



# SATHYABAMA

INSTITUTE OF SCIENCE AND TECHNOLOGY  
(DEEMED TO BE UNIVERSITY)

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**SCHOOL OF SCIENCE AND HUMANITIES**  
**DEPARTMENT OF VISUAL COMMUNICATION**  
**SYLLABUS**

| SVCA5303 | MEDIA LAW AND ETHICS | L | T | P | Credits | Total Marks |
|----------|----------------------|---|---|---|---------|-------------|
|          |                      | 3 | 0 | 0 | 3       | 100         |

**COURSE OBJECTIVE**

- To know the laws of our Indian constitution and its rights towards citizen.
- To encourage students to learn ethics involved in various medium so that students are socially aware.

**UNIT 1 FUNDAMENTAL RIGHTS 9 Hrs.**

Constitution of India: Fundamental Rights – Freedom of Speech and Expression and their Limits (Media) - Provisions of Declaring Emergency and their Effects on Media– Freedom of Media

**UNIT 2 COMMON LAWS OF INDIAN CONSTITUTION 9 Hrs.**

Contempt of Courts Act 1971 – Civil and Criminal Law of Defamation – Relevant Provisions of Indian Penal Code with Reference of Sedition, Laws Dealing with Obscenity; Official Secrets Act, 1923, Right to Information Act – Intellectual Property Rights , Including Copyright Act

**UNIT 3 MEDIA LAWS 9 Hrs.**

Press and Registration of Books Act, 1867 - Working Journalists and Other Newspaper Employees (Conditions of Service & Miscellaneous Provisions) Act, 1955; – Cinematograph Act, 1953: case Related to Cinematograph act. - Prasar Bharati Act; Cable Television Networks Act 1995

**UNIT 4 CYBER ETHICS 9 Hrs.**

Cyber Ethics – Cyber Crime in India – types of Cyber-crime - Intellectual property in cyber space – Information Technology Act – Theory of Privacy in Cyberspace – Free speech and content control in cyber space

**UNIT 5 BROADCASTING ETHICS 9 Hrs.**

Code of ethics for advertising on AIR, Doordarshan - Advertising Standard Council of India's Code of Ethics - Right to Reply, Communal Writing and Sensational and Yellow Journalism; Freebies, Bias, Coloured Reports; - Ethics of Telecasting and Broadcasting – sting operations

Max. 45 Hours

**Course outcomes:**

**CO1:** To understand the freedom of media and rights under our constitution.

**CO2:** To recognize the media laws applicable for media content and production

**CO3:** To demonstrate an understanding of professional ethical principles and work ethically in pursuit of truth, accuracy, fairness, and diversity.

**CO4:** To understand the cyber ethics and the laws under cyber space

**CO5:** To recognise the broadcasting code of ethics and analyse the media content

**CO6:** To Acquaint with the important legal and ethical provisions to guide the journalist's conduct as a professional.

**TEXT / REFERENCE BOOKS**

1. Patrick Lee Plaisance ,Media Ethics – Key Principles for Responsible practice , Sage publication Inc., California , 2009.
2. Richard A. Spinello,Cyber Ethics – Morality and Law in Cyber Space ,2<sup>nd</sup> Edition, Jones & Barlett Publishers ,USA, 2003
3. M. Neelamalar, Media law and ethics, 2nd edition, PHI learning private limited ,New Delhi 2010.

## **UNIT – I – MEDIA LAW AND ETHICS – SVCA5303**

**SATHYABAMA INSTITUTE OF SCIENCE AND TECHNOLOGY**

**DEPARTMENT OF VISUAL COMMUNICATION**

**SUBCODE: SVCA5303**

**SUBJECT CODE: MEDIA LAW AND ETHICS**

**UNIT I**

**What is Constitution?**

The Constitution is a set of fundamental basic rules governing the politics of a nation, reflecting the exercise of political power. It lays down the frame work and principal organs of the government together with their functions as well as the modalities of interactions between the state and its citizens.

**History**

No Constitution is entirely anew. Our Constitution is the product of deliberations of a body of eminent people who sought to improve upon the existing systems, both prevailing in India and in other countries.

Constitution and the government of India Act, 1935

The Indian Constitution that emerged in January, 1950 bore an uncanny resemblance of the Government of act, 1935. The act of 1935 did influence the framers of the Constitution. Approximately 250 articles of the Act of 1935 have been taken, either verbatim or with minor changes in the 1950 Constitution.

**Salient features of the Indian Constitution**

1. It is the lengthiest Constitution. The 1950 Constitution had 395 articles and 8 schedules. Now with amendments, as till December 2010, there have been 95 amendments and four new schedules. To understand the length of our Constitution we need to compare it with other Constitutions. The US Constitution has 7 articles; the Chinese has 138 articles, while South Africa has 243 articles. The numerous provisions relating to problems of India have tended to enlarge the size of her Constitution. As many as 16 articles have been devoted under the Union and the State, 9 to the official language, 9 to emergency provisions, 13 to special classes such as Scheduled Caste and scheduled tribe.
2. The Constitution of India in its method of amendment is partly flexible and partly rigid. It follows a three-fold method for amendment.
  - (1) Some provisions are amended through simple majority of two houses of the Parliament. Example, articles related to citizenship, SCST etc.
  - (2) Some should have two third majorities of the members present and voting in each house of the Parliament, which should include the simple majority of the total house

followed by the approval of one-half of the state. Eg: articles relating to the election of the President.

- (3) Some can be amended through the two-third majority of the members present and voting in each house of the Parliament. Most of the Constitution is amended by this procedure.

### **3. The Federal system with strong centralizing trends.**

India is rightly described as federal in form, but unitary in spirit. Structurally the Constitution provides a federal system, but the distribution of power favors the centre. For instance the distribution of power in making laws is as follows.

- (1) Union list- 97 subjects
- (2) State list – 66 subjects
- (3) Concurrent list- 47 subjects

The centre plays a dominant role in the amendment of the Constitution. Single citizenship, the dependence of state on Centre's financial aid makes the Union government more powerful than the State.

The Supreme Court settles dispute where the Center or any State is a party or dispute between the Centre and State.

### **4. Parliamentary system of Government**

The Government of India, officially known as the Union Government, and also known as the Central Government is the governing authority of the union of 28 states and seven union territories, collectively called the Republic of India.

The government comprises three branches:

- the Executive,
- the Legislative and
- the Judiciary.

The head of the executive branch is the President, who is the Head of State and exercises his or her power directly or through officers subordinate to him / her. The legislative branch or the Parliament consists of the lower house, the Lok Sabha, and the upper house, the Rajya Sabha, as well as the President. The judicial branch has the Supreme Court at its apex, 21 High Courts, and numerous civil, criminal and family courts at the district level. India is the largest democracy in the world.

The basic civil and criminal laws governing the citizens of India are set down in major parliamentary legislation, such as the Civil Procedure Code, the Indian Penal Code, and the Criminal Procedure Code.

The legislature is the Parliament. It is bicameral, consisting of two houses:

- The directly elected 545-member Lok Sabha ("House of the People"), the lower house, and
- The 250-member indirectly elected and appointed Rajya Sabha ("Council of States"), the upper house.

The Parliament enjoys parliamentary supremacy. All the members of the Council of Ministers as well as the Prime Minister are members of Parliament. If they are not, they must be elected within a period of six months from the time they assume their respective office. The Prime Minister and the Council of Ministers are responsible to the Lok Sabha collectively.

## **5. Integrated and powerful judiciary**

The Supreme Court is the custodian of the Constitution of the Federal system and of the rights of the people. It interprets both the Constitution as well as the law. The judicial review power of the Judiciary is the power through which any law contrary to the Constitution can be declared unconstitutional. It is through this power that the Supreme Court is described as the final interpreter of the Constitution. Judicial activism is the final aspect of the Indian judiciary.

## **6. Secularism**

India, as a secular state does not profess any State, religion nor does it discriminate against any. It also does not allow its authority to be used for the propagation of any religion. Even in the formulation of policies it is not guided by any religious principles. It is mainly concerned with the social, economic and political welfare of the people, leaving the religious matters to the individual as his or her personal ones.

## **7. Sovereignty**

The preamble of the Constitution clearly proclaims the sovereignty of the people of India.

“ WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY, of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation”

Every five years the people of India get an opportunity of affirming their views and putting in power a party that is liked by them. Thus the ultimate seat of power is the people of India.

## **8. Universal adult suffrage**

The Indian Constitution has introduced the principle of universal adult suffrage and has abolished the old system of communal electorates. Now every person, man or woman of eighteen years of age or above has the right to vote in the elections to the House of the people and the State Legislative Assembly.

## **9. Fundamental rights and duties.**

*'Part III - Fundamental Rights'* is a charter of rights contained in the Constitution of India. It guarantees civil liberties such that all Indians can lead their lives in peace and harmony as citizens of India. These include individual rights common to most liberal democracies, such as equality before law, freedom of speech and expression, and peaceful assembly, freedom to practice religion, and the right to constitutional remedies for the protection of civil rights by means of writs such as habeas corpus. Violation of these rights result in punishments as prescribed in the Indian Penal Code, subject to discretion of the judiciary. The Fundamental Rights are defined as basic human freedoms which every Indian citizen has the right to enjoy for a proper and harmonious development of personality. These rights universally apply to all citizens, irrespective of race, place of birth, religion, caste, creed, colour or Gender. They are enforceable by the courts, subject to certain restrictions. The Rights have their origins in many sources, including England's Bill of Rights, the United States Bill of Rights and France's Declaration of the Rights of Man.

The six fundamental rights recognised by the constitution are:

- 1) Right to equality, including equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, and equality of opportunity in matters of employment, abolition of untouchability and abolition of titles.
- 2) Right to freedom which includes speech and expression, assembly, association or union or cooperatives, movement, residence and right to practice any profession or occupation (some of these rights are subject to security of the State, friendly relations with foreign countries, public order, decency or morality), right to life and liberty, right to education, protection in respect to conviction in offences and protection against arrest and detention in certain cases.
- 3) Right against exploitation, prohibiting all forms of forced labour, child labour and traffic in human beings;
- 4) Right to freedom of religion, including freedom of conscience and free profession, practice, and propagation of religion, freedom to manage religious affairs, freedom from certain taxes and freedom from religious instructions in certain educational institutes.
- 5) Cultural and Educational rights preserving Right of any section of citizens to conserve their culture, language or script, and right of minorities to establish and administer educational institutions of their choice.

6) Right to constitutional remedies for enforcement of Fundamental Rights. Fundamental rights for Indians have also been aimed at overturning the inequalities of pre-independence social practices. Specifically, they have also been used to abolish untouchability and hence prohibit discrimination on the grounds of religion, race, caste, sex, or place of birth. They also forbid trafficking of human beings and forced labour. They also protect cultural and educational rights of ethnic and religious minorities by allowing them to preserve their languages and also establish and administer their own education institutions.

Right to property was originally a fundamental right, but is now a legal right.

## **10. Directive principles of state policy**

Part IV of the Constitution, from article 36 to 51, contains directive principles of state policy. There was a considerable debate in the Constituent assembly with regard to both the fundamental rights and directive principles. A fundamental rights sub-committee was entrusted to frame fundamental rights as well as directive principles, both to be designated as fundamental rights. They had numerous types of rights- social, political and economical-to select from. Having classified them in to two categories, the subcommittee marked one category as enforceable in a court of law, and the other as non-enforceable.

The Government is expected to follow the directive principles, though they are non-enforceable. The state should ensure to its people adequate means of livelihood, fair distribution of wealth, equal pay for equal work, protection from child labor, employment, compulsory education for children up to the age of 14. They also provide that State shall make effective provisions for public assistance in the event of unemployment, old age, sickness, disability and other cases of want, a living wage, conditions of work, assuring a decent standard of life, full enjoyment of leisure etc.

11. Basic structure of the Constitution should not be defaced; i.e the republican and democratic form of Government, federal character of the Constitution, parliamentary democracy, secularism and rule of law.
12. Single citizenship is yet another feature of our Constitution. What it means is that despite the federal structure of our polity, the framers of our Constitution chose to adopt singular citizenship, and that is the citizenship of the country, and not of any state we may reside.
13. The Constitution makes special provisions for the minorities which include the protection and promotion of the interest, and culture of the minorities. In addition to it, the Constitution grants special facilities to the weaker sections of society, in particular the Scheduled Castes, the Scheduled Tribes, women and other backward classes.
14. Panchayathi Raj is another distinct feature of the Indian Constitution. The rural-urban local institutions have been granted Constitutional status through amendments 73<sup>rd</sup> and



74<sup>th</sup>. Now local institutions do not exist on the whims of the Governments of the State or the Centre.

15. The changing character of the administration is yet another feature of the Constitution. Ours is a committed bureaucracy which performs the developmental tasks attuned to the welfare system- from public officialdom of the days of the British Raj to those devoted to public service.
16. The concept of Rule of law, as a feature of India's Constitution has been borrowed from Britain. This concept implies that no man is above law and that all individuals are subject to the jurisdiction of the ordinary courts.

### **Freedom of Speech and Expression**

- 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.
- This expression connotes also publication and thus the freedom of press is included in this category.
- 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.

### **Grounds of restrictions:**

- Security of State
- Friendly relations with foreign states
- Public Order
- Decency or Morality
- Contempt of Court
- Defamation
- Incitement to an offence
- Sedition - "the crime of saying, writing, or doing something that encourages people to disobey their government".

## **PARTS, ARTICLES, SCHEDULES OF CONSTITUTION**

- Originally the constitution contained 395 articles divided in 22 parts and 8 schedules.
- At present there are, 448 articles in 25 parts, 12 schedules. The numbering still remains the same but as and when the constitution is amended, new articles are added below original articles with suffix A, B, C etc.

### **Schedules**

Schedules are basically tables which contains additional details not mentioned in the articles. Indian Constitution originally had eight schedules. Four more schedules were added by different amendments, now making a total tally of twelve.

The post gives a brief idea about all the 12 Schedules of Indian Constitution.

### **Schedules of Indian Constitution**

- 1.The first schedule contains the list of states and union territories and their territories
- 2.The second schedule contains provisions of the President, Governors of States, Speaker and the Deputy Speaker of the House of the People and the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the Legislative Assembly and the Chairman and the Deputy Chairman of the Legislative Council of a State, the Judges of the Supreme Court and of the High Courts and the Comptroller and Auditor-General of India.
- 3.The third Schedule contains the Forms of Oaths or Affirmations.
- 4.The fourth Schedule contains provisions as to the allocation of seats in the Council of States.
- 5.The fifth Schedule contains provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes.
- 6.The sixth Schedule contains provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram.
- 7.The seventh Schedule contains the Union list, State list and the concurrent list.
- 8.The eighth Schedule contains the list of recognized languages.
- 9.Ninth Schedule contains provisions as to validation of certain Acts and Regulations.
- 10.The tenth Schedule contains provisions as to disqualification on ground of defection.
- 11.The eleventh Schedule contains the powers, authority and responsibilities of Panchayats.
- 12.The twelfth Schedule contains the powers, authority and responsibilities of Municipalities.

Parts of the constitution-three parts – 9A Municipalities, 9B Co-operative societies and 14A tribunals – are added to the original constitution via amendments. Various articles were also added under these 25 parts of Indian constitution as amendments. At present, the total article count is around 450.

