

**BJ(MC) -104**

**MEDIA LAWS & ETHICS**

**Course Code: L: 5 T/P : 0 CREDITS : 5**

**Syllabus-**

**Objectives of the Course:** On completion of this course student should be able to:

1. Define freedom of the press as enshrined in article 19(1) (a) of the constitution
2. List the reasonable restrictions for freedom of the press
3. Describe the salient features of the Press Council of India, its powers and functions
4. Identify and apply the necessary provisions of laws and acts applicable to publication and broadcast of news and programmes of a sensitive nature
5. Cover judicial proceedings, parliament and state legislature without attracting penal action

Marks for Internal Assessment : 25

**Unit-I [Freedom of the Press and the Law] L-20**

1. Laws - Bills and Acts, Ordinance, Regulations, Statute, Code, Norms, Conventions
2. Freedom of the press and the Constitution-need for a free press in a democracy
3. Article 19(1)(a) of the Indian Constitution-Freedom of speech and expression
4. Article 19(1)2 reasonable restrictions to freedom of the press
5. Supreme Court decisions on freedom of the press
6. Press laws before Independence and after
7. First Press Commission after Independence
8. The Press Council Acts, National Emergency
9. Composition, role, powers, guidelines and functions of the Press Council

**Unit-II [Media laws pertaining to the State, Citizens, Judiciary, Legislature and Parliament] L-15**

1. **The State:** Sedition-incitement to violence (section 121 IPC) IPC 121 read with 511 inflammatory writing (IPC 353)
2. **Citizens:** Defamation (IPC (499) 500) civil and criminal defamation-libel, slander
3. **Legislature:** Parliamentary privileges / Articles 105 (Parliament) Article 194 (State Legislation)
4. A day in the Parliament/ State Legislature
5. **Judiciary:** Contempt of Court, Covering and reporting court proceedings (Article 361A)
6. **Common court terminology** - Plaintiff, defendant, affidavit, evidence, prosecution, conviction, accused, acquittal, bail, prima facie, subjudice
7. Media Ethics- Why Media Ethics- truth-accuracy-balance-decency-human rights

**Unit-III [Acts and Laws] L-15**

(Introduction to various Acts/Laws which a journalist needs to know)

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2. Role and functions of the Registrar of Newspapers
3. Intellectual Property Rights
4. Copyright Act 1957
5. Official Secrets Act 1923
6. Right to Information Act 2005
7. General Acts: Juvenile Justice Act, Domestic Violence Act, NDPS Act, Working Journalist Act

**Unit-IV [Electronic and New Media Laws] L-10**

1. Emergence of electronic and new media law
2. The AIR Code
3. The Commercial Code of AIR & Doordarshan
4. Cable Television Act and Rules
5. Advertising Standards Council
6. Media regulations: self or govt.?

## Unit-I

### [Freedom of the Press and the Law]

#### Laws - Bills and Acts, Ordinance, Regulations, Statute, Code, Norms, Conventions

**BILL** A draft of a proposed law presented for approval to a legislative body

**ACT** A bill which has passed through the various legislative steps required for it and which has become law

**ORDINANCE** An authoritative order; a decree. For example, in the absence of any session of the Parliament, president of India can issue an ordinance that acts as a law till the Parliament passes it in the immediate session following it.

**STATUTE** A written law passed by a legislative body. Many institutions in the country have been formed the state through statutes. For example, CWC (Children Welfare committee) that has played an important role in the formation of Juvenile Justice Act . It can be passed by local legislative body too.

**NORM** Informal guideline about what is considered normal (what is correct or incorrect) social behavior in a particular group or social unit. Norms form the basis of collective expectations that members of a community have from each other, and play a key part in social control and social order by exerting a pressure on the individual to conform. In short, "The way we do things around here.

**CODE** A systematic and comprehensive compilation of laws, rules, or regulations that are consolidated and classified according to subject matter. It is generally a collection of written laws gathered together, usually covering specific subject matter. Thus, a state may have a civil code, corporation's code, education code, evidence code, health and safety codes, insurance code, labor code, motor vehicle code, penal code, revenue and taxation code, and so forth.

**CONVENTION** Generally conventions are regularly observed practices, having no legal basis and not being enforceable in the courts. All states must evolve conventions to breathe life into their constitution if they are to be flexible enough to survive. They represent important rules of political behavior which are necessary for the smooth running of the constitution. They facilitate evolution and change within the constitution while the legal form remains unchanged. Many

laws have emerged out of conventions. For example Hindu Marriage Act.

**REGULATION** It means the act of regulating something or some institution with a set of rules. It is not necessarily backed by legal power; it can be made by any institution or management of any organization and the employees and other people who are a part of it have to follow them.

### **Freedom of the press and the Constitution-need for a free press in a democracy**

#### **Article 19(1)(a) of the Indian Constitution-Freedom of speech and expression**

Speech is God's gift to mankind. Through speech a human being conveys his thoughts, sentiments and feeling to others. Freedom of speech and expression is thus a natural right, which a human being acquires on birth. It is, therefore, a basic right. "Everyone has the right to freedom of opinion and expression; the right includes freedom to hold opinions without interference and to seek and receive and impart information and ideas through any media and regardless of frontiers" proclaims the Universal Declaration Of Human Rights (1948). The people of India declared in the Preamble of the Constitution, which they gave unto themselves their resolve to secure to all the citizens liberty of thought and expression. This resolve is reflected in Article 19(1)(a) which is one of the Articles found in Part III of the Constitution, which enumerates the Fundamental Rights.

Man as rational being desires to do many things, but in a civil society his desires have to be controlled, regulated and reconciled with the exercise of similar desires by other individuals. The guarantee of each of the above right is, therefore, restricted by the Constitution in the larger interest of the community. The right to freedom of speech and expression is subject to limitations imposed under Article 19(2).

Public order as a ground of imposing restrictions was added by the Constitution (First Amendment) Act, 1951. Public order is something more than ordinary maintenance of law and order. Public order in the present context is synonymous with public peace, safety and tranquility.

#### **Meaning And Scope**

Article 19(1)(a) of Indian Constitution says that all citizens have the right to freedom of speech and expression. Freedom of Speech and expression means the right to express one's own

convictions and opinions freely by words of mouth, writing, printing, pictures or any other mode. It thus includes the expression of one's idea through any communicable medium or visible representation, such as gesture, signs, and the like. This expression connotes also publication and thus the freedom of press is included in this category. Free propagation of ideas is the necessary objective and this may be done on the platform or through the press. This propagation of ideas is secured by freedom of circulation. Liberty of circulation is essential to that freedom as the liberty of publication. Indeed, without circulation the publication would be of little value. The freedom of speech and expression includes liberty to propagate not one's views only. It also includes the right to propagate or publish the views of other people; otherwise this freedom would not include the freedom of press.

Freedom of expression has four broad special purposes to serve:

- 1) It helps an individual to attain self-fulfillment.
- 2) It assists in the discovery of truth.
- 3) It strengthens the capacity of an individual in participating in decision-making.
- 4) It provides a mechanism by which it would be possible to establish a reasonable balance between stability and social change.
- 5) All members of society would be able to form their own beliefs and communicate them freely to others.

In sum, the fundamental principle involved here is the people's right to know. Freedom of speech and expression should, therefore, receive generous support from all those who believe in the participation of people in the administration. It is on account of this special interest which society has in the freedom of speech and expression that the approach of the Government should be more cautious while levying taxes on matters of concerning newspaper industry than while levying taxes on other matters.

#### **Article 19(1)2 reasonable restrictions to freedom of the press**

that right to freedom of speech and expression is one of the most important fundamental right. It includes circulating one's views by words or in writing or through audiovisual instrumentalities, through advertisements and through any other communication channel. It also comprises of right to information, freedom of press etc. the Court has always placed a broad interpretation on the

value and content of Article 19(1)(a), making it subjective only to the restrictions permissible under Article 19(2). Efforts by intolerant authorities to curb or suffocate this freedom have always been firmly repelled, more so when public authorities have betrayed autocratic tendencies.

**Clause (2) of Article 19 contains the grounds on which restrictions on the freedom of speech and expression can be imposed :-**

1) **Security of State:** Under Article 19(2) reasonable restrictions can be imposed on freedom of speech and expression in the interest of security of State. The term "security of state" refers only to serious and aggravated forms of public order e.g. rebellion, waging war against the State, insurrection and not ordinary breaches of public order and public safety, e.g. unlawful assembly, riot, affray. Thus speeches or expression on the part of an individual, which incite to or encourage the commission of violent crimes, such as, murder are matters, which would undermine the security of State.

2) **Friendly relations with foreign states:** This ground was added by the constitution (First Amendment) Act, 1951. The object behind the provision is to prohibit unrestrained malicious propaganda against a foreign friendly state, which may jeopardise the maintenance of good relations between India, and that state. No similar provision is present in any other Constitution of the world. In India, the Foreign Relations Act, (XII of 1932) provides punishment for libel by Indian citizens against foreign dignitaries. Interest of friendly relations with foreign States, would not justify the suppression of fair criticism of foreign policy of the Government.

It is to be noted that member of the commonwealth including Pakistan is not a "foreign state" for the purposes of this Constitution. The result is that freedom of speech and expression cannot be restricted on the ground that the matter is adverse to Pakistan.

3) **Public Order:** This ground was added by the Constitution (First Amendment) Act. 'Public order' is an expression of wide connotation and signifies "that state of tranquility which prevails among the members of political society as a result of internal regulations enforced by the Government which they have established."

