

MEDIA LAWS & ETHICS

Unit 1: Constitution and Media

A. Core values of the constitution

The Constitution of India became effective on 26 January 1950. B. R. Ambedkar was the chairman of the drafting committee. It lays down the fundamental political code, structure, procedures, powers, and duties of government institutions. Also, it sets out fundamental rights, directive principles, and the duties of citizens. It is the supreme law of India. Let us now discuss the features of Indian constitution.

Salient Features of the Indian Constitution

1. The world's longest Constitution- the Indian Constitution is the longest and largest written Constitution. Mainly because it contains not only fundamental human rights but also specific administrative directions. Many institutions, such as the Public Sector, have been granted a constitutional position (under Article 308- 323). Another one of the factors for the size of this Convention is that it applies to the entire country of India. Since India is such a large nation, it necessitated the application of precise regulations to diverse areas of the country. As a result, a vast constitution was created.

2. Assembled from a myriad of perspectives- elements of our Constitution were borrowed out of a multitude of locations. The essential elements of our Constitution were derived from the Government of India Act of 1935.

The different sources of the Indian Constitution are as follows:

- **United States of America**

Fundamental Rights, independence of Judiciary, Judicial Review, Impeachment of President and Supreme Court Judges.

- **United Kingdom**

Single Citizenship, Parliamentary system of Government, Rule of Law, Prerogative writs

- **Canada Constitution**

Quasi Federal Government system, Appointment of Governors.

- **Australia Constitution**

Concurrent List, Joint sitting of 2 houses of the Parliament, Freedom of Trade

- **USSR**

Fundamental duties, Social, Economic, and Political Justice.

- **Ireland**

Directive Principles of State Policy, Election of President.

- **Germany**

Emergency provisions like Suspension of Fundamental Rights during an emergency.

- **France**

Republic

- **South Africa**

Amendment of Constitution, Election of members of Rajya Sabha.

- **Japan**

The procedure is established by law.

3. Adult Universal Franchise - our forefathers were entitled to vote for each Indian citizen above the age of 21. (now age is 18). It took several years for Western liberal democracy to grant this freedom to all of us.

4. Solitary Citizenship - the Constitution of India provides for single citizenship. This implies that whoever obtains the citizenship rights of another nation instantly loses their Indian citizenship. The UK Constitution inspired this notion of citizenship. People can benefit from the development of advantages merely by becoming citizens. The ability to vote and be elected to positions such as President and Member of Parliament is only accessible to Indian nationals.

5. Independence of the Judiciary - In India, the judicial system is largely autonomous and makes its judgments. In a republic, judicial independence is critical. It safeguards its inhabitants against the unauthorized or unlawful processing of government agencies. The Constitution provides for several fundamental rights. The Judiciary must use its powers under Articles 32 & 13 to protect such fundamental rights.

6. Constitution of a Quasi-Federal Republic - Quasi-federal indicates that this seems to be unified, but it is not genuinely federal due to a significant lean towards centralized authority. In situations of distress, the Central Govt has far greater control than the State Legislatures.

7. The Parliamentary system of Government - the British Constitution inspired this style of Government. India chose it because she had prior experience with this type of governance. This is referred to as a UK parliament. The executive is responsible and responsive to the legislative by different means and classes in this management style.

8. Rigidity and Flexibility in Balance - According to the document, most parts of the Constitution can be changed by a mere majority in The parliament. At the same time, many clauses in Article 368 require a specific majority, particularly in situations impacting the state's policy.

9. State Policy Directive Principles - these are some of the ideas outlined in Articles 36 through 51. Such principles act as a guide for such governments in developing regulations necessary for the public welfare. Even though these ideas are unjustifiable in courts, the state has passed different Legislation as a result which all of these concepts have become Inalienable rights. The most notable example is Article 21 A's Right to Education. This

was formerly a Directive principle, but now Legislation has been enacted and included in the Fundamental Rights to make it a legitimate legal right.

10. Fundamental Duties - these responsibilities were not included in the original Constitution, but they were considered to be necessary subsequently. Invoking the Soviet Union, India's Government had 11 Fundamental Duties to Article 51 A of the Constitution. They were formed in 1976 as part of the 42nd Amendment Of the Constitution. The Government thought Indian nationals needed to adopt these values to demonstrate reverence for our country.

11. Fundamental rights - Part 3 of the Constitution of India establishes fundamental rights (Article 12-35). These are indeed the universal human rights that each Indian citizen enjoys. All Indian citizens have access to Articles 15, 16, 19, 29, and 30. Except for nationals of hostile nations, everybody who lives in this country is entitled to Articles 14, 20, 21, 21A, 23, 24, and 25-28.

Preamble

India's Constitution Is Preceded By A Preamble Outlining Its Goals And Objectives.

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 opportunity; and to promote among them all.

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation; IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November 1949, do HEREBY ADOPT, ENACT AND GIVE OURSELVES THIS CONSTITUTION.

The Supreme Court expressly said in the Berubari Case that the Preamble also couldn't overrule the precise requirements of the Act. However, the Supreme Court ruled in the Keshava Nanda Bharati case of 1973 that the Preamble is a constituent of the Constitution.

"The Preamble of our Constitution is of tremendous significance given the big and noble goal stated in the Preamble," said then-CJI Justice Sikri.

Despite constraining Legislature's amendment power under Article 368 of the Constitution, the Government relies on the Preamble. It was decided that even under Article 368, the fundamental component of the Preamble could not be changed. This was also agreed that because the Preamble is a component of the Constitution, it can be changed, but only if the 'essential characteristic' in the Preamble cannot be changed. The court determined if any of the Preamble's essential parts were eliminated, the tower would collapse apart.

B. Freedom of Expression

Article 19(1) in The Constitution of India 1949

- (1) All citizens shall have the right
 - (a) to freedom of speech and expression;
 - (b) to assemble peaceably and without arms;
 - (c) to form associations or unions;
 - (d) to move freely throughout the territory of India;
 - (e) to reside and settle in any part of the territory of India; and
 - (f) omitted
 - (g) to practise any profession, or to carry on any occupation, trade or business

Article 19 (2) Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

C. Judicial Infrastructure

Adequacy of Judicial Infrastructure is a pre-requisite for reduction of pendency and backlog of cases in Courts. Though primary responsibility of infrastructure development for the subordinate judiciary rests with the State Governments, the Central Government augments the resources of the State Governments by releasing financial assistance under this Scheme. The scheme aims at improving the physical infrastructure of the Subordinate Courts and also the housing needs for Judicial Officers of District and Subordinate Courts in the country with a view to facilitate better justice delivery. The scheme covers all States and UTs and it does not cover construction of High Court buildings. The scheme allows new construction and upgradation or renovation of such existing court buildings but does not allow routine maintenance or upkeep. The central assistance to States/UTs is restricted to the budgetary provision of the Department of Justice available under the scheme during the financial year. However, States/UTs are free to spend additional amount as per their requirement from their resources. This scheme is not a reimbursement scheme. This scheme has been under implementation since 1993. A total amount of Rs. 8325 crore has been spent under the Scheme since then up to 31.03.2021.

The scheme as originally envisaged provided that the Central and State Governments should share funding on 50:50 basis. The funding pattern of the scheme between the Central and State Governments was later revised from 50:50 to 75:25 and 90:10 for North Eastern States from the year 2011-12 onwards with the approval of the Union Cabinet. The fund sharing pattern of the Scheme was further revised from 75:25 to 60:40 (Centre: State) and 90:10 for the 8 North-Eastern and 3 Himalayan States with effect from 2015-16. However, 100% Central funding was provided for the Union Territories.

The continuation of this CSS was last extended by the Cabinet in its meeting held on 10.11.2017 from 01.04.2017 to 31.03.2020 to be implemented in a Mission Mode through National Mission for Justice Delivery and Legal Reforms with an estimated outlay of Rs. 3,320 crores. Pending appraisal and approval of the ongoing schemes, the Department of

Expenditure vide its O.M. dated 10.01.2020 granted interim extension of the CSS till 31.03.2021 or till the date the recommendations of Fifteenth Finance Commission come into effect, whichever is earlier. The continuance of the Scheme from 01.04.2021 to 31.03.2026 is presently under consideration.

Focus is to match the availability of court rooms / court halls with the sanctioned strength of judicial officers / judges in District and Subordinate Courts. As per information made available by the High Courts, the total number of court halls / court rooms and residential units for Judicial Officers available for District and Subordinate Courts and the sanctioned strength of Judicial Officers in the country is as given below:

(as on 31.03.2021)

Sanctioned Strength of JOs No of Court Halls available 24291; No of Court Halls available 20,115; No of Court Halls under construction 2,423; No of Residential Units available 17,705; No of Residential Units under construction 1,857.

Provision of adequate judicial infrastructure is closely connected with the need for proper budgetary planning for the judiciary. In the Chief Justices' Conference held in April, 2016 it was decided that The Chief Justices must adopt proactive steps to (a) identify the infrastructural needs of the State Judiciary by developing suitable five year and annual action plans for the future; (b) ensure the completion of under construction projects pending for three or more years on a mission mode basis; (c) ensure timely completion of projects for the construction of court complexes and residential accommodation, particularly for Judges in the District Judiciary; (d) constitute a Committee of three Judges of the High Court of which Chief Secretary and the Secretaries of the Departments of Finance, Public Works and Law be co-opted as Members to closely monitor the timely completion of projects and to facilitate a proper coordination between the officials at the district level and the decision-making authorities of the State Government including the Chief Secretaries, and Secretaries in the Departments of Finance, Public Works and Law; (e) constitute, at the district level, Committees consisting of the District Judges and Portfolio Judges in-charge of the Districts; (f) create a mechanism for monthly reporting and monitoring of work and the proper utilization of allocated funds to ensure the proper and complete utilisation of funds. It was further resolved that on-line updation of progress made in creating and upgrading of infrastructure by all High Courts be adopted.

D. Social responsibility of the media

In mid-20th century most of the developing countries and third world nations have used this social responsibility theory of press which is associated with "the Commission of the Freedom of Press" in United States at 1949. In the book "Four theories of Press" (Siebert, Peterson and Schramm) it's been stated that "pure libertarianism is antiquated, out dated and obsolete." That paved way for replacement of Libertarian theory with the Social responsibility theory.