## **Parts of Indian Constitution**

The parts of the Indian Constitution along with Subject and Articles they cover are given below.

| Part | Subject | Articles |
|------|---------|----------|
|------|---------|----------|

|        |                             |             |
|--------|-----------------------------|-------------|
| Part I | The Union and its territory | Art. 1 to 4 |
|--------|-----------------------------|-------------|

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|---------|-------------|--------------|
| Part II | Citizenship | Art. 5 to 11 |
|---------|-------------|--------------|

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|----------|--------------------|---------------|
| Part III | Fundamental Rights | Art. 12 to 35 |
|----------|--------------------|---------------|

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|---------|----------------------|---------------|
| Part IV | Directive Principles | Art. 36 to 51 |
|---------|----------------------|---------------|

|          |                    |          |
|----------|--------------------|----------|
| Part IVA | Fundamental Duties | Art. 51A |
|----------|--------------------|----------|

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|--------|-----------|----------------|
| Part V | The Union | Art. 52 to 151 |
|--------|-----------|----------------|

|         |            |                 |
|---------|------------|-----------------|
| Part VI | The States | Art. 152 to 237 |
|---------|------------|-----------------|

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|----------|--|--|
| Part VII | Repealed by Const. (7th Amendment) Act, 1956 |  |
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|-----------|-----------------------|-----------------|
| Part VIII | The Union Territories | Art. 239 to 242 |
|-----------|-----------------------|-----------------|

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|---------|----------------|------------------|
| Part IX | The Panchayats | Art. 243 to 243O |
|---------|----------------|------------------|

|          |                    |                    |
|----------|--------------------|--------------------|
| Part IXA | The Municipalities | Art. 243P to 243ZG |
|----------|--------------------|--------------------|

|          |                        |                    |
|----------|------------------------|--------------------|
| Part IXB | Co-operative Societies | Art. 243H to 243ZT |
|----------|------------------------|--------------------|

|        |                                |                  |
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| Part X | The Scheduled and Tribal Areas | Art. 244 to 244A |
|--------|--------------------------------|------------------|

|         |  |                 |
|---------|--|-----------------|
| Part XI | Relations between the Union and the States | Art. 245 to 263 |
|---------|--|-----------------|

|          |  |                  |
|----------|--|------------------|
| Part XII | Finance, Property, Contracts and Suits | Art. 264 to 300A |
|----------|--|------------------|

|           |   |                 |
|-----------|---|-----------------|
| Part XIII | Trade, Commerce and Intercourse within the Territory of India | Art. 301 to 307 |
|-----------|---|-----------------|

|          |   |                 |
|----------|---|-----------------|
| Part XIV | Services under the Union and the States | Art. 308 to 323 |
|----------|---|-----------------|

|           |           |                   |
|-----------|-----------|-------------------|
| Part XIVA | Tribunals | Art. 323A to 323B |
|-----------|-----------|-------------------|

|         |           |                  |
|---------|-----------|------------------|
| Part XV | Elections | Art. 324 to 329A |
|---------|-----------|------------------|

|          |  |                 |
|----------|--|-----------------|
| Part XVI | Special provisions relation to certain classes | Art. 330 to 342 |
|----------|--|-----------------|

|           |                   |                 |
|-----------|-------------------|-----------------|
| Part XVII | Official Language | Art. 343 to 351 |
|-----------|-------------------|-----------------|

|            |                      |                 |
|------------|----------------------|-----------------|
| Part XVIII | Emergency Provisions | Art. 352 to 360 |
|------------|----------------------|-----------------|

|          |               |                 |
|----------|---------------|-----------------|
| Part XIX | Miscellaneous | Art. 361 to 367 |
|----------|---------------|-----------------|

|         |                               |          |
|---------|-------------------------------|----------|
| Part XX | Amendment of the Constitution | Art. 368 |
|---------|-------------------------------|----------|

|          |  |                 |
|----------|--|-----------------|
| Part XXI | Temporary, Transitional and Special Provisions | Art. 369 to 392 |
|----------|--|-----------------|

Part XXII Short title, commencement, authoritative text in Hindi and repeals Art. 393 to 395

## **PROVISIONS OF DECLARING EMERGENCY**

- The term emergency may be defined as a difficult situation arising suddenly and demanding immediate action by public authorities under powers specially granted to them by the Constitution.
- Dr. Ambedkar claimed that the Indian federation was unique in as much as in times of emergency it could convert itself into an entirely unitary state.

## **TYPES OF EMERGENCY**

- National Emergency (Article 352)
- State Emergency (Emergency due to failure of constitutional machinery in states Article 356)
- Financial Emergency (Article 360)

### **National Emergency (Article 352)**

The President under Article 352 can declare emergency if he is satisfied that India's security is threatened due to war, external aggression or armed rebellion, or if there is an imminent danger to the State. Both Parliament and State Legislatures have power to legislate on subjects contained in the Concurrent List. But in case of conflict between the law of the State and the Union on a subject in the Concurrent List, the law of Parliament prevails.

### **State emergency (Article 356)**

Under Article 356, the President can declare an emergency in a state if the Governor reports that a situation has arisen under which the government of a State cannot be carried on in accordance with the provisions of the Constitution. The continuance of such an emergency beyond one year is possible only if emergency under Art. 352 is in operation or the Election Commission certifies that there are difficulties in holding Assembly elections. Maximum duration of the emergency can be three years. In this kind of emergency, the States lose much of their autonomy in legislative and executive matters. After such an announcement state legislature is suspended and the State is governed by the Governor on behalf of the President.

For the first time, the President's Rule was imposed in Punjab in 1951.

### **Financial emergency (Article 360)**

Article 360 authorizes the President to declare financial emergency if he is satisfied that the financial stability or credit of India or of any of its parts is in danger. In this type of emergency, salaries and allowances of any class of persons serving State or Union, including judges of the Supreme Court and

High Court can be reduced by an order of the President. This type of emergency has not been declared in India so far.

### **Amendment of the Constitution**

The term amendment denotes change, improvement and modification. Usually this term is associated with one or more changes made in the Constitution of a country. Article 368 of the Constitution in Part XX, deals with the powers of Parliament to amend the Constitution and its procedure.

### **I. Freedom of Press:**

The fundamental right of the freedom of press implicit in the right the freedom of speech and expression.

Freedom of the press is the most important wheel of democracy.

A free press monitors the administration and forces them to work for the betterment of the country.

Article 19(1)(a) of the Indian Constitution does not expressly mention the liberty of the press but it has been held that liberty of the press is included in the freedom of speech and expression.

Freedom of press has three essential elements. They are:

- Freedom of access to all sources of information,
- Freedom of publication, and
- Freedom of circulation.
- 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

## **II .Freedom of Press**

- The Constitution, the supreme law of the land, guarantees freedom of speech and expression under Article 19, which deals with 'Protection of certain rights regarding freedom of speech, etc.
- Freedom of press is not expressly protected by Indian legal system but it is impliedly protected under article 19(1) (a) of the constitution, which states - "All citizens shall have the right to freedom of speech and expression" .In 1950, the Supreme Court in *Romesh Thappar v. State of Madras* observed that freedom of the press lay at the foundation of all democratic organisations. However, Freedom of press is also not absolute.
- A law could impose only those restrictions on the exercise of this right, it faces certain restrictions under article 19(2), which is as follows- Matters related to interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.
- **Issues Related with The Present Media**
- Right to Privacy: The right to privacy emanates from natural rights, which are basic, inherent and inalienable rights. Article 21 which guarantees right to life guarantees right to privacy impliedly. Many times, the media has crossed its limits of fair reporting and intruded in personal spheres of life. In *Aarushi Talwar Murder Case*, the Supreme Court took a view that transparency and secrecy in an investigation are two different things. Where the apex court questioned a section of media for reporting that had resulted in tarnishing the reputation of the victim and her family members.

- **Media Trials:** The Supreme Court in *Sahara vs. SEBI* (2012) observed that the court can grant preventive relief on a balancing of the right to free trial and a free press. Apart from this, the Supreme Court was of the view many times that the media covers issues in such a way that it seems like a trial. Since such trials by the media are likely to affect the reputation of the judiciary and judicial proceedings adversely, it interferes with the functioning of the judiciary as well.
- **Paid News:** Paid news and fake news can manipulate public perception and can instigate hatred, violence, and disharmony among the various communities within society. The absence of objective journalism leads to the false presentation of truth in a society which affects the perception and opinions of people.
- **Tackling Fake News:** Countering content manipulation and fake news to restore faith in the media without undermining its freedom will require public education, strengthening of regulations and effort of tech companies to make suitable algorithms for news curation.
- **Any future legislation to curb fake news** should take the whole picture into account and not blame the media and go for knee-jerk reactions; in this age of new media anyone can create and circulate new for undisclosed benefits.
- **Adherence to Media Ethics:** It is important that the media stick to the core principles like truth and accuracy, transparency, independence, fairness and impartiality, responsibility and fair play.

### **Importance of Free Media**

- Free Media promotes open discussion of ideas that allows individuals to fully participate in political life, making informed decisions and strengthening society as a result — especially in a large democracy such as India.
- A free exchange of ideas, free exchange of information and knowledge, debating and expression of different viewpoints is important for smooth functioning of democracy. As the free media by virtue of being the voice of masses, empowers them with the right to express opinions. Thus, free media is critical in a democracy.
- With Free Media, people will be able to exercise their rights as questioning decisions of government. Such an environment can be created only when freedom of press is achieved.
- Hence, Media can be rightly considered as the fourth pillar of democracy, the other three being legislature, executive and judiciary.

## **UNIT – II –MEDIA LAW AND ETHICS –SVCA5303**



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**SUBCODE: SVCA5303**

**SUBJECT CODE: MEDIA LAW AND ETHICS**

**UNIT II**

**I. Contempt of Courts Act 1971**

Words spoken or written which obstruct or tend to obstruct the administration of justice can be contempt. Article 129 and 215 give the power of contempt of court to higher judiciary. Somehow it might appear that it limits the freedom granted by article 19(1) (a). But the whole idea behind continuing with this colonial act is that people do have the right to criticize judges but they should not go to the extent of making the functioning of judiciary difficult.

**The Act and its features:**

The “contempt of court” can be either civil contempt or criminal contempt;  
(a) Civil contempt: 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  
(b) Criminal contempt: publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which-

(i) Scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court  
(ii) Prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding  
(iii) Interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

- Innocent publication and distribution of matter not contempt:

(1) A person shall not be guilty of contempt of court

-on the ground that he has published (whether by words spoken or written or by signs or by visible representations or otherwise) any matter which interferes or tends to interfere with, or obstructs or tends to obstruct, the course of justice in connection with any civil or criminal proceeding pending at the time of publication, if at that time he had no reasonable grounds for believing that the proceeding was pending at that time of publishing he had no reasonable grounds for believing that the proceeding was pending.

-in connection with any civil or criminal proceeding which is not pending at the time of publication shall not be deemed to constitute contempt of court.

- -he has distributed a publication containing any objectionable matter and at the time of distribution he had no reasonable grounds for believing that it contained or was likely to contain any such matter: Provided that this sub-section shall not apply in respect of the distribution of:
- (i) any publication which is a book or paper printed or published otherwise than in conformity with the rules contained in section 3 of the Press and Registration of Books Act, 1867 ;(25 of 1867)
- (ii) Any publication which is a newspaper published otherwise than in conformity with the rules contained in section 5 of the said Act. It includes a pending judicial proceeding, when the charge-sheet or challan is filed, or when the court issues summons or warrant. The limitations apply until it is heard and finally decided.
  - Fair and accurate report of judicial proceeding not contempt  
A person shall not be guilty of contempt of court for publishing a fair and accurate report of a judicial proceeding or any stage thereof.
  - Fair criticism of judicial act not contempt:  
A person shall not be guilty of contempt of court for publishing any fair comment on the merits of any case which has been heard and finally decided.

- **Punishment for contempt of court:**

- (1) A contempt of court may be punished with simple imprisonment for up to six months, or with fine up to two thousand rupees, or with both. The accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court. The court, if it feels that the ends of justice will not be met without imprisonment may direct that he be detained in a civil prison.

(2) In case of contempt committed by a company, if it is proved that the contempt has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such an officer shall also be deemed to be guilty of the contempt and such a person may also be punished.

- **Remedies against an order of Punishment**

- Section 13 has been added in the Contempt of Court Act, 1971 after amendment in 2006. The new Act may be called The Contempt of Court (Amendment) Act, 2006. This Section tells that contempt of court cannot be punished under certain circumstances or certain cases.

- Clause (a) of Section 13 of the Contempt of Court (Amendment) Act, 2006 states that no Court under this Act shall be punished for Contempt of Court unless it is satisfied that the Contempt is of such a nature that it substantially interferes or tend to substantially interfere with the due course of Justice.
- Clause (b) of Section 13 of this Act states that the court may give the defence on the justification of truth if it finds that the act done in the public interest and the request for invoking that defence is *bona fide*.

## **II.Civil and Criminal Law of Defamation.**

- Defamation refers to the act of publication of defamatory content that lowers the reputation of an individual or an entity when observed through the perspective of an ordinary man.
- If defamation occurs in spoken words or gestures (or other such transitory form) then it is termed as slander and the same if in written or printed form is libel.
- Defamation in India is both a civil and a criminal offence.
- In Civil Law, defamation falls under the Law of Torts, which imposes punishment in the form of damages awarded to the claimant (person filing the claim).
- Under Criminal Law, Defamation is bailable, non-cognizable and compoundable offence. Therefore, the police cannot start investigation of defamation without a warrant from a magistrate (an FIR cannot be filed).
- The accused also has a right to seek bail. Further, the charges can be dropped if the victim and the accused enter into a compromise to that effect (even without the permission of the court).
- Defamation as a criminal offence is listed under section 499 of the Indian Penal Code. The punishment, mentioned under section 500, can extend upto simple imprisonment for a term of two years, or with fine, or both.

There are certain basic requirements for a successful defamation suit:

- **First**, the presence of defamatory content is required. Defamatory content is defined as one calculated to injure the reputation of another by exposing him to hatred, contempt or ridicule.
- However, the test for such content is the ordinary man test where meaning of the content is considered to be what a common, ordinary man will comprehend it to be.
- **Second**, the claimant should be identified in the defamatory statement.
- The content must be clearly addressing a particular person or a very small group for it to be defamation.

- General statements like “All lawyers are thieves or all politicians are corrupt” are too broad a classification and hence no particular lawyer or politician can consider it to be personally attributed to them.
- Therefore, such statements are not defamation.
- **Third**, there must be a publication of the defamatory statement in either oral or written form.
- Unless the content is published – made available to someone other than the claimant, there can be no defamation.
- Under a civil suit, once all these conditions are satisfied, a defamation suit subsists, and the defendant has to plead a privilege or take up a defense.
- If the defendant fails to do so satisfactorily, the defamation suit is successful.
- Under a criminal suit, intention to defame is an important element. In the absence of intention, the knowledge that the publication was likely to defame or is defamatory becomes essential.
- All this is further subject to the normal standard of proof in criminal cases: beyond reasonable doubt.
- **Truth**
- As a general rule, it is not defamation to impute anything, which is true, concerning any person.
- In India, truth is an absolute defense in Civil Cases however; in Criminal cases, the true statement must also be an imputation for public good.
- Therefore, irrespective of the intention of an individual, no defamation suit can be brought against someone if he imputes something true (and for public good under section 499, IPC).

## **Privilege**

Individual may be protected from claims of defamation under tort or even criminal defamation by a privilege conferred on them by law.

Absolute privilege irrespective of intention to defame is conferred upon Government officials, Judges and other such public officials in discharge of their public functions by the law.

Journalists are however given Qualified privilege, valid only if made without the intention to defame.

Exception 10 under section 499 IPC further expands on this and allows exception for good faith imputation to caution other or the public.

## **Fair Comment**

In case of defamatory opinions, the exception of fair comment is allowed.

The publication has to be clearly expressed as an opinion and should not mixed up with facts.

Also, the opinion should be one that a fair-minded person is capable of holding such opinion even if the reasoning is illogical.

These are the broad categories of defense under Defamation. There is a lot of other categories which are generally offshoots of these broader ones.

1. Defamation is oral or written statement that hurts someone's **reputation** or to **defame that person**.
2. In other words, Defamation is the act of publishing an **untrue statement** which negatively affects someone's reputation.
3. In India, defamation is both **civil** and **criminal** offence.
4. In a defamation case, a person who is defamed can move either **High Court or subordinate courts** and seek damages in the form of **monetary compensation** from the accused.