Public order is something more than ordinary maintenance of law and order. 'Public order' is

synonymous with public peace, safety and tranquility. The test for determining whether an act affects law and order or public order is to see whether the act leads to the disturbances of the current of life of the community so as to amount to a disturbance of the public order or whether it affects merely an individual being the tranquility of the society undisturbed.

Anything that disturbs public tranquility or public peace disturbs public order. Thus communal disturbances and strikes promoted with the sole object of causing unrest among workmen are offences against public order. Public order thus implies absence of violence and an orderly state of affairs in which citizens can peacefully pursue their normal avocation of life. Public order also includes public safety. Thus creating internal disorder or rebellion would affect public order and public safety.

4) **Decency or morality:** The words 'morality or decency' are words of wide meaning. Sections 292 to 294 of the Indian Penal Code provide instances of restrictions on the freedom of speech and expression in the interest of decency or morality. These sections prohibit the sale or distribution or exhibition of obscene words, etc. in public places. No fix standard is laid down till now as to what is moral and indecent. The standard of morality varies from time to time and from place to place.

5) **Contempt of Court:** Restriction on the freedom of speech and expression can be imposed if it exceeds the reasonable and fair limit and amounts to contempt of court. According to the Section 2 'Contempt of court' may be either 'civil contempt' or 'criminal contempt.'

6) **Defamation:** A statement, which injures a man's reputation, amounts to defamation. Defamation consists in exposing a man to hatred, ridicule, or contempt. The civil law in relating to defamation is still unmodified in India and subject to certain exceptions.

7) **Incitement to an offence:** This ground was also added by the constitution (First Amendment) Act, 1951. Obviously, freedom of speech and expression cannot confer a right to incite people to commit offence. The word 'offence' is defined as any act or omission made punishable by law for the time being in force.

8) **Sedition:** As understood by English law, sedition embraces all those practices whether by words, or writing which are calculated to disturb the tranquility of the State and lead ignorant person to subvert the government. It should be noted that the sedition is not mentioned in clause

(2) of Art. 19 as one of the grounds on which restrictions on freedom of speech and expression may be imposed.

Thus, it can be comprehended that public order holds a lot of significance as a ground of restriction on this fundamental right. But there should be reasonable and proper nexus or relationship between the restriction and achievement of public order. The words 'in the interest of public order' include not only utterances as are directly intended to lead to disorder but also those that have the tendency to lead to disorder.

### **Supreme Court decisions on freedom of the press**

Explaining the scope of freedom of speech and expression Supreme Court has said that the words "freedom of speech and expression" must be broadly constructed to include the freedom to circulate one's views by words of mouth or in writing or through audiovisual instrumentalities. It therefore includes the right to propagate one's views through the print media or through any other communication channel e.g. the radio and the television. Every citizen of this country therefore has the right to air his or their views through the printing and or the electronic media subject of course to permissible restrictions imposed under Article 19(2) of the Constitution

### **Various decisions on the Freedom of Press by the Supreme Court of India**

Government has no monopoly on electronic media: The Supreme Court widened the scope and extent of the right to freedom of speech and expression and held that the government has no monopoly on electronic media and a citizen has under Art. 19(1)(a) a right to telecast and broadcast to the viewers/listeners through electronic media television and radio any important event. The government can impose restrictions on such a right only on grounds specified in clause (2) of Art. 19 and not on any other ground. A citizen has fundamental right to use the best means of imparting and receiving communication and as such have an access to telecasting for the purpose.

### **Press laws before Independence and after**

In 1922, on the request of the Chamber of Princes, the Princes Protection Bill was introduced in the Legislative Assembly. The Assembly rejected the bill. But the Governor-



General, invoking treaty obligations and exercising his special powers under section 67B of the Government of India Act 1919, certified the Bill which became the Indian States (Protection against Disaffection) Act 1922. This Act provided punishment of imprisonments up to 5 years for any person editing, printing or publishing any document which brings into hatred or contempt or excites disaffection towards any prince or chief of a state in India, or the government or administration established in any such state. For material of this nature, the powers of forfeiture under sections 99-A to 99-C of the Criminal Procedure Code and of postal interception under sections 27-B to 27-D of the Indian Post Offices Act were made applicable.

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

To meet the situation posed by the civil disobedience movement of 1930, the government promulgated the Indian Press Ordinance to provide for “better control of the press”. This revived the stringent provisions of the repealed Press Act of 1910. Some 130 newspapers had to deposit securities, nine refused to do so and suspended publications. In 1931, the Indian Press (Emergency Powers) Act was passed. In 1932 the Foreign Relations Act was passed with the object of providing against the publication of statements likely to prejudice the maintenance of friendly relations between the British government and the governments of certain foreign states. The powers of forfeiture under sections 99A-99G of the Criminal Procedure Code and the postal interception under sections 27B-27D of the Indian Post Offices Act were extended by section 3 of this Act to documents containing matter defamatory of such ruler or his consort or son or principal minister of a state outside but adjoining India.

Indian States (Protection) Act was passed in 1934 to protect the administrations of states in India, which were under the suzerainty of the British crown from activities, which tended to subvert or excite disaffection towards or to obstruct such administration. Section 3 of this Act extended to Press Emergency Act Powers 1931 to protect these states.

Before Independence, the Interim Government appointed the Press Laws Enquiry Committee in March 1947 to examine the press laws. The Committee gave its report on 22 May 1948 after Independence and partition of India. After the report of this committee the Act of 1931 was replaced by Press (Objectionable Matter) Act 1951. However, the mood was so much for freedom of press that it was allowed to lapse in February 1956 and was repealed in 1957.

The Indian Constitution gives every citizen fundamental right to freedom of speech and expression and the courts have interpreted that it

includes freedom of the press. Major setback to the freedom of press in India was when Emergency was imposed in June 1975 and censorship was introduced. However, after the defeat of the then ruling party in 1977 General Elections it has not been possible for anybody to follow the example. Press Council advised the Government not to put curbs on the press even in disturbed areas like Jammu and Kashmir. This policy appears to be better than the curbs on the press by Government.

Liberal ethos reinforced after 1977 has affected broadcasting as well. While demand for autonomous corporation to control All India Radio and Doordarshan was accepted and finally Prasar Bharti, an autonomous corporation came into existence from 15 September 1997 after the notification of the Prasar Bharti Act. It has not been possible to come up with a regulator for broadcasting content despite several bills that came to Parliament over the years and private satellite and cable channels are

having a field day enjoying more freedom than in any other part of the world. Though the Government has not allowed news on private radio outfits yet, freedom of print and television channels make India one of the most liberal countries in the world as far as the freedom of media goes. Right to Information Act 2005 has been implemented and this has further extended freedom of media in India.

### **First Press Commission after Independence**

The First Press commission of India was set up in 1952. It was set up with the objective of inquiring the state of press in India after independence. Under the chairmanship of Justice S.

Rajadhyaksha, it was constituted by Ministry of I&B. It was an 11-member working group it was asked to look into factors which influenced the establishment and maintenance of high standards of journalism in India.

After enquiring into the ownership, management and financial structure of the press as well as other aspects of newspaper industry in the country at that time, it submitted its report in 1954. Some of the recommendations and observations of the First Press Commission are as follows:

**1. A Press Council be established whose objects should be:**

- (a) to safeguard the freedom of the press and help the press to maintain its independence.
  - (b) to censure objectionable types of journalistic conduct and by all other possible means to build up a code in accordance with the highest professional standards.
  - (c) to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance.
  - (d) to encourage the growth of a sense of responsibility and of public service among those engaged in the profession of journalism.
  - (e) to study the developments in the press which may tend towards concentration or monopoly, and if necessary, to suggest remedies.
  - (f) to publish reports, at least once a year, recording its work and reviewing the performance of the press, its development and factors affecting them and
  - (d) to improve methods of recruitment, education and training for the profession by the creation of suitable agencies for the purpose such as a Press Institute.
- course.

5. The Commission found that the emoluments received by the journalists were on the whole unsatisfactory and recommended the appointment of a Wage Board for working journalists.

6. The Commission recommended the appointment of Registrar of Newspapers for India (RNI). As a result of this recommendation the office of RNI verifies and regulates the availability of newspapers, registers them, containing detailed information on newspaper. The office also issues entitlement certificates to the newspapers/ periodicals for the import of news print and printing machinery and allied materials required by newspapers.

The second Press Commission of India was formed in May 1978 with Justice P.c.Goswami as its chairman. The commission resigned in 1980. It was reconstituted in April 1980 with Justice K K Mathwe as its chairman. The commission submitted its report in 1982.

The Press Council Acts,, National Emergency

### **Composition, role, powers, guidelines and functions of the Press Council**

The Press Council of India is a statutory body in India that governs the conduct of the print media. It is one of the most important bodies that sustain democracy, as it has supreme power in regards to the media to ensure that freedom of speech is maintained. However, it is also empowered to hold hearings on receipt of complaints and take suitable action where appropriate. It may either warn or censure the errant journalists on finding them guilty. It did so on 21 July 2006, when it censured three newspapers — Times of India (Delhi and Pune), Punjab Kesari (Delhi) and Mid Day (Mumbai) — for violation of norms of journalistic conduct. The Council's actions may not be questioned unless it is proved to be in violation of the constitution, which makes it an exceedingly powerful a body.