Social responsibility theory allows free press without any censorship but at the same time the content of the press should be discussed in public panel and media should accept any obligation from public interference or professional self regulations or both. The theory

lies between both authoritarian theory and libertarian theory because it gives total media freedom in one hand but the external controls in other hand. Here, the press ownership is private. The social responsibility theory moves beyond the simple “Objective” reporting (facts reporting) to “Interpretative” reporting (investigative reporting). The total news is complete facts and truthful but the commission of the freedom press stated that “No longer giving facts truthfully rather than give a necessary analysed or interpretative report on facts with clear explanations”.

The theory helped in creating professionalism in media by setting up a high level of accuracy, truth, and information. The commission of press council also included some tasks based on social responsibility of media, which are as follows:

- Formulate the code of conduct for the press.
- Improve the standards of journalism.
- Safeguarding the interests of journalism and journalist.
- Criticise and make some penalty for violating the code of conduct.

The theory allows

- Everyone to say something or express their opinion about the media.
- Community opinion, Consumer action and professional ethics.
- Serious invasion of recognized private rights and vital social interests.
- Private ownership in media may give better public service unless government has to take over to assure the public to provide better media service.
- Media must take care of social responsibility and if they do not, government or other organisation will do.

Critics of Social Responsibility Theory:

- Avoids the conflict situation during war or emergency by accepting the public opinion.
- Media will not play monopoly because the audience and media scholars will rise questions if media published or broadcast anything wrongly or manipulate any story.
- Media Standards will improve.
- Media will concern all class audience rather than focus on higher classes in the society.
- Media may work autonomously but certain thing is controlled by the government and other public organisation.

E. Social Media

The term social media refers to a computer-based technology that facilitates the sharing of ideas, thoughts, and information through virtual networks and communities. Social media is internet-based and gives users quick electronic communication of content, such as personal information, documents, videos, and photos. Users engage with social media via

a computer, tablet, or smartphone via web-based software or applications. While social media is ubiquitous in America and Europe, Asian countries like Indonesia lead the list of social media usage. More than 4.5 billion people use social media, as of October 2021.

Threat of Fake News and facts verification

Often referred to as “fake news” in modern times, the term “misinformation” is defined as false or inaccurate information that may be distributed with the intent to deceive those who read it.

Information or opinions that you disagree with may not necessarily constitute misinformation. While the term “fake news” is often used as a pejorative in journalism today, this is a dishonest use of the term; indeed, the practice of calling fact-based reporting “misinformation” based on the premise that it doesn’t align with your political views could arguably be called misinformation itself.

To understand the concept of misinformation, consider a couple of modern examples:

- In May 2019, a video made the rounds on social media that appeared to show Nancy Pelosi stammering and slurring her speech, causing many pundits to question her mental aptitude. The New York Times revealed that this was, in fact, a doctored video.
- In early 2020, a number of myths began making headlines regarding the supposed treatment of COVID-19, commonly referred to as coronavirus. Many bogus claims were presented as fact, including the idea that eating more red meat or coconut oil could treat the virus.

Both instances of misinformation are clearly designed to push a specific agenda, whether that be to besmirch a political opponent or to sell a phony solution to a desperate market. Such content can harm public discourse by influencing individuals to make misinformed decisions when it comes to politics or their personal well-being. Debunking such claims requires careful research, fact-checking, and media forensics. These are only a couple of examples of the countless areas where misinformation can make an impact.

Social media decorum

You are certainly the extent to which you love logging in to Twitter, Facebook or even the newly launched Google + so as to update your social media status or share information. Regardless of how you prefer using the social media platforms, learning about social graces on social media is very important due to the fact that they have developed into integral parts in our lives. Most people think that have the freedom of doing whatever they want with their accounts of social media. It’s not unusual to come across someone claiming that it is their account and they can utilize it how they see fit. Although this might be very true to a certain extent, it is very crucial to bear in mind that this is a platform of social networking meaning that there are other people who are using it, not you alone. You must be considerate about the other people, especially due to the fact that online communication tends to lack body language and tone, which would under normal circumstances help to regulate direct interaction (face- face communication). The guidelines of social media aren’t engraved on a stone although they are generally agreed

so as to enhance a better interaction in the various platforms of social media. Additionally, there are many social media platforms which use these guidelines differently and they can't therefore be exhausted in this article. However, we have highlighted some of the common guidelines that are commonly applied and used on social media platforms.

- Think Before Posting
- Avoid Providing Excessive Information
- Photos
- Avoid Use of Text Speak
- Everything Is Not About You On Social Media

Unit 2: Regulatory Bodies

A. Press Council of India

The Press Council Act of 1978 created the Press Council of India (PCI). It is the highest body to maintain the standards of the Print Media in India. It is believed to be the most significant body that remains active in a democracy to ensure that freedom of speech is invariably safeguarded.

It serves as the regulator that discharges professional standards for print media in India. The goal of the Press Council of India is to preserve the freedom of the press and to regulate and enhance the standards of the press in India.

Structure of PCI

PCI comprises a Chairman and other 28 members who are:

- 3 Lok Sabha members.
- 2 Rajya Sabha Members.
- 6 Editors of Newspapers.
- 7 Working Journalists (other than editors of newspapers).
- 3 people with specialised knowledge of public life.
- 1 person who handles the news agencies and 6 persons in the business of handling newspapers.

The Speaker of Lok Sabha, Chairman of Rajya Sabha and a member selected by the PCI choose the chairman of PCI through its procedure.

Press Council of India (PCI) – Powers

- An editor or journalist can complain to the Press Council of India (PCI) about the professional misconduct or violation of journalistic ethics by an editor or journalist.
- PCI is responsible for enquiring about the complaints it receives.
- It can summon witnesses, demand copies of public records.

- PCI can issue warnings, criticize the guilty, it could be journalist, newspaper, newspaper agency or editor.
- Decisions taken by the Press Council of India is final and it cannot be appealed before a court of law.

Press Council of India – Limitations of its Powers

There are 2 main factors that restrict the powers of the Press Council of India which are given below.

- It only has the power to enforce standards on the print media and has no powers to enforce standards on the Electronic media. Radio, television, internet comes under electronic media. Journals, magazines, newspapers etc come under the category of print media.
- While enforcing the issued guidelines, it has very limited powers. It cannot penalize anyone for violation of the guidelines.

B. TRAI

Role of Telecom Regulatory Authority of India

The Telecom Regulatory Authority of India (TRAI) was set up in order to have a suitable environment for the growth of the telecommunications industry in the country and be a part of the global information society. It is a statutory body and regulates the telecommunications sector in the country.

The Telecom Regulatory Authority of India (TRAI) was established with effect from February 20, 1997, by an Act of Parliament, called the Telecom Regulatory Authority of India Act, 1997. It was established to regulate telecom services, including fixation/revision of tariffs for telecom services which were earlier vested in the Central Government.

- To recommend the need for and timing of introduction of new service providers and terms and conditions of the license to a service provider;
- To ensure technical compatibility and inter-connect between different service providers and regulate their revenue-sharing arrangements;
- To ensure compliance with terms of license and revaluation of the same for non-compliance;
- To lay down and ensure a time period for providing long-distance and local distance circuits;
- To facilitate competition and promote efficiency in operations to promote the growth of telecom services;
- To protect consumers' interest, monitor quality of services, inspect equipment used in networks and make recommendations about such equipment;
- To maintain a register of interconnect agreements and keep it open for inspection and to settle disputes among the service providers in this respect;

- To give advice to the government on any matter related to the telecom industry. Levy fees and charges for services and, ensure that universal service obligations are complied with; and
- To perform any such other administration and financial function as may be entrusted to it by the Central Government.

C. IBF

A. Indian Broadcasting Foundation

Indian Broadcasting Foundation also known as (IBF) is a unified representative body of the television broadcasters in India. The organisation was founded in the year 1999. Over 250 Indian television channels are associated with it. The organisation is credited as the spokesman of India Broadcasting Industry.

Objectives

The IBF is the parent organisation of the Broadcasting Content Complaints Council (BCCC) which was set up in the year 2011. The BCCC examines content-related complaints relating to all non-news general entertainment channels in India.

B. Broadcasting Content Complain Council

The BCCC shall be a Thirteen (13)-Member body, comprising a Chairperson, being a retired Judge of the Supreme Court or a High Court, and 12 other Members. The IBF Board of Directors shall appoint the Chairperson by a majority decision.

(b) The Composition of other Members of BCCC shall be as under:

1. Four (4) Non-Broadcaster Members
2. Four (4) Members from National Level Statutory Commissions
3. Four (4) Broadcaster Members

(c) Four (4) Non-Broadcaster Members shall be selected by a separate panel of eminent persons, to be appointed by the IBF Board. The Four Non-Broadcaster Members shall be renowned persons of impeccable integrity, high social standing and outstanding achievements from the following fields:

1. An eminent administrator with relevant experience
2. An eminent media critic/expert
3. A person who has been a member of the CBFC for two years or more
4. An eminent social worker

(d) Four (4) Members from National Level Statutory Commissions shall either be the Chairperson or any other Member of such Commission so nominated by Chairperson of the Commission. Provided that one Member each shall be from National Commission for Women (NCW), National Commission for Protection of Child Rights (NCPCR) and

National Commission for Schedule Castes respectively. The Fourth Member shall be from any of the other National Level Statutory Commissions – such as National Commission for Schedule Tribes, National Commission for Minorities, National Commission for Backward Classes and National Human Rights Commission (NHRC) – to be selected on a rotational basis, depending on the nature of complaint being dealt by BCCC in a particular meeting.

(e) Four (4) Broadcaster Members shall be nominated by voting at the Annual General Body Meeting (AGM) of the IBF to ensure fair and transparent representation. (f) Quorum of BCCC's meeting shall be Seven (7) Members, out of which, at least three would be Non-Broadcaster Members. But if any meeting has to be adjourned for want of quorum, then at the adjourned meeting the Members present, whatever their number, shall form a quorum and shall have power to decide upon all matters, which could have been disposed of at the adjourned meeting.

(g) All decisions of the BCCC shall be by simple majority of the Members present and shall be in writing and may specify the action to be taken by the concerned Television Channel in respect of the television programmes complained against. The Chairperson's view shall have the same weightage as that of any other Member.

C. Broadcasting Audience Research Council

Broadcast Audience Research Council (BARC) formed in 2014, is the world's largest television audience measurement service. After its joint venture with TAM, it is now the only ratings body for the broadcasting sector in the country.