### **Two forms of Defamation:**

- **Libel**
- **Slander**

**Under Indian law, libel & slander both can constitute defamation**

**Defamation may be in -**

- a) permanent form (called Libel); or**
- b) only through words or gestures**  
**(called Slander)**

**1) Libel: - is the publication of a false and defamatory statement tending to injure the reputation of another person without lawful justification or excuse.**

**It may be expressed in some permanent form, ie., in writing, print, pictures, waxwork or the like.**

**It is both a criminal offence as well as civil wrong.**

**No actual damage need be proved, as it is itself an infringement of a right.**

**2) Slander: - only through words or gestures or speech tending to injure the reputation of another person**

**It is a civil wrong alone.**

**It is actionable only when special damage is proved to have its natural consequences or when it conveys certain imputation (accusation or complaint or charge)**

**E.g., whispering, nod, gestures etc.**

**But Indian law under IPC does not distinguish between libel & slander**

**Libel becomes actionable per se under the following circumstances: -**

- **Where there is imputation/accusation of a criminal charge against the plaintiff (eg, ‘A’ has committed rape or murder); Accusation of an infectious disease against the plaintiff which has the effect of preventing others from associating with him (eg, ‘A’ is suffering from HIV/AIDS); Accusation that the plaintiff is dishonest, unfit or incompetent in his profession, business, trade etc. carried on by him; Accusation of unchastity or adultery against any woman or a girl.**

### **III.Relevant Provisions of Indian Penal Code with Reference of Sedition,**

#### **Law of Sedition – IPC**

- Every citizen has been given freedom to speak and express their views under Article 19(1)(a) of the Indian Constitution.
- However, this freedom is not absolute and some reasonable restrictions have been imposed on freedom of speech and expression under Article 19(2).
- But when a person does an act by his words, signs or representation which is held to be contemptuous towards the Government of India, then such act is punishable under section 124-A of Indian Penal Code, 1860.
- Sedition is an offence that criminalizes speech that is regarded to be disloyal to or threatening to the state.
- The provision of Section 124A is very wide and it covers the act of defamation of the Government excluding any criticism in good faith of any particular measures or acts of administration.
- The term ‘Sedition’ means “conduct or speech which results in mutiny against the authority of the state”.
- Law of Sedition deals with section 124A of IPC, 1860, is considered as a reasonable restriction on freedom of speech.
- It was drafted by Thomas Macaulay and introduced in 1870.
- The following points describe the origin of sedition law:

- Origin of Sedition law in India is connected to the Wahabis Movement of the 19th century.
- This was an Islamic revivalist movement and was led by Syed Ahmed Bareilvi.
- Since 1830, the movement was active but in the wake of 1857 revolt, it turned into armed resistance, a Jihad against the British.
- The British termed Wahabis as rebels and carried out military operations against Wahabis.

### **Meaning of Sedition under Section 124A of IPC, 1860**

- *“Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government shall be punishable with Life Imprisonment”.*
- Explanation I to the Section defines the scope of disaffection and in Explanation II and III indicate what under the English Law is not considered seditious intention.

### **What are the activities that are Seditious in nature?**

- In India, what constitutes as ‘Sedition’ is highly debated. As per the Indian Penal Code, for an act to be called “seditious”, it should have the following components:
- Any words, which can be either written or spoken, or signs which include placards/posters (visible representation)
- Must bring hatred/contempt/disaffection against the Indian Government
- Must result in ‘imminent violence’ or public disorder.
- As per the interpretation of the Court on Section 124-A of the Indian Penal Code, 1860 the following acts have been considered as “seditious”
- Raising of slogans against the government – example – “Khalistan Zindabad” by groups.
- Raising of slogans by individuals casually once or twice was held not to be seditious.
- A speech made by a person must incite violence / public disorder for it to be considered as seditious.
- Subsequent cases have gone to further interpret it to include “incitement of imminent violence”.
- Any written work which incites violence and public disorder.

### **Sedition found in other Laws**

- The following are some laws which cover Sedition law:

- Indian Penal Code, 1860 (Section 124A)
- The Code of Criminal Procedure, 1973 (Section 95)
- The Seditious Meetings Act, 1911 &
- The Unlawful Activities (Prevention) Act (Section 2(o) (iii)).

### **SEDITION INDIAN PENAL CODE 124A**

- Sedition act was drafted by **Thomas Macaulay** and introduced in **1870**.
- The Indian Penal Code defines sedition (Section 124A) as an offence committed when "**any person by words, either spoken or written**, or by signs, or by **visible representation**, or otherwise, brings or attempts to **bring into hatred or contempt**, or excites or attempts to excite disaffection **towards the government established by law** in India".
- The term sedition refers to overt conduct that excites people to **rebel against their government** and **raising of slogans** against the government.
- Sedition is considered as a **high-value crime** in the Indian Penal Code which is against the **sovereignty** of the country.
- **Punishment: Three years** of imprisonment or **Five thousand** rupees of fine.

### **IV.Laws Dealing with Obscenity;**

The words *obscene* and *obscenity* have not been defined in the IPC.

- Section 292 of IPC in simple terms state that if any material is taken as a whole is lascivious or appeals to prurient interest and tends to deprave and corrupt the persons who read, see or hear the matter contained will come under the purview of obscenity.
- Section 293 also bans the selling of obscene objects to young persons and prescribes punishments for the same.
- The provisions of Section 292 are not applicable to works done in public interest such as in cases of science, literature or religious purposes.
- Section 292 also conflicts with Article 19(2) of the constitution which is about the freedom of speech and expression, however, the Constitution provides that the fundamental rights are subjected to reasonable restrictions to prevent indecency in public.
- The punishment for publishing of obscene material in electronic form is given under **Sec 67 of IT Act**.



- It is important to note that any offence related to obscenity in electronic form can only be tried under the IT Act and not IPC as **Section 81 of the IT Act** clearly states its overriding effect.
- But sometimes if there is a need, provisions of both the IT Act as well as IPC are considered together, as done in the case of *Avnish Bajaj v. State (NCT of Delhi)*.
- Since the Internet is global and dynamic in nature, we have Section 75 of the IT Act taking care of the issues related to electronic transmission of obscene material from other jurisdictions as well.
- Sec 2(c), Sec 3, Sec 4 of the Indecent Representation of Women Prohibition Act, 1986 also deal with the prohibition of such acts.
- The Cable Television Networks Regulation Act, 1995 prohibits telecast of obscene acts on television.
- Section 4 and Sec 5A of the Cinematograph Act, 1952 provides for the examination of films before release.
- The Young Persons Harmful Publication Act, 1956 prohibits publications which can corrupt a child.
- Section 294 of the IPC punishes a person for committing obscene acts in public place and also for singing obscene songs.
- Similarly, Section 354 and Section 509 of IPC are also applicable for punishing crimes against sexual harassment of women at the workplace.
- **OBSCENITY (Sec.292 IPC)**
- The definition of obscenity still isn't clear. It changes with time and depends on the **factual circumstances** of the case.
- Legally, the term 'obscenity' is referred to **indecent expressions**, such as words, images and actions.
- The concept of obscenity **differs** from **nation to nation** and it depends on the **moral and cultural values** that have shaped that country.
- Section **292 of IPC** in simple terms state that if any material is taken as a whole is lascivious or appeals to **prurient interest** and tends to **deprave** and corrupt the persons who read, see or hear the matter contained will come under the purview of obscenity.
- **Punishment: Two years** or a fine of rupees **two thousand**.

## **Official Secrets Act, 1923**

Government has used the Official Secrets Act to shield itself against queries being raised about Rafale deal. The official Secrets Act is in picture due to the Attorney-General's order for "criminal action" against those responsible for making "stolen documents" on the Rafale deal public. It is said that the Official Secrets Act is used as a shield against allegations of wrongdoing in the Rafale deal. Governments is being accused for misusing the law against journalists and whistleblowers.

- Key features
- The secrecy law broadly deals with 2 aspects: spying or espionage (dealt with in Section 3 of the Act).
- Disclosure of other secret information of the government (dealt with in Section 5)
- The secret information can be any official code, password, sketch, plan, model, article, note, document or information.
- Since the classification of secret information is so broad, it is argued that the colonial law is in direct conflict with the Right to Information Act.
- Hence, 2<sup>nd</sup> ARC Report, 2006, suggested the Act should be substituted by a chapter in the National Security Act that incorporates the necessary provisions.
- Under Section 5, both the person communicating the information, and the person receiving the information, can be punished by the prosecuting agency.
- **Evolution of the Act**
- It is India's anti-espionage act held over from the British colonial period.
- The Indian Official Secrets Act 1904 enacted during Lord Curzon, Viceroy of India from 1899 to 1905 (amended version of Indian Official Secrets Act (Act XIV) of 1889), preceded Official Secret Act 1923.
- It was brought in at a time when a large number of powerful newspapers had emerged in several languages across India, and editors.
- Building the political consciousness, it opposed the British Raj's policies on a daily basis.
- It faced police crackdowns and prison terms.
- Hence the Act was brought to suppress the voice of nationalist publications.
- In 1923, the Indian Official Secrets Act (Act No XIX of 1923) replaced the earlier Act.

This was extended to all matters of secrecy and confidentiality in governance in the country.

- **Charges under OSA so far:**

- 2018 – Madhuri Gupta, who had served at the Indian High Commission in Islamabad, guilty under the OSA.
  - She was sentenced to 3 years in jail for passing on sensitive information to Pakistan's ISI.
- 2002 – Iftikhar Gilani (Kashmir Times journalist) was arrested and charged under the OSA.
  - The case was in relation with allegedly possessing secret documents relating to the deployment of troops in the Valley. The state later withdrew the case.
- 2017 – Poonam Agrawal (journalist) was charged under OSA for conducting a sting operation on an Army official who criticised the sahayak system in the Army.

- **Court's observation**

- The court said that if there was a corruption complaint, it was to be protected under national security.
- The Court held that the Act did not offer the liberty to commit corruption.
- The Court dismissed targeting the messenger and criminalizing the whistleblower under the cover of “national security” or “stability” of government or “official secrecy”.
- It called it an attack on the freedom of expression and the people's right to know.

- **Between the RTI Act and OSA, which has primacy?**

- Section 22 of the RTI Act provides for its primacy viz-a-vis provisions of other laws, including OSA.
- This gives the RTI Act an overriding effect, notwithstanding anything inconsistent with the provisions of OSA.
- So if there is any inconsistency in OSA with regard to furnishing of information, it will be superseded by the RTI Act.
- However, under Sections 8 and 9 of the RTI Act, the government can refuse information.
- Effectively, if government classifies a document as “secret” under OSA Clause 6, that document can be kept outside the ambit of the RTI Act, and the government can invoke Sections 8 or 9.
- Legal experts see this as a loophole.

- **Has there been any effort to change provisions of OSA?**

- In 1971, the Law Commission became the first official body to make an observation regarding OSA.

- In its report on ‘Offences Against National Security’, it observed that “it agrees with the contention” that “merely because a circular is marked secret or confidential, it should not attract the provisions of the Act, if the publication thereof is in the interest of the public and no question of national emergency and interest of the State as such arises”.
- The Law Commission, however, did not recommend any changes to the Act.
- **In 2006, the Second Administrative Reforms Commission (ARC)**, recommended that OSA be repealed, and replaced with a chapter in the National Security Act containing provisions relating to official secrets.
- Observing that OSA was “incongruous with the regime of transparency in a democratic society”, the ARC referred to the 1971 Law Commission report that had called for an “umbrella Act” to be passed to bring together all laws relating to national security.
- **Conclusion**
- For, the same statute book that has the OSA gives pride of place to the Act that empowers citizens to access, and to demand, information under the control of public authorities in order to promote transparency.
- The right to freedom of speech and expression, and information should be prioritized over the archaic Official Secrets Act.
- OSA in a democracy is something that needs constant contest, the need for official secrecy has to be weighed against the citizen’s right to know.
- Notably, the apex Court has increasingly expanded the protections to whistleblowers, to ensure that those who expose corruption and wrongdoing are not vulnerable to any intimidation.

## **V.Right to Information Act –**

### **RIGHT TO INFORMATION**

The Right to Information Act, 2005 is a revision of the Freedom of Information Act, 2002. It was formulated to facilitate smooth access to information for all citizens. The Right to Information act is based on the premise that democracy must involve an informed citizenry and that a government must be accountable to those governed.

### **Right to Information Act, 2005 (RTI)**

The Right to Information Act, 2005 (RTI) is a law enacted by the Parliament of India "to provide for setting out the practical regime of right to information for citizens."

The Act applies to all States & Union Territories of India, except the State of Jammu and Kashmir - which is covered under a State-level law.

The provisions of the Act, any citizen (excluding J&K) may request information from a "public authority" (body of Government) within thirty days – provide information

The Act also requires every public authority to computerize their records for wide dissemination.

Publish certain categories of information so that the citizens need minimum recourse to request for information formally.

Law was passed by Parliament on 15 June 2005 and came into force on 12 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.

## **Background**

Law enacted during the British rule, the Official Secrets Act of 1889 which was amended in 1923.

This law secures information related to security of the State, sovereignty of the country and friendly relations with foreign states, and contains provisions which prohibit disclosure of non-classified information.

Civil Service conduct rules and the Indian Evidence Act impose further restrictions on government officials' powers to disclose information to the public.

## **Enactment**

The FOI Act led to National RTI enactment. The first draft of the Right to Information Bill was presented to Parliament on 22 December 2004.

After intense debate, more than a hundred amendments to the draft Bill were made between December 2004 and 15 June 2005 when the bill finally passed.

The Act came fully into effect on 12 October 2005.

## **Information**

The Act specifies that citizens have a right to:

- request any information (as defined).
- take copies of documents.
- inspect documents, works and records.
- take certified samples of materials of work.
- obtain information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts.

## **Process**

Under the Act - all authorities must appoint their Public Information Officer (PIO).

Any person may submit a request to the PIO for information in writing. It is PIO's obligation to provide information to citizens of India who request information under the Act

If the request pertains to another public authority (in whole or part) it is PIO's responsibility to transfer/forward the concerned request to a PIO of the other within 5 days.

Every public authority - required to designate Assistant Public Information Officers (APIOs) to receive RTI requests and appeals for forwarding to the PIOs of their public authority.

The citizen making the request is not obliged to disclose any information except his name and contact particulars.

The Act specifies time limits for replying to the request -

- Request has been made to the PIO - the reply is to be given within 30 days of receipt (but computed from the day after it is received by the PIO of the transferee authority).
- Request has been made to an APIO - the reply is to be given within 35 days of receipt.
- Information concerning Corruption and Human Rights violations - provided within 45 days but with the prior approval of the Central Information Commission.
- Life or Liberty of any person is involved - the PIO is expected to reply within 48 hours.
- The information paid for - the reply of the PIO, necessarily limited to either denying the request (in whole or part) and/or providing a computation of "further fees"
- Information is not provided within the time period - treated as deemed refusal. Refusal with or without reasons may be ground for appeal or complaint.
- Information not provided on time prescribed - provided free of charge.
- Central Departments as of 2006 - fee of Rs. 10 for filing the request, Rs. 2 per page of information & Rs. 5 for each hour of inspection after the first hour.
- The applicant is a Below Poverty Card holder, then no fee shall apply. Such BPL Card holders have to provide a copy of their BPL card along with their application to the Public Authority.
- States Government and High Courts fix their own rules. Chief Information Commissioner (CIC) is the head of all the information officers.
- The State Information Commission will be selected by the State Government through a Gazette notification.

- It consist of One State Chief Information Commissioner (SCIC) and not more than 10 State Information Commissioners (SIC) to be appointed by the Governor.

End of the year CIC required report contains –

- The number of requests made to each public authority
- The number of decisions where applicants were not given permission to access to the documents which they request, the provisions of the Act under which these decisions were made and the number of times such provisions were filed
- Details of disciplinary action taken against any officer in respect of the administration of the Act
- the amount of charges collected by each public authority under the Act
- PIO deal with requests –
- Persons seeking information & where the request cannot be made in writing
- To render reasonable assistance to the person to reduce the same in writing
- Not open disclosure

The following is exempt from disclosure -

- Information, disclosure of which - affects the sovereignty and integrity of India, the security, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence
- Information - expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court
- Information, disclosure - which would cause breach (violation) of privilege of Parliament or the State Legislature
- Information including commercial confidence, trade secrets or intellectual property, disclosure - which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information
- Information available to a person in his fiduciary (Legal or ethical issues of confidence) relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information

## **VI.Intellectual Property Rights**

Intellectual property rights (IPR) are the rights given to persons over the creations of their minds: inventions, literary and artistic works, and symbols, names and images used in commerce.

They usually give the creator an exclusive right over the use of his/her creation for a certain period of time.

These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions.

The importance of intellectual property was first recognized in the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886).

Both treaties are administered by the World Intellectual Property Organization (WIPO).

