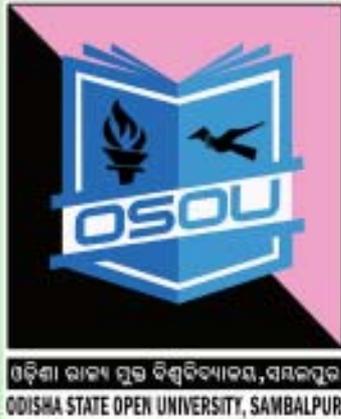


DJMC 1
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ସମ୍ବଲପୁର
Odisha State Open University
Sambalpur

Diploma in Journalism & Mass Communication
(DJMC)

Media Laws



Journalism & Mass Communication



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Odisha State Open University, Sambalpur, Odisha
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DIPLOMA IN JOURNALISM & MASS COMMUNICATION

DJMC-1

Media Laws

Block

4

Media Laws

Unit - 1

Indian Constitution, Rights, Laws and Policies

Unit - 2

Different Acts related to Media

Unit- 3

Broadcasting Acts and Codes

Unit- 4

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UNIT – I

UNIT STRUCTURE

- 1.1 Learning Objectives
- 1.2 Introduction
- 1.3 Indian Constitution
- 1.4 Fundamental Rights
 - 1.4.1 Right to Equality
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- 1.5 Directive Principles of State policy
- 1.6 Freedom of speech and expression: Article 19 1(a)
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- 1.7 Contempt of Courts
 - 1.7.1 Civil Contempt
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- 1.8 Contempt of Legislature
- 1.9 Defamation
 - 1.9.1 Slander
 - 1.9.2 Libel
- 1.10 Check Your Progress



1.1 LEARNING OBJECTIVES

In the first three blocks of the 1st course we have discussed about concept of communication, history of press and media organizations respectively. In this block we shall discuss about media laws. However in this unit we shall focus on Indian constitution, rights laws and policies related to journalism. We shall also discuss the freedom of speech and freedom of expression. After going through this unit, you will be able to know:

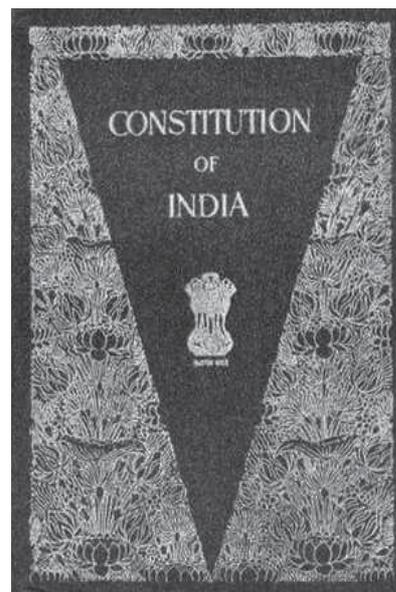
1. Indian constitution and freedom of speech and expression given to the citizens in that.
 2. Fundamental rights and directives principles of state policy
 3. Laws like contempt of court and contempt of legislature
 4. About defamation and types of defamation
-

1.2 INTRODUCTION

We all are citizens of India and our constitution has given us many rights and freedoms which we enjoy every day. Our constitution is world's lengthiest written constitution which had 395 articles in 22 parts and 8 schedules at the time of commencement. Now Constitution of India have 448 articles in 25 parts, 12 schedules, 5 appendices and 98 amendments. But there is no such special rights or freedoms have been given to the journalists in our constitution. Journalists have been enjoying the same rights and freedom what a common enjoys. All these, we shall discuss in this unit.

1.3 INDIAN CONSTITUTION

The Indian Republic is governed in terms of the Constitution of India which was adopted by the Constituent Assembly on 26th November 1949 and came into force on 26th January 1950. The Constitution provides for a parliamentary form of government which is federal in structure with certain unitary features. The constitutional head of the executive of the Union is the President.