#### **Powers-**

The Press Council of India was first set up on 4 July 1966 by the Parliament on the recommendations of the First Press Commission with the object of preserving the freedom of the Press and of maintaining and improving the standards of press in India.

It present Council functions under the Press Council Act 1978. It is a statutory, quasi-judicial body which acts as a watchdog of the press. It adjudicates the complaints against and by the press for violation of ethics and for violation of the freedom of the press respectively.

It has many powers-

- To criticise and stop publishing of any matter that can be considered offensive under Art 19(2) of the Indian Constitution
- To call meetings
- To check,inspect and search for documents or affidavits etc. when needed from time –to – time
- To listen to and act against compliants made by readers or journalists or any other person related to press

- To make code of ethics and issue guidelines ( as needed) for the journalists.

### **Composition-**

The Press Council is headed by a Chairman, who has, by convention, been a retired judge of the Supreme Court of India (except for the first chairman, Justice J. R. Mudholkar, who was a sitting judge of Supreme Court of India in 1968).

The Council consists of 28 other members of whom-

- 20 represent the press and are nominated by the press organisations/news agencies recognised and notified by the Council as all India bodies of categories such as editors, working journalists and owners and managers of newspaper;
- 5 members are nominated from the two houses of Parliament
- 3 represent cultural, literary and legal fields as nominees of the Sahitya Academy, University Grants Commission (U.G.C.) and the Bar Council of India. The members serve on the Council for a term of three years. T

The Council was last reconstituted on 22 May 2001. The present Chairman is Justice Markandey Katju.

### **Complaints Procedure**

A complaint against a newspaper for any publication the complainant finds objectionable and affecting him personally, or for non-publication of any material, should first be taken up with the editor or other representative of the publication concerned.

If the complaint is not resolved satisfactorily, it may be referred the Press Council of India. The complaint must be specific and in writing and should be filed/lodged within two months of the publication of the impugned news item in case of dailies and weeklies and four months in all other cases, along with the original/photostat copy of the impugned clipping .

The complainant must state in what manner the publication/non-publication of the matter is objectionable within the meaning of the Press Council Act, 1978, and enclose a copy of the letter to the editor, pointing out why the matter is considered objectionable. The editor's reply thereto or published rejoinder, if any, may also be attached to it. A declaration stating that the matter is not pending in any court of law is also required to be filed

If a newspaper or journalist is aggrieved by any action of any authority that may impinge on

the freedom of the press, he can also file a complaint with the Council. The aggrieved newspaper or journalist may inform the Council about the possible reason for the action of the authorities against him i.e. if it is as a reprisal measure taken by the authorities due to critical writings or as a result of the policy that may affect the freedom of the press . A declaration regarding the nonpendency of the matter in any court of law is also necessary.

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

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

Guidelines-

## **Unit-II [Media laws pertaining to the State, Citizens, Judiciary, Legislature and Parliament]**

### **State: Sedition Section 121**

Waging, or attempting to wage war, or abetting waging of war, against the Government of India. Whoever wages war against the Government of India, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or imprisonment for life and shall also be liable to fine. For Example, A joins an insurrection against the Government of India. A has

committed the offence defined in this section.

### Section 511

Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.-- Whoever attempts to commit an offence punishable by this Code with imprisonment for life or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one- half of the imprisonment for life or, as the case may be, one- half of the longest term of imprisonment provided for that offence], or with such fine as is provided for the offence, or with both.

Illustrations

**Citizens:** Defamation (IPC (499) 500) civil and criminal defamation-libel, slander

Section 499 of the Indian Constitution 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 knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.”

- That the statement was made in front of some third person

Section 500 provides types of defamation as-

- Slander & Libel-

If the statement is made in writing and published, the defamation is called "libel."

If the hurtful statement is spoken, the statement is "slander." Since the work of a journalist relates to publishing and broadcasting, it comes under 'Libel'.

- Civil and Criminal

When it is proved that the defamation has occurred, whether or not it was intended by the defendant, it is called civil defamation.

But when it becomes necessary to prove that the defamation was caused intentionally, it becomes a criminal case and generally dealt with imprisonment or fine or both.

Punishment-

Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

**Legislature: Parliamentary privileges / Articles 105 (Parliament) Article 194 (State Legislation)**

The provisions dealing with parliamentary privileges and immunities are given in Articles 105 and 194 of the Constitution. To let them work independently and peacefully they have been given some privileges as members of the house. Since, journalists have to report various proceedings of the house, they should know the following privileges-

- No MP whether President or PM can be arrested while attending the house
- No case can be registered against President of India while he is in the office. i.e., this is his privilege as a member of Parliament
- Any MP can deliver his speech in any of the authorized languages in India.
- The Speaker of the House is supreme in the house, even more than PM or President
- Parliament decides when and whom to be allowed in the press gallery for reporting etc.
- If required, the speaker can cancel the entry card of reporters
- Parliament has full right to allow or disallow any journalist or relatives of any MP or any other citizen to enter the house while the proceedings is going on.
- Whatever the MPs say in debate in the house, they won't be subjected to any violation of any restriction given under Art 19 (2) of Indian Constitution.

Upon violation of any of the above privilege, the Parliament acts like court. If a journalist commits any contempt of these privileges, it can be punished also. There are four situations in this regard-

1. Jail term- the guilty journalist may be sent to jail for 15 days
2. Apology- on feeling apology, the speaker might forgive the guilty journalist
3. Scolding- The journalist can be brought into the front of the house and scolded for the contempt fact that he is guilty of attempting.
4. Cancellation of press Card- Upon being found guilty of this kind of contempt, the speaker of the house can cancel the journalist's press card to ban his/her entry into the house in future.



## A day in the Parliament/ State Legislature

### Starred and Unstarred Questions

1. A member has to give a minimum of 15 clear days' notice of a question. Members can give notices of questions from the day following the day on which summons are issued. "However the Speaker can relax the required minimum notice period of 15 clear days to protect the interest of the Members".
2. The notices of questions should be addressed to the Secretary-General, Lok Sabha, in prescribed forms available in the Parliamentary Notice Office. Besides the text of the question, the notice should state clearly the designation of the Minister to whom the question is addressed, as also the date on which the question is desired to be placed on the list of questions for answer. Where a member tables more than one notice of questions for the same day, he/she may indicate the order of preference inter-se.
3. The name of the member should be written in block letters at the top of the notices of Questions. Similarly, the member's division number should also be indicated. Every notice of a question has to be individually signed by the member himself/herself. Notice of questions bearing only stamped/carbon signatures of the members are treated as unsigned notices and are referred back to the members. Notices of questions tabled by members bearing signatures which do not tally with the specimen signatures and their genuineness is in doubt, are treated as invalid and returned to the members concerned requesting them to put their signatures which may tally with the specimen provided by them. Likewise, questions written in illegible hand are liable to be referred back to the members.
4. If a notice is signed by more than one member, it is deemed to have been given by the first signatory only. Each notice of a question should, therefore, be signed by one member only. Notice of each question should be given separately.
5. Members should not give identical notices of questions. Where identical notices of questions are received from different members at the same point of time, a ballot is held to determine the name of the member in whose name the question, if admitted, may appear. The other notices are disallowed. Similarly any other identical notice from any

member, which is received subsequently, is disallowed.

### **Number of Notices**

A member may give not more than ten notices of questions both for oral and written answers, in all, for any day. Notices received in excess of ten from a member for a day are kept for subsequent day(s) concerning that Minister(s) during the period of that session only. Members who intend to give notices for the entire session may do so by indicating their inter se preference. In case, no such preferences are indicated, notices of questions in excess of ten per day are considered for subsequent day(s) on the basis of point of time of their receipt. However, the total number of questions that can be put down in his/her name in the List of Questions, both Starred and Unstarred together, on a day cannot exceed five.

### **ZERO HOUR**

Zero Hour begins immediate after the question hours without giving any prior notice before it. At the very time, any member irrespective of any parties may ask the questions and seeks immediate answers. It generally contains very important topics which is essential to be asked. since the the time starts from 12 noon, it is called Zero Hour.

### **QUESTION HOUR IN LOK SABHA**

Generally, the first hour of a sitting of Lok Sabha is devoted to Questions and that hour is called the Question Hour. It has a special significance in the proceedings of Parliament.

Asking of questions is an inherent and unfettered parliamentary right of members. It is during the Question Hour that the members can ask questions on every aspect of administration and Governmental activity. Government policies in national as well as international spheres come into sharp focus as the members try to elicit pertinent information during the Question Hour. The Government is, as it were, put on its trial during the Question Hour and every Minister whose turn it is to answer questions has to stand up and answer for his or his administration's acts of omission and commission. Through the Question Hour the Government is able to quickly feel the pulse of the nation and adapt its policies and actions accordingly. It is through questions in Parliament that the Government remains in touch with the people in as much as members are enabled thereby to ventilate the grievances of the public in matters concerning the administration. Questions enable Ministries to gauge the popular reaction to their policy and

administration. Questions bring to the notice of the Ministers many an abuse which otherwise would have gone unnoticed. Sometimes questions may lead to the appointment of a commission, a court of enquiry or even legislation when matters raised are grave enough to agitate the public mind and are of wide public importance.

The Question Hour is an interesting part of the Parliamentary proceedings. Although a question mainly seeks information and tries to elicit facts on a particular subject, there are many a time lively and quicksilver repartees between the Members asking the questions and the Ministers answering them. These repartees are sometimes coupled with flashes of wit and humour. That is why the public galleries and the press galleries are packed to capacity during the Question Hour.