- **Intellectual property rights are customarily divided into two main areas:**
- **(i) Copyright and rights related to copyright:**
- The rights of authors of literary and artistic works (such as books and other writings, musical compositions, paintings, sculpture, computer programs and films) are protected by copyright, **for a minimum period of 50 years after the death of the author.**
- **(ii) Industrial property:** Industrial property can be divided into two main areas:
- **Protection of distinctive signs**, in particular **trademarks and geographical indications.**
  - **Trademarks** distinguish the goods or services of one undertaking from those of other undertakings.
  - **Geographical Indications (GIs)** identify a good as originating in a place where a given characteristic of the good is essentially attributable to its geographical origin.
  - The protection of such distinctive signs aims to **stimulate and ensure fair competition and to protect consumers**, by enabling them to make informed choices between various goods and services.
  - The protection **may last indefinitely**, provided the sign in question continues to be distinctive.
- **Industrial designs and trade secrets:** Other types of industrial property are protected primarily to **stimulate innovation, design and the creation of technology**. In this category fall inventions (protected by **patents**), **industrial designs** and **trade secrets**.
- **What Is IP Law?**
- IP law is a general term for both tangible and intangible property rights. Tangible property rights include:



- **Trademarks/Trade Design:** A name, symbol, and/or design identifying and distinguishing the source of goods or services of one party from those of others
- **Copyrights:** Exclusive rights to produce copies and control an original literary, musical, or artistic work
- **Patents:** Exclusive rights to manufacture, use, or sell an invention
- Copyright law protects the fruits of creative efforts, called "original works of authorship" in legal terminology. A copyright owner enjoys the exclusive right to reproduce the work, distribute it, display or perform it, and to create derivative works from it, as well as the ability to transfer any or all of these rights. Copyright protection generally lasts for seventy years beyond the death of the original author. Copyright's purpose is to stimulate the production of creative works by giving authors a financial incentive to create new works. Examples of copyrightable works include blog posts, photographs, videos, podcasts, news articles, musical compositions, and computer software. See the Copyright section in this guide for more information.
- **Trademark:** Trademark law creates usage rights in words, phrases, symbols, and other indicators that identify the source or sponsorship of goods or services. The owner of a valid trademark can stop others from using its trademark or a similar mark in connection with similar goods and services. The owner of a famous trademark may also stop others from using it in connection with dissimilar goods or services. The main purpose of trademark law is to protect consumers from confusion about the source of a particular good or service, and a secondary purpose is to protect companies that have spent time, effort, and money to create a positive association between their trademarks and their goods and services. Examples of trademarks include the word "Cheerios" for breakfast cereal, the Apple logo for computers, and YouTube's slogan "Broadcast Yourself" for video-hosting services. Website domain names can also, in certain circumstances, be trademarks. See the Trademark section in this guide for more information
- **Patent:** Patent law provides ownership rights and protection for unique processes, procedures, methods, inventions, and discoveries. It gives the patent owner the exclusive right to exploit (i.e. create, use, sell, distribute) the invention for a limited period of time (typically twenty years from the time of a patent application filing). Patent law's purpose is to spur innovation by giving inventors a financial incentive to invent. We do not cover patent law in this guide.
- **What is the need of IPR?**
- The progress and well-being of humanity rest on its capacity to create and invent new works in the areas of technology and culture.
- **Encourages innovation:** The legal protection of new creations encourages the commitment of additional resources for further innovation.

- **Economic growth:** The promotion and protection of intellectual property spurs economic growth, creates new jobs and industries, and enhances the quality and enjoyment of life.
- **Safeguard the rights of creators:** IPR is required to safeguard creators and other producers of their intellectual commodity, goods and services by granting them certain time-limited rights to control the use made of the manufactured goods.
- It promotes innovation and creativity and **ensures ease of doing business.**
- It **facilitates the transfer of technology** in the form of foreign direct investment, joint ventures and licensing.

### **National IPR Policy**

- The National Intellectual Property Rights (IPR) Policy 2016 was adopted in May 2016 as a vision document to guide future development of IPRs in the country.
- It's clarion call is "**Creative India; Innovative India**".
- It encompasses and brings to a single platform all IPRs, taking into account all inter-linkages and thus aims to create and exploit synergies between all forms of intellectual property (IP), concerned statutes and agencies.
- It sets in place an **institutional mechanism for implementation**, monitoring and review. It aims to incorporate and adapt global best practices to the Indian scenario.
- **Department of Industrial Policy & Promotion (DIPP)**, Ministry of Commerce, Government of India, has been appointed as the **nodal department** to coordinate, guide and oversee the implementation and future development of IPRs in India.
- The '**Cell for IPR Promotion & Management (CIPAM)**', setup under the aegis of DIPP, is to be the **single point of reference** for implementation of the objectives of the National IPR Policy.
- India's IPR regime is in compliance with the WTO's agreement on **Trade-Related Aspects of Intellectual Property Rights (TRIPS)**.

### **VII.Including Copyright Act**

Copyright law as its name suggests is the simple law that suggests if you create something you own it and only you get to decide what happens next with it. In India, law related to copyright is governed by the Copyright Act, 1957. The objective of this copyright law is mainly twofold: first to assure authors, composers, artists, designers and other creative people, who risk their capital in putting their works before the public, the right of their original expression, and second to encourage others to build freely upon the ideas and information conveyed by a work.

- **Subject matter of copyright**

- All subject matters protected by copyright are called 'works'. Thus according to Section 13 of The Copyright Act 1957, it may be subjected for the following works:

- Original Literary Work,
- Original Dramatic work,
- Original Musical work,
- Original Artistic Work,
- Cinematography films, and
- Sound recordings.

- **Original Literary Work**

- It is the product of the human mind which may consist of a series of verbal or numerical statements, not necessarily possessing aesthetic merit, capable of being expressed in writing, and which has been arrived at by the exercise of substantial independent skill, creative labor, or judgment. The Copyright Act, 1957 provides an inclusive definition of literary work, according to which the literary work includes computer programming, tablets, and compilations including computer database.

- **Original Dramatic Work**

- According to the Copyright Act, 1957, the dramatic work includes any piece for recitation, choreographic work or entertainment in dumb shows, the scenic arrangement or acting form which is fixed in writing or otherwise but does not include a cinematographic film. Since the definition is an inclusive one, the other things fall within the general meaning of dramatic work and may also be covered by the definition.

- **Original Musical Work**

- According to the Copyright Act, 1957, the musical work means any work consisting of music and includes any graphical notion of such work but does not include any words or any action intended to be sung, spoken or performed with the music. In order to qualify for copyright protection, a musical work must be original.

- **Original Artistic Work**

- According to the Copyright Act, 1957, the artistic work includes any painting, sculpture, drawing, engraving photograph of any work possessing artistic qualities. However, it also includes the architecture and artistic craftsmanship of such works.

- **Cinematographic Films**

- According to the Copyright Act, 1957 cinematographic films includes any work of visual recording and a sound recording accompanying such visual recording and the expression

cinematograph shall be construed as including any work produced by any process analogous to cinematographic including video films.

- **Sound Recording**

- According to The Copyright Act, 1957, sound recording suggests that a recording of sounds from which that sound may be produced regardless of the medium on which such recording is made or the method by which the sounds are produced.
- Clause (a) of this Section 13 provides the definition of original work whereas clause (b) and (c) protect by-product works. This Section stipulates that copyright is subject to the provisions of the aforesaid Section and therefore the different provisions of the Act don't exist de-hora and outside the ambit of the Act, it's a right created under the statute and no right outside the aforesaid Act is claimed.

### **Rights of the copyright holder**

- In the Copyright Act, 1957, the owner possesses the negative rights which are to prevent others from using his works in certain ways and to claim compensation for the usurpation of that right. In this Act, there are two types of rights given to the owner:
  - Economical rights;
  - Moral rights.
- **Economic rights**
- This right is also known as the Exclusive Rights of the copyright holder provided under Section 14. In this Act different types of work come with different types of rights. Such as:
  - In the case of original literary, musical, and dramatic work:
    - Right to reproduce;
    - Right to issue copies;
    - Right to perform at public;
    - Right to make cinematography and sound recording;
    - Right to make any translation;
    - Right to adaptation; and
    - Right to do any other activities related to the translation or adaptation.
  - In the case of a sound recording work:
    - Right to communicate;
    - Right to issue copies; and

- Right to sell, rent, offer for sale of the copyrighted work.

### **Moral rights**

- In addition to the protection of economic rights, the Copyright Act, 1957 conjointly protects the ethical rights, that is due to the actual fact that a literary or inventive work reflects the temperament of the creator, just as much as the economic rights reflects the author's need to keep the body and the soul of his work out from commercial exploitation and infringement. These rights are supported by Article 6 of the Berne Convention of 1886, formally referred to as a world convention for the protection of literary and inventive works, whose core provision relies on the principle of national treatment, i.e. treats the opposite good as one's own.
- Section 57 of The Copyright Act, 1957 recognize two types of moral rights which are:
- **Right to paternity**– which incorporates the right to assert the authorship of the work, and right to forestall others from claiming authorship of his work; and
- **Right to integrity**- which incorporates right to restrain, or claim of damages in respect of any distortion, modification, mutilation, or any other act relates to the said work if such distortion, multiplication or alternative act would be prejudiced to claimant honor or name.
- **Authorship and Ownership in copyright**
- Section 17 of this Act recognizes the author as the first owner, which states that subject to the provision of this Act, the author of a work shall be the first owner of the copyright therein:
- In the case of literary or dramatic composition, the author,
- In the case of musical work, the musician,
- In the case of creative work apart from photography, the artist,
- In the case of photographic work, the artist,
- In the case of cinematographic or recording work, the producer,
- In case of any work generated by any computer virus, the one who created.
- However, this provision provided to bound exception:
- In case of creation is made by the author underemployment of the proprietor of any newspaper, magazine or any periodic, the said proprietor,
- In the case where a photograph is taken, painting or portrait is drawn, cinematograph is made for the valuable consideration of any person, such person,
- In case of a work done in the course of the author's employment under the contract of service, such employer,

- In case of address or speech delivered on behalf of another person in public, such person,
- In the case of government works, the government,
- In the case of work done under direction and control of public undertaking such public undertaking, and
- In the case of work done in which provision of Section 41 apply, concerned international organizations.
- **Assignment of copyright**
- The owner of the copyright can generate wealth not only by exploiting it but also by sharing it with others for mutual benefit. This can be done by the way of assignment and licensing of copyright.
- Only the owner of the copyright has the right to assign his existing or future copyrighted work either wholly or partly and as a result of such assignment the assignee becomes entitled to all the rights related to copyright to the assigned work, and he shall be treated as the owner of the copyright in respect of those rights.
- **Disputes related to the assignment of copyright**
- According to the Copyright Act, 1957, the appellate board where the receipt of the complaint by the assignor and after holding necessary inquiry finds that the assignee has failed to make the exercise of the rights assigned to him, and such failure is attributed to any act or omission of the assignor, may by suitable order, revoke such assignment.
- However, if the dispute arises with respect to the assignment of any copyright then that appellate board may also order the recovery of any royalty payable.
- **Infringement and remedies**
- Where a person intentionally or unintentionally infringes the rights of the copyright holder, the holder may be subject to the following remedies available under this Act.

### **Over view of Copy right**

- Copyright are the rights given to persons over the **creations of their minds**.
- Copyright is a form of **protection** offered to authors and creators of original works, which include such things as **musical, artistic, dramatic, and literary and other intellectual creations**, whether published or unpublished.
- Copyright is crucial for businesses since it gives the creator of the work only **exclusive rights** to reproduce their works distribute and sell any copies of the work, display and perform copyrighted work publicly this also allows owners **generate revenue**.
- The general rule is that copyright lasts for **60 years**.

- Copyright comes into existence as soon as a work is created, the work registered in the Register of Copyrights maintained in the **Copyright Office of the Department of Education**.



Punishment: Six months of imprisonment or a fine of rupees fifty thousand

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Bengaluru-based artist Shilo Shiv Suleman called out the makers of Prabhas and Shraddha Kapoor's film Saaho for copying her artwork

- The copyright law is considered as an essential law of protection for a country because it enriches the national cultural heritage of it. However, higher the level of protection given to literary, dramatic, musical or artistic work in any country, automatically higher is the number of intelligent creation, i.e. *higher its renown*. Thus, in the final analysis, we can say for economic, cultural and social development, it is the basic perquisites.

## **UNIT – III –MEDIA LAW AND ETHICS –SVCA5303**



**SATHYABAMA INSTITUTE OF SCIENCE AND TECHNOLOGY**

**DEPARTMENT OF VISUAL COMMUNICATION**

**SUBCODE: SVCA5303**

**SUBJECT CODE: MEDIA LAW AND ETHICS**

**UNIT III**

**I. Press and Registration of Books Act, 1867 –**

- Press and registration of book Act was enacted with a view to **evaluating the present position of books, newspapers, and magazines** in the country at any given time.
- Printer and Publisher of every newspaper should **subscribe a declaration** before the concerned **district registrar**.
- The most important aspect of this Act is that every copy of a newspaper shall contain the **names of the owner, publisher, and editor** printed clearly on all the copies.
- The printer of every newspaper is required to deliver to the **State Government** free of expense **two copies** of each issue of the newspaper as soon as it is published.

**Punishment: Six month** of imprisonment or **two thousand** rupees of fine.

- ▶ The Press and Registration of Books Act 1867 is a result of many previous draconian laws being repealed and or being merged into one.
- ▶ It has been in existence for 151 years! In many ways it has outlived its utility.
- ▶ But its existence continues to plague Indian academic publishing. The biggest sufferer has been Indian Journal publishing.
- ▶ **A brief history of the act**
- ▶ The legacy begins with the **Censorship of Press Act, 1799** which was imposed by Lord Wellesley to gag the press ahead of a French invasion of India.
- ▶ This was retracted in 1818 by Lord Hastings.
- ▶ Acting governor-general John Adams enacted the **Licensing Regulations (ordinance), 1823**.
- ▶ It had a draconian provision that no one could start or continue to use a press without registration. Rammohan Roy's, Mirat-ul-Akbar had to cease publication thanks to this act.
- ▶ Governor General Metcalfe abolished the obnoxious 1823 ordinance to replace it with the **Press Act of 1835**.

- ▶ This act required a printer and for the first time a publisher to give a precise account of the premises used for printing and publication.
- ▶ This was also the first act that allowed a declaration of ‘cease to function’ thus absolving one of any future wrong doing.
- ▶ Between 1835 and 1857, Indian vernacular press saw rapid growth across India.
- ▶ The Licensing Act of 1857 brought newspapers, printed matter and all books under the purview of law. The freedom of the press only grew worse with the uprising later that year.
- ▶ The current Press and Registration of Books (PRB) Act 1867 was squarely aimed at curbing what the British Government thought was the role of the press in the “revolt of 1857”.
- ▶ But it was clever in its enactment because it only pertained to presses in English.
- ▶ It was seen as being regulatory in nature because a more stringent act, the Vernacular Press Act of 1878, was waiting in the wings. Thankfully the VPA was annulled in 1882.
- ▶ It is strange that since India got its freedom, the PRB of 1867 was never abandoned by successive governments.
- ▶ It is evident that the act helped governments control the press, regulate book publishing and inadvertently curb the freedom of speech and expression.
- ▶ The act by itself appears to be fairly liberal and clearly designed to ‘help preserve news’.
- ▶ While the Press Registrar was able to solve the problem of blocked titles by administrative action, another problem appeared which was far more fundamental in nature. It is only if the owner is the same can two newspapers with the same title be published.
- ▶ But the courts have held that the right to publish a newspaper under a title is a right of property. It can therefore be transferred freely. How can anyone then come in the way if a person published a newspaper permits another to bring out an edition from another centre?
- ▶ During the last 40 years such transfers have in fact taken place. The Press Registrar and the district authorities have been forced to accept this violation of the PRB Act.
- ▶ Then again, a person may be bringing out several editions of his newspaper and may say in his will that each of his sons will inherit one or more editions.
- ▶ They will bring out these editions under the same title. The owners would be different and this will in violation of the PRB Act. But can any Act interfere with the basic law of inheritance or transfer of property?

- It is therefore ridiculous to have such a provision which is in violation of basic law but is being infringed with impunity.