BARC India currently has 22,000 Bar-o-meters installed across the country, and is mandated to scale that up by 10,000 annually to reach 50,000 metered homes by year four of operations. BARC India began reporting Urban (1L+ towns) TV viewership data from April 2015 and then scaled that up to include Rural TV homes w.e.f October 2015, a first of its kind initiative. This has helped the broadcast industry understand what 153.5 million TV households, of which 76 million are in rural India are watching.

BARC India launched its services with 277 subscribed channels. Today, the number of channels that have adopted BARC India's watermarking technology and are subscribed to its services has grown to 470+. Additionally, more than 3000 BARC India Media Workstation (BMW) terminals have been deployed at Broadcasters, Media Agencies and Advertisers across India: an indicator of industry's acceptance of the new TV Viewership measurement system.

This year, BARC India also signed a JV Agreement with TAM and formed a joint meter management company, Meterology Data Pvt Ltd (MDL). TAM will uninstall all its meters which will get re-deployed in BARC India panel homes in phases and data will be fused and published through BMW software. Spot Monitoring and Channel Monitoring data is being exclusively sold by BARC India to Broadcasters, Agencies, Advertisers and others.

BARC India is also currently working on split beam monitoring and digital measurement project which are currently underway.

D. ASCI (Advertising Standard Council of India)

- is a self-regulatory voluntary organization of the advertising industry.
- The Advertising Standards Council of India, ASCI founded in 1985.
- The aim of ASCI is to maintain and enhance the public's confidence in advertising.
- Their mandate is that all advertising material must be truthful, legal and honest, decent and not objectify women, safe for consumers - especially children and last but not the least, fair to their competitors.
- Almost all professional fields have self-regulatory bodies governing their activities.
- For the advertising fraternity, until 1985 there was none.
- Due to this there was a lot of false, misleading and offensive advertising.
- This led to consumers losing faith in advertising and hence resenting it.
- In 1985, ASCI to be imposed on advertisers and advertising agencies.
- In 1985, the ASCI adopted a Code for Self-Regulation in Advertising.
- As the fraternity starts accepting the code, it will result in fewer false claims, fewer unfair advertisements and increased respect for advertisers.

Structure

ASCI's team consists of the Board of Governors, the Consumer Complaints Council (CCC) and its Secretariat. ASCI has 16 members in its Board of Governors, four each representing the key sectors such as Advertisers, advertising agencies, media and allied professions such as market research, consulting, business education etc. The CCC currently has about 28 members: 6 are from within the industry and 8 are from the civil society like well-known doctors, lawyers, journalists, academicians, consumer activists, etc. The CCC's decision on complaint against any advertisement is final. ASCI also has its own independent Secretariat of 5 members which is headed by the Secretary General.

There is no other non-governmental body in India that regulates the advertising content that is released in India. If an ad that is released in India seems objectionable, a person can write to ASCI with their complaint. This complaint will be deliberated on by the CCC after providing due process to the advertiser to defend the ad against the complaint, and depending on whether the ad is in alignment with the ASCI code and law of the land, the complaint is upheld or not upheld and if upheld then the ad is voluntarily either withdrawn or modified.

Mission

When an advertiser is creating an ad, the consumer is his audience. The feedback from a consumer is important to the advertiser so he can be assured if his message has been correctly conveyed. If a consumer feels that a particular advertisement is in bad taste or is false in its claims, they need a body or council to whom they can air their grievances and who will take any appropriate action, if necessary. ASCI as a self-regulatory body governing advertising content is the ideal medium as its purpose is to serve both the advertisers as well as the consumers.

Consumer Complaint Council

The Consumer Complaints Council is the body responsible for examining and investigating complaints from consumers and the public at large in relation to any contravention of the Code of Conduct of the News Broadcasting Associations and advertisement ethics. It also makes recommendations as to actions to be taken against such contravention.

The members of the Consumer Complaints Council are appointed by the Board of Governors. There are 21 members of which 12 are appointed from the civil society and 9 from professional advertisers. Usually, complaints are decided within 4 to 6 weeks.

In case no reply is received from the advertiser, the Consumer Complaints Council can pass an ex-parte decision, and can ask the wrongdoer-advertiser to modify or even to remove the false and misleading advertisement.

E. NBA (News Broadcasters Association)

The objects of NBDSA is to lay-down and foster high standards, ethics and practices in news broadcasting, including entertaining and deciding complaints against or in respect of broadcasters in so far as these relate to the content of any broadcast.

NBDSA administers the Codes of Ethics & Broadcasting Standards, which has been voluntarily drawn by the News Broadcasters & Digital Association (NBDA) for its member broadcasters to demonstrate their commitment to responsible broadcasting and to self-regulate themselves.

NBDSA has no involvement in the day-to-day operations of the broadcasters. NBDSA does not monitor programming, nor does it pre-clear or pre-censor programming. The broadcasters have complete creative and editorial independence.

In discharging its functions as aforesaid the NBDSA shall act consistently with the following precepts:

Maintaining and improving the standards of broadcast, and maintaining the independence of broadcasters, television journalists and/or news agencies;

Ensuring compliance by broadcasters, television journalists and news agencies with the Code of Conduct and adherence by the said persons to high professional standards;

Ensuring the maintenance of high standards of public taste and fostering a due sense of both the rights and responsibilities of citizens;

Fostering and encouraging the growth of a sense of responsibility and public service among all those engaged in and associated with the profession of television journalism and business of broadcasting;

Keeping under review and scrutiny any developments likely to or having the tendency to restrict the gathering, supply and dissemination of news of public interest and importance:

Such other aspects as may be incidental, consequential, related and/or otherwise materially concerned with the above precepts.

Unit 3:

A. Copyright Act 1957

INTRODUCTION: A work relating to literature, music, drama or art is considered an intellectual property. This is because a person who does this work indulges in something creative. It is a product of his own intellect and therefore he has a personal right over it. Just as a person can own landed property, he can also own his writings. For example, when a person writes a book, it becomes his intellectual property. Works relating to writings – be it about book, drama, music or art – thus cannot be copied, reproduced in any form without the permission of the person to whom it belongs.

The story of recent movie Three Idiots was taken from Chetan Bhagat's book "Five Point Someone". It would have been illegal for the makers of the film to have made it without Bhagat's written permission or paying him royalty money. This goes the serials, programmes etc that one gets to see on the TV. Similarly articles/photographs written in newspapers by columnists and their staffers automatically become the intellectual property of that newspaper or that channel.

Sometimes it is seen that one channel uses the visuals or stills which are the exclusive property of another channel. In such a case, the former channel seeks a formal permission (or gives credit) to the other channel. If this is done without permission, the channel whose property has been used can claim damages under the Copyright Act of 1957.

So whenever someone's literature, drama, music or art is passed off as one's own, the Copyright Act (1957) is said to be violated.

Copyright is an exclusive right to do or to authorize others to do some acts with respect to a work created by a person. So if X rights a story and copyrights it, he can either make a movie based on the book himself or allow others to do so. The work may be literary, dramatic, musical, artistic, video, computer programs, databases etc. The expression 'literary and artistic works' includes every production in the literary, scientific and artistic sphere,

whatever may be the mode or form of its expression. It could be a book, a pamphlet and any other writing, a lecture, an address, a sermon, a drama, a musical composition (song), a piece of choreography, cinematography, a painting, an architecture, a sculpture, an engraving and lithography; photographic works; applied art; illustrations, maps, plans, sketches and three-dimensional works relative to science or architecture.

Under the Act, translations, adaptations, arrangements of music and other alterations of a literary or artistic work are protected as original works unless it goes against the spirit of the original work. Collections of literary or artistic works such as encyclopedias which by reason of the selection and arrangement of their contents, constitute intellectual creations are also protected as such.

THE PURPOSE: The object of copyright law is to protect the author of the work from unlawful and unscrupulous persons who may exploit the copyrighted work by reproducing it. Copyright has assumed importance today. Earlier, the commercial use was not intended but fame and personal satisfaction was paramount objective. In order to regulate the rights, duration, liabilities of a copyright holder, a law was enacted in India called **THE COPYRIGHT ACT, 1957**.

This Act spells out the process to register a copyright. It has a Registrar which accepts applications and copy of the work for record and issues certificates. The Act also spells the subject matter of copyright, Term of copyright, Authors and Owners of copyright, Rights conferred by copyright, How to assign, transfer and relinquish (give up) a copyright, How to license, what is Infringement of copyright, what are remedies against an Infringement of a copyright, International copyright, Rights of Broadcasting Organisations and Performance, Registration of copyright, offences, Appeals etc.

The first and the foremost requirement is originality. It should not be derived from another work. There are many instances when we have heard a Bollywood film director saying that he was “inspired” by a Hollywood film when the fact is he actually lifts it. Originality should not be confused with novelty. A work may be original even though it resembles any other work. Here important point to be noted is that there is no copyright of an idea out on expression.

Section 14 of the Copyright Act is of specific interest to journalism. This section grants exclusive rights on case of literary, drama, musical or art work. A person who has a copyright on such work, alone has the right to allow:

- 1) Reproduce the work in part or in full way
- 2 To publish the work
- 3) To make an adaptation of his work

THE ACT DEFINES:

A) Adaptation means:

- (i) In relation to a dramatic work, the conversion of the work into a non-dramatic work;
- (ii) In relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise;
- (iii) In relation to a literary or dramatic work, any abridgement of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical;

and

(iv) In relation to a musical work, any arrangement or transcription of the work;

B) Author means:

(i) in relation to literary or dramatic work, the author of the work;

(ii) in relation to a musical work, the composer;

(iii) in relation to an artistic work other than a photograph, the artist;

(iv) in relation to a photograph, the person taking the photograph;

(v) in relation to a cinematograph film, the owner of the film at the time of its completion;
and

(vi) in relation to a record, the owner of the original plate from which the record is made, at the time of the making of the plate

Infringing copy means,

(i) in relation to a literary, dramatic, musical or artistic work, a reproduction thereof otherwise than in the form of a cinematograph film;

(ii) in relation to a cinematograph film, a copy of the film or a record embodying the recording in any part of the sound track associated with the film;

(iii) in relation to a record, any such record embodying the same recording; and

(iv) in relation to a programme in which a broadcast reproduction right subsists under section 37, a record recording the programme,

if such reproduction, copy or record is made or imported in violation of the provisions of this Act;

Musical work means : Any combination of melody and harmony or either of them, printed, reduced to writing or otherwise graphically produced or reproduced;

Photograph includes photo-lithograph and any work produced by any process similar to photography but does not include any part of a cinematograph film;

Record means: Any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable of being reproduced there from, other than a sound track associated with a cinematograph film;

DISPUTED AND BOARD: Disputes relating to violation of copyright has to be referred to the Copyright Board which functions from the Copyright Office. A Registrar of Copyrights assisted by one or two deputy registrars are appointed under the Act . The Copyright Board has a chairman and members not less than two or more than eight. The Chairman is a person who is, or has been, a Judge of the Supreme Court or a High Court.