### **Telecasting of Question Hour**

With a view to familiarising the public at large about the manner in which the proceedings of the Houses of Parliament are conducted in the Question Hour and how their representatives raise various issues of national/international importance, proceedings of the Question Hour are being telecast since 2 December 1991. Earlier the pre-recorded proceedings of the Question Hour were telecast by Doordarshan on the following day in the morning. From 7 December 1994, the proceedings of the Question Hour of both the Houses are being telecast live on alternate weeks throughout the country on the national channel of Doordarshan from 1100 hrs. to 1200 hrs. All India Radio is also broadcasting the proceedings of the Question Hour of both the Houses from 2200 hrs. to 2300 hrs. in the same night on their national hook up. It has been arranged in such a manner that during the telecast of the Question Hour of one House by Doordarshan, the Question Hour of the Other House is broadcast by All India Radio. In addition, the proceedings of the Question Hour and the entire post-lunch proceedings of Lok Sabha are being telecast live on a separate terrestrial channel through a Low Power Transmitter (LPT) with a reach of 10-15 kms, installed in Parliament House. The entire proceedings of Rajya Sabha are also being telecast live daily since 7 December 1994 through a separate LPT.

### **MOVING MOTIONS**

A motion is an important public matter which is talked on the parliament which is asked by a member of the parliament and the member who asked about the issue is known as mover. The mover must get the permission from the chairman to speak about the problem. The permission

given by the chairman is known as "obtaining the floor". The mover may start with the phrase "I move" and the types of motions are

- \* Adjournment Motions
- \* Call Attention Motions
- \* Censure Motions
- \* Cut Motions
- \* No Confidence Motions
- \* Privilege Motions

The first hour of the parliament is meant for question hour and asking questions is the basic right of the members of the parliament and the members will ask about the working of the government in various fields. The respective minister must stand and answer the question about his administration. Oral answers to questions are considered.

1. **Privilege motion:** When a member, usually of the opposition party feels that a minister of the government has misled the house, he can move a privilege motion against the minister for providing wrong information to the house. Whenever a member feels that there is a breach of privilege, he or she can move a privilege motion with the permission of the chair.

2. **Censure motion:** The censure motion is usually moved by the opposition party against the ruling party or any of its ministers for failure to act in certain matter. The motion is moved to seek the disapproval of certain policy of the government in power. The motion must clearly specify the charges against the government. In case the censure motion is passed, the government has to seek the confidence of the house, immediately after it is passed in the house. The Censure motion can be moved only in the Lok Sabha and not in the Rajya Sabha.

3. **No-Confidence motion:** This motion is also allowed to be moved only in the Lok Sabha. Any opposition party can bring in the no confidence motion in the Lok Sabha. No confidence motion is against the entire council of ministers and not against any particular minister. Unlike the censure motion, the mover of the motion does not require any specific charges to be laid down before the house before it is allowed. Once a no-confidence motion is allowed by the chair, this takes precedence over all the pending business of the house, and is taken up first. Usually, the Prime Minister answers to the allegations after the members have spoken in favour of the motion

or against it. The Council of Ministers is bound to resign once the No-confidence Motion is passed by the house.

**4. Call Attention Motion:** After permitted by the chair, a member of the parliament can move the call attention motion to call the attention of a minister towards any matter of urgent public importance. Such a motion in the Rajya Sabha is not called by the name 'Call attention' motion but instead a similar motion exists in the Rajya Sabha by the name "Motion for Papers".

**5. Adjournment Motion:** It is a motion to adjourn the motion of the business of the house for discussion to discuss a definite matter of urgent public importance. This has to be done with the permission of the chair.

**6. Cut Motions:** This motion is in the form of veto power which the members of the Lok Sabha enjoy when the demands in the financial bill are discussed in the Lok Sabha. This serves an effective tool in the hands of the opposition to test the strength of the ruling government. It has the same effect as the no-confidence motion. If the cut motion is adopted by the house against the government, the council of ministers will have to resign. This motion is a part of budgetary process that seeks to reduce the amount of grants. Cut-motions can be moved only in the Lok Sabha. The cut motions are divided into three categories, viz, disapproval of policy cut, economy cut and token cut. The specific phrases are used in these three types of categories of cut motions. The first category disapproves the policy cut by using the term 'that the amount of the demand be reduced to Re.1/- which represents the disapproval of the policy underlying the demand. The second type of cut motion, the specific phrase "the amount of the demand be reduced by rupees ... (a specified amount). The third category is a token cut and is moved only to highlight a specific grievance within the sphere of the responsibility of the government and thereby the specific phrase used for this kind of cut is "the amount of the demand be reduced by Rs.100."

**Judiciary:** Contempt of Court, Covering and reporting court proceedings (Article 361A)

**Contempt of court** is a court order which in the context of a court trial or hearing, declares a person or organization to have disobeyed or been disrespectful of the court's authority. Often referred to simply as "contempt," such as a person "held in contempt," it is the judge's strongest power to impose sanctions for acts which disrupt the court's normal process.

A finding of contempt of court may result from a failure to obey a lawful order of a court, showing disrespect for the judge, disruption of the proceedings through poor behaviour, or publication of material deemed likely to jeopardize a fair trial. A judge may impose sanctions such as a fine or jail for someone found guilty of contempt of court

In India contempt of court is of two types:

1. **Civil Contempt** - Under Section 2(b) of the Contempt of Courts Act of 1971, civil contempt has been defined as wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court.
2. **Criminal Contempt**- Under Section 2(c) of the Contempt of Courts Act of 1971, criminal contempt has been defined as the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which: (i) Scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court, or (ii) Prejudices, or interferes or tends to interfere with the due course of any judicial proceeding, or (iii) Interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner. (a) 'High Court' means the high court for a state or a union territory and includes the court of the judicial commissioner in any union territory.

Contempt can be of Civil or Criminal nature

Criminal contempt involves an intentional interference with the administration of justice, while civil contempt is disobedience to orders or judgements of the court with only knowledge of the order or judgement, not intent to interfere, being needed. Civil contempt requires only a preponderance of the evidence while criminal requires proof beyond reasonable doubt.

The contempt can be direct or indirect, depending upon whether the contempt has occurred in front of the court or outside it.

A journalist can be guilty of contempt of court in the following cases-

1. If his act disturbs the eye-witnesses in any case in any manner
2. If, in his report, there is any comment about the conduct or character of the judge
3. If, in his report, he claims that a certain judge has given some judgement due to bribe or some other reasons intentionally
4. If there is any question on the character of the judge in his report

5. If the case has not been completed and he has commented on the case in his own views.
6. If, despite of court's order for secret hearing, he attends to and report the proceedings
7. Upon criticism of judgement in his own views
8. Upon calling by the court for any purpose , not following its order can also lead to contempt of court
9. Upon raising any doubt or question on the capability or potential or mental or physical fitness or character of any judge in any context

### **Punishment and Defence**

If any journalist is found guilty of the contempt of court, he can be imprisoned for a term extending up to two years or fine or both . The following defences are available to guilty journalists-

1. The report was fair and based on facts
2. If he proves that he had no idea of the case being pending in the court
3. If he has any privilege of writing 'that kind of' statement
4. That he has written the truth can only partially help

### **Common court terminology.**

**Plaintiff-** A person who brings a case against another in a court of law.

**b. Defenddant-** An individual, company, or institution sued or accused in a court of law.

**c. Affidavit-** A written statement confirmed by oath or affirmation, for use as evidence in court.

**d. Evidence-** The available body of facts or information indicating whether a belief or proposition is true or valid

**e. Prosecution-** The party instituting or conducting legal proceedings against someone in a lawsuit

**f. Conviction-** A formal declaration that someone is guilty of a criminal offense, made by the verdict of a jury or the decision of a judge in a court...

**g. Accused-** A person or group of people who are charged with or on trial for a crime.

**h. Acqittal-** A judgment that a person is not guilty of the crime with which the person has been charged: "the trial resulted in an acquittal".

- i. Bail- Security, usually a sum of money, exchanged for the release of an arrested person as a guarantee of that person's appearance for trial.
- j. Prima Facie- Based on the first impression; accepted as correct until proved otherwise
- k. Subjudice- Under judicial consideration and therefore prohibited from public discussion elsewhere

### **Media Ethics- Why Media Ethics**

#### **Media Ethics in the Future**

Over time, the free market based Libertarian model has resulted in a number of problems, from corporate and political censorship, to media bias. Stories, that would logically be important are not always reported, and are in fact substituted with more entertaining news. For example, major world issues, such as the ongoing conflict in Somalia, are seldom covered in the news, while media outlets become saturated with sensationalist news such as the death of Michael Jackson. Also, without the requirement of social responsibility, the Western media tends to cover only the political candidates that can afford advertisements, limiting the coverage of various political movements.

These tendencies result in a lack of media ethics and a deluge of entertaining information, but not necessarily the most important information. Major humanitarian issues can go unnoticed for years, environmental problems are covered intermittently, and many voices remain unheard. Media continues to change however. With the internet, there are new opportunities for information to be spread and knowledge to be shared.

The media system of the future may not fall into either the social responsibility or Libertarian model, as the public is no longer dependent on mass media sources for news. What role media ethics will play in the new system only the future can tell.