## **II. Working Journalists and Other Newspaper Employees (Conditions of Service & Miscellaneous Provisions) Act, 1955;**

- The Working Journalists and Other Newspaper Employees Act, 1955 provides some welfare measures for the regulation of certain service conditions of the **working journalists** and other **persons employed in newspaper** establishments.
- A “working journalist” under the provision of the Act means a person whose **principal avocation** is that of a journalist and who is employed to newspaper.
- Under the provisions of the Act the Central Government as and when necessary shall constitute separate **Wage Board** to fix or **revise the rates of wages** for working journalists and other newspaper employees.
- This act may be called Working Journalists & other Newspaper Employees (Conditions of service) Act, 1955.
- It extends to the whole of India, except the state of Jammu & Kashmir.
- The press commission was constituted by the government of India to inquire into the conditions of employment of working journalists in the newspaper establishments.
- "Working Journalists" means a person whose principal avocation is that of a journalist and (who is employed as such, either whole-time or part -time in, or in relation to, one or more newspaper establishment), and includes an editor , a leader writer , news-editor, sub-editor, feature-writer, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who is employed mainly in a managerial or administrative.
- Subject to any rules that may be made under this Act, no working journalist shall be required or allowed to work in any newspaper establishment for more than 144 hours during any periods of 4 consecutive weeks, exclusive of time for meals.
- Every working journalist shall be allowed during any period of 7 consecutive days rest for a period of not less than 24 consecutive hours, the period between 10 pm and 6 pm being included therein (Explanation - for the purpose of this section , "week" means a period of 7 days beginning at midnight on Saturday.) The maximum hour of work for any period of consecutive weeks is 144 hours.
- **The working journalist and other newspaper employees act of 1955, this welfare measurement to regulate conditions of service of the people;**
- Special provision in respect of certain case of retrenchment
- Payment of gratuity

- Hours of work
- Leave
- Employees P.F
- Recovery of money due from the employee

## **LEAVES**

Without prejudice to such holidays, casual leave or other kind of leave as may be prescribed, every working journalists shall be entitled to

- a) Earned leave on full wages for not less than one-eleventh of the period spent on duty, provided that he shall cease to earn such leave when the earned leave due amounts to ninety days.
- b) leave on medical certificate: 1) A working journalists shall be entitled to leave on medical certificate on one-half of wages for not less than one-eighteenth of the period of service

## **EARN LEAVE -**

- 1) A working journalist shall be entitled to earned leave on full wages for a period not less than one month for every eleven months spent on duty provided that he shall cease to earn such leave due amount to 90 days.
- 2) The period spent on duty shall include weekly days of rest , holidays, casual leave and quarantine leave.

## **MATERNITY LEAVE-**

- 1) A female working journalist who has put in not less than one years service in the newspaper establishment in which she is for the time being employed shall be granted maternity leave on full wages on production of a medical certificate from an authorized medical practitioner for a period which may extend for three months from the date of its commencement or six weeks from the confinement whichever is earlier.
- 2) Leave of any other may be granted in continuation of maternity leave.
- 3) Maternity leave shall also be granted in case of miscarriage, including abortion, subject to the condition that the leave does not exceeds six weeks.

## **QUARNATINE LEAVE -**

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

## **EXTRAORDINARY LEAVE -**

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

33) Study leave may be granted in same pattern.

### **CASUAL LEAVE -**

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

#### **1.SETTING OF THE WAGE BOARD**

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

- a) Three persons representing employers in relation to newspaper establishments
- b) Three persons representing working journalists
- c) Four independent persons, one of whom shall be a person who is or has been a judge of High court or Supreme court and who shall be appointed by the Government as the Chairman.

Powers of Central Government to enforce recommendations of the wage board

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

### **III. Cinematograph Act, 1953: case Related to Cinematograph act. –**

**Section- 3:** Board of film censors.

**Section- 5A:** Films are certified under 4 categories

U- Unrestricted Public Exhibition

U/A- Parental Guidance for children below the age of 12 years. Certification explains that the film is appropriate for all age groups

A- Restricted to adult audiences. Type of film is restricted to adults only (Persons above the age of 18 are adults)

S- Restricted to specialized audiences such as doctors or scientists. Films which are rated S are meant for a special class of persons only.

- **Section- 5C:** After examination of films
  - ✓ Refusing to grant a certificate, or
  - ✓ Granting only an “A” certificate, or
  - ✓ granting only a “S” certificate, or

- ✓ granting only a “UA” certificate, or
- ✓ Directing the applicant to carry out the modifications within thirty days from the date of order.
- **Section- 5E:** Suspension and revocation of certificate.
- **Section- 5F:** Review of orders by central government.
- **Section- 7: Penalties**

#### **Board of film censors (sec 3)**

- The central government constitutes a board to be called the board of film certification for the purpose of sanctioning films for public exhibition.
- The board consists of a chairman and twelve to twenty five other members appointed by the central government.

#### **Examination of film (sec 4)**

- Any person desiring to exhibit any film shall in the prescribed manner make an application to the board for a certificate in respect thereof, and the board may, after examining or having the film examined in the prescribed manner –
- Sanction the film or unrestricted public exhibition.
- Sanction the film for public exhibition restricted to adults, or
- Sanction the film for public exhibition restricted to members of any profession or any class of persons. Having regard to the nature, content and theme of the film; or
- Direct the applicant to carry out such modifications in the film as it thinks necessary before sanctioning the film for public exhibition under any of the foregoing clauses; or
- Refuse to sanction the film for public exhibition.

#### **Certification of films (sec 5A)**

- After examination of films, the board grants certificate to the person applying for.
- The film suitable for unrestricted public exhibition is granted ‘U’ certificate
- The film suitable for unrestricted public exhibition, but is endorsement of the nature is granted ‘UA’ certificate.

#### **Appeals (sec 5c)**

- Any person applying for a certificate in respect of a film who is aggrieved by any order of the Board-
- Refusing to grant a certificate; or Granting only an ‘A’ certificate; or Granting only a ‘S’ certificate; or Granting only a ‘UA’ certificate.

- Directing the application to carry out any excisions or modifications, may within thirty days from the date of such order
- Prefer an appeal to the Tribunal by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fees, not exceeding rupees one thousand.

#### **Penalties (sec – 7)**

- If any person exhibits or permits to be exhibited in any place any film other than a film which has been certified by the board shall be punishable with imprisonment for a term which may extend to three years, or
- With fine which may extend to one lakh rupees, or with both and in the case of a continuing offence with a further fine which may extend to twenty thousand rupees for each day during which the offence continues.

#### **IV. Prasar Bharati Act;**

- The Prasar Bharati Act provides for the establishment of a Broadcasting Corporation, to be known as Prasar Bharati, and define its **composition, functions, and powers**.
- The Parliament of India passed the Prasar Bharati Act to grant this **autonomy in 1990**, but it was not enacted until **15 September 1997**.
- The Act provides for the grant of autonomy to electronic media, namely, **All India Radio and Doordarshan**, which were earlier working as independent media units under the **Ministry of Information and Broadcasting (Government)**.
- **The major objectives of the Prasar Bharati Corporation as laid out in the Prasar Bharati Act, 1990 are as follows**
  - To uphold the **unity and integrity**.
  - To promote **national integration**.
  - To safeguard **citizens' rights**.
  - To create awareness about **women's issues**.
  - To provide adequate coverage to diverse **cultures, sports and games and youth affairs**.
  - To safeguard the rights of **working classes**.

#### **WHY PRASAR BHARATI FORMED?**

An Act to provide for the establishment of a Broadcasting corporation for India, be known as 'Prasar Bharati'

- To define its composition
- Functions
- Powers

— This Act may be called the Prasar Bharati (Broadcasting Corporation of India) Act, 1990

— It extends to the whole of India

— **The Board shall consist of**

— A Chairman

— One Executive Member

— One Member (Finance)

— One Member (Personnel); deals with the hiring, administration, and training of staff.

— Six Part-time Members

— Director-General (Akashvani), *ex-officio*;

— Director-General (Doordarshan), *ex-officio*;

### **PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA)**

— The Corporation shall be a body corporate

— common seal with power to acquire, hold and dispose of property, both movable and immovable,

— The headquarters of the Corporation shall be at New Delhi

— The Corporation may establish offices, kendras or stations at other places in India with the previous approval of the Central Government, outside India.

— The direction and management of the affairs of the Corporation shall vest in the Prasar Bharati Board which may exercise all such powers.

— The Chairman shall be part-time Member and shall hold office for a term of six years from the date on which he enters upon his office.

— The Executive Member, the Member (Finance) and Member (Personnel) shall be whole-time members and every such Member shall hold office for a term of six years from the



date on which he enters upon his office or until he attains the age of sixty-two years whichever is earlier.

- The Chairman or any other Member, except an *ex-officio* Member, the Nominated Member and an elected Member shall only be removed from his office by order of the President of India on the ground of misbehavior

— **Meetings of Board**

- There shall not be less than six meetings every year but three months shall not intervene between one meeting and the next meeting.
- A Member shall be deemed to have vacated his office if he absents himself for three consecutive meetings of the Board without the leave of the Chairman.

— **Functions and Powers of Corporation**

- It shall be the primary duty of the Corporation to organize and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.
- Upholding the unity and integrity of the country
- Safeguarding the citizen's right to be informed freely, truthfully and objectively on all matters of public interest, national or international
- 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
- Providing adequate coverage to sports and games
- Providing appropriate programmes keeping in view the special needs

of the youth

- Stimulating the national consciousness in regard to the status and problems of women
- Promoting social justice and combating (fighting) exploitation, inequality and evils as untouchability
- Serving the rural and weaker sections of the people and those residing

in border regions, backward or remote areas

- Taking special steps to protect the interests of children, the blind, the aged, the handicapped, etc.

- The President may, by order, remove the Chairman or any Whole-time Member from his office
- Ceases to be a citizen of India
- Is adjudged an insolvent (bankrupt)
- Engages during his term of office in any paid employment outside the duties of his office
- Is convicted of any offence involving moral turpitude (wicked behavior, corruptness, immorality, etc.)
- Is, in the opinion of the President, unfit to continue in office by reason of infirmity (weakness) of body or mind:

## **V. Cable Television Networks Act 1995**

- Before the introduction of cable television in India, broadcasting was solely under the control of the State. The Government of India was caught unprepared with the emergence of cable networks and broadcasting through satellites in the early 1990s. The Government was not able to put a check on transmission and broadcast of television through foreign satellites.
- The necessity of procuring licence for operating cable networks was first mentioned by the Rajasthan High Court in the case of *Shiv Cable TV System v. State of Rajasthan*. In this case, the district magistrate ordered a ban on cable networks as they were being operated without licence. Subsequently the order of the district magistrate was challenged in the Rajasthan High Court on the ground that the order was in violation of fundamental right to freedom trade and profession. The high court held that there was no violation of the right to freedom of trade because cable networks fall within the definition of “wireless telegraph apparatus” under the Indian Wireless Telegraphy Act and therefore it necessary to have licence to operate such network. This highlighted the need for having a framework for the regulation of cable networks in India which led to the enactment of the Cable Television Networks (Regulation) Act, 1995.
- Object of the Act
- The object of the Act was to regulate the ‘haphazard mushrooming of cable television networks’. Due to the lack of licensing mechanism for cable operators; this resulted in large number of cable operators, broadcasting programmes without any regulation. The Act aimed at regulating content and operation of cable networks. This was due to the availability of signals from foreign television networks via satellite communication. The access to foreign television networks was considered to be a “cultural invasion” as these channels portrayed western culture. It also wanted to lay down the "responsibilities and obligations in respect of the quality of service both technically as well content wise, use

of materials protected under the copyright law, exhibition of uncertified films, and protection of subscribers from anti-national broadcasts from sources inimical to national interests".

- There were three amendments made to the Act.
- The Act is divided into five chapters. The first chapter discusses the scope and extent of the Act and meaning of the terms used in the Act. The second chapter deals with "Regulation of Cable Television Network". The third chapter relates to "Seizure and Confiscation of certain Equipments". The fourth chapter focuses on "Offences and Penalties". The fifth chapter covers other miscellaneous provisions.
- Regulation of Cable Television Network
  - The regulation of cable television network under the Act is ensured through a two step process. In order to keep track of cable operators, it has mandate a compulsory registration for cable operators. It also lays down provisions to regulate content to be broadcasted by the cable operator.
- Registration of Cable Operators
  - In order to regulate cable television networks, it was made mandatory for cable television network operators to be registered. Procedure for registration is laid down in section 5 of the Act. Any person who is operating or desires to operate a cable network may apply for registration to the registering authority.
  - An application for registration of cable operator has to be made under Form 1 along with the payment of fees of Rs.50 to the head post master within whose territorial jurisdiction the office of cable operator is situated. The registration certificate which is issued by the registering authority after inspection is valid for 12 months and can be renewed.
  - The registering authority may also refuse the registration of a cable operator. The reason for such refusal has to be recorded in writing and communicated to the applicant.
  - Section 4A was inserted into the Act by the TRAI (Amendment) Act, 2002. Section 4A deals with "transmission of programmes through addressable system". [Refer to section on "2003- Amendment to the Cable Television Networks (Regulation) Act, 1995 (Amendment Act)"].
- Content Regulation
  - The Central Government, in public interest can put an obligation on every cable operator to transmit or retransmit a programme of any pay channel through addressable system. In public interest the central government may also 'specify one or more free-to-air channels to be included in the package of channels' (basic service tier). The Central Government may also, in public interest specify the maximum amount which can be charged by the operator to the subscriber for receiving the programmes transmitted in the basic service

tier provided by such cable operators. The cable operators have to publicize to subscribers the subscription rates of each pay channel at regular intervals.

- Sections 5 and 6 of the Act deal with advertisement code and programme code. All cable services should be in conformity with the codes. Under section 7, cable operators have to maintain a register as to the content transmitted or retransmitted. All cable operators shall compulsorily re-transmit Doordarshan channels.
- Section 9 of the Act mandates 'use of standard equipment in cable television network'. It is the duty of the cable operator to make sure that the cable television networks do not interfere with authorized telecommunication systems.
- Offences and Penalties
- Section 11 gives power to the authorized government authority to seize any cable operator's equipment, if such officer has reason to believe that the cable operator is using the equipment without proper registration.
- Sections 16, 17 and 18 of the Act deal with offences under the Act. They lay down punishments for any act which is in contravention with the provisions of the Act.

| Section | Ingredients of the Offence  | Penalty/ Fine   |
|---------|---|---|
| 16      | Anyone who is held to be in violation of the provisions of this Act | For the first offence: Imprisonment for a term which may extend to 2 years or with fine which may extend to Rs. 1000 or with both.<br><br>For every subsequent offence: Imprisonment for a term which may extend to 5 years and with fine which may extend to Rs. 5000. |

- Section 17 deals with when an offence under this Act is committed by a company; in this case the person in charge will be liable.
- The Act also gives power to the authorized officer to prohibit the transmission of certain programmes in public interest under section 19 of the Act.
- Under section 20 of the Act, the Central Government in public interest may prohibit the operation cable television network. The Central Government may make such an order in the interest of the (i) sovereignty and integrity of India; or (ii) security of India; or (iii) friendly relations of India with any foreign state; or (iv) public order, decency or morality.
- 2003- Amendment to the Cable Television Networks (Regulation) Act, 1995 (Amendment Act)

- Numerous complaints were received by the Government stating that there has been unreasonable price hike in cable television by the cable operators. Moreover, the cable operator were not paying appropriate revenue by concealing their income and under-reporting their income. The cable operators defended themselves by stating that the broadcasting industry is unregulated and they are forced to increase the price for providing cable television services as the broadcasting companies can increase the charges as per their wish. In order to address these problems, the government appointed a specialized task force.
- Special task force in its study noted that the consumers do not have the choice to select the premium channels they wanted to watch rather it is provided to them in a bundle irrespective of the fact they want to subscribe to such channel or not. In order to give choice to the consumer it recommended the introduction of conditional access systems (CAS). This would require the consumers to set up set-top boxes which will allow the consumers to view all the free to air channel and he can choose to watch any of the premier channels for a charge.
- This recommendation of the task force was introduced through the 2003 amendment to the Act. The main objective of the Amendment Act was to address the frequent and arbitrary increase in cable charges. This was introduced section 4A which allowed operators to transmit pay channels through an addressable system apart from basic package of free-to-air channels.