It is not enough for an aspiring journalists to learn the media law alone. They should also be knowledgeable in certain features of the constitution. For this purpose, this Chapter provides a brief account of the following part of the Indian Constitution of India: Fundamental Rights, directive principle of state policy and parliamentary privileges.

1.4 FUNDAMENTAL RIGHTS

The fundamental rights are the natural rights provided by the Constitution of India. The fundamental rights can be altered only by making an amendment in the Constitution. All the citizens of the country possess the right to directly move the Supreme Court, if their fundamental rights are violated, which is by itself a fundamental right.

Part III of the Constitution of India deals with the fundamental rights (Article 12-35) which include right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights and right to constitutional remedies.

1.4.1 RIGHT TO EQUALITY

Articles 14-18 deal with right to equality. These Articles provide equality before law, prohibition of discrimination on ground of religion, race, caste, sex or place of birth, equality of opportunity in matters of public employment. The state can make any provision for backward class of citizens, abolish of untouchability and abolish of titles other than a military or an academic distinctions.



1.4.2 RIGHT TO FREEDOM

Article 19-21 deal with the right to freedom. India is one of those countries which guarantee their citizens the right to freely express themselves. The Constitution guarantees six fundamental freedoms, and the 'freedom of speech and expression' is the first among them.

All citizens shall have the right to

- (a) freedom of speech and expression;
- (b) assemble peacefully and without arms;
- (c) form associations and unions;
- (d) move freely throughout the territory of India;
- (e) reside and settle in any part of the territory of India;
- (f) practice any profession, or carry on any occupation, trade or business.



But these rights are not absolute, the exceptions to the above rights include the threat to sovereignty and integrity of India, the security of the State, friendly relation with foreign states, public order decency or morality, contempt of court, defamation and incitement to an offence or any other reasonable restrictions.

The other rights under right to freedom are protection in respect of conviction for offences (Article 20), Protection of life and personal liberty (Article 21) which states that no person shall be deprived of his life or personal liberty except according to procedure established by law, Article 22 provides protection against arrest and detention in certain cases.



1.4.3 RIGHT AGAINST EXPLOITATION

Article 23-24 speak about right against exploitation. Article 23 prohibits traffic in human beings and forced labour and any contravention of this is considered an offence. Article 24 prohibits employment of children below 14 years in factory, mine or in any other hazardous employment.

1.4.4 RIGHT TO FREEDOM OF RELIGION

Article 25-28 deal with right to freedom of religion, freedom of conscience and free profession, practice and propagation of religion(Article 25), freedom to manage religious affairs(Article 26), freedom for not to be compelled for payment of taxes for promotion of any particular religion(Article 27), freedom for not being compelled to attend any religious instruction or religious worship in educational institution if that institution is maintained wholly or partly under state funds, for only exception for this right being institutions established under any endowment or trust which requires that religious instruction shall be imparted in such institution even it s administrated by the State(Article 28)

1.4.5 CULTURAL AND EDUCATIONAL RIGHTS

Article 29 and 30 deal with educational and cultural rights. Minorities living in territory of India having a distinct language, script or culture should be protected to conserve the same and no citizen shall be denied admission into any educational institution maintained wholly or partly out of state funds on grounds of religion, race, caste, language or any of them(Article 29). Article 30 provides the minorities the right to establish and administer educational institutions of their choice.

1.5 DIRECTIVE PRINCIPLES OF STATE POLICY

Directive principles are the directions of the Constitution to the State. While fundamental rights are enforceable by court, directive principles are not enforceable. Whenever there is a clash between fundamental rights and directive principles, it is the former that reign supreme over the latter.

Directive principles are given in the Articles 36 to 51. The directive principle state that the state should strive for the following:



1. To secure a social order for the promotion of welfare of the people (Article 38).

2. To direct its policy towards securing that the citizens have the right to an adequate means of livelihood, the ownership and the control of the material sources of the community are so distributed as to serve the common good, operation of the economic system does not result in the concentration of wealth and means of production, there is

equal pay for equal work for both men and women, efforts to be initiated for the health and strength of workers, men and women. Children are given opportunities

and facilities to develop in a healthy manner and in condition of freedom and dignity the child hood and the youth are protected against exploitation (Article 39).