In case of a dispute among the members of the Copyright Board, opinion of majority members will prevail. If there is no majority:

(i) if the Chairman was one of the members who heard the matter, the opinion of the Chairman shall prevail;

(ii) if the Chairman was not one of the members who heard the matter, the matter shall be referred to him for his opinion and that opinion shall prevail.

OWNERSHIP OF COPYRIGHT AND THE RIGHTS OF THE OWNER: The author will always be the first owner of copyright, given that:

(a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work;

(b) Subject to the provisions of clause (a), in case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein.

TERM OF COPYRIGHT: Term of copyright in published literary, dramatic, musical and artistic works:- Except as otherwise hereinafter provided, copyright shall subsist in any literary, dramatic, musical or artistic work (other than a photograph) published within the lifetime of the author until fifty years from the beginning of the calendar year next following the year in which the author dies.

Term of copyright in photographs: In the case of a photograph, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph is published.

Term of copyright in cinematograph films:- In the case of a cinematograph film, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the film is published.

Term of copyright in records:- In the case of a record, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the record is published

INFRINGEMENT OF COPYRIGHT: Copyright in a work shall be considered to be violated:

a) when any person, without a licence granted by the owner of the Copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act --

(i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright, or

(ii) permits for profit any place to be used for the performance of the work in public where such performance constitutes an infringement of the copyright in the work unless he was not aware and had no reasonable ground for believing that such performance would be an infringement of copyright.

IT IS NOT AN INFRINGEMENT WHEN :

- (a) a fair dealing with a literary, dramatic, musical or artistic work for the purposes of ---
 - (i) Research or private study ;
 - (ii) Criticism or review, whether of that work or of any other work;
- (b) A fair dealing with a literary, dramatic, musical or artistic work for the purpose of reporting current events ---
 - (i) in a newspaper, magazine or similar periodical, or
 - (ii) by radio-diffusion or in a cinematograph film or by means of photographs;
- (c) The reproduction of a literary, dramatic, musical or artistic work for the purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding;
- (d) the reproduction or publication of a literary, dramatic, musical or artistic work in any work prepared by the Secretariat of a Legislature or, where the Legislature consists of two Houses, by the Secretariat of either House of the Legislature, exclusively for the use of the members of that Legislature;
- (e) the reproduction of any literary, dramatic or musical work in a certified copy made or supplied in accordance with any law for the time being in force;

PUNISHMENT: Any person who knowingly violates or even helps others to violate one's copyright, can face imprisonment upto 1 year or fine or both. Where copyright in any work has been infringed, the owner of the copyright is entitled to all such remedies by way of injunction, damages, accounts. Any person aggrieved by any final decision or order of the Copyright Board, not being a decision or order made in an appeal under sub-section (1), may, within three months from the date of such decision or order, appeal to the High Court within whose jurisdiction the appellant actually and voluntarily resides or carries on business or personally works.

LACK OF AWARENESS IN INDIA ABOUT THIS LAW: Compared to many other laws enacted during the British rule, the Copyright Act is relatively new. There are very few people who are aware of the law and its minute details. This is the reason why there are many violations. We have cases of video piracy where the CD of a film or a copy of the book is available even before the original comes up for use. There are cases song tunes copied, extracts from books reproduced, films made on the life of people without their permission. Not many are aware of the procedure to be followed about how to make a copyright, whom to approach, what are their rights and what has to be done enforce them.

A. Intellectual Property Rights

Intellectual property is a broad categorical description for the set of intangible assets owned and legally protected by a company or individual from outside use or implementation without consent. An intangible asset is a non-physical asset that a company or person owns.

The concept of intellectual property relates to the fact that certain products of human intellect should be afforded the same protective rights that apply to physical property, which are

called tangible assets. Most developed economies have legal measures in place to protect both forms of property.

Understanding Intellectual Property

Companies are diligent when it comes to identifying and protecting intellectual property because it holds such high value in today's increasingly knowledge-based economy. Also, producing value intellectual property requires heavy investments in brainpower and time of skilled labor. This translates into heavy investments by organizations and individuals that should not be accessed with no rights by others.

Extracting value from intellectual property and preventing others from deriving value from it is an important responsibility for any company. Intellectual property can take many forms. Although it's an intangible asset, intellectual property can be far more valuable than a company's physical assets. Intellectual property can represent a [competitive advantage](#) and as a result, is fiercely guarded and protected by the companies that own the property.

Types of Intellectual Property

Intellectual property can consist of many types of intangibles, and some of the most common are listed below.

Patents

A patent is a property right for an inventor that's typically granted by a government agency, such as the U.S. Patent and Trademark Office. The patent allows the inventor exclusive rights to the invention, which could be a design, process, an improvement, or physical invention such as a machine. Technology and software companies often have patents for their designs. For example, the patent for the personal computer was filed in 1980 by Steve Jobs and three other colleagues at Apple Inc.

Copyrights

Copyrights provide authors and creators of original material the exclusive right to use, copy, or duplicate their material. Authors of books have their works copyrighted as do musical artists. A copyright also states that the original creators can grant anyone authorization through a licensing agreement to use the work.

Trademarks

A trademark is a symbol, phrase, or insignia that is recognizable and represents a product that legally separates it from other products. A trademark is exclusively assigned to a company, meaning the company owns the trademark so that no others may use or copy it. A trademark is often associated with a company's brand. For example, the logo and brand name of "Coca Cola," is owned by the Coca-Cola Company (KO).

Franchises

A franchise is a license that a company, individual, or party—called the franchisee—purchases allowing them to use a company's—the franchisor—name, trademark, proprietary knowledge, and processes.

The franchisee is typically a small business owner or entrepreneur who operates the store or franchise. The license allows the franchisee to sell a product or provide a service under the company's name. In return, the franchisor is paid a start-up fee and ongoing licensing fees by the franchisee. Examples of companies that use the franchise business model include United Parcel Service (NYSE: UPS) and McDonald's Corporation (NYSE: MCD).

Trade Secrets

A trade secret is a company's process or practice that is not public information, which provides an economic benefit or advantage to the company or holder of the trade secret. Trade secrets must be actively protected by the company and are typically the result of a company's research and development.

Examples of trade secrets could be a design, pattern, recipe, formula, or proprietary process. Trade secrets are used to create a business model that differentiates the company's offerings to its customers by providing a competitive advantage.

Intellectual Property Infringement

Attached to intellectual property are certain rights, known as Intellectual Property Rights (IPR), that cannot be infringed upon by those without authorization to use them.¹ IPRs give owners the ability to bar others from recreating, mimicking, and exploiting their work.

Patents infringement occurs when a legally-protected patent is used by another person or company without permission. Patents filed before June 8, 1995, are valid for 17 years, whereas patents filed after this date are valid for 20 years. After the expiration date, the details of the patent are made public.

Copyright violations occur when an unauthorized party recreates all or a portion of an original work, such as a work of art, music, or a novel. The duplicated content need not be an exact replica of the original to qualify as an infringement.

Similarly, trademark infringement occurs when an unauthorized party uses a licensed trademark or a mark resembling the licensed trademark. For example, a competitor might use a mark similar to its rival's to disrupt business and attract their customer base. Also, businesses in unrelated industries may use identical or similar marks in an effort to capitalize on other companies' strong brand images.

Trade secrets are often protected by non-disclosure agreements (NDA). When a party to the agreement discloses all or parts of a trade secret to uninterested parties, they have violated the agreement and infringed upon the trade secret. It is possible to be guilty of trade secret infringement when an NDA is not present.

Special Considerations

Many forms of intellectual property cannot be listed on the balance sheet as assets since there aren't specific accounting principles to value each asset. However, the value of the property

tends to be reflected in the price of the stock since market participants are aware of the existence of the intellectual property.

Some intangible assets are recorded as property, such as patents because they have an expiration date. These assets are recognized by a numerical value through the process of amortization. Amortization is an accounting method that decreases the value of an intangible asset over a set period of time. This process helps the company to reduce their income by expensing a set amount each year for tax purposes as the useful life of the intangible asset winds down.

For example, a patent might only have 20 years before it's registered as public domain. A company would assign a total value to the patent. Each year for 20 years, the patent would be expensed or amortized by the same amount by dividing the total value by 20 years. Each year the amortized asset amount would reduce the company's net income or profit for tax purposes. However, intellectual property that is considered to have a perpetual life, such as a trademark, is not amortized since it doesn't expire.

Real-World Example

In 2017, there was a widely publicized intellectual property case in which a company called Waymo sued Uber over alleged stealing and implementation of technology relating to Waymo's self-driving car program. The plans for the technology, although not yet completely viable, constituted significant intellectual property for Waymo. When they alleged that Uber had obtained their intellectual property, they were able to take action through the court system to attempt to keep Uber from utilizing the information to enhance their own self-driving car program.

B. Defamation

Defamation is the act of communicating false statements about a person that injure the reputation of that person when observed through the eyes of ordinary man. Any false and unprivileged statement published or spoken deliberately, intentionally, knowingly with the intention to damage someone's reputation is defamation. A man's reputation is treated as his property and such damage are punishable by law. It could be written or verbal. Written defamation, printed or typed material or images is called as libel and spoken defamation is called slander.

History of defamation can be traced in Roman law and German law. Abusive chants were capitally punishable in Roman. In early English and German law, insults were punished by cutting out the tongue. In the late 18th century, only imputation of crime or social disease or casting aspersions on professional competence constituted slander in England. The enactment of Slander of Women Act added imputation of unchastity illegal. French defamation laws were very severe. Conspicuous retraction of libelous matter in newspaper was severely punishable and only truth is allowed as defense when the publication related to public persons. In Italy, defamation is criminally punishable and truth seldom excuses defamation.

Defamation Law in India:

Article 19 of the Constitution grants various freedoms to its citizens. However, Article 19(2) has imposed reasonable exemption to freedom of speech and expression granted under Article 19(1) (a). Contempt of court, defamation and incitement to an offence are some exceptions.