#### **CASE:**

- There was a lot controversy with respect to implementation of the CAS. In order to explain the controversy, it is important to understand the structure of the cable market. The cable market is divided into three categories. Broadcasters, who are at the top of the pyramid, the Multi-System Operators are in the middle and the local cable operators are at the bottom of the pyramid.
- The 2003 Amendment introduced to CAS was welcomed by the broadcasters and the MSOs. But the consumer and the local cable service providers were unhappy with this decision because the consumers feared that they have to pay special rates for pay channels whereas the local operators were outraged because they believed that CAS would affect their revenue. Due to the adverse reaction from the consumers and the local cable operator, the government delayed the implementation of CAS indefinitely. This finally culminated in a case before the Delhi High Court.
- The Delhi High Court decided that implementation of CAS cannot be delayed. Subsequently to this, the government announced in 2004 that Telecom Regulatory Authority of India (TRAI) will be handling the problems regarding CAS and make recommendations on the same. TRAI recommended that CAS should be denotified and it can be re-introduced later when there is adequate regulation to properly implement it.

- The government on the recommendation of TRAI withdrew the implementation of CAS. However, this decision was faced with a new challenge and this time the single judge bench of the Delhi High Court held that the Government does not have any ground to suspend the CAS and it has disregarded the previous decision of the Delhi High Court in *Jay Polychem* case. Finally, the government re-introduced CAS but after issuing rules as to its working and implementation.

**UNIT – IV –MEDIA LAW AND ETHICS –SVCA5303**

**SATHYABAMA INSTITUTE OF SCIENCE AND TECHNOLOGY**

**DEPARTMENT OF VISUAL COMMUNICATION**

**SUBCODE: SVCA5303**

**SUBJECT CODE: MEDIA LAW AND ETHICS**

**UNIT IV**

**I.Cyber Ethics –**

Cyber ethics is the study of moral, legal, and social issues involving cyber technology. It examines the impact that cyber technology has for our social, legal, and moral systems. It also evaluates the social policies and laws that have been framed in response to issues generated by the development and use of cyber technology. Hence, there is a reciprocal relationship here. Cyber ethics is a more accurate label than computer ethics, which might suggest the study of ethical issues limited to computing machines, or to computing professionals. It is more accurate than Internet ethics, which is limited only to ethical issues affecting computer networks.

**II. Cyber Law of India : Introduction**

In Simple way we can say that cyber crime is unlawful acts wherein the computer is either a tool or a target or both . Cyber crimes can involve criminal activities that are traditional in nature, such as theft, fraud, forgery, defamation and mischief, all of which are subject to the Indian Penal Code. The abuse of computers has also given birth to a gamut of new age crimes that are addressed by the Information Technology Act, 2000.

**We can categorize Cyber crimes in two ways**

1. The Computer as a Target :-using a computer to attack other computers.

e.g. Hacking, Virus/Worm attacks, DOS attack etc.

2.The computer as a weapon :-using a computer to commit real world crimes.

e.g. Cyber Terrorism, IPR violations, Credit card frauds, EFT frauds, Pornography etc.

Cyber Crime regulated by Cyber Laws or Internet Laws.

**Technical Aspects**

Technological advancements have created new possibilities for criminal activity, in particular the criminal misuse of information technologies such as :



### **a. Unauthorized access & Hacking:-**

Access means gaining entry into, instructing or communicating with the logical, arithmetical, or memory function resources of a computer, computer system or computer network. Unauthorized access would therefore mean any kind of access without the permission of either the rightful owner or the person in charge of a computer, computer system or computer network. Every act committed towards breaking into a computer and/or network is hacking. Hackers write or use ready-made computer programs to attack the target computer. They possess the desire to destruct and they get the kick out of such destruction. Some hackers hack for personal monetary gains, such as to stealing the credit card information, transferring money from various bank accounts to their own account followed by withdrawal of money. By hacking web server taking control on another person's website called as web hijacking.

### **b. Trojan Attack:-**

The program that act like something useful but do the things that are quiet damping. The programs of this kind are called as Trojans. The name Trojan Horse is popular.

Trojans come in two parts, a Client part and a Server part. When the victim (unknowingly) runs the server on its machine, the attacker will then use the Client to connect to the Server and start using the trojan.

TCP/IP protocol is the usual protocol type used for communications, but some functions of the trojans use the UDP protocol as well.

### **c. Virus and Worm attack:-**

A program that has capability to infect other programs and make copies of itself and spread into other programs is called virus.

Programs that multiply like viruses but spread from computer to computer are called as worms.

### **d. E-mail & IRC related crimes:-**

#### **1. Email spoofing**

Email spoofing refers to email that appears to have been originated from one source when it was actually sent from another source. Please Read

#### **2. Email Spamming**

Email "spamming" refers to sending email to thousands and thousands of users - similar to a chain letter.

3 Sending malicious codes through email

E-mails are used to send viruses, Trojans etc through emails as an attachment or by sending a link of website which on visiting downloads malicious code.

#### **4. Email bombing**

E-mail "bombing" is characterized by abusers repeatedly sending an identical email message to a particular address.

5. Sending threatening emails

6. Defamatory emails

7. Email frauds

8. IRC related

Three main ways to attack IRC are: "verbal" attacks, clone attacks, and flood attacks.

#### **e. Denial of Service attacks:-**

Flooding a computer resource with more requests than it can handle. This causes the resource to crash thereby denying access of service to authorized users.

#### **Examples include**

- attempts to "flood" a network, thereby preventing legitimate network traffic
- attempts to disrupt connections between two machines, thereby preventing access to a service
- attempts to prevent a particular individual from accessing a service
- attempts to disrupt service to a specific system or person.

#### **Distributed DOS**

A distributed denial of service (DoS) attack is accomplished by using the Internet to break into computers and using them to attack a network.

Hundreds or thousands of computer systems across the Internet can be turned into "zombies" and used to attack another system or website.

#### **Types of DOS**

There are three basic types of attack:

**a. Consumption of scarce, limited, or non-renewable resources like NW bandwidth, RAM, CPU time. Even power, cool air, or water can affect.**

## **b. Destruction or Alteration of Configuration Information**

## **c. Physical Destruction or Alteration of Network Components**

## **e. Pornography:-**

The literal meaning of the term 'Pornography' is “describing or showing sexual acts in order to cause sexual excitement through books, films, etc.”

This would include pornographic websites; pornographic material produced using computers and use of internet to download and transmit pornographic videos, pictures, photos, writings etc.

Adult entertainment is largest industry on internet. There are more than 420 million individual pornographic webpages today.

Research shows that 50% of the web-sites containing potentially illegal contents relating to child abuse were 'Pay-Per-View'. This indicates that abusive images of children over Internet have been highly commercialized.

Pornography delivered over mobile phones is now a burgeoning business, “driven by the increase in sophisticated services that deliver video clips and streaming video, in addition to text and images.”

### **Effects of Pornography**

Research has shown that pornography and its messages are involved in shaping attitudes and encouraging behavior that can harm individual users and their families.

Pornography is often viewed in secret, which creates deception within marriages that can lead to divorce in some cases.

In addition, pornography promotes the allure of adultery, prostitution and unreal expectations that can result in dangerous promiscuous behavior.

Some of the common, but false messages sent by sexualized culture.

Sex with anyone, under any circumstances, any way it is desired, is beneficial and does not have negative consequences.

Women have one value - to meet the sexual demands of men.

Marriage and children are obstacles to sexual fulfillment.

Everyone is involved in promiscuous sexual activity, infidelity and premarital sex.

## **Pornography Addiction**

Dr. Victor Cline, an expert on Sexual Addiction, found that there is a four-step progression among many who consume pornography.

1.Addiction: Pornography provides a powerful sexual stimulant or aphrodisiac effect, followed by sexual release, most often through masturbation.

2.Escalation: Over time addicts require more explicit and deviant material to meet their sexual "needs."

3.Desensitization: What was first perceived as gross, shocking and disturbing, in time becomes common and acceptable.

4.Acting out sexually: There is an increasing tendency to act out behaviors viewed in pornography.

### **g. Forgery:-**

Counterfeit currency notes, postage and revenue stamps, mark sheets etc can be forged using sophisticated computers, printers and scanners. Also impersonate another person is considered forgery.

### **h. IPR Violations:-**

These include software piracy, copyright infringement, trademarks violations, theft of computer source code, patent violations. etc.

Cyber Squatting- Domain names are also trademarks and protected by ICANN's domain dispute resolution policy and also under trademark laws.

Cyber Squatters registers domain name identical to popular service provider's domain so as to attract their users and get benefit from it.

### **i. Cyber Terrorism:-**

Targeted attacks on military installations, power plants, air traffic control, banks, rail traffic control, telecommunication networks are the most likely targets. Others like police, medical, fire and rescue systems etc.

Cyber terrorism is an attractive option for modern terrorists for several reasons.

1. It is cheaper than traditional terrorist methods.

2. Cyberterrorism is more anonymous than traditional terrorist methods.

3. The variety and number of targets are enormous.
4. Cyber terrorism can be conducted remotely, a feature that is especially appealing to terrorists.
5. Cyber terrorism has the potential to affect directly a larger number of people.

**j. Banking/Credit card Related crimes:-**

In the corporate world, Internet hackers are continually looking for opportunities to compromise a company's security in order to gain access to confidential banking and financial information.

Use of stolen card information or fake credit/debit cards are common.

Bank employee can grab money using programs to deduce small amount of money from all customer accounts and adding it to own account also called as salami.

**k. E-commerce/ Investment Frauds:-**

Sales and Investment frauds. An offering that uses false or fraudulent claims to solicit investments or loans, or that provides for the purchase, use, or trade of forged or counterfeit securities.

Merchandise or services that were purchased or contracted by individuals online are never delivered.

The fraud attributable to the misrepresentation of a product advertised for sale through an Internet auction site or the non-delivery of products purchased through an Internet auction site.

Investors are enticed to invest in this fraudulent scheme by the promises of abnormally high profits.

**l. Sale of illegal articles:-**

This would include trade of narcotics, weapons and wildlife etc., by posting information on websites, auction websites, and bulletin boards or simply by using email communication.

Research shows that number of people employed in this criminal area. Daily peoples receiving so many emails with offer of banned or illegal products for sale.

**m. Online gambling:-**

There are millions of websites hosted on servers abroad, that offer online gambling. In fact, it is believed that many of these websites are actually fronts for money laundering.

**n. Defamation: -**

Defamation can be understood as the intentional infringement of another person's right to his good name. Cyber Defamation occurs when defamation takes place with the help of computers and / or the Internet. E.g. someone publishes defamatory matter about someone on a website or sends e-mails containing defamatory information to all of that person's friends. Information posted to a bulletin board can be accessed by anyone. This means that anyone can place. Cyber defamation is also called as Cyber smearing.

### **Cyber Stacking:-**

Cyber stalking involves following a persons movements across the Internet by posting messages (sometimes threatening) on the bulletin boards frequented by the victim, entering the chat-rooms frequented by the victim, constantly bombarding the victim with emails etc.

In general, the harasser intends to cause emotional distress and has no legitimate purpose to his communications.

### **p. Pedophiles:-**

Also there are persons who intentionally prey upon children. Specially with a teen they will let the teen know that fully understand the feelings towards adult and in particular teen parents.

They earns teens trust and gradually seduce them into sexual or indecent acts.

Pedophiles lure the children by distributing pornographic material, then they try to meet them for sex or to take their nude photographs including their engagement in sexual positions.

### **q. Identity Theft :-**

Identity theft is the fastest growing crime in countries like America.

Identity theft occurs when someone appropriates another's personal information without their knowledge to commit theft or fraud.

Identity theft is a vehicle for perpetrating other types of fraud schemes.

### **r. Data diddling:-**

Data diddling involves changing data prior or during input into a computer.

In other words, information is changed from the way it should be entered by a person typing in the data, a virus that changes data, the programmer of the database or application, or anyone else involved in the process of having information stored in a computer file.

It also include automatic changing the financial information for some time before processing and then restoring original information.

#### **s. Theft of Internet Hours:-**

Unauthorized use of Internet hours paid for by another person.

By gaining access to an organisation's telephone switchboard (PBX) individuals or criminal organizations can obtain access to dial-in/dial-out circuits and then make their own calls or sell call time to third parties.

Additional forms of service theft include capturing 'calling card' details and on-selling calls charged to the calling card account, and counterfeiting or illicit reprogramming of stored value telephone cards.

#### **t. Theft of computer system (Hardware):-**

This type of offence involves the theft of a computer, some part(s) of a computer or a peripheral attached to the computer.

#### **u. Physically damaging a computer system:-**

Physically damaging a computer or its peripheral either by shock, fire or excess electric supply etc.

#### **v. Breach of Privacy and Confidentiality**

##### **1.Privacy**

Privacy refers to the right of an individual/s to determine when, how and to what extent his or her personal data will be shared with others.

Breach of privacy means unauthorized use or distribution or disclosure of personal information like medical records, sexual preferences, financial status etc.

##### **2.Confidentiality**

- It means non-disclosure of information to unauthorized or unwanted persons.
- In addition to Personal information some other type of information which useful for business and leakage of such information to other persons may cause damage to business or person, such information should be protected.
- Generally for protecting secrecy of such information, parties while sharing information forms an agreement about the procedure of handling of information and to not to disclose such information to third parties or use it in such a way that it will be disclosed to third parties.
- Many times party or their employees leak such valuable information for monetary gains and causes breach of contract of confidentiality.

- Special techniques such as Social Engineering are commonly used to obtain confidential information.

### **III. Intellectual property in cyber space –**

Intellectual Property Rights (IPR) and Cyber Laws cannot be separated, and online content must be protected.

- Cyberspace is the non-physical domain over which the communication between computers takes place through computer networks. With the growth of technology every individual has a right of accessing cyberspace and sharing information.
- In cyberspace, sometimes private information is shared by a person who is not the owner. Hence, privacy is violated. One makes profit from another person's creation. Those rights are protected under IPR.
- Patent, Copyright, Trademarks, Trade Secrets, Industrial and Layout Designs, Geographical Indications etc. are intellectual property rights. When these rights are violated in cyberspace there are various remedies in law.

#### **Copyright Infringement:**

- Copyright protection is given to the owner of any published artistic, literary, dramatic, or scientific work over his work to exclude everyone else from using that work on his own name and thereby gain profit from it.
- When these copyrights are used by anybody without the permission of the owner, it amounts to infringement of such copyright. When copies are made of software which are distributed on the internet and sold by any person other than owner, it amounts to copyright infringement. Copying from website or content from the blog also amounts to a copyright violation.

#### **Copyright Issues in Cyber Space:**

##### **Linking:**

It allows the user of the website to go to another website on the Internet without leaving that website that he is using. It is done by clicking on a word or image in one web page. Linking damages the rights or interests of the owner of the webpage.

Linked sites can lose their income as revenues are often equal to the number of persons who visit their page. It may create the impression that the two linked sites endorse the same and are linked to each other.

In *Shetland Times, Ltd. v. Jonathan Wills and Another*, the Shetland News's deep link to embedded pages of the Shetland Times's web site, through the use of Times' web site's news



headlines, was held to be an act of copyright infringement under British law and an injunction was issued for the same.

### **Software Piracy:**

It is also covered under Indian Copyright Act . This is knowingly making use on a computer of an infringing copy of a computer programme.

### **Piracy can be of 3 types:**

- Soft lifting
- Software Counterfeiting
- Uploading-Downloading.

### **Cybersquatting And Trademark Infringement:**

Trademark means a mark capable of being represented graphically and which can distinguish the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours.

Cybersquatting is done when domain names are registered, sold or trafficked-in with the intention to make profit from the goodwill of someone else. It is a punishable.

### **Trademark Issues In Cyber Space**

A domain name dispute arises when more than one individual believe that they have the right to register a specific domain name. It arises when a registered trademark is registered by another individual or organization who is not the owner of trademark that is registered. All domain name registrars must follow the ICANN's policy . Cybersquatting is a type of domain name dispute.

Yahoo! Inc v. Akash Arora & Anr , the defendants were using yahooindia.com for providing internet services. The petitioner was the owner of the trademark Yahoo! and had registered its domain name with different countries like yahoo.in for India. Hence, the domain name yahooindia.com could be mistaken as an extension of Yahoo!. The Court treated the matter as passing off and granted an injunction restraining the defendant from using the domain name yahooindia.com.