3. To provide equal justice and free legal aid (Article 39A).
4. To organize village panchayat (Article 40).
5. To make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and displacement and in other cases of undeserved want (Article 41).
6. To make provision for securing just and humane conditions of work and for maternity relief (Article 42).
7. To secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and to promote cottage industries on an individual or co-operative basis in rural areas (Article 43).
8. By suitable legislation or in any other way, to ensure the participation of workers in the management of undertakings, establishments or other organizations engaged in any industry (Article 43 A).
9. To secure for citizens a uniform civil code throughout the territory of India (Article 44).
10. To provide, within a period of ten years from the commencement of the Constitution, for free and compulsory education for all children until they complete the age of fourteen years (Article 45).
11. To promote with special care the educational and economic interests of the weaker sections of the society, and in particular in scheduled castes and the scheduled tribes and shall protect them from social injustice and all forms of exploitation (Article 46).
12. To raise the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the state shall endeavor to bring about prohibition of the consumption, except for medicinal purpose of in toxicating drinks and, of drugs which are injurious to health. (Article 47).
13. To organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds of cows and calves and other cattle (Article 48).
14. To protect and improve the environment and to safeguard the forests and wildlife of the country (Article 48A).
15. To protect every monument or place or object of artistic or historic interest, declared by or under law made by parliament to be of national importance, from spoliation, destruction, removal or disposal or export, as the case may be (Article 49).

16. To separate the judiciary from the executive in the public services of the State(Article 50).

17. To promote international peace and security: maintain just the honorable relations between nations; foster respect for international law and encourage settlement of international disputes by arbitration (Article 51).

1.6 FREEDOM OF SPEECH AND EXPRESSION: ARTICLE 19 1(a)

Article 19(1) (a) States that "all citizen shall have the right to freedom of speech and expression". Thus all the citizens enjoy a constitutional right to exercise free expression of their views, opinions and convictions. The Press and Media has empowered for this purpose, right to seek, receive and impart information and ideas. As the exercise of freedom of expression requires a medium through which information and ideas may be communicated, it is naturally follows that the medium shall also be free. Our Constitution doesn't specifically mention the freedom of Press. However, the Supreme Court has, following the above logic, very explicitly ruled that freedom of Press is included in the guarantee of the freedom of expression, which also includes the liberty to publish and circulate. The apex court has declared that there is no need to make a separate provision for the freedom of Press.



But as the right has been guaranteed to all Indian citizens, the right of Press is no more than that of a citizen. Therefore the Press cannot claim any special privilege.

But here, this is not an absolute freedom, the limitation of this freedom are stated in Article 19(2).

1.6.1 ARTICLE 19(2)

Article 19(2) of the Constitution empowers the State to enact laws imposing reasonable restrictions on the exercise of this freedom. "In the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency and morality, or in relation to contempt of court, defamation or incitement to an offence". Thus the Constitution permits certain restrictions to be placed on the press to protect the greater interest of

- (a) the State, like the need to maintain its existence
- (b) the society, in the form of public safety and tranquility, decency and morality, public confidence, in the administration of Justice, and
- (c) The individual, in enjoying his reputation and fair name.

1.7 CONTEMPT OF COURTS

Judiciary is the most important part of the three arms of the government. It interprets laws. The Judiciary settles disputes between individuals, between the individuals and the states, and among various constituents of the State. In order to it is effective that all must have faith and confidence in its impartiality, fairness and concern for the rights of the individual, interest of the State and the good of the society. For this its independence must be ensured. There must be no interference in its functioning and no attempt to intimidate or influence it. Any such thing shall be done on the pain of punishment.