Defamation is an offence under both the civil and criminal law. In civil law, defamation is punishable under the Law of Torts by imposing punishment in the form of damages to be awarded to the claimant. Under the Criminal law, Defamation is a bailable, non-cognizable offence and compoundable offence. Hence a policeman may arrest only with an arrest warrant issued by a magistrate. The Indian Penal Code punishes the offence with a simple imprisonment up to two years, or with fine, or both.

Civil Defamation:

The statements made need to be false and it must be made without the consent of the alleged defamed person. Monetary compensation can be claimed from the defendant for defamation. There are certain requirements for successful defamation suit. They are:

The presence of a defamatory statement is required. Defamatory content is one calculated to injure the reputation of a person or a class of persons by exposing them to hatred, contempt or ridicule. The test whether it damages reputation has to be calculated from the eyes of a common man and his comprehension of the matter.

Secondly, the statements must purport to a person or a class of persons. General statements like all “politicians are corrupt” is too broad and no specific politician can gain compensation for the same.

It must be published either in oral or written form. Unless the content is made available to a third person, there can be no defamation. Where a letter is sent in a language unknown to the recipient, he needs a third person to read to it him. If any defaming statement is made in it, it will constitute defamation even if it was sent as a private letter, since the aid of a third person was needed to read it.

Once all these conditions are satisfied, a successful defamation suit subsists. The defendant can plead defences that:

The statement published was true,

Fair comments made with public interest based on true incidents,

Certain persons are vested with the privilege to make statements even if they are defamatory.

Example judicial proceedings and members of parliament. If the defendant fails to substantiate his act, the suit is successful.

Criminal Defamation:

It is nothing but a defamation for which simple imprisonment may be awarded. Under a criminal suit, intention to defame is necessary. The allegation should be made with malice intent to defame another or at least the knowledge that the publication is likely to defame

another is essential. It has to be proved beyond reasonable doubt that the act was being done to lower the reputation of another.

Section 499 of the Indian Penal Code, 1860 defines what is defamation and its exceptions. Words or signs imputed intending to harm or with the knowledge that such imputation will cause harm. It may amount to defamation if anything is imputed against a deceased person, if such imputation would harm the reputation had the person been alive. The class of persons shall include company or associations. It is no defamation unless the alleged defamatory statement either directly or indirectly lowers the moral or intellectual character or his respect of his caste or his calling in the estimation of others.

- **Exceptions:**

Persons who make defamatory statements are exempted from punishments if they fall in one of the ten exceptions provided in Section 499. They are:

- Attribution of any truth made for public good. Truth is seldom defense unless made for a public good.
- Any opinion made in good faith regarding the conduct of a public servant in the discharge of his public functions.
- Any opinion made in good faith respecting the conduct of any person which relates to a public question.
- Publication of true reports of the proceedings of the Courts or the result of the proceedings is not defamation.
- Any opinion made in good faith regarding the merits of any civil or criminal case decided by the Court of Justice, or the conduct of any person as a party, witness or agent to that case and no further.
- Opinions made about the merits of any performance which its author has submitted to the judgement of the public, or about the author is not defamation if made in good faith.
- Censures passed by persons neither having authority over another either conferred by a law or from a lawful contract in good faith is nor defamation. Censure is formal statement of severe disapproval.
- Accusation of offence to any person having lawful authority over the alleged person in good faith is an exception to defamation. Complaints about servants to masters and children to parents are examples to the exception.
- Statements made about the character of character is not defamation if it is made in order to protect the interests of the person making it, or any other person, or for the public good.
- Cautions conveyed to one person against another are not defamation if it is intended for the good of the conveyed person, or any other, or for public good.

Section 500 of the Code punishes defamation if it does not fall within the above said exceptions with simple imprisonment which may extend to two years, or fine, or both. The Indian Penal Code punishes printing or engraving matter known to be defamatory or sale of such printed or engraved substance containing defamatory matter about any person in the same manner of punishing defamation.

Controversies have erupted over the fact that defamation laws are violation of fundamental right guaranteed under Article 19 of the constitution. The Supreme Court has ruled that the

criminal provisions of defamation are constitutionally valid and are not in conflict with the right to free speech. The court also held that the freedom of speech and expression is “absolutely sacrosanct” and is not absolute. The right to life under Article 21 shall also include the right to reputation of a person and cannot be allowed to crucify by other's right of free speech.

Landmark Judgements in India:

The courts in India have seen a variety of defamation cases. Of these, the following are some landmark cases which has interesting facts or has an important court ruling.

- **D.P.Choudhary v/s. Manjulatha:** A publication was made in the local newspaper, Dainik Navjyothi that the plaintiff a 17 year old college girl ran away with a boy after she went out of the house by saying she was having lectures. This false news item had adverse effects on her and ruined her marriage prospects. It was actionable per se and she was awarded damages of Rs.10000/- by way of general damages.
- **Mahendra Ram Vs. Harnandan Prasad:** A letter written in Urdu was sent to the plaintiff. Therefore he needed another person to read it to him. It was held that since the defendant knew the plaintiff does not know Urdu and he needs assistance, the act of defendant amounted to defamation.
- **Ram Jethmalani Vs. Subramanian Swamy:** The court held Dr.Swamy for defaming Ram Jetmalani by saying that he received money from a banned organization to protect the then Chief Minister of Tamil Nadu from the case of assassination of Rajiv Gandhi.
- **Arun Jaitley Vs. Arvind Kejriwal:** The court held that statements made by Arvind Kejriwal and his five other leaders to be defamatory. The matter was sort out when all the defendants apologized for their actions.
- **Ramdhara Vs. Phulwatibai:** - The plaintiff, a widow of 45 years was imputed that she is a keep of the maternal uncle of the plaintiff's daughter in law. The court held that more than vulgar abuse it was an imputation up on her chastity and hence it constitutes defamation.
- **Chintaman Rao Vs. The State of Madhya Pradesh:** The Supreme Court explained the meaning of “reasonable restrictions” imposed in Article 19 (2). It implies intelligent care and deliberation and that is required in the interests of the public.
- **T.V.Ramasubha Iyer Vs. A.M.A.Mohideen:** Defendants published a statement without any intention to defame the defendants. It related to a particular person carrying on business of Agarbathis to Ceylon has been arrested for the offence of smuggling. The plaintiff was also a person carrying on similar business and since his reputation was damaged, the court awarded him damages.
- **Shreya Singhal Vs. Union of India:**It is a landmark judgement regarding internet defamation. It held unconstitutional the Section 66A of the Information Technology

Act, 2000 which punishes for sending offensive messages through communication services.

Conclusion:

Reputation is an asset to each and every one. Any damage to such asset can be legally dealt with. Defamation laws have been enacted to prevent person maliciously using their right to freedom of speech and expression. The Indian law has rightly not made any distinction between libel and slander. Otherwise there could have been chances for committing slander and escaping from the laws that there is no written publication of matter.

Intentional act of defamation is also punished with imprisonment which prohibits defaming a person with malice intention. The defamation law is also constitutional and is reasonable restriction on the right to free speech and expression. However, it is no defamation if the acts done fall within the exceptions provided. Over the seventy-one years of Independence, there are has been numerous cases of defamation and the court has interpreted each and every case with utmost care and they serve as precedents.

C. Information Technology Act

Information Technology Act, 2000 extends to whole of India and under certain situations, to outside India. It came into effect 9th June, 2000. Subscribers may authenticate an electronic record by affixing his digital signature through asymmetric crypto system and hash function which envelop and transform the initial electronic record into another electronic record. ("hash function" means an algorithm mapping or translation of one sequence of bits into another, generally smaller). If information or matter is authenticated by means of digital signature affixed in such manner as may be prescribed by the Central Government, it legally accepted. Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is rendered or made available in an electronic form; and accessible so as to be usable for a subsequent reference. Payment applications licenses etc. could be done electronically, in accordance with the prescription of the government. Documents could be retained in electronic form for reference, and evidence. Any matter could be published for the public in electronic form. However, it is not mandatory to do all transactions of publication in electronic form. Prove for a transfer of electronic matter or document is when there exists an acknowledgement either electronic or in any other form. Where any security procedure has been applied to an electronic record at a specific point of time. then such record shall be deemed to be a secure electronic record from such point of time to the time of verification.

A Controller of Certifying Authorities, and deputies to be appointed by government to manage these processes. The Controller may perform all or any of the following functions, namely:— 1. exercising supervision over the activities of the Certifying Authorities; 2. certifying public keys of the Certifying Authorities; 3. laying down the standards to be maintained by the Certifying Authorities; 4. specifying the qualifications and experience which employees of the Certifying Authorities should possess; 5. specifying the conditions subject to which the Certifying Authorities shall conduct their business; 6. specifying the contents of written, printed or visual materials and advertisements that may be distributed or

used in respect of a Digital Signature Certificate and the public key; 7. specifying the form and content of a Digital Signature Certificate and the key, 8. specifying the form and manner in which accounts shall be maintained by the Certifying Authorities; 9. specifying the terms and conditions subject to which auditors may be appointed and the remuneration to be paid to them; 10. facilitating the establishment of any electronic system by a Certifying Authority either solely or jointly with other Certifying Authorities and regulation of such systems; 11. specifying the manner in which the Certifying Authorities shall conduct their dealings with the subscribers; 12. resolving any conflict of interests between the Certifying Authorities and the subscribers; 13. laying down the duties of the Certifying Authorities; 14. maintaining a data base containing the disclosure record of every Certifying Authority containing such particulars as may be specified by regulations, which shall be accessible to public.

The controller may recognize or de-recognize any foreign Certifying Authority as a Certifying Authority. He shall be the repository of all Digital Signature Certificates issued under this Act. He shall issue non-transferable Digital Signature Certificates to those eligible according to the terms and conditions set by the government. He has the power to license, deny license, or cancel it to any applicant citing the reasons. Every Certifying Authority shall display its license at a conspicuous place of the premises in which it carries on its business. The Controller may, in writing, authorize the Deputy Controller, Assistant Controller or any officer to exercise any of the powers of the Controller under this Chapter. He has the responsibility and power to investigate any contraventions. He has access to any computer system, any apparatus, data or any other material connected with such system, for the purpose of searching or causing a search to be made for obtaining any information or data contained in or available to such computer system. The Controller or any person authorised by him may, by order, direct any person in charge of, or otherwise concerned with the operation of, the computer system, data apparatus or material, to provide him with such reasonable technical and other assistance as he may consider necessary. Every Certifying Authority whose license is suspended or revoked shall immediately after such suspension or revocation, surrender the license to the Controller. Those who fail shall be punished with imprisonment which may extend up to six months or a fine which may extend up to ten thousand rupees or with both. He has the power to direct, guide, refer to judicial proceedings.