Meta tagging is a technique in which a word is inserted in the keywords field of the site to increase the chances of a search engine returning the site, even though the site may have nothing to do with the word which was inserted. Infringement of trademark occurs when companies include their own websites meta tags containing the names or descriptions of other companies. Oppedahl & Larson v. Advanced Concepts, the law firm of Oppedahl & Larson, owner of the domain name , filed a trademark infringement action against three companies and the corresponding ISPs after discovering that the companies inserted the words Oppedahl and

Larson in the keywords field of their web pages in order to draw traffic to their sites. The UDRP Administrative Procedure is only available for disputes related to abusive registration of a domain name. For a domain name registration to be abusive, certain conditions are needed to be fulfilled.

The conditions are:

- The domain name registered by the domain name registrant is identical or confusingly like a trademark or service mark in which the complainant (the person or entity bringing the complaint) has rights; and
- The domain name registrant has no rights or legitimate interests in respect of the domain name in question; and
- The registered domain name is being used in bad faith.

### **Conclusion**

Cyber space is becoming a core area for intellectual property rights infringement. Various practices by the cyber site operators resulted in violation of intellectual property rights and various other rights of other websites operators. It has become crucial that people are aware of the unlawful usage of their websites and webpages. With the growth of Cyber space and technology advancements, copyright and trademarks are not limited to the conventional intellectual property alone but has extended to intellectual property rights over the internet. There are various rules and guidelines provided by international conventions and treaties to protect infringement of IPRs online which are helping e-commerce and e-businesses to expand.

The Information technology Act does not provide provisions in respect of jurisdiction issues, cybercrimes related to IPR, cyber stalking, cyber defamation etc. The Indian Trademark Act, 1999 and Copyright Act, 1957 are also silent on issues on online Trademark and Copyright infringement. Though computer programmes are protected under the Copyright Act, 1957, it does not provide remedies for cyber piracy.

### **IV. Information Technology Act –**

- An Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Bankers' Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto.
- Salient Features of I.T Act
- The salient features of the I.T Act are as follows –

- ▶ Digital signature has been replaced with electronic signature to make it a more technology neutral act.
- ▶ It elaborates on offenses, penalties, and breaches.
- ▶ It outlines the Justice Dispensation Systems for cyber-crimes.
- ▶ It defines in a new section that *cyber café is any facility from where the access to the internet is offered by any person in the ordinary course of business to the members of the public.*
- ▶ Scheme of I.T Act
- ▶ The following points define the scheme of the I.T. Act –
- ▶ The I.T. Act contains **13 chapters** and **90 sections**.
- ▶ The last four sections namely sections 91 to 94 in the I.T. Act 2000 deals with the amendments to the Indian Penal Code 1860, The Indian Evidence Act 1872, The Bankers' Books Evidence Act 1891 and the Reserve Bank of India Act 1934 were deleted.
- ▶ It commences with Preliminary aspect in Chapter 1, which deals with the short, title, extent, commencement and application of the Act in Section 1. Section 2 provides Definition.
- ▶ Chapter 2 deals with the authentication of electronic records, digital signatures, electronic signatures, etc.
- ▶ Chapter 11 deals with offences and penalties. A series of offences have been provided along with punishment in this part of The Act Thereafter the provisions about due diligence, role of intermediaries and some miscellaneous provisions are been stated.
- ▶ The Act is embedded with two schedules. The First Schedule deals with Documents or Transactions to which the Act shall not apply. The Second Schedule deals with electronic signature or electronic authentication technique and procedure. The Third and Fourth Schedule are omitted.
- ▶ Thereafter the provisions about due diligence, role of intermediaries and some miscellaneous provisions are been stated.
- ▶ The Act is embedded with two schedules. The First Schedule deals with Documents or Transactions to which the Act shall not apply. The Second Schedule deals with electronic signature or electronic authentication technique and procedure. The Third and Fourth Schedule are omitted.

## V. Theory of Privacy in Cyberspace –

**Privacy and Cyberspace** • Are privacy issues unique to cybertechnology? • Four characteristics worth noting: • The amount of personal information that can be gathered using cybertechnology.

• The speed at which personal information can be transmitted using cybertechnology. • The duration of time in which the information can be retained because of cybertechnology. • The kind of information that can now be transferred because of cybertechnology.

**What is Personal Privacy** • Privacy is a concept that is neither clearly understood nor easily defined. • Sometimes we speak of one's privacy as something that has been: • "lost," • "diminished," • "intruded upon," • "invaded," • "violated," • "breached," and so forth.

**What is Privacy (continued)?** • Privacy is sometimes viewed as an "all-or-nothing" concept – that is, something that one either has (totally) or does not have. • At other times, privacy is viewed as something that can be diminished. • For example, as a repository of personal information that can be eroded gradually.

#### **Table 5-1: Three Theories of Privacy**

**A Comprehensive Account of Privacy** • Moor (1997) has introduced a theory of privacy that incorporates important elements of the non-intrusion, non-interference, and informational views of privacy. • According to Moor: • an individual has privacy in a situation if in that particular situation the individual is protected from intrusion, interference, and information access by others. [Italics Added]

**Moor's Theory of Privacy (continued)** • An important aspect in this definition is Moor's notion of a situation. • A situation is left deliberately broad so that it can apply to a range of contexts or "zones." • Situations can be "declared private" in a normative sense. • For example, a situation can be an "activity," a "relationship," or the "storage and access of information" in a computer or on the Internet.

**Moor's Privacy Theory (continued)** • Moor's distinction between naturally private and normatively private situations enables us to differentiate between the conditions required for: • (a) having privacy (in a descriptive sense); • (b) having a right to privacy. • With this distinction we can differentiate between a: • loss of privacy; • violation of privacy.

**Two Scenarios** • Scenario 1: Someone walks into the computer lab and sees you using a computer. • Your privacy is lost but not violated. • Scenario 2: Someone peeps through the keyhole of your apartment door and sees you using a computer. • Your privacy is not only lost but is violated.

**Why is Privacy Important?** • What kind of value is privacy? • Is it one that is universally valued? • Is privacy valued mainly in Western industrialized societies, where greater importance is placed on individuals? • Is privacy something that is valued for its own sake – i.e., an intrinsic value? • Is it valued as a means to an end, in which case it has only instrumental worth?

**Privacy as a Universal Value** • Not valued the same in all cultures. • Less valued in non-Western nations and in rural societies. • Less valued in some democratic societies (such as Israel) where security and safety are important. • Has at least some value in all societies.

**Is Privacy an Intrinsic or Instrumental Value?** • Not valued for its own sake. • But is more than an instrumental value in the sense that it is necessary (rather than merely contingent) for achieving important human ends. • Fried – privacy is necessary for human ends such as trust and friendship. • Moor – privacy is an expression of the core value security.

**Privacy as an Important Social Value** • Privacy is important for a diversity of relationships (from intimate to casual). • It is important for democracy. • Privacy is an important social, as well as an individual, value. • Regan (1995) – we need to understand the importance of privacy as a social value.

**Three Ways Privacy is Threat- ened by Cybertechnology?** • (A) data-gathering techniques used to collect and record personal information, often without the knowledge and consent of users. • (B) data-exchanging techniques used to transfer and exchange personal data across and between computer databases, typically without the knowledge and consent of users. • (C) data-mining techniques used to search for patterns implicit in large databases in order to generate consumer profiles based on behavioral patterns discovered in certain groups.

## **VI. Free speech and content control in cyber space**

- Free Speech vs. Censorship and Content Control in Cyberspace
- Should certain forms of speech on the Internet should be censored?
- Do all forms of speech deserve to be protected under the constitutional guarantee of free speech.

According to the First Amendment of the US Constitution:

- Congress shall make no law...abridging the freedom of speech, or of the press.
- The right to free speech is a conditional right.

### **Censorship**

Catudal (1999) believes that an important distinction can be drawn between two types of censorship:

"censorship by suppression“;

"censorship by deterrence."

- Both forms of censorship presuppose that some "authorized person or group of persons" has judged some text or "type of text" to be objectionable on moral, political or other grounds.
- Censorship by suppression affects the prohibition of the objectionable "text" or material from being published, displayed, or circulated.
- Banning certain kinds of books from being published or prohibiting certain kinds of movies to be made would be examples of censorship by suppression.
- In this scheme, pornography and other objectionable forms of speech would not be allowed to exist on the Internet.
- Censorship by deterrence is a less drastic means of censoring.
- It does not suppress or block out objectionable material or forbid it from being published.
- Rather, it depends on threats of arrest, prosecution, conviction, and punishment against those who make an objectionable "text" available and those who acquire it.
- Heavy fines and possible imprisonment can be used to deter the publication and acquisition of this objectionable content.

## **UNIT – V–MEDIA LAW AND ETHICS –SVCA5303**

**SATHYABAMA INSTITUTE OF SCIENCE AND TECHNOLOGY**

**DEPARTMENT OF VISUAL COMMUNICATION**

**SUBCODE: SVCA5303**

**SUBJECT CODE: MEDIA LAW AND ETHICS**

**UNIT V**

**I. Code of ethics for advertising on AIR, Doordarshan –**

**AIR Broadcast Code**

Broadcasting on All India Radio by individuals will not permit the following:

- Criticism of friendly countries.
- Attack on religion or communities.
- Anything obscene or defamatory.
- Incitement to violence or anything against maintenance of law and order.
- Anything amounting to contempt of Court.
- Aspersion against the integrity of the President, Governors and the Judiciary.
- Attack on a political party by name.
- Hostile criticism of any State or the Centre.
- Anything showing disrespect to the constitution or advocating change in the Constitution by violent means (but advocating changes in a constitutional way should not be debarred).

**The Code (General Rules of Conduct in Advertising)**

Advertising shall be so designed as to confirm to the laws of the country and should not offend against morality, decency and religious susceptibilities of the people.

No advertisement shall be permitted which:-

- Derides any race, caste, color, creed and nationality;
- is against any of the directive principles, or any other provision of the Constitution of India;
- tends to incite people to crime, cause disorder or violence, or breach of law or glorifies violence or obscenity in any way;

- presents criminality as desirable;
- adversely affects friendly relations with foreign States;
- exploits the national emblem, or any part of the constitution or the person or personality of a national leader or State Dignitary;
- relates to or promotes cigarettes and tobacco products, liquor, wines and other intoxicants;
- No advertisements message shall in any way be presented as News.
- 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 any relation to any industrial dispute.
- Proviso: “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. ” (As per DG: AIR’s I.D.No. 15/3/2008-PIV dated November 20, 2008).

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

- ✓ Money lenders;
- ✓ Chit funds;
- ✓ Saving schemes and lotteries other than those conducted by Central and State Government Organisations, Nationalised or recognised banks and Public Sector Undertakings;
- ✓ Unlicenced employment services;
- ✓ Fortune tellers or sooth-sayers etc. and those with claims of hypnotism;
- ✓ Foreign goods and foreign banks.
- ✓ Betting tips and guide books etc. relating to horse-racing or the other games of chance.
- ✓ The items advertised shall not suffer from any defect or deficiency as mentioned in Consumer Protection Act 1986.
- ✓ No advertisement shall contain references 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.

- ✓ 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, and 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 a purchaser.
- ✓ 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.
- ✓ Advertisements shall not contain disparaging or derogatory references to another product or service.
- ✓ 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.
- ✓ No advertisement of any kind of jewellery (except artificial jewellery) or precious stones shall be accepted.
- ✓ Information to consumers on matters of weight, quality or prices of products, where given, shall be accurate.
- ✓ Advertisements indicating price comparisons or reductions must comply with relevant laws.

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

AIR broadcast does not permit :-

- ✓ Criticism of friendly countries.
- ✓ Attack on any religion or community.
- ✓ Anything obscene or defamatory;
- ✓ Incitement to violence or anything against maintenance of law and order;
- ✓ Anything amounting to contempt of court;
- ✓ Aspersions against the integrity of the President and Judiciary;

- ✓ Anything affecting the integrity of the Nation and criticism by name of any person.

Note: Advertisements concerning jewellery, foreign goods and foreign banks, besides those related to Indian Equity / Debenture issued for NRIs will, however, be accepted as far as the external services of All India Radio are concerned.

Any such effects, which might startle the listening public, must not be incorporated in advertisements. For example, and without limiting the scope, the use of the following sound effects will not be permitted:

- ✓ Rapid gunfire or rifle shots;
- ✓ Sirens;
- ✓ Bombardments;
- ✓ Screams;
- ✓ Raucous laughter and the like.
- Any pretence in advertising copy must be avoided and such copy shall not be accepted by All India Radio. The 'simulation' of voices of a personality in connection with advertisements for commercial products is also prohibited unless bonafide evidence is available that such personality has given permission for the simulation and it is clearly understood that stations broadcasting such announcements are indemnified by the advertiser or advertising agency against any possible legal action.
- No advertising for a product or service shall be accepted if it suggests in any way that unless the children themselves buy or encourage other people to buy the products or services, they will be failing in their duty or lacking in loyalty to any person or organisation.
- No advertisement shall be accepted which leads children to believe that if they do not own or use the product advertised they will be inferior in some way to other children or that they are liable to the condemned or ridiculed for not owning or using it.
- No advertisement likely to bring advertising into contempt or disrepute shall be permitted. Advertising shall not take advantage of the superstition or ignorance of the general public.
- No advertising of talismans, charms and character-reading from photographs or such other matter as well as those which trade on superstition of general public shall be permitted.
- Advertising shall be truthful, avoid distorting facts and misleading the public by means of implications by false statements, as to :
  - the character of the merchandise, i.e. its utility, materials, ingredients, origin etc.
  - the price of the merchandise, its value, its suitability or terms of purchase.

- the services accompanying purchase, including delivery, exchange, return, repair, upkeep etc.
- personal recommendations of the article or service.
- the quality or the value of competing goods or trustworthiness of statement made by others.
- Testimonials of any kind from experts etc. other than Government recognized standardization agencies shall not be permitted.
- No advertisement shall be permitted to contain any claim so exaggerated as to lead inevitably to disappointment in the minds of the public.
- Methods of advertising designed to create confusion in the mind of the consumer as between goods by one maker and another maker are unfair and shall not be used. Such methods may consist in:
  - the imitation of the trademark of the name of competition or packaging or labeling of goods; or
  - The imitation of advertising devices, copy, layout or slogans.
- Indecent, vulgar, suggestive, repulsive or offensive themes or treatment shall be avoided in all advertisements. This also applies to such advertisements which themselves are not objectionable as defined above, but which advertise objectionable books, photographs or other matter and thereby lead to their sale and circulation.
- No advertisement in respect of medicines and treatments shall be accepted which is in contravention of the code relating to standards of advertising medicines and treatments as per Annexure II.

Note I :In all other respect, the Director General will be guided for purposes of commercial broadcasting in All India Radio by Code of Ethics for Advertising in India as modified from time to time ( relevant excerpts appended at Annexure-I).

Note II: Notwithstanding anything contained herein, this code is subject to such modification/ directions as may be made / issued by the Director General from time to time.

Note III: All advertising agencies shall adhere to the standards of practice as prescribed by Advertising Agencies Association of India, Bombay, as given in Annexure III.

## **II. Advertising Standard Council of India's Code of Ethics –**

Advertising Standards Council of India (ASCI) and the Code of the Advertising Standards

The Role and Functioning of the ASCI & its Consumer Complaints Council (CCC) in dealing with Complaints received from Consumers and Industry, against Ads which are

considered as False, Misleading, Indecent, Illegal, leading to Unsafe practices, or Unfair to competition, and consequently in contravention of the ASCI Code for Self-Regulation in Advertising. The ASCI is not a Government body, but it is a voluntary self-regulatory council, registered as a not-for-profit Company under section 25 of the Indian Companies Act. The sponsors of the ASCI, who are its principal members, are firms of considerable repute within Industry in India, and comprise Advertisers, Media, and Ad Agencies and other Professional /Ancillary services connected with advertising practice. The ASCI was set up;

- To ensure the truthfulness and honesty of representations and claims made by advertisements and to safeguard against misleading advertisements.
- To ensure that advertisements are not offensive to generally accepted standards of public decency.
- To safeguard against the indiscriminate use of advertising for the promotion of products which are regarded as hazardous to society or to individuals to a degree or of a type which is unacceptable to society at large.
- To ensure that advertisements observe fairness in competition so that the consumer's need to be informed on choices in the market-place and the canons of generally accepted competitive behaviour in business are both served.