This is, broadly the objective of providing for the law of contempt of courts. According to section 2 of the Contempt of Courts Act, 1971, contempt is of two kinds Civil Contempt and Criminal Contempt.

1.7.1 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.

1.7.2 Criminal Contempt means publication of any matter or doing of any other act whatsoever, which

(i) scandalizes or tends to scandalize or tends to lower any authority of any court;
 (ii) prejudices or interferes or tends to interfere with due course of any judicial proceeding; or

(iii) interferes or tends to interfere or obstruct the administration of justice in any other manner.

Publication of any thing which tends to create in the mind of people an apprehension about the integrity, ability or fairness of the judge or which tends to have in complete reliance upon the court administration of justice, amounts to contempt.

Publication which is likely to cause embarrassment in the judge's mind to the discharge of his official duty is a contempt of court.

'Trials by Newspapers' has been considered by court as interference with the proper administration of justice in pending cases. These are few examples of what amounts to the contempt of court.

However, punishment can be awarded for interference with the due course of justice only the interference is substantial.

Similarly a person will not be guilty of contempt of court for innocent publication and distribution, during the pendency of civil or criminal proceedings, of a matter which would otherwise deem to constitute contempt.

A fair and accurate report of judicial proceedings, a fair criticism of a judicial act, and a bonafide complaint concerning the presiding officer of a subordinate court do not constitute contempt of court.

Supreme Court and High Court being the courts of record can punish anybody for their contempt. Every High Court has also the power to punish contempt of subordinate courts like their own contempt.

Punishments

A contemtor can be punished with simple imprisonment only for a term extending up to six months or with a fine up to two thousand rupees or with both.

1.8 CONTEMPT OF LEGISLATURE

In some countries, **contempt of parliament** is the offence of obstructing the legislature in the carrying out of its functions, or of hindering any legislator in the performance of his or her duties. The offence is known by various other names in jurisdictions in which the legislature is not called “parliament”. Actions that may constitute contempt of parliament include:

- ◆ deliberately misleading a house of the legislature, or a legislative committee;
- ◆ refusing to testify before, or to produce documents to, a house or committee; and
- ◆ Attempting to influence a member of the legislature by bribery or threats.

In some jurisdictions, a house of the legislature may declare any act to constitute contempt, and this is not subject to judicial review. In others, contempt of parliament is defined by statute; while the legislature makes the initial decision of whether to punish for contempt, the person or organization in contempt may appeal to the courts. Some jurisdictions consider contempt of parliament to be a criminal offence.

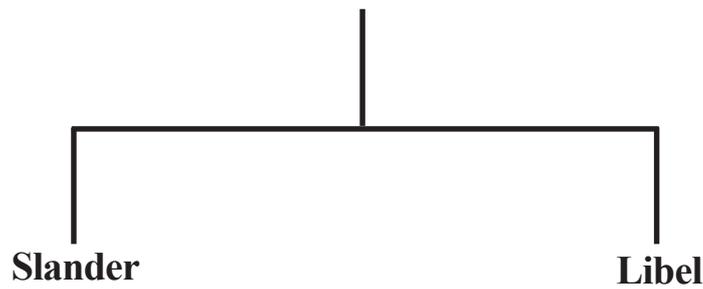
1.9 DEFAMATION

The word defamation in Odia is known as *Mana hani*. The modern law have regarded it as an injury to a person fame and reputation. Reputation is considered as property and any damage to it can give rise to both criminal and civil action.

There is no separate law of defamation in India. The Indian Penal Code (IPC) has four sections which define elaborately what constitutes defamation and what the defenses and the punishments are.

Defamation is of two kinds: (1) Verbal (2) Written. Verbal defamation is known as slander while written defamation is known as libel. Both offences are punishable under the same section of IPC.

Defamation



Slander is the act of making a false, negative spoken statement about someone, in which someone tells one or more persons an untruth about another that will harm the reputation of the person and defame.