Various ethics of journalism-

1. Truth- the pursuit of truth by the journalist surely partakes wisdom, courage, temperance and justice. Thus, at the base of journalistic ethics is an allegiance to truth. It is the authenticity of the information contained in the story that is the journalist's chief editorial concern. It is hard to verify truth if the source's name is hidden from the public.
2. Decency- A newspaper cannot escape conviction of insincerity if, while possessing high



moral purpose, it supplies incentives to base conduct, such as are to be found in details of crime and vice, publication of which is not demonstrable for the general good.

Lacking authority to enforce its canons, the journalism here represented can but express the hope that deliberate pondering to vicious instincts will encounter effective public disapproval or yield to the influence of a preponderant professional condemnation.

3. Accuracy- good faith with the reader is the foundation of all journalism worthy of name.

For this, the newspaper should maintain truthfulness and accuracy. Headlines should be fully warranted by the contents of the articles which they surmount. The facts reported should be accurate so that the reader gets the original and accurate picture of the event in question. It is important to establish and maintain credibility of the newspaper among the public.

4. Human Rights- Though the human rights have a very wide scope, but the daily activities of a journalist should be governed by the principles of human rights. It means that they can not turn their eye over any violation of human rights nor themselves should accept any such act. Any caste, creed, color, religion should not interfere with that. Especially, while covering the riots or mass level hazards or any other natural calamities, the loss of lives and property and their feelings should not be sensationalized or misrepresented or glorified. This demands a basic sense of recognizing the right to live, to get informed, to inform, to communicate etc, with full dignity and peace.

5. Balance- The principle of balance demands that while reporting or writing any event /incident/act, a journalist should maintain a balance between various aspects. His perceptions, caste, religion, color, feelings should not interfere in his work. While working on some story that involves more than one party, they should report the views and sides of all of them instead of highlighting one or more aspects of any one of them.

### **Unit-III [Acts and Laws]**

#### **Press & registration of Books Act, 1867**

The Press and Registration of Books Act, 1867 has been enacted for the regulation of printing-presses and newspapers, for the preservation of copies of books and

newspapers printed in India and for the registration of such books and newspapers. This is the oldest law relating to the press, still existing in India. This regulatory law was aimed to enable the government to regulate printing presses and newspapers and other matter printed in India. Several minor amendments were made in the Act to fulfill the need of the changing situation. However, on the basis of the recommendations of the First Press Commission in 1953, a major amendment was made in the Act which created the Office of the Registrar of Newspapers of India (RNI) and laid down its duties and functions. It started to function in 1956. The Act contains the particulars to be printed on books and papers, rules as to publication of newspapers and requires the keeper of printing press to make certain declarations.

#### **How to start a newspaper-**

1. The first step to start a newspaper is to get the title (name of the proposed newspaper) verified from RNI.
2. For this the publisher has to make an application for title verification indicating the name, language, periodicity, owner name and place of publication of the newspaper proposed, and submit it to the District Magistrate concerned.
3. The District Magistrate after ensuring the credentials of the applicant, will forward the application to the RNI, who in turn checks the availability of the title and if found verifies it. RNI informs the DM and publisher, the availability of the title by issuing a letter of title verification.
4. After this, the publisher has to file a declaration with the District Magistrate in the prescribed format available and can start publishing the newspaper.
5. The first issue of the newspaper should be printed within 42 days from the date of authentication of the declaration if it is a daily or weekly and in case of other periodicals, within 90 days.
6. The application for registration can be submitted to the RNI along with an attested copy of the declaration, copy of title verification, first issue of the newspaper and a 'No Foreign Tie up' affidavit duly attested by a Notary.
7. The newspaper should contain volume number, issue number, title prominently

displayed on the cover page and all pages, date line and page number on all pages and an imprint line containing the name of printer, publisher, owner and editor, address of the place of publication and name and address of the printing press.

8. If the printer and publisher are different persons, separate declarations are required

### **What are the formalities required after registration**

A copy of the newspaper should be delivered to the RNI whenever it is printed. The first issue after the last day of February should contain the Form No.IV duly filled in (Statement regarding ownership and other particulars of the newspaper). It is also mandatory to submit an annual statement in form II, on or before the last day of May every year. In case of daily newspapers, an additional form AR-R may also be submitted.

### **When to file fresh declaration**

Whenever there is a change of publisher, printer, owners, periodicity and printing press, the publisher/printer has to make a fresh declaration...

### **Role and functions of the Registrar of Newspapers**

The office of the Registrar of Newspapers for India (RNI) came into being on 1 July 1956, on the recommendation of first Press Commission in 1953 and by amending the Press and Registration of Books Act, 1867. The Registrar of Newspapers for India, commonly known as Press Registrar, was required, inter alia to submit an Annual report to the Government by 31 December every year on the status of newspapers. The period for which an annual report was to be submitted, was changed from calendar year to financial year in 2002.

The Press and Registration of Books Act contains 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 newspapers published under valid declaration;
- Scrutiny and analysis of annual statements sent by the publishers of newspapers every

year under PRB Act containing information on circulation, ownership etc.;

- Informing district magistrates about availability of titles, to intending publishers for filing declaration;
- Ensuring that newspapers are published in accordance with the provisions of PRB Act 1867 and the rules made thereunder;
- Verification under Section 19-F of PRB Act, of circulation claims furnished by the publishers in their Annual Statements; and
- Preparation and submission to the Government on or before December 31 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 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
- 

## **Copyright Act 1957**

### **What is Copyright?**

According to Section 14 of the Act, “copyright” means “the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely:-

- (a) in the case of a literary, dramatic or musical work, not being a computer programme, -
- (i) to reproduce the work in any material form including the storing of it in any medium by electronic means;
  - (ii) to issue copies of the work to the public not being copies already in circulation;
  - (iii) to perform the work in public, or communicate it to the public;
  - (iv) to make any cinematograph film or sound recording in respect of the work;

- (v) to make any translation of the work;
- (vi) to make any adaptation of the work;
- (vii) to do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-clauses (i) to (vi);
- (b) in the case of a computer programme,-
- (i) to do any of the acts specified in clause (a);
- (ii) to sell or give on commercial rental or offer for sale or for commercial rental any copy of the computer programme:
- Provided that such commercial rental does not apply in respect of computer programmes where the programme itself is not the essential object of the rental.
- (c) in the case of an artistic work,-
- (i) to reproduce the work in any material form including depiction in three dimensions of a two dimensional work or in two dimensions of a three dimensional work;
- (ii) to communicate the work to the public;
- (iii) to issue copies of the work to the public not being copies already in circulation;
- (iv) to include the work in any cinematograph film;
- (v) to make any adaptation of the work;
- (vi) to do in relation to an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to (iv);
- (d) In the case of cinematograph film, -
- (i) to make a copy of the film, including a photograph of any image forming part thereof;
- (ii) to sell or give on hire, or offer for sale or hire, any copy of the film, regardless of whether such copy has been sold or given on hire on earlier occasions;
- (iii) to communicate the film to the public;
- (e) In the case of sound recording, -
- (i) to make any other sound recording embodying it;
- (ii) to sell or give on hire, or offer for sale or hire, any copy of the sound recording regardless of whether such copy has been sold or given on hire on earlier occasions;

(iii) to communicate the sound recording to the public. Explanation : For the purposes of this section, a copy which has been sold once shall be deemed to be a copy already in circulation.”

### **Term of copyright**

Copyright generally lasts for a period of sixty years.

- In the case of literary, dramatic, musical or artistic works, the sixty year period is counted from the year following the death of the author.

- In the case of cinematograph films, sound recordings, photographs, posthumous publications, anonymous and pseudonymous publications, works of government and public undertakings and works of international organisations, the 60-year period is counted from the date of publication. ii

In case of Broadcast reproduction right - 25 years from the beginning of the calendar year next following the year in which the broadcast is made.

-In case of Performers right - 25 years from the beginning of the calendar year next following the year in which the performance is made.

### **OFFICIAL SECRETS ACT 1923**

Official Secrets Act was made in 1923 by the then British Government to hide various things from common Indian people. It deals with those things and acts that the state considers secret. It has two parts- Sec 3 and Section 5.

Section 3 deals with the spying and Section 5 deals with the revelation of the information that has been considered secret by the government. Since, journalists deal with the reporting and writing work about various govt informations and activities, the second part applies on them.

The act prohibits the following-

1. Entering the places which are prohibited for the reasons of security and interest of the country, and directly or indirectly passing on any information related to such place to the enemy of the state

2. Making or publishing any sketch, plan, model or photo of prohibited places without permission that has the possibility of passing on such information to the enemy of the state.

3. Any attempt under this Act to impact the sovereignty, integrity and secularism of the Indian Republic
4. Establishing or trying to establish any contact with the foreign agent which can adversely impact the national interests.
5. Posing oneself falsely as a government officer.
6. Handing over the government stamps, Photos, secret plans etc, to unofficial person.
7. Using government stamps etc, without departmental permission
8. Illegal production of government stamps etc.
9. Keeping official documents illegally with oneself and not handing over the same even after demand from the state.

Punishments under the Act range from three to fourteen years imprisonment. A person prosecuted under this Act can be charged with the crime even if the action was unintentional and not intended to endanger the security of the state. The Act only empowers persons in positions of authority to handle official secrets, and others who handle it in prohibited areas or outside them are liable for punishment.