#### **Mission of ASCI**

- ASCI has one overarching goal: "To maintain and enhance the public's confidence in advertising".
- ASCI seeks to ensure that advertisements conform to its Code for Self-Regulation which requires advertisements to be truthful and fair to consumers and competitors.
- Within the bounds of generally accepted standards of public decency and propriety.
- Not used indiscriminately for the promotion of products, hazardous or harmful to society or to individuals, particularly minors, to a degree unacceptable to society at large.

#### **Objectives of ASCI**

- To monitor ,administer and promote standards of advertising practices in India
- To codify, adopt and modify the code of advertising practices in India and implement, administer and promote and publicize such a code.
- To give wide publicity to the Code and seek adherence to it of as many as possible of those engaged in advertising.
- To print and publish pamphlets, leaflets, circulars or other literature or material, that may be considered desirable for the promotion of or carrying out of the objects of the Company.

## **Code of the Advertising Standards by ASCI**

### **Chapter I**

To Ensure the Truthfulness and Honesty of representations and claims made by Advertisements and to safeguard against misleading Advertisements.

- Advertisements must be truthful. All descriptions, claims and comparisons, which are related 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.
- 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.
- Advertisements should not contain any reference to any person, firm or institution without due permission, nor should a picture of any generally identifiable person be used in advertising without due permission.
- Advertisements shall not distort facts nor mislead the consumer by means of implications or omissions. Advertisements shall not contain statements or visual presentations, 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.
- 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. For example:
- Products shall not be described as 'free' where there is any direct cost to the consumer other than the actual cost of any delivery, freight or postage. Where such cost are payable by the consumer, a clear statement that this is the case shall be made in the advertisement.
- Where a claim is made that if one product is purchased another product will be provided 'free', the advertiser is required to show as and when called upon by The Advertising Standards Council of India that the price paid by the consumer for the product which is offered for purchase with the advertised incentive.
- Claims, which use expressions such as 'upto five years gurantee' or 'prices from as low as Y', are not acceptable if there is a likelihood of the consumer being misled either as to the extent of the availability or as to the applicability of the benefits offered.
- Special care and restraint has to be exercised in advertisements addressed to those suffering from weakness, any real or perceived inadequacy of any physical attributes such as height or bust development, obesity, illness, importance,

infertility, baldness and the like to ensure that claims or representations, directly or by implications, do not exceed what is considered prudent by generally accepted standards or medical practice and the actual efficacy of the product.

- Advertisements inviting the public to invest money shall not contain statements which may mislead the consumer in respect of the security offered, rates, of return or terms of amortization, where any of the foregoing elements are contingent upon the continuance of or change in existing conditions, or any other assumptions, such conditions or assumptions must be clearly indicated in the advertisements.
- Advertisements inviting the public to take part in lotteries or price competitions permitted under the law or which hold out the prospects of gifts shall state clearly all-material conditions so as to enable the consumers to obtain a true and fair view of their prospects in such activity.
- Further, such advertisers shall make adequate provision for the judging of such competitions, announcement of the results and the fair distribution of prizes and gifts according to the advertised terms and conditions within a reasonable period of time. With regard to the announcement of results, it is clarified that the advertiser's responsibility under this, section of the Code is discharged adequately if the advertiser publicizes the main results in the media used to announce the competition as far as is practicable, and advises the individual winners by post.
- Obvious untruths or exaggerations intended to amuse or to catch the eye of the consumer are permissible. Provided that they are clearly to be seen as humorous or hyperbolic and not likely to be understood as making literal or misleading claims for the advertised product.

## **Chapter II**

To ensure that Advertisements are not offensive to generally accepted standards of Public Decency. Advertisements should contain nothing indecent, vulgar or repulsive, which is likely, on the light of generally prevailing standards of decency and property, to cause grave or widespread offence.

## **Chapter III**

To Safeguard against the indiscriminate use of Advertising in situations or for the promotion of products, which are regarded as Hazardous to society or the Individuals to a degree, or of a type, which is Unacceptable to Society at large.

- No advertisement shall be permitted which:
  - Tends to incite people to crime or to promote disorder and violence or intolerance
  - Derides any race, caste, color, creed or nationality
- Presents criminality as desirable or directly or indirectly encourages people particularly children to emulate it or conveys the modus operandi of any time

- Adversely affects friendly relations with a foreign state.
- Advertisements addressed to children shall not contain anything, whether in illustration or otherwise, which might result in their physical, mental or moral harm or which exploits their vulnerability. For example, no advertisement Shall encourage children to enter strange places or to converse with strangers in an effort to collect coupons, wrappers, labels or the like. Should depict children leaning dangerously outside windows, over bridges or climbing dangerous cliffs and the like. Should show children climbing or reaching dangerously to reach products or for any other purpose. Should show children using or playing with matches or any inflammable or explosive substance, or playing with or using sharp knives, guns or mechanical or electrical appliances, the careless use of which could lead to their suffering cuts, burns, shocks or other injury.
- Advertisements shall not, without justifiable reason, show or refer to dangerous practices or manifest a disregard for safety or encourage negligence.
- Advertisements should contain nothing, which is in breach of the law, or omit anything which the law requires
- Advertisements shall not propagate products, the use of which is banned under the law

#### **Chapter IV**

To ensure that advertisements observe Fairness in Competition such that the Consumer's need to be informed on choices in the market place and the canons of generally accepted competitive behavior in Business is both served.

Advertisements containing comparisons with other manufacturers or suppliers or with other products, including those where a competitor is named are permissible in the interests of vigorous competition and public enlightenment, provided:

- It is clear that aspects of the advertiser's product are being compared with what aspects of the competitor's product.
- The subject matter of comparison is not chosen in such a way as to confer an artificial advantage upon the advertiser or so as to suggest that a better bargain is offered than is truly the case
- The comparisons are factual, accurate and capable of substantiation
- There is no likelihood of the consumer being misled as a result of the comparison, whether about the product advertiser or that with which it is compared
- The advertisement does not unfairly denigrate, attack or discredit other products, advertisers of advertisements directly or by implication.
- Advertisements shall not make unjustifiable use of the name or initials of any other firm, company or institution, nor take unfair advantage of the goodwill attached to the trademark or symbol of another firm or its product or the goodwill acquired by its advertising campaign.

- Advertisements shall not be so similar to other advertisements in general layouts, copy, slogans, visual presentations, music or sound effects as to be likely to mislead or confuse consumers.

### **III. Right to Reply,**

i) The newspaper should promptly and with due prominence, publish either in full or with due editing, free of cost, at the instance of the person affected or feeling aggrieved/or concerned by the impugned publication, a contradiction/reply/ clarification or rejoinder sent to the editor in the form of a letter or note. If the editor doubts the truth or factual accuracy of the contradiction/reply/clarification or rejoinder, he shall be at liberty to add separately at the end, a brief editorial comment doubting its veracity, but only when this doubt is reasonably founded on unimpeachable documentary or other evidential material in his/her possession. This is a concession which has to be availed of sparingly with due discretion and caution in appropriate cases.

ii) However, where the reply/contradiction or rejoinder is being published in compliance with the directions of the Press Council, it is permissible to append a brief editorial note to that effect.

iii) Right of rejoinder cannot be claimed through the medium of Press Conference, as publication/coverage of a news of a conference is within the discretionary powers of an editor.

iv) Freedom of the Press involves the readers' right to know all sides of an issue of public interest. An editor, therefore, shall not refuse to publish the reply or rejoinder merely on the ground that in his opinion the story published in the newspaper was true. That is an issue to be left to the judgement of the readers. It also does not behove an editor to show contempt towards a reader.

(v) The press has to remember that it is not a prosecutor in any investigation and should be guided by the paramount principle of a person's innocence unless the alleged offence is proved beyond doubt by independent reliable evidence and, therefore, even within the constraint of space, the material facts should find space in the rejoinder so that the public, as the ultimate judge of any matter, is guided by the complete and accurate facts in forming its opinion. The readers' right to know all sides of any issue of public importance is a natural corollary of the freedom enjoyed by the press in a democracy.

### **IV. Communal Writing and Sensational and Yellow Journalism;**

Yellow journalism marked by sensationalist stories, self-promotion

William Randolph Hearst, publisher of the *New York Journal*, and his arch-rival, Joseph Pulitzer, publisher of the *New York World*, are credited with the creation of yellow journalism.

Such journalism had the following characteristics:

the use of multicolumn headlines, oversized pictures, and dominant graphics;

front-page stories that varied from sensationalist to salacious in the same issue;

one-upmanship, or the scooping of stories, only later to be embarrassed into retractions (usually by a competing publication);



jingoism, or the inflaming of national sentiments through slanted news stories, often related to Civil War;

extensive use of anonymous sources by overzealous reporters especially in investigative stories on “big-business,” famous people, or political figures;

self-promotion within the news medium; and

pandering to the so-called hoi polloi, especially by using the newspaper layout to cater to immigrants for whom English was not their first language.

The term 'yellow journalism' sourced to comic strip and editorials

Lore has suggested that the use of a comic strip illustrated by the *World's* Richard Felton Outcault entitled “The Yellow Kid” (later poached by the *Journal*) and used to poke fun at industry, political, and society figures, was the source of the phrase “yellow journalism.”

Other sources point to a series of critical editorials by Ervin Wardman of the *New York Press* as coining the phrase after first attempting to stigmatize the practices as “new” and then “nude” journalism — “yellow” had the more sinister, negative connotation Wardman sought. Other editors began to use the term in their newspapers in New York, and it eventually spread to Chicago, San Francisco, and other cities by early 1897.

## **Yellow Journalism**

Society's need for yellow journalism “journalism without a soul”.

Any journalism that treats news in an unprofessional or unethical fashion has a term of Yellow Journalism. Techniques include exaggeration of news events, scandalous or untrue information .It presents badly-searched news and eye-catching headlines in order to sell as more information/newspapers as possible.

**SENSATIONALISM:** Between 1895 and 1905 newspapers would do to sell papers.

Newspapers used reader's emotions to get them to read <br />stories. This is called sensationalism.

Characteristics of yellow journalism:

1. “Scare” headlines with excessively large type in red or black ink.
2. Many photos , some of them faked.
3. Made-up stories , faked interviews, misleading headlines.
4. Sunday colour comics.
5. Campaigns for those who suffered abuse.<br />
5. Sensational news stories...

Are slanted to appear one way. They don't tell both sides , or all sides, of a story.

Focus on rich and famous people , crime and excess. Don't tell hard news , but only focus on sensational angles of a story that aren't that important. Use quotes from unnamed people as facts.

The first famous cartoon : The Yellow Kid was drawn by Richard Outcault for Joseph Pulitzer's World . It was a little boy dressed in a yellow nightshirt that would comment on happenings in the city . People would buy The World just to read The Yellow Kid.

Believe it or not...Hearst hired the Yellow Kid's cartoon from Pulitzer .

Pulitzer hired another cartoonist to keep drawing the Yellow Kid for him, giving New York two Yellow Kid cartoons at the same time.

The term "yellow journalism" comes from the competition of the Yellow Kid cartoon. Nellie Bly -Pulitzer's most famous reporter.<br />was a woman named Elizabeth Cochran. Because it was considered improper at the time for women journalists to use their real names, she used a pseudonym: Nellie Bly. Stunt journalism Bly's journalistic style was to write about the lives of ordinary people. She got her information by going undercover and pretending to be someone else. This is called stunt journalism when a reporter becomes part of the story. Nellie's most famous stunts She became a worker in a " sweet shop", a factory in New York City that workers toiled in for 10 hours a day with only one bathroom break. She had herself committed to a mental institution for women which was said to be the worst in NY. Not only did she report on how the patients were abused, but also how they were fed contaminated meat.

## **V. Freebies, Bias, Coloured Reports;**

A gift or handout, something that doesn't cost money, is a freebie. Guests at fancy award shows usually get bags full of expensive freebies. The informal word freebie means "something given free of charge," and it's an especially good term for marketing or promotional items that are handed out as advertising. Your local bank might pass out Frisbees with their address and phone number printed on them as freebies, for example. The word dates from about 1900, from free and the informal ending -ie, which is also used in newbie.

Media bias relates to the bias or perceived bias of journalists and news organisations in mass media. It normally implies a widespread bias that impacts the standard of journalism, rather than bias in the perspective of one journalist or article. Media bias can affect the selection of events and stories that get published, the perspective from which they're written, and the language chosen to tell them. In most countries, media bias is thought to either lean to the left or right, meaning it either favours liberal or conservative politics.

Although a lot of media contains unconscious bias, where journalists may be met with practical limitations to neutrality such as lack of access to all the facts, media also regularly contains explicit bias. This is where media outlets deliberately try to paint a certain image of an event, group or individual to achieve their desired outcome. This outcome may be politically fueled, or it could just be an attempt to make more money.

There are countless different types of media bias, but here we delve into more detail about the most common kinds. We sourced this information from AllSides, a media outlet that provides media bias ratings, balanced news and diverse perspectives.

**Spin.** This is a type of media bias where the journalist strays away from objective fact and instead puts a certain spin on a story that dramatises it or places it out of context.

**Bias by omission.** If a media outlet chooses not to write certain stories, or they leave out relevant information or perspectives on purpose, this is bias by omission.

**Unsubstantiated claims.** This is when the journalist makes claims without using data or evidence to prove their point; this can often be seen in article headlines.

**Sensationalism.** A tactic often used by tabloid journalists, sensationalism is when information is presented in a shocking or over-dramatic way to lure in readers. Also known as click-bait.

**Opinions presented as fact.** This is when journalists suggest that subjective statements are factual, or present their opinions, assumptions or beliefs as objective.

**Slant.** When journalists only tell part of a story and try to play up one particular angle, this is known as slant.

**Ad hominem.** This is when journalists make a personal attack against an individual rather than addressing their position in the argument or issue at hand.

**Mind reading.** Sometimes, journalists will write assumptions about what members of the public or individuals are thinking, and these assumptions are often wrong.

**Flawed logic.** This is when journalists arrive at conclusions that are not justified by any of their previous points or any evidence, in an attempt to misrepresent the facts.

**Bias by placement.** Media outlets can reveal biases through which stories they deem most important. Which is the front page story and which is only a small paragraph at the back?

**Omission of source attribution.** Where a journalist sources their story is very important, so if they omit their sources, they might not be presenting reliable information.

## **VI. Ethics of Telecasting and Broadcasting –**

Broadcasting on All India Radio by individuals will not permit the following:

- Criticism of friendly countries.
- Attack on religion or communities.
- Anything obscene or defamatory.
- Incitement to violence or anything against maintenance of law and order.
- Anything amounting to contempt of Court.
- Aspersion against the integrity of the President, Governors and the Judiciary.

- Attack on a political party by name.
- Hostile criticism of any State or the Centre.
- Anything showing disrespect to the constitution or advocating change in the Constitution by violent means (but advocating changes in a constitutional way should not be debarred).

## **VII. Sting operations**

### **What is a sting operation?**

A sting operation involves law enforcement agency officials actively participating in, and sometimes orchestrating an operation against a single individual committing illegal acts, gang activities or takedown of an entire multi-national criminal enterprise. Undercover officers use bait or opportunity that gets the criminal to accept the undercover officer into the ongoing criminal operation or that results in a lone arrest for commission of a crime. Example of a single sting includes the police officer posing as a prostitute or a “john.” Another example is when police use a “bait” vehicle in a vehicle theft. An example of a larger sting operation includes officers posing as gang members or prey for scam artists. An example of international cooperation includes cooperation and assistance offered by law enforcement and government agencies of several countries working together to stop crimes such as terrorism, money laundering or sex trafficking. Stings are not used just in criminal activities. Officials trying to ascertain whether establishments, realtors or apartment owners use discrimination tactics and underage alcohol or tobacco sales are other types of stings.

### **How do sting operations work?**

Law enforcement officials plan the sting sometime before the operation actually takes place. Every official involved in the sting knows their position, their action in the sting and their role once the sting operation results in apprehension, arrest, and prosecution. A sting is typically well-planned, well-executed and usually brings about the desired end to the operation.

### **What are some sting operation benefits?**

Sting operations enhance law enforcement presence, build confidence in the U.S. and abroad and improve collaboration among law enforcement agencies. The Center for Problem-Oriented Policing indicates that stings help facilitate arrests, convictions, and return of stolen property.