Libel may be defined as a malicious publication, expressed either in printing or writing, or by any signs, diagrams, cartoons, or pictures, tending to destroy the reputation of a living person so as to expose him to public hatred, contempt or ridicule.

1.9.1 Slander

Slander is the act of making a false, negative spoken statement about someone, in which someone tells one or more persons an untruth about another that will harm the reputation of the person and defame. Slander is a civil wrong (tort) and can be the basis for a lawsuit. Words spoken over the air on television or radio are treated as slander on the theory that broadcasting reaches a large audience as much if not more than printed publications.

1.9.2 Libel

Libel may be defined as a malicious (to do harm) publication, expressed either in printing or writing, or by any signs, diagrams, cartoons, or pictures, tending to destroy the reputation of a living person so as to expose him to public hatred, contempt or ridicule. Such a libel is a civil libel, answerable in damages to the person so libeled. When a libel is published and creates to take place a riot, this type of libel is a criminal libel punishable for the protection of the public good and public safety.

Defamation gives rise to both civil and criminal action. The civil law relating to defamation is not codified in our country. Therefore civil action against defamation is based on the English Common Law, subject to statutory exceptions.

Criminal law of defamation is contained in Section 499 to 502 of the IPC and is very exhaustive. There is no civil action if defamation is of the spoken word. The press, being a written and printed medium, is likely to commit an offence of libel only. The main difference between civil suit and criminal proceeding for defamation is pertaining to the compensation. The object of civil action is to adequately compensate the person defamed for the loss of reputation by damages; the objective of criminal prosecution is to punish the offender, by imprisonment or fine or both.

In criminal law intention is essential for liability. Good faith is a defense in criminal law. But truth as such is no defense in criminal proceedings except under the first exception to Sec. 499 of IPC. It is necessary to prove further that the defamatory publication is for the public good.



1.9 CHECK YOUR PROGRESS

1. What are the rights provided under the Constitution to the citizen of India?

2. Who can bring a suit of defamation in the court ?

3. What is criminal contempt ?



UNIT-2

2.0 UNIT STRUCTURE

- 2.1 Learning Objectives
- 2.2 Introduction
- 2.3 Sedition and inflammatory writings
 - 2.3.1 Sedition
 - 2.3.2 Inflammatory writings
- 2.4 Indian Penal Code
 - 2.4.1 Introduction
 - 2.4.2 Section 153 A : promoting enmities between different groups on grounds of different religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of the harmony.
 - 2.4.3 Section 171 G: False statements in connection with an election
 - 2.4.4 Section 292 : Sale of obscene books, etc.
 - 2.4.5 Section 294A: Keeping lottery office
 - 2.4.6 Section 295A: Deliberate and malicious acts, intended to outrage religious feeling of any class by insulting its religion or religious beliefs
 - 2.4.7 Section 499: Defamation
 - 2.4.8 Section 500: Punishment for Defamation
 - 2.4.9 Section 501: Printing and engraving matter known to be defamatory
 - 2.4.10 Section 502: Sale of printing or engraved substance containing defamatory matter
 - 2.4.11 Section 505: Statements conducting to public mischief
- 2.5 The Criminal Procedure Code, 1973
 - 2.5.1 Section 91: Summons to produce document or other thing
 - 2.5.2 Section 93: When search warrant may be issued
 - 2.5.3 Section 95: Power to declare certain publications forfeited and to issue search-warrants for the same
 - 2.5.4 Section 349: Imprisonment or committal of person refusing to answer or produce document
 - 2.5.5 Section 350: Summary procedure for punishment for non-attendance by a witness in obedience to summons
- 2.6 Official Secret Act, 1923
- 2.7 Right to Information Act, 2005