In any proceedings against a person for an offence under this Act, the fact that he has been in communication with, or attempted to communicate with a foreign agent, whether within or without India is relevant and enough to necessitate prosecution. Journalists also have to help members of the police forces above the rank of the sub-Inspector and members of the Armed forces with investigation regarding an offence, up to and including revealing his sources of information (If required).

Under the Act, search warrants may be issued at any time if the magistrate feels that based on the evidence in front of them there is enough danger to the security of the state.

Uninterested members of the public may be excluded from court proceedings if the prosecutions feels that any information which is going to be passed on during the proceedings is sensitive.

This also includes media; so the journalists will not be allowed to cover that particular case.

When a company is seen as the offender under this Act, everyone involved with the management of the company including the board of directors can be liable for punishment. In the case of a

newspaper everyone including the editor, publisher and the proprietor can be jailed for an offence.

## WORKING JOURNALISTS ACT

This act, which is based on the recommendation of First Press Commission, gave journalists an identity of an employee and brought them under the scope of Industrial Disputes Act 1947.

The Act has put forward a specific definition of a journalist. Along with deciding the terms of their service, it provides for the formation of wage boards for them from time-to-time. Through this Act, the state states that publishing a newspaper and running a news agency is an industry of high repute, and thus the laws made for ordinary workers are not applicable on them as the nature, conditions and environment of their work is different.

The Act states that the employer must give six months notice to editor and three months notice to other working journalists before making them leave their work. The Act deals with the job timings, hours of work, gratuity, payment. It makes one day off per one working week compulsory along with providing for medical and emergency leaves.

Separate Wage Boards are formed from time to time for journalists and non-journalist employees.

## RIGHT TO INFORMATION ACT 2005

The **Right to Information Act (RTI)** is an Act of the Parliament of India "to provide for setting out the practical regime of right to information for citizens" and replaces the erstwhile Freedom of Information Act, 2002. The Act applies to all States and Union Territories of India except the State of Jammu and Kashmir. Jammu and Kashmir has its own act called Jammu & Kashmir Right to Information Act, 2009. Under the provisions of the Act, any citizen may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerize their records for wide dissemination and to pro-actively publish certain



categories of information so that the citizens need minimum recourse to request for information formally. This law was passed by Parliament on 15 June 2005 and came fully into force on 13 October 2005. Information disclosure in India was hitherto restricted by the Official Secrets Act 1923 and various other special laws, which the new RTI Act now relaxes.

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

### **Intellectual Property Rights**

**1. The Patents Act , 1970-** The history of Patent law in India starts from 1911 when the Indian Patents and Designs Act, 1911 was enacted. The present Patents Act, 1970 came into force in the year 1972, amending and consolidating the existing law relating to Patents in India. The Patents Act, 1970 was again amended by the Patents (Amendment) Act, 2005, wherein product patent was extended to all fields of technology including food, drugs, chemicals and micro organisms. After the amendment, the provisions relating to Exclusive Marketing Rights (EMRs) have been repealed, and a provision for enabling grant of compulsory license has been introduced. The provisions relating to pregrant and post-grant opposition have been also introduced.

An invention relating to a product or a process that is new, involving inventive step and capable of industrial application can be patented in India. However, it must not fall into the category of inventions that are non-patentable as provided under Section 3 and 4 of the (Indian) Patents Act, 1970. In India, a patent application can be filed, either alone or jointly, by true and first inventor or his assignee.

## Procedure for Grant of a Patent in India

After filing the application for the grant of patent, a request for examination is required to be made for examination of the application by the Indian Patent Office. After the First Examination Report is issued, the Applicant is given an opportunity to meet the objections raised in the report. The Applicant has to comply with the requirements within 12 months from the issuance of the First Examination Report. If the requirements of the first examination report are not complied with within the prescribed period of 12 months, then the application is treated to have been abandoned by the applicant. After the removal of objections and compliance of requirements, the patent is granted and notified in the Patent Office Journal. The process of the grant of patent in India can also be understood from the following flow chart:

**Payment of Renewal Fee-** It is important to note that a patentee has to renew the patent every year by paying the renewal fee, which can be paid every year or in lump sum.

### General Acts:

Juvenile Justice Act Domestic Violence Act, NDPS Act, Working Journalist Act

The involvement of a "minor" in the horrific Delhi gangrape has sparked a debate on the Juvenile Justice Act, including whether exceptions should be made depending on the crime or if the age of a juvenile itself should be lowered. With the Supreme Court on Monday deciding to examine the definition of juvenile in the Act, The Indian Express looks at the law and the nuances of its statutory provisions:

### What is the Act?

The Juvenile Justice (Care and Protection of Children) Act, 2000, amended in 2006 and 2011, contains statutory provisions to handle cases relating to minor offenders, called as "delinquents," "juveniles in conflict with law" or as "children in need of care and protection". The word "accused" is not purposely used for minor offenders so as to prevent the stigma associated with it. The Act is essentially a social welfare legislation, crafted specially to deal with offenders under the age of 18 and aimed at their proper care, protection and treatment through catering to their development needs. It makes it mandatory for juvenile courts to adopt a child-friendly

approach in the adjudication and disposition of matters.

### **What is the definition of 'juvenile' as per law?**

Section 2(k) of the Act defines a "juvenile" or a "child" as a person who has not completed 18 year of age while 2(l) says a "juvenile in conflict with law" means a juvenile who is alleged to have committed an offence. Regarding determination of the age of a juvenile, the Act calls for a "due inquiry" by competent authority — usually the Juvenile Justice Board. Rules under the Act lay down that medical opinion on the age of an accused be sought only if he fails to produce matriculation or an equivalent educational certificate, or a birth certificate in absence of the former.

These principles convey the essence of the Act which is to ensure that:

1. The child remains within the family and institutionalization is the last resort;
2. Every decision is made on a case to case basis, looking at the unique circumstances of the child;
3. Decisions are informed by a thorough assessment of the child and his/her situation;
4. Confidentiality is ensured in all processes pertaining to the child and her/his family;
5. Informed consent of the child is sought in all processes including for interviewing the child, medical testing etc and the child's views are taken into account in the process of decision making;
6. Protection of the child is ensured at all stages of rehabilitation and social integration;
7. The child's progress is reviewed on a periodic basis

### **DOMESTIC VIOLENCE ACT**

What specific provisions of law deal with domestic violence? In 1983, domestic violence was recognised as a specific criminal offence by the introduction of section 498-A into the Indian Penal Code. This section deals with cruelty by a husband or his family towards a married woman. Four types of cruelty are dealt with by this law: conduct that is likely to drive a woman to suicide, conduct which is likely to cause grave injury to the life, limb or health of the woman, harassment with the purpose of forcing the woman or her relatives to give some property, or

harassment because the woman or her relatives is unable to yield to demands for more money or does not give some property. The punishment is imprisonment for upto three years and a fine. The complaint against cruelty need not be lodged by the person herself. Any relative may also make the complaint on her behalf. What are the forms of "cruelty" recognised by the Courts? Persistent denial of food, Insisting on perverse sexual conduct, Constantly locking a woman out of the house, Denying the woman access to children, thereby causing mental torture, Physical violence, Taunting, demoralising and putting down the woman with the intention of causing mental torture, Confining the woman at home and not allowing her normal social intercourse, Abusing children in their mother's presence with the intention of causing her mental torture, Denying the paternity of the children with the intention of inflicting mental pain upon the mother, and Threatening divorce unless dowry is given. What is a "matrimonial home"? What rights do women have in their matrimonial home? The matrimonial home is the household a woman shares with her husband; whether it is rented, officially provided, or owned by the husband or his relatives. A woman has the right to remain in the matrimonial home along with her husband as long as she is married, though there is no definite law regarding this right. If a woman is being pressurised to leave the matrimonial home, she can ask the Court for an injunction or "restraining order" protecting her from being thrown out. This can usually be obtained quite easily. It is generally advisable not to leave the matrimonial home; it is easier to get a court order preventing a woman being thrown out than to get an order enforcing her right to return to it once she has left or been thrown out. What is an 'Injunction' and how does it apply to domestic violence cases? An injunction is a court order directing a person to do or not to do something. A woman has a lot of flexibility regarding what she can request the Court to order. For instance, if she is being stalked by somebody (including her husband), she can obtain injunctions against the person coming near her home or place of work, or even telephoning her. What can be done in the case of dowryrelated harassment or dowry death? Section 498-A of the Indian Penal Code covers dowryrelated harassment. As with other provisions of criminal law, a woman can use the threat of going to court to deter this kind of harassment. The Indian Penal Code also addresses dowry deaths in section 304-B. If a woman dies of "unnatural causes" within seven years of marriage and has been harassed for dowry before her death, the Courts will assume that it is a case of