Cyber Appellate Tribunals The Central Government shall establish Cyber Regulations Appellate Tribunal, and a person qualified to be a Judge of a High Court as the Residing Officer of the Tribunal for a term of five years. His actions shall not be questioned based on any possible defect in the Constitution of the Tribunal. All proceedings under this Act are judicial. While adjudging the quantum of compensation under this Chapter, the adjudicating officer shall have due regard to the amount of gain of unfair advantage, wherever quantifiable, made as a result of the default; the amount of loss caused to any person as a result of the default; the repetitive nature of the default. The Cyber Appellate Tribunal shall not be bound by the procedure laid down by the Code of civil Procedure, 1908 but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Cyber Appellate Tribunal shall have powers to regulate its own procedure including the place at which it shall have its sittings. The Cyber Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit: ŷ summoning and enforcing the attendance of any person and examining him on oath; ŷ

requiring the discovery and production of documents or other electronic records; ÿ receiving evidence on affidavits; ÿ issuing commissions for the examination of witnesses or documents; ÿ reviewing its decisions; ÿ dismissing an application for default or deciding it ex pane; ÿ any other matter which may be prescribed.

No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the Cyber Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act. Any person aggrieved by any decision or order of the Cyber Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Cyber Appellate Tribunal to him on any question of fact or law arising out of such order. Offences and Penalties If any person without permission of the owner or any other person who is in charge of a computer, computer system or computer network, access, changes, copies, destroys, virus, etc, shall be liable to pay damages by way of compensation not exceeding one crore rupees to the person so affected. Those who fail to furnish any document, or report to the Controller or the Certifying Authority as required, shall be liable to a penalty not exceeding one lakh and fifty thousand rupees for each such failure. Whoever contravenes any rules or regulations of this Act, for which no penalty has been separately provided, shall be liable to pay a compensation not exceeding twenty-five thousand rupees to the person affected by such contravention or a penalty not exceeding twenty-five thousand rupees. Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy or alter any computer source code used for a computer, computer programme, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

Whoever with the intent to cause or knowing that he is likely to cause change information residing in a computer resource (hacking) shall be punished with imprisonment up to three years, or with fine which may extend upto two lakh rupees, or with both. Whoever publishes or transmits or causes to be published in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to ten years and also with fine which may extend to two lakh rupees. Whoever makes any misrepresentation to, or suppresses any material fact from, the Controller or the Certifying Authority for obtaining any licence or Digital Signature Certificate, as the case may be. shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both. Any person who secures access to any electronic record, book, register, correspondence, information, document or other material without the consent of the person concerned discloses such electronic record, book. register, correspondence, information, document or other material to any other person shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both. Any unauthorized person who publishes digital signature

certificates shall be punished with imprisonment for a term, which may extend to two years, or with fine which may extend to one lakh rupees, or with both. Whoever knowingly creates, publishes or otherwise makes available a Digital Signature Certificate for any fraudulent or unlawful purpose shall be punished with imprisonment for a term, which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

The provisions of this Act shall apply also to any offence or contravention committed outside India by any person irrespective of his nationality. Any computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, in respect of which any provision of this Act, rules, orders or regulations has been or is being contravened, shall be liable to confiscation. Police officer not below the rank of Deputy Superintendent of Police shall investigate any offence under this Act. Authorized by the Central Government in this behalf may enter any public place and search and arrest without warrant any person found therein who is reasonably suspected or having committed or of committing or of being about to commit any offence under this Act. No person providing any service as a network service provider shall be liable under this Act, rules or regulations if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention. The government can make laws with regard to the Act, direct and guide state governments in effecting the provisions. It can make necessary amendments. No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Controller or any person acting on behalf of him, the Presiding Officer, adjudicating officers and the staff of the Cyber Appellate Tribunal for anything which is in good faith done or intended to be done in pursuance of this Act or any rule, regulation or order made.

D. Contempt of court

Origin of the law of contempt in India can be traced to the English law, where courts punished those who scandalized the court or the judges. The first Indian statute on Contempt of Courts Act was passed in 1926. The Act aimed at limiting the powers of certain courts in punishing contempt of courts. The Act and all such Acts of Contempt of Court that were in effect in some of the States were replaced by the Contempt of Courts Act, 1952. Lok Sabha in 1960 decided to scrutinize the Act so as to see it in light of Freedom of Expression of the Individual and of the need for safeguarding the status and dignity of courts and interests of administration of justice.

Accordingly a committee was set up on July 29, 1961 under the chairmanship of the late H N Sanyal, and it submitted its report on February 28, 1963. The Joint Select Committee of Parliament on Contempt of Courts examined the issue in detail and a new bill, the Contempt of Courts Bill, 1968 was prepared by the committee. The Contempt of Courts Act, 1952 was repealed, and the Contempt of Courts Act, 1971 was passed by the Parliament in December 1971 and it came into force December 24, 1971. It extends to the whole of India, except to the state of Jammu and Kashmir, except to the extent to which the provisions of this Act relate to contempt of the Supreme Court. Brief Study of the Act Contempt of Courts Act empowers the courts to punish any wilful disobedience to, or disregard of, a court order or any misconduct in the presence of a court; action that interferes with a judge's ability to administer justice or that insults the dignity of the court. The objective of the Act is to keep the administration of justice pure and undefiled. While the dignity of the court is to be

maintained at all costs, the contempt jurisdiction, which is of a special nature, should be sparingly used. The Act differentiates Civil and Criminal Contempt of Court. 'Civil contempt' means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court. 'Criminal contempt' means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court, or prejudices, or interferes or tends to interfere with the due course of any judicial proceeding, or interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

Any willful or deliberate or reckless disobedience to the orders of the court to do or abstain from doing any act or breach of any undertaking given to the court is prima-facie civil contempt. Noncarrying of the warrant issued by the criminal court amounts to criminal contempt. Breach of an injunction, or breach of an undertaking given to a court by a person in a civil proceeding amounts to contempt. A judge, magistrate or other persons act in judicially shall also be liable for contempt of his own court or of any other court in the same manner as any other individual. Any contempt of Nyaya Panchayats or other village courts, by whatever name known, for the administration of justice, established under any law, is not punishable with this Act.

Guidelines to Media Professionals The law relating to contempt of court is well settled. Any act done or writing published which is calculated to bring a court or a judge into contempt, or to lower his authority, or to interfere with the due course of justice or the lawful process of the court, is a contempt of court. Comment on pending case or abuse of a party may amount to contempt when the case is tried by a judge. Judges by reason of their office are precluded from entering into any controversy in columns of the public press. There is no special principle attached to the press to comment, criticize or investigate the facts of any case of the prejudice of the trial of the case. No editor has a right to assume the role of investigator to try to prejudice the court against any person. Contempt by speech or writing may be by scandalising the court itself, or by abusing parties to actions, or by prejudicing mankind in favour of or against a party before the cause is heard. It is incumbent upon courts of justice to preserve their proceedings from being misrepresented, for prejudicing the mind of the people against persons concerned as parties in causes before the cause is finally heard has pernicious consequences.

Speech or writings misrepresenting the proceedings of the court or prejudicing the public for or against a party or involving reflections on parties to a proceeding amount to contempt. To make a speech tending to influence the result of a pending trial, whether civil or criminal is a grave contempt. Comments on pending proceedings, if emanating from the parties or their lawyers, are generally a more serious contempt than those coming from independent sources. If a person was ignorant that the proceeding was pending, and commit an act that amounts contempt of court, he shall not be guilty. A comment, when the civil or criminal proceeding is not pending at the time of publication shall not be deemed to constitute contempt of court. Any one who distribute any publication without knowing that it contained matters amounting to contempt of court is not guilty. A person shall not be guilty of contempt of court for publishing a fair and accurate report of a judicial proceeding or any fair comment on the merits of any case which has been heard and finally decided. It is essential for the healthy

administration of justice. Thus, It is to be noted that the liberty of free expression is not to be compounded with a license to make unfounded allegations of corruption against judiciary. If it is, it is abuse of that right. A defence of truth or justification is not available to the publisher of a newspaper in proceedings for contempt of court. Court and legal reporting must be true, accurate and without malice. While reproducing the court proceedings, no words may be added, omitted or substituted. Criticism has to be reasonable and offered for the public good. The criticism of a judge must take the form of reasonable argument or exploitation; must be made in good faith and free from the imputation of improper motives. Criticism on judgments must be done without casting aspersions on the judges and the courts and without adverse comments amounting to scandalizing the courts. A complaint or report about a judicial officer of his dishonesty, partiality or other conduct unbecoming of a court, made to an authority to whom it is subordinate, is not contempt of court if all reasonable care is taken by the makers to keep it confidential. Immunity is provided to a citizen making such complaints in good faith to the high court. A person shall not be guilty of contempt of court for publishing a fair and accurate report of judicial proceedings before any court sitting in chambers or in camera except when prohibited by the Court. Exceptions to Contempt of Court Making a statement without knowing that the case was pending with the court. Making a statement on a case that is not pending in the court, A Fair criticism on the judicial proceedings Distributing material without knowing that it contains a contempt for the court, A true report on the judicial proceedings Complaint against the presiding officers of subordinate courts to superior courts in good faith. Contempt Procedure When it is alleged, or appears to the Supreme Court or the High Court upon its own view, that a person has been guilty of contempt committed in its presence or hearing, the court may cause such person to be detained in custody, and, at any time before the rising of the court, on the same day, or as early as possible thereafter, shall –

- (a) Cause him to be informed in writing of the contempt with which he is charged.
- (b) Afford him an opportunity to make his defence to the charge,
- (c) After taking such evidence as may be necessary or as may be offered by such person and after hearing him, proceed, either forthwith or after adjournment, to determine the matter of the charge, and
- (d) Make such order for the punishment or discharge of such person as may be just.

Punishment for contempt of court Person alleged with contempt of court is informed, given opportunity for defence, punished or discharged. Every case of criminal contempt under section 15 shall be heard and determined by a bench of not less than two judges. However, a single judge can also deal with criminal contempt committed in facie curium; In re: court on its own motion. No court shall initiate any proceedings if contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed. The court is guided by its own procedure to be followed in the facts and circumstances of each individual case and to see that the condemner is getting full opportunity to make his defence. A contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both. Apology The accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court.