2.8 Press and Books Registration act, 1867

2.9 Intellectual Property Rights

2.9.1 World Trade Organisation

2.10 Copyright Act, 1957

2.11 Check Your Progress

2.1 Learning Objectives

In the previous unit we have discussed about Indian constitution and various rights given to the citizen and journalists in the constitution. We have also discussed about directive principles of state policy and some laws like contempt of court, contempt of legislature and defamation. In this unit we shall discuss about the provisions mentioned in the Indian penal code. Various sections of Indian penal code and also some important acts like official secret act, right to information act, press and book registration act, intellectual property rights act and copy right act. After going through this unit, you will be able to understand:

1. Sedition and inflammatory writings
2. Various sections and provisions of Indian penal code
3. Code of criminal procedures mentioned in IPC
4. Acts like official secret act, right to information act, press and book registration act, intellectual property rights act and copy right act

2.2 Introduction

Our constitution has given us many rights and freedoms to enjoy. The same is applicable for a journalist also. What a journalist writes in a newspaper or telecasts in a news channel; people believe in it. Therefore wrong or malicious publications and writings are harmful for not only the concerned but also for the society. Therefore several regulations and laws are there to avoid such things. In fact if there is any wrong and mischief information gets published, there are provision in the Indian penal code for punishment. We shall discuss all those sections and codes of IPC in this unit. We shall also discuss the acts official secrets act and rights to information.



2.3 SEDITION AND INFLAMMATORY WRITINGS

2.3.1 SEDITION

According to **Section 124A** of the Indian Penal Code: whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government establishment by law in India, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.



Explanation 1: The expression “disaffection” includes disloyalty and all feelings of enmity.

Explanation 2: Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without existing or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3: Comments expressing disapprobation of the administrative or other action of the Government without existing or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

2.3.2 INFLAMMATORY WRITING

Inflammatory writing is a form of speech that is used with the intent to stir up emotions, elicit anger, or invoke a physical reaction. Name calling is one form, but the use is generally wider in scope, in the sense that it is used to attack, oppress, or denigrate groups of people, or focus hate or anger on a public figure.

Websites that post “wanted” posters, using the names and photographs of doctors who perform abortions, can be an example. Many of Hitler’s most famous speeches, combining national patriotic feelings with anti-Jewish sentiment, and stirring the listeners to “act now” were also examples of inflammatory language.

2.4 INDIAN PENAL CODE

2.4.1 INTRODUCTION

Indian Penal Code covers almost all the crime happening in the society. It is a piece of British colonial legislation dating from 1860. Now it provides a penal code for the entire country including Jammu and Kashmir, where it was renamed the Ranbir Penal Code (RPC). The code could be applied to any offence committed by an Indian citizen. The draft of the Indian Penal Code was prepared by the First Law Commission, chaired by Lord Macaulay. The draft, after it underwent a very careful revision, was passed into law in 1860. Indian Penal Code came into force and is regularly amended.

The Code has a total of 511 Sections covering various aspects of the criminal law. The Code of Criminal Procedure, 1973 deals with many offences. Bailable (the accused has the right to get bail) and non-bailable (the decision to grant bail or not is the decision of the court), cognizable (the police officer can arrest an offender without a warrant) and non-cognizable (a police officer cannot arrest without warrant) offences, compoundable (can be compromised by the parties to the dispute) and non-compoundable (those which cannot be compromised by any means) offences. In both Indian Penal Code and Criminal Procedure Code, certain provision specifically deal with media. This chapter provides an account of those portions which are relevant to media.

2.4.2 SECTION 153 A

Promoting enmities between different groups on grounds of different religion, race place of birth, residence, language, etc., and doing acts prejudicial to maintenance of the harmony.



Whoever,

- (a) by words either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote on grounds of religion, race, place of birth, residence, language, caste or community or any other ground what so ever disharmony or feeling of enmity, hatred or ill-will between different religions.
- (b) commits any act which is prejudicial to the maintenance of the harmony between different religious, racial, language or regional groups or caste or communities, and which like to disturb the public tranquility, or
- (c) organizes any exercise, movement, drill or other similar activity used to be trained for criminal force or violence any religious, racial, language or regional group or cast or community and such activity likely to cause fear or a feeling insecurity, shall be punished with imprisonment which may extend to three years, or with fine, or both.