dowry death. The husband or in-laws will then have to prove that their harassment was not the cause of her death. A dowry death is punishable by imprisonment of at least seven years. When filing an FIR ( First Hand Report), in a case where a woman is suspected to have been murdered after a history of torture due to dowry demands, the complaint should be filed under section 304-B rather than under section 306, which deals with abetment to suicide. Section 306 should be invoked when a woman commits suicide because of dowry-related harassment. Can you refuse to have sex with your husband? Is there a law on marital rape? Since India does not have a law on marital rape, even if a woman's husband has sexual intercourse with her without her consent, he cannot be prosecuted for rape. However, excessive and unreasonable demands for sex, or demands for unnatural sex have been considered forms of cruelty and may entitle a woman to a divorce. If a woman is judicially separated, her husband cannot have sexual intercourse with her without her consent. If he does, he can be prosecuted under section 376-A of the IPC. Note that consent under pressure (e.g. because of threats to injure or to stop paying maintenance) is not considered valid. What can a woman do to prevent domestic violence? One option is to get the woman's husband to execute a "bond to keep peace", or a "bond of good behaviour" through the Executive, Magistrate who can order the husband to put a stop to domestic violence. The husband can also be asked to deposit securities (i.e. money or property) that will be forfeited if he continues to act violently. ? Distinction between Civil and Criminal Law The distinction between civil and criminal law is a basic part of the Indian legal system. Civil laws deal with the rights and obligations of people and what is needed to protect them, while criminal law deals with offences and their punishment. In a criminal offence, the State takes upon itself the responsibility to investigate and collect evidence (through the police), to fight the case in court (through a public prosecutor) and enforce the punishment. Robbery, murder and kidnapping are examples of criminal offences. Criminal offences are dealt with by the Indian Penal Code (IPC). The procedure by which a criminal trial is conducted is quite different from the processes involved in a civil trial. An important difference is that the "standard of proof" required in criminal cases is much higher than in civil cases. Since criminal law is centrally linked with issues of punishment, allegations and facts must be proved "beyond reasonable doubt", so that innocent people are not punished. In civil cases, the courts scrutinise the "balance of

probabilities" before deciding in whose favour to make a judgement. However, there are some situations in which both civil and criminal law apply. Inflicting physical violence on a wife or daughter-in-law as well as subjecting her to cruelty - physical, mental or emotional - in a marriage is not only a civil offence and provides ground for divorce (a "matrimonial offence"), but is also a criminal offence under the Indian Penal Code, for which a person can be imprisoned. The laws dealing with marital abuse have been made very stringent through amendments in the Indian Penal Code and the Evidence Act.

### **NDPS Act**

The NDPS Act 1985 sets out the statutory framework for drug law enforcement in India. The main elements of the control regime mandated by the Act are as follows:

a)

The cultivation, production, manufacture, possession, sale, purchase, transportation, warehousing, consumption, inter-State movement, transshipment and import and export of narcotic drugs and psychotropic substances is prohibited, except for medical or scientific purposes and in accordance with the terms and conditions of any license, permit or authorization given by the Government. (Section 8)

b) The Central Government is empowered to regulate the cultivation production, manufacture, import, export, sale, consumption, use etc of narcotic drugs and psychotropic substances. (Section 9).

State Governments are empowered to permit and regulate possession and inter-State movement of opium, poppy straw, the manufacture of medicinal opium and the cultivation of cannabis excluding hashish. (Section 10).

d) All persons in India are prohibited from engaging in or controlling any trade whereby narcotic drugs or psychotropic substances are obtained outside India and supplied to any person outside India except with the previous authorisation of the Central Government and subject to such conditions as may be imposed by the Central Government. (Section 12).

e) The Central Government is empowered to declare any substance, based on an assessment of its likely use in the manufacture of narcotic drugs and psychotropic substances as a controlled substance. (Section 9-A).

- f) Assets derived from drugs trafficking are liable to forfeiture (Chapter V-A).
- g) Both the Central Government and State Governments are empowered to appoint officers for the purposes of the Act.(Sections 4, 5 and 7).

## **ENFORCEMENT**

Given India's size and the federal nature of our polity, a number of agencies both at the Centre and in the States have been empowered to enforce the provisions of the Act. These agencies include the Department of Customs and Central Excise, the Directorate of Revenue Intelligence, the Central Bureau of Narcotics and the Central Bureau of Investigation at the Central level and State Police and Excise Departments at the State level. The Union Ministries of Social Justice and Empowerment and Health are responsible for the demand reduction aspects of drug law enforcement which broadly covers health-care and the deaddiction, rehabilitation and social reintegration of addicts.

## **Unit-IV [Electronic and New Media Laws]**

### **Emergence of electronic and new media law**

#### **Prasar Bharti Act**

The Prasar Bharati Act provides for establishment of a Broadcasting Corporation, to be known as Prasar Bharati, to define its composition, functions and powers. The Act grants autonomy to All India Radio and Doordarshan, which were previously under government control.] The Act received assent of President of India on September 12, 1990. after being unanimously passed by Parliament. It was finally implemented in September 1997. By the Prasar Bharati Act, all the property, assets, debts, liabilities, payments of money due, all suits and legal proceedings involving Akashvani (All India Radio) and Doordarshan were transferred to Prasar Bharati.

#### **Functions and Objectives-**

The primary duty of the Corporation is to organise and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.

The Corporation shall, in the discharge of its functions, be guided by the following objectives,

namely:

- Upholding the unity and integrity of the country and the values enshrined in the Constitution.
- Safeguarding the citizen's right to be informed freely, truthfully and objectively on all matters of public interest, national or international, and presenting a fair and balanced flow of information including contrasting views without advocating any opinion or ideology of its own.
- Paying special attention to the fields of education and spread of literacy, agriculture, rural development, environment, health and family welfare and science and technology.
- Providing adequate coverage to the diverse cultures and languages of the various regions of the country by broadcasting appropriate programmes.
- Providing adequate coverage to sports and games so as to encourage healthy competition and the spirit of sportsmanship.
- Providing appropriate programmes keeping in view the special needs of the youth.
- Informing and stimulating the national consciousness in regard to the status and problems of women and paying special attention to the upliftment of women.
- Promoting social justice and combating exploitation, inequality and such evils as untouchability and advancing the welfare of the weaker sections of the society.
- Safeguarding the rights of the working classes and advancing their welfare.
- Serving the rural and weaker sections of the people and those residing in border regions, backward or remote areas.
- Providing suitable programmes keeping in view the special needs of the minorities and tribal communities.
- Taking special steps to protect the interests of children, the blind, the aged, the handicapped and other vulnerable sections of the people.
- Promoting national integration by broadcasting in a manner that facilitates communication in the languages in India; and facilitating the distribution of regional broadcasting services in every State in the languages of that State.
- Providing comprehensive broadcast coverage through the choice of appropriate



technology and the best utilisation of the broadcast frequencies available and ensuring high quality reception.

- Promoting research and development activities in order to ensure that radio broadcast and television broadcast technology are constantly updated

### **The AIR Code**

#### **Broadcast on All India Radio by individuals will not permit:**

1. Criticism of friendly countries;
2. Attack on religions or communities;
3. Anything obscene or defamatory;
4. Incitement to violence or anything against maintenance of law & order
5. Anything amounting to contempt of court;
6. Aspersions against the integrity of the President, Governors and the Judiciary.
7. Attack on a political party by name;
8. Hostile criticism of any State or the Center;
9. Anything showing disrespect to the Constitution or advocating change in the Constitution by violence; but advocating changes in a constitutional way should not be debarred.
10. Appeal for funds except for the Prime Minister's National Relief Fund, at a time of External Emergency or if the Country is faced with a natural calamity such a floods, earthquake or cyclone.
11. Direct publicity for or on behalf of an individual or organization which is likely to benefit only that individual or organization.
12. Trade names in broadcasts which amount to advertising directly (except in Commercial Services).

## The Commercial Code of AIR & Doordarshan

Advertising is an important and legitimate means for the seller to awaken interest in his goods and services. The success of advertising depends on public confidence; hence no practice should be permitted which tends to impair this confidence. The standards laid down here should be taken as minimum standards of acceptability which would be liable to be reviewed from time to time in relation to the prevailing norm of listener's susceptibilities.

The Prasar Bharati Corporation consists of two wings namely All India Radio and Doordarshan. Commercials were introduced on AIR on 1st November, 1967 and on Doordarshan on 1st January, 1976.

Both AIR and Doordarshan have served as an effective instrument for advertisers to publicise their goods and services. As a public service broadcasting organisation, AIR and Doordarshan has responsibility to ensure that the advertisements either in terms of contents, tone or treatment, do not mislead the listeners and viewers as well as the consumers or are not repugnant to good taste.

The code for advertisements to be aired on DD or AIR was made by Ministry of I&B. These are as follows-

1. Advertising shall be designed as to conform to the laws of the country and should not offend against morality, decency and religious susceptibilities of the people.
2. No advertisement shall be permitted which:-
  - i. derides any race, caste, color, creed and nationality;
  - ii. is against any of the directive principles, or any other provision of the Constitution of India;
  - iii. tends to incite people to crime, cause disorder or violence, or breach of law or glorifies violence or obscenity in any way;
  - iv. presents criminality as desirable;
  - v. adversely affects friendly relations with foreign States;
  - vi. exploits the national emblem, or any part of the constitution or the person or personality of a national leader or State Dignitary;
  - vii. relates to or promotes cigarettes and tobacco products, liquor, wines and

other intoxicants;

3. No advertisements message shall in any way be presented as News.

4. No advertisements shall be permitted the objects whereof are wholly or mainly of a religious or political natures; advertisement must not be directed towards any religious or political end or have relation to any industrial dispute.