The court can, even when accepts the apology, commit an offender to prison or otherwise punish him.

E. More acts

1. Drugs and Magic Remedies (Objectionable Advertisements) Act

https://legislative.gov.in/sites/default/files/A1954-21_1.pdf

2. Emblems and Names (Prevention of Improper Use) Act

<https://www.indiacode.nic.in/bitstream/123456789/1896/1/A1950-12.pdf>

Unit 4: Media Laws

A. Right to Privacy

People have a right to lead a life without disturbed by others and noticed by others. Right to Privacy Privacy is an intrinsic right of people. Everyone has the right to live their private life, without anyone intervening it. But an all embracing law to guarantee absolute right to privacy cannot be existing, and no where exists; if, press might not be able to function. Even public figures and politicians have the right to live their private life without noticed by anyone. Awareness about privacy is on the rise in the international legal environment. United States privacy is a fundamental right. Invasion of privacy is a tort. In United Kingdom nobody has the right and right to claim damages. In Dianagate case, the papparacy were acquitted in the case, as privacy does not exist legally there.

Article 12 of the Universal Declaration of Human Rights upholds this right. Indian constitution Article 21 says, “No person shall be deprived of his life or personal liberty, except according to procedure established by law.” But there is no general law governing privacy. A bill was passed in Rajyasabha in 1978, giving some provisions to this right, but it lapsed with the dissolution of Loksabha that followed. But Indian Penal Code and other Acts clearly provides punishment for defamatory, indecent, and provocatory reporting.

Mathew Commission has suggested the reintroduction of the bill in the Parliament. Press Council of India advice journalists not to intrude or invade the privacy of an individual unless outweighed by genuine overriding public interest, not being a prurient or morbid curiosity. So, however, that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by Press and media among others.

The Council states that while reporting crime involving rape, abduction or kidnap of women/ females or sexual assault on children, or raising doubts and questions touching the chastity, personal character and privacy of women, the names, photographs of the victims or other particulars leading to their identity shall not be published. Minor children and infants who are the offspring of sexual abuse or ‘forcible marriage’ or illicit sexual union shall not be identified or photographed.

Further, the Press shall not tape-record anyone's conversation without that person's knowledge or consent, except where the recording is necessary to protect the journalist in a legal action, or for other compelling good reason.

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

The Council has prepared a report on the issue and framed the guidelines as follows:- "Right to privacy is an inviolable human right. However, the degree of privacy differs from person to person and from situation to situation. The public person who functions under public gaze as an emissary/representative of the public cannot expect to be afforded the same degree of privacy as a private person. His acts and conduct are of public interest ('public interest' being distinct and separate from 'of interest to the public') even if conducted in private may be brought to public knowledge through the medium of the press. The press has, however, a corresponding duty to ensure that the information about such acts and conduct of public interest of the public person is obtained through fair means, is properly verified and then reported accurately. For obtaining the information in respect of acts done or conducted away from public gaze, the press is not expected to use surveill devices. For obtaining information about private talks and discussions, while the press is expected not to badger the public persons, the public persons are also expected to bring more openness in their functioning and co-operate with the press in its duty of informing the public about the acts of their representatives".

There are situations when the media professionals are in a dilemma whether to violate a law for the common good. For example, trespassing into a chemical plant to study the environmental issues connected with it, or secretly video graphing what happens in a public office using a hidden camera. The Atomic Energy Act 1962 prohibits (Section 19) unauthorized entry of any person into any prohibited areas, and make any report, photograph, sketch, etc. Those who violate this shall be punishable (Section 24) with imprisonment upto five years, with or without fine.

B. Morality and Obscenity

https://rdo-olr.org/wp-content/uploads/2018/02/olr_17.1_mahoney.pdf

C. Unfair Trade Practices

<https://www.investopedia.com/terms/u/unfair-trade-practice.asp>

C. The Competition Act 2002

https://www.cci.gov.in/sites/default/files/cci_pdf/competitionact2012.pdf

(Chapter1)

D. Official Secrets Act

<https://www.indiacode.nic.in/bitstream/123456789/2379/1/A1923-19.pdf>

E. Right to Information Act 2005

The basic duty of a journalist is to provide his readers with the correct and detailed information. In order to discharge his duty effectively, he has to gather information that enlightens and informs his readers. Apart from journalists, individuals involved in social, political and cultural activism also need information from time to time.

However, more often than not, it is difficult to get or dig out information from those in power or the government authorities. This is because there is always reluctance on the part of the authorities to part with information. It is especially the case when the information is damaging to them or puts them in bad light. In a democracy, the affairs of the government need to be transparent, and suppressing information is like suppressing the truth.

Journalists, activists and interested individuals, who would find it difficult to get relevant information from the government authorities, can now invoke (use) the Right to Information Act to get the information they need. Until recently, the government authorities would do everything within their means or come out with all kinds of excuses to give information. But now under the RTI, it is compulsory for them to do so.

However, there are certain modalities and procedures that have to be followed under this law. The RTI was enacted by the Parliament in June 2005 and came into effect on October 13, 2005. It applies to all states except Jammu and Kashmir (which has a separate law). Till then, disclosure of information was restricted under the Official Secrets Act (OSA) of 1923. The OSA still exists, but the RTI relaxes some of its provisions. According to the OSA, no information can be disclosed by the government authorities in matters relating to security of the State, sovereignty of the country and friendly relations with foreign states.

The RTI Act is applicable to all constitutional authorities, including the executive, legislature and judiciary; any institution or body established or constituted by an act of Parliament or a state legislature. It is also defined in the Act that bodies or authorities established or constituted by order or notification of appropriate government including bodies "owned, controlled or substantially financed" by government, or non-Government organizations "substantially financed, directly or indirectly by funds" provided by the government are also covered in it. The law is not applicable to private bodies/institutions unless they are financed by the central or state government.

Under the Act, every public authority has to computerise records so that it reaches all cross sections of people. It specifies that citizens have a right to:

- A) Request any information (only that info defined under the Act)
- B) Take copies of documents
- C) Inspect documents, works and records
- D) Take certified samples of materials of work
- E) Obtain information in form of printouts, diskettes, floppies, tapes, video cassettes 'or in any other electronic mode' or through printouts.

WHAT HAS TO BE DONE TO GET INFORMATION

The Act specifies that all authorities covered must appoint their Public Information Officer (PIO). Individuals seeking information have to submit a request to the PIO in writing. The PIO is under obligation to provide information to (only Indian) citizens. If the request concerns another public authority (in whole or part) it is the PIO's responsibility to transfer/forward the concerned portions of the request to a PIO of the other within five days. While making the request, citizens need not disclose any information except their name and contact particulars.

The Act specifies time limits for replying to the request.

- A) If the request has been made to the PIO, the reply is to be given within 30 days of receipt.
- B) If the PIO transfers the request to another public authority, the time allowed to reply is 30 days but computed from the day after it is received by the PIO of the transferee authority.
- C) Information concerning corruption and Human Rights violations by Security agencies (those listed in the Act) is to be provided within 45 days but with the prior approval of the Central Information Commission. However, if life or liberty of any person is involved, the PIO is expected to reply within 48 hours.

It must be noted that the information has to be paid for and cannot be obtained for free. If information is not provided within the period specified above, it is treated as refusal. If the refusal is with or without reasons, citizens can file an appeal or complaint. Information not provided in prescribed time, has to be provided free of charge. [update]There is a fee of Rs 10 for filing the request, Rs 2 per page of information and Rs 5 for each hour of inspection after the first hour.

WHAT CONSTITUTES INFORMATION

Under the Act, information has been defined as any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body

WHAT CANNOT BE DISCLOSED

Information which would adversely affect the sovereignty (independence) and integrity of India, the security, strategic, scientific or economic" interests of the country, relations with foreign nation or lead to incitement of an offence;

Information which has been forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

Information including commercial confidence, trade secrets or intellectual property, unless the authority is satisfied that larger public interest calls for the disclosure of such information;

Information received in confidence from foreign government;

Information which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

Information which would obstruct or stop the process of investigation or apprehension or prosecution of offenders;

Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;

Personal information which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual.

EXCLUSIONS

Central Intelligence and Security Agencies Intelligence Bureau, (IB), Research and Analysis Wing (RAW), Central Bureau of Investigation (CBI), Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, Directorate of Enforcement, Narcotics Control Bureau, Aviation Research Centre, Special Frontier Force, BSF, CRPF, ITBP, CISF, NSG, Assam Rifles, Special Service Bureau, Special Branch (CID). The exclusion, however, is not absolute and these organizations have an obligation to provide information pertaining to allegations of corruption and human rights violations. However, information relating to allegations of human rights violation could be given but only with the approval of the Central or State Information Commission.

Unit 5: Media Ethics and Social Responsibility

A. Why Ethics?

Ethics can be defined broadly as a set of moral principles or values. Each of us has such a set of values, although we may or may not have considered them explicitly.

Philosophers, religious organizations, and other groups have defined in various ways ideal sets of moral principles or values.

Examples of prescribed sets of moral principles or values at the time implementation level include laws and regulations, church doctrine, codes of business ethics for professional groups such as CPAs and codes of conduct within individual organizations.

It is common for people to differ in their moral principles and values and the relative importance they attach to these principles. These differences reflect life experiences, successes, and failures, as well as the influences of parents, teachers, and friends.

The word “ethics” is derived from the Greek word “ethos” (character), and “morality,” another name for ethics, comes from the Latin word “mores” (customs).

Together, they combine to define how individuals choose to interact with one another. In philosophy, ethics defines what is good for the individual and society and establishes the nature of duties that people owe themselves and one another.

Need for Ethics

Ethics is the branch of philosophy dealing with values relating to human conduct, concerning the rightness and wrongness of certain actions and the goodness and badness of the motives and ends of such activities.

It includes a study of universal values such as the essential equality of all men and women, human or natural rights, obedience to the law of the land, concern for health and safety, and, increasingly, also for the natural environment.

Ethical behavior is necessary for a society to function in an orderly manner. It can be argued that ethics is the glue that holds a society together.

Let's imagine, for example, what would happen if we couldn't depend on the people we deal with, to be honest.

If parents, teachers, employers, siblings, co-workers, and friends all consistently lied, it would be almost impossible for effective communication to occur.

The need for ethics in society is sufficiently important that many commonly held ethical values are incorporated into laws.