Offence committed in the place of worship, etc. (2) whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship, religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

2.4.3 SECTION 171 G

False statement in connection with an election

Whoever with intend to affect the result of an election makes or publishes any statement supporting to a statement of fact which is false and which either he knows or believes to be false or does not belief to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

2.4.4 SECTION 292

Sale of obscene books, etc.

For the purpose of sub section(2) , a book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or its effects of its any one of the items, is, if taken as a whole, such as to tend to deprave and corrupt person, who are likely, having regard to all relevant circumstances, to read, see or hear the matter of obscene for sale, purchase, publicity, hire to sale, publish, circulation or distribution to do any act which is offence under this section, shall be punished with first conviction with imprisonment of either description of term of two years and fine up to two thousand rupees or the imprisonment may extend to five years and fine of five thousand rupees.

2.4.5 SECTION 294A

Keeping lottery office

Whoever keeps any office or place for the purpose of drawing any lottery, not being a state lottery or a lottery authorized by the state government, shall be punished with imprisonment or ether description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do anything for the benefit of any person, on any contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery, shall be punished with fine may extend to one thousand rupees.

2.4.6 SECTION 295A

Deliberate and malicious acts, intended to outrage religious feeling of any class by insulting its religion or religious beliefs

Whoever, with deliberate and malicious intention of outraging the religion feeling of any class of citizen of India, by words, either by spoken or written, or by signs or by visible representation or otherwise, insult or attempt to insult the religion of the religious belief of that class, shall be punished with imprisonment or ether description for a term which may extend to three years, with fine or with both.

2.4.7 SECTION 499: DEFAMATION

Whoever by words either spoken or intended to be read, or by signs or by visible representation, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to belief that such imputation will harm, the reputation of such person is said, expect in the cases hereinafter expected, to defame that person.

2.4.8 SECTION 500: PUNISHMENT FOR DEFAMATION

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

2.4.9 SECTION 501

Printing and engraving matter known to be defamatory

Whoever prints or engraves any matter, known or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

2.4.10 SECTION 502

Sale of printing or engraved substance containing defamatory matter

Whoever sales or offer for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend two years , or with fine, or with both.

2.4.11 SECTION 505

Statements conducting to public mischief

Whoever makes, publishes or circulates any statement, rumor or report-

- (a) with intend to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard or fail in his duty as such: or
- (b) with intend to cause or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the state or against the public tranquility; or
- (c) with intend to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community; shall be punished with imprisonment which may extend to three years, or with fine, or with both.



2.5 THE CRIMINAL PROCEDURE CODE, 1973

The following provisions of the Criminal procedure Codes 1973 are relevant to media.

2.5.1 SECTION 91

Summons to produce document or other thing

Whenever any court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for this purposes of any investigation, inquiry, trial or other proceeding under this code, then the court issue a summon in a written order, to the person in whose possession such document or thing is believed to be, required him to attend and produce it at the time and place stated in the summon or order.

2.5.2 SECTION 93

When search warrant may be issued

- (1)(a) When a court has reason to believe that a person to whom a summon or order under Section 91 has not produced the document or thing required by such summons or requisition, or
- (b) Where such document or thing is not known to the court to be in the possession of any person, or
- (c) Where the court considers that the purpose of any inquiry, trial or other proceedings under this code will be served by the general search or inspection, it may issue a search warrant, and the person to whom search warrant is directed may search or inspect therewith and the provisions.

2.5.3 SECTION 95

Power to declare certain publications forfeited and to issue search-warrants for the same

Where any newspaper ,or book or any document, wherever printed, appears to the State Government to contain any matter the publication of which is punishable under Section 124A or Section 153A or Section 292 or Section 293 or Section 295A of the Indian Penal Code, the State Government may by notification, stated the ground of its opinion, declare every copy of the issue of the newspaper containing such matter, every copy of the book or document to be forfeited to Government, and thereupon any police officer may seize the same wherever found in India any Magistrate may authorize any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be reasonably suspected to be.