Provision : 'But advertisements in the form of spots and jingles on payment of prescribed fees, from Political parties / Candidates / any other person shall be accepted only in respect of General Elections to Lok Sabha / General Elections to the State Assemblies / General Elections to Local bodies during the period when the model Code of Conduct is in force. Such advertisements shall be subject to pre-broadcast scrutiny by the Election Commission of India / authorities under the Election Commission of India in respect of elections to Lok Sabha and the State Assemblies and State Election Commissions in the case of Local bodies. '

5. Advertisements for services concerned with the following shall not be accepted:-

i. Money lenders;

ii. Chit funds;

iii. Saving schemes and lotteries other than those conducted by Central and State Government organisations, nationalised or recognised banks and public sector undertakings;

iv. Matrimonial agencies;

v. Unlicensed employment services;

vi. Fortune tellers or sooth-sayers etc. and those with claims of hypnotism;

vii. Foreign goods and foreign banks.

viii. Betting tips and guide books etc. relating to horse-racing or the other games of chance.

6. The items advertised shall not suffer from any defect or deficiency as mentioned in Consumer Protection Act 1986.

7. No advertisement shall contain reference which are likely to lead the public to infer that the product advertised or any advertised or any of its ingredients has some special or

miraculous or super-natural property or quality, which is difficult of being proved, e.g. cure for baldness, skin whitener, etc.

8. No advertisement shall contain the words 'Guarantee' or 'Guaranteed' etc., unless the full terms of the guarantee are available for inspection by the Directorate General, All India Radio, are clearly set out in the advertisement and are made available to the purchaser in the writing at the point of sale or with the goods; in all cases, terms must include details of the remedial action available to the purchaser. No advertisement shall contain a direct or implied reference to any guarantee which purports to take away or diminish the legal rights of the purchaser.

9. Advertisers or the agents must be prepared to produce evidence to substantiate any claims or illustrations. The Director General reserves the right to ask for such proofs and get them examined to his full satisfaction. In case of goods covered by mandatory quality control orders, the advertiser shall produce quality certificate from the institutions recognised by the Government for this purpose.

10. Advertisements shall not contain disparaging or derogatory references to another product or service.

11. Testimonials must be genuine and used in a manner not to mislead the listeners. Advertisers or Advertising Agencies must be prepared to produce evidence in support of their claims.

12. No advertisement of any kind of jewelry (except artificial jewelry) or precious stones shall be accepted.

13. Information to consumers on matters of weight, quality or prices of products where given shall be accurate.

14. Advertisements indicating price comparisons or reductions must comply with relevant laws.

15. No advertisement shall be accepted which violates AIR Broadcast Code which is reproduced below:-

## Advertising Standards Council of India

### About ASCI

ASCI (The Advertising Standards Council of India) was established in Mumbai in the year 1985 by specific people connected with the profession of advertising.

It has four clarifications of members such as,

1) Advertisers

1) Advertising Agencies

1) Media such as newspapers, T, V, outdoor

1) Other professional or ancillary services connected with advertising business or practice.

All the above-said four sections connected with advertising came together and agreed to voluntarily comply with a set of guidelines or rules in the code with objectives to

1) Protect consumer interest and

1) Ensure fair play amongst competitors

### STANDARDS OF CONDUCT

Advertising is an important and legitimate means for the seller to awaken interest in his products. The success of advertising depends on public confidence. Hence no practice should be permitted which tends to impair this confidence. The standards laid down here should be taken as minimum standards of acceptability which would be liable to be reviewed from time to time in relation to the prevailing norm of consumers' susceptibilities.

#### Clause-I.

To ensure the Truthfulness and Honesty of Representations and Claims made by Advertisements and to Safeguard against misleading Advertisements

1. Advertisements must be truthful. All descriptions, claims and comparisons which relate to matters of objectively ascertainable fact should be capable of substantiation. Advertisers and advertising agencies are required to produce such substantiation as and when called upon to do so by The Advertising Standards Council of India.

2. Where advertising claims are expressly stated to be based on or supported by independent research or assessment, the source and date of this should be indicated in the advertisement.

3. Advertisements shall not, without permission from the person, firm or institution under reference, contain any reference to such person, firm or institution which confers an unjustified advantage on the product advertised or tends to bring the person, firm or institution into ridicule or disrepute. If and when required to do so by the Advertising Standards Council of India, the advertiser and the advertising agency shall produce explicit permission from the person, firm or institution to which reference is made in the advertisement.

4. Advertisements shall neither distort facts nor mislead the consumer by means of implications or omissions. Advertisements shall not contain statements or visual presentation which directly or by implication or by omission or by ambiguity or by exaggeration are likely to mislead the consumer about the product advertised or the advertiser or about any other product or advertiser.

5. Advertisements shall not be so framed as to abuse the trust of consumers or exploit their lack of experience or knowledge. No advertisement shall be permitted to contain any claim so exaggerated as to lead to grave or widespread disappointment in the minds of consumers.

- **Programme Code.** -No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code

- No person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code

- **Maintenance of register.**- Every cable operator shall maintain a register in the prescribed form indicating therein in brief the programmes transmitted or re-transmitted through the cable service during a month and such register shall be maintained by the cable operator for a period of one year after the actual transmission or re-transmission of the said programmes

- **Compulsory transmission of two Doordarshan channels.**- (1) Every cable operator using a dish antenna or Television Receiver only shall, from the commencement of this Act, re-transmit at least two Doordarshan channels of his choice through the cable service

- **Use of standard equipment in cable television network** -No cable operator shall, on and from the date of the expiry of a period of three years from the date of the establishment and publication of the Indian Standard by the Bureau of Indian Standards in accordance with the provisions of the Bureau of Indian Standards Act, 1986 (63 of

1986), use any equipment in his cable television network unless such equipment conforms to the said Indian Standard.

**- Cable television network not to interfere with any telecommunication system.-** Every cable operator shall ensure that the cable television network being operated by him does not interfere, in any way, with the functioning of the authorised telecommunication systems

**MEDIA REGULATIONS: SELF AND GOVT.**

also acts as an advisory authority to the government on matters affecting media freedom and has drawn up a set of norms on media reporting. While the genesis behind the formation of the PCI was noble, its existence is merely superficial in the present day, serving little or no purpose. Neither is it representative of the views of the media, nor does it have any real legal power to take any punitive or corrective action against the offending publishers. It has merely been an authority that publishes reports analyzing the actions and words of the media, reports which are not acted upon. The independent functioning of any organization is also dependant on where it derives its funds from. The PCI is funded by revenue collected by it as fee levied on the registered newspapers in the country on the basis of their circulation. No fee is levied on newspapers with circulation less than 5000 copies. The deficit is made good by way of grants by the Central Government, through the Ministry of Information and Broadcasting. However, it is not an authority created by the press voluntarily, and the press at large considers the council to be non-reflective of its interests and stake.

It is imperative to look at how press regulatory bodies across democratic countries in the world function to understand where the Indian press is missing the point. The press in the UK has been governed by self-regulation for the last five decades. In 1953, a voluntary Press Council was established in the UK which aimed to maintain high ethical standards of journalism and promote press freedom. However, it failed to be effective as it was observed that some publications failed to follow the basic ethics of journalism. The British government then considered either enacting a law relating to privacy and a “right of reply” or making the Press Council a statutory body capable of enforcing legal sanctions. However, it was inevitable that the consequences of such a move will be far reaching and hence discussions began in 1990 on what

would be the most effective way to ensure the independence of the media without compromising on ethics and standards. The Committee entrusted with the task suggested the formation of a Press Complaints Commission (PCC) and gave it a time period of eighteen months to demonstrate “that non-statutory self-regulation can be made to work effectively. This is a stiff test for the press. If it fails, we recommend that a statutory system for handling complaints should be introduced.” The UK press left no stone unturned to seize the moment and swiftly established an independent PCC in the beginning of 1991.

Till date, the PCC has been functioning as an independent body administering the system of self-regulation for the press. It deals with complaints against any article in any publication or the general editorial content and the conduct of journalists. The PCC is funded by an annual levy it charges newspapers and magazines. All newspapers and magazines voluntarily contribute to the costs of, and adhere to the rulings of, the Commission, making the industry self-regulated. Besides, in 2011, the newspaper and periodical industry framed the ‘Editor’s Code of Practice’, which was ratified by the PCC and is effective from 1 January, 2012.

However, like the Press Council of India, the PCC does not have any legal powers and it largely banks on the press accepting its recommendations, which it mostly does considering they have come forward to form it. The sanctions that it is authorized to impose include negotiation, critical adjudication, letter of admonishment, and formal referral of an editor to their publisher for action. Thus, there are no monetary penalties that can be imposed or suspension of licenses by the PCC. Also, another disadvantage of the self-regulatory body is that there is a possibility of it overlooking some wrong-doings of the press, in order to protect the large interests of the media as an industry. For example, the PCC has been considered ineffective in the case of the phone hacking scandal that rocked the British Parliament last year, with President David Cameron describing PCC as ‘inadequate’ and ‘absent’ during the scandal.

While there are pros and cons for both legal regulation and self-regulation, in India, legal regulation in the form of a statutory body which has merely been a ‘toothless tiger’ has not served the purpose for which it was constituted. Neither has the PCI been able to ensure press freedom, evidenced by frequent attacks on the press from various quarters nor has it been able to keep an effective check on the malpractices in the media, evidenced by inaction on several



complaints of inaccurate information and paid news against some newspapers. The way forward in India could be to empower the Press Council of India, allowing it to take punitive action in the form of punitive monetary penalties, suspension of license, etc. Also, it must be made more representative of the stakeholders in the media, thus giving them a voice. In fact, the British model of PCC may be adopted with members of the press must coming together to draft a code of practice. Self-regulation deserves a chance in this country. Giving an opportunity to the media to regulate itself and show efficiency might throw up some surprising results indeed.

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