However, many of the ethical values cannot be incorporated into laws because of the judgmental nature of certain values. That does not imply, however, that the principles are less important for an orderly society.

B. Ethical Responsibility of the Journalist

Journalistic ethics are the common values that guide reporters. They lay out both the aspirations and obligations that journalists, editors, and others working in the field should follow to execute their work responsibly.

Journalism ethics have evolved over time. Most news organizations have their own written codes of ethics, as do professional membership bodies. If a professional journalist or news organization transgresses these ethical standards, they will lose credibility.

What Are Some Different Codes of Ethics that Exist for Journalists?

Media outlets and journalism associations publish their own ethics codes that apply to their employees or members. These often offer more specific guidance on top of the standard principles. Some examples are:

- **The Society of Professional Journalists' Code of Ethics.** The oldest journalism association in the United States, the SPJ aims to promote the First Amendment guarantees of freedom of speech and freedom of the press, partly by encouraging reporters to practice the high standards in its ethics code.
- **The Radio Television Digital News Association's Code of Ethics.** This U.S. membership body is specific to digital media. Its ethics code references common

issues in internet publishing, such as how to respond to viral news and how to treat sponsored content.

- **The New York Times Ethical Journalism Guidebook.** The New York Times has built its reputation on reporting the news “without fear or favor.” It prioritizes more contextualized news coverage and thorough fact-checking and publishes a comprehensive ethics code to support this.

What Are the Standard Ethical Principles for Journalists?

There are several key ethical standards that appear across global news organizations. At the highest level, they call on journalists to seek the truth, act in the public interest, and minimize harm.

Honesty. Journalists have an obligation to seek out the truth and report it as accurately as possible. This requires diligence: this means making every effort to seek out all the facts relevant to a story. Journalists should also corroborate any information with multiple sources.

Independence. Journalists should avoid taking political sides and should not act on behalf of special interest groups. Any political affiliations or financial investments that might constitute a conflict of interest with the subject they are writing about should be declared to editors and readers. Some organizations characterize this principle as “objectivity,” while others, especially non-profit civic journalism projects, reject this term, as they position themselves explicitly on the side of public interest.

Fairness. In addition to being independent, journalists should show impartiality and balance in their reporting. Most news stories have more than one side, and journalists should capture this. That said, they should not place two different perspectives on equal footing where one is unsupported by evidence. The exception to the impartiality rule is opinion writing, as well as “gonzo” journalism and creative nonfiction.

- **Public accountability.** News organizations should listen to their audience. To enable the public to hold them accountable, journalists should write under their own bylines and accept responsibility for their words. When news outlets publish factual errors, they need to issue a correction.
- **Harm minimization.** Not every fact that can be published should be published. If the amount of harm that could come to private individuals—particularly children—as a result of disclosure exceeds the public good that would come of it, then news outlets might choose not to publish the story. This is less of a consideration when it comes to public figures. It is huge, however, in matters of national security, where lives could be on the line.
- **Avoiding libel.** This is a legal as well as a moral imperative for journalists. Journalists cannot print false statements that damage a person’s reputation. In most jurisdictions, true statements cannot be libelous, so journalists can protect themselves by rigorously checking facts.
- **Proper attribution.** Journalists must never plagiarise. If they use information from another media outlet or journalist, they need to attribute it to them.

What Does Ethical Journalism Look Like in Practice?

It is easy to agree on the principles of ethical journalism, but applying them in real life is harder. Because the goal to reveal the truth can sometimes clash with the duty to limit harm, it is up to journalists and editors to choose how to act.

For example, journalist Bob Woodward, famous for breaking the Watergate scandal in the 1970s, goes to great lengths to demonstrate he has no political affiliations. He does not even show partiality towards news networks, giving interviews to news media on both ends of the political spectrum. He doesn't vote in presidential elections in order to send the message that he is "in the middle of the road."

C. Fake News

False Information vs. Fake News

Experts now recommend avoiding the term 'fake news', or at least limit its use, as the term 'fake news' is closely associated with politics, and this association can unhelpfully narrow the focus of the issue. The term 'false information' is preferable as it can refer to a diverse range of disinformation covering topics such as health, environmental and economics across all platforms and genres, while 'fake news' is more narrowly understood as political news stories.

What is False Information?

Lots of things you read online especially in your social media feeds may appear to be true, often is not. False information is news, stories or hoaxes created to deliberately misinform or deceive readers. Usually, these stories are created to either influence people's views, push a political agenda or cause confusion and can often be a profitable business for online publishers. False information can deceive people by looking like trusted websites or using similar names and web addresses to reputable news organisations.

According to Martina Chapman (Media Literacy Expert), there are three elements to fake news; 'Mistrust, misinformation and manipulation'.

The Rise of False Information

False information is not new, however it has become a hot topic since 2017. Traditionally we got our news from trusted sources, journalists and media outlets that are required to follow strict codes of practice. However, the internet has enabled a whole new way to publish, share and consume information and news with very little regulation or editorial standards.

Many people now get news from social media sites and networks and often it can be difficult to tell whether stories are credible or not. Information overload and a general lack of understanding about how the internet works by people has also contributed to an increase in fake news or hoax stories. Social media sites can play a big part in increasing the reach of these type of stories.

The economics of social media favour gossip, novelty, speed and "shareability" Simeon Yates

Types of False Information

There are differing opinions when it comes to identifying types of false information. However, when it comes to evaluating content online there are various types of false or misleading news we need to be aware of. These include:

Clickbait

Propaganda

Satire/Parody

Sloppy Journalism

Misleading Headings

Biased/Slanted News

What can we do about False Information?

Google and Facebook have announced new measures to tackle fake news with the introduction of reporting and flagging tools.

Media organisations like the BBC and Channel 4 have also established fact checking sites. While these are welcome developments, digital media literacy and developing skills to critically evaluate information are essential skills for anyone navigating the internet and especially for young people.

The vast amount of information available online and rise in fake news highlights the need for critical thinking. Children need to develop critical thinking from an early age.

This is a key skill for young people to develop as they enter into third level education and prepare themselves for the workplace.

How to spot False Information?

There are a number of things to watch out for when evaluating content online.

- Take a closer look.
- Look beyond the headline
- Check other sources
- Check the facts
- Check your biases
- Is it a joke?

D. Ethical Responsibility of Advertisers

- Ethics means a set of moral principles which govern a person's behavior or how the activity is conducted. And advertising means a mode of communication between a seller and a buyer.

- Thus ethics in advertising means a set of well-defined principles which govern the ways of communication taking place between the seller and the buyer. Ethics is the most important feature of the advertising industry. Though there are many benefits of advertising but then there are some points which don't match the ethical norms of advertising.
- An ethical ad is the one which doesn't lie, doesn't make fake or false claims and is in the limit of decency.
- Nowadays, ads are more exaggerated and a lot of puffing is used. It seems like the advertisers lack knowledge of ethical norms and principles. They just don't understand and are unable to decide what is correct and what is wrong.
- The main area of interest for advertisers is to increase their sales, gain more and more customers, and increase the demand for the product by presenting a well decorated, puffed and colorful ad. They claim that their product is the best, having unique qualities than the competitors, more cost effective, and more beneficial. But most of these ads are found to be false, misleading customers and unethical. The best example of these types of ads is the one which shows evening snacks for the kids, they use coloring and gluing to make the product look glossy and attractive to the consumers who are watching the ads on television and convince them to buy the product without giving a second thought.
- Ethics in Advertising is directly related to the purpose of advertising and the nature of advertising. Sometimes exaggerating the ad becomes necessary to prove the benefit of the product. For e.g. a sanitary napkin ad which shows that when the napkin was dropped in a river by some girls, the napkin soaked whole water of the river. Thus, the purpose of advertising was only to inform women about the product quality. Obviously, every woman knows that this cannot practically happen but the ad was accepted. This doesn't show that the ad was unethical.
- Ethics also depends on what we believe. If the advertisers make the ads on the belief that the customers will understand, persuade them to think, and then act on their ads, then this will lead to positive results and the ad may not be called unethical. But at the same time, if advertisers believe that they can fool their customers by showing any impractical things like just clicking fingers will make your home or office fully furnished or just buying a lottery ticket will make you a millionaire, then this is not going to work out for them and will be called as unethical.

Recently, the Vatican issued an article which says ads should follow three moral principles - Truthfulness, Social Responsibility and Upholding Human Dignity.

Generally, big companies never lie as they have to prove their points to various ad regulating bodies. Truth is always said but not completely. Sometimes it's better not to reveal the whole truth in the ad but at times truth has to be shown for betterment.

Pharmaceutical Advertising - they help creating awareness, but one catchy point here is that the advertisers show what the medicine can cure but never talk about the side effects of that same thing or the risks involved in intake of it.

Children - children are the major sellers of the ads and the product. They have the power to convince the buyers. But when advertisers are using children in their ad, they should remember not to show them alone doing their work on their own like brushing teeth, playing with toys, or infants holding their own milk bottles as everyone knows that no one will leave

their kids unattended while doing all these activities. So showing parents also involved in all activities or things being advertised will be more logical.

Alcohol - till today, there hasn't come any liquor ad which shows anyone drinking the original liquor. They use mineral water and sodas in their advertisements with their brand name. These types of ads are called surrogate ads. These type of ads are totally unethical when liquor ads are totally banned. Even if there are no advertisements for alcohol, people will continue drinking.

Cigarettes and Tobacco - these products should be never advertised as consumption of these things is directly and badly responsible for cancer and other severe health issues. These as are already banned in countries like India, Norway, Thailand, Finland and Singapore.

Ads for social causes - these types of ads are ethical and are accepted by the people. But ads like condoms and contraceptive pills should be limited, as these are sometimes unethical, and are more likely to loose morality and decency at places where there is no educational knowledge about all these products.

Looking at all these above mentioned points, advertisers should start taking responsibility of self-regulating their ads by:

- design self-regulatory codes in their companies including ethical norms, truth, decency, and legal points
- keep tracking the activities and remove ads which don't fulfil the codes.
- Inform the consumers about the self-regulatory codes of the company
- Pay attention on the complaints coming from consumers about the product ads.
- Maintain transparency throughout the company and system.

When all the above points are implemented, they will result in:

- making the company answerable for all its activities
- will reduce the chances of getting pointed out by the critics or any regulatory body.
- will help gain confidence of the customers, make them trust the company and their products.

E. Stereotyping

