media of mass communication vital to the life of our democracy, have failed to accept the full responsibility to the public'. The commission observed that freedom of the press in America was in danger because 'those who controlled' the press did not facilitate the communication of a wide spectrum of ideas.

Some of the professional bodies connected with the Indian press have formulated voluntary codes of conduct as part of their efforts at self-regulation. The code of ethics, evolved by the All India Newspaper Editor's Conference (AINEC), is applicable to the

members of that body. This code, though drafted in general terms, emphasizes the need for journalists to attach due importance to human and social rights in the discharge of their professional obligation, to observe special restraint in reporting or commenting on communal matters and to promote national unity.

The code is essentially persuasive in character; no sanctions have been prescribed for neither its breach nor any machinery created for its enforcement.

ABC's primary objective is to arrive at and certify authentic circulation figures representing Net Paid Sales of member publications and disseminate the data for the use of space buyers. Together with the ABC Certificate, data on territorial distribution of copies in various states, major cities and small towns is included as an add on. As ABC Certificates are regularly referred to for media selection, the publisher has a far better chance of being selected by space buyer members of ABC. By enjoying the confidence of space buyers, publishers are able to increase their Ad revenues and also improve their services.

The Office of the Registrar of Newspapers for India, more popularly known as RNI came into being on 1st July, 1956, on the recommendation of the First Press Commission in 1953 and by amending the Press and Registration of Books Act 1867. The Press and Registration of Books Act contain the duties and functions of the RNI. On account of some more responsibilities entrusted upon RNI during all these years, the office is performing both statutory as well as some non-statutory functions.

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.

Media ethics or journalism ethics is a branch of philosophy concerned with actions that are morally permissible and those that are not. Media ethics assist media workers in determining what is right and how to choose the best from several alternatives. Media ethics constitutes a normative science of conduct and must therefore be applied voluntarily. Ethics should set guidelines, rules, norms, codes and principles that will lead journalists and all other media workers to make moral decisions. They should not be forced to do so because ethics is applied voluntarily.

Cyber Law

Cyber law is like any other legal rule or policy that should be followed in our day to day life to stay out of any kind of trouble. These laws are formed by keeping several issues into consideration such as our society, morals, computer ethics, etc. The only difference is that cyber law is applied to the internet and internet-related technologies only. Cyber law is formed to maintain discipline and justice in the cyber world. This area in the legal system is introduced because the crime related to computers and other technology was increasing rapidly. These types of crimes were not falling under the category of any existing legal category therefore a separate section was formed named Cyber Law.

Cyber law provides legal protections to people using the internet including both businesses and regular citizens. It is important for anyone using the internet to be aware of the cyber laws of their country and local area so that, they know what activity is legal online and what is not. Also, if anything happens with them online, they know how they can act regarding that matter accordingly.

Digital signature

Digital signatures issued by licensed CA's are legally valid in a court of law as per the IT Act, 2000. Under Section 2(p) and Section 3 of the Act, digital signatures are considered reliable, legal and secure because digital signatures employ hash functions and cryptosystems for electronic records.

The right to publish and right to privacy

The right to privacy in terms of Article 21 has been discussed in various cases. Article 12 of Universal Declaration of Human Rights (1948) states that “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence nor to attack upon his honour and reputation.

Convergence Bill

The government also introduced the Convergence Communications Bill, 2001 with an objective of establishing a single regulatory agency — the Communications Commission of India — for licensing and regulation of telecom and broadcasting, including application and content services.

IT Law IT 2000

The Information Technology Act, 2000 (also known as ITA-2000, or the IT Act) is an Act of the Indian Parliament (No 21 of 2000) notified on 17 October 2000. It is the primary law in India dealing with cybercrime and electronic commerce.

Media ombudsman

Press ombudsmannen (or press Ombudsman) is a person whose role in the Swedish print media is to determine whether the actions of a newspaper is in line with good journalistic practice.