2.5.4 SECTION 349

Imprisonment or committal of person refusing to answer or produce document

If any witness or person called to produce a document or thing before a criminal court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the court requires him to produce, and does not, after a reasonable opportunity has been given to him so to do, offer any reasonable excuse for such refusal, such court may be for reason to be recorded in writings, sentence him to simple imprisonment, or by warrant under the hand of presiding magistrate or judge commit him to the custody of an officer of the court for any term not exceeding seven days, unless in the meantime, such person consents to be examined and to answer, or to produce the document or thing and in the event of his persisting in his refusal, he may be dealt with according to the provisions of Section 345 or Section 346 .

2.5.5 SECTION 350

Summary procedure for punishment for non-attendance by a witness in obedience to summons

- (1) If any witness being summoned to appear before a criminal court is legally bound to appear at a certain place and time in disobedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which is lawful for him to depart from the place where he has to attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interest of the justice that such a witness should be tried summarily, the Court may take cognizance of the offence and after giving the offender opportunity to show cause why he should not be punished under this section, sentence him to fine not exceeding one hundred rupees.

- (2) In every such case the court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.

2.6 OFFICIAL SECRET ACT, 1923

The Official Secret Act, 1923 is a comprehensive document relating to official secrets and defines a number of offences. The Act is aimed at maintaining the security of the state against leakage of secret information, sabotage and the like. However, many of the acts prohibited by this law may be committed by newspaper and journalists, as private individuals, while performing their duties.

The Official Secrets Act, 1923 broadly has two parts:

One relating to spying for the enemy (Secs.3&4). The punishment for spying in relation to the country defense is up to fourteen years.

Second one relates to unauthorized communication of any other secret official code or passwords, or any sketch, plan model, article, note, document or information (Sec.5). Laws against printing of classified documents are understandable in relation to certain areas like defense and security of the country. But the Official Secrets Act also prohibits publication or communication of any information, which may be directly and indirectly useful to the enemy.

In India, it has been widely demanded that Section 5 of the Official Secrets Act which inhibits free reporting should be done away with. It prescribes a punishment with imprisonment up to five years or fine or both for a person who voluntarily receives or communicates any official secret. This means that any official information which has been deemed by the authorities as secret can be published only on the pain of punishment.

2.7 RIGHT TO INFORMATION ACT, 2005

The **Right to Information Act (RTI)** is an act of the Parliament of India “*to provide for setting out the practical regime of right to information for citizens*” and replaces the erstwhile Freedom of information Act, 2002. Under the provisions of the Act, any citizen may request information from a “public authority” (a body of government or “instrumentality of state”) which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerize their records for wide dissemination and to proactively contain categories of information so that the citizens need minimum recourse to request for information formally. This law was passed by Parliament on 15 June 2005 and came into force on 12 October 2005. The first application was given to a Pune police station. Information disclosure in India was restricted by the Official Secrets Act 1923 and various other special laws, which the new RTI Act relaxes. It codifies a fundamental right of citizens.

PROCESS

The RTI process involves reactive (as opposed to proactive) disclosure of information by the authorities. An RTI request initiates the process.

Each authority covered by the RTI Act must appoint their **Public Information Officer (PIO)**. Any person may submit a written request to the PIO for information. It is the PIO’s obligation to provide information to citizens of India who request information under the Act. If the request pertains to another public authority (in whole or part), it is the PIO’s responsibility to transfer/forward the concerned portions of the request to a PIO of the



other authority within 5 working days. In addition, every public authority is required to designate **Assistant Public Information Officers** (APIOs) to receive RTI requests and appeals for forwarding to the PIOs of their public authority. The applicant is required to disclose his name and contact particulars but not any other reasons or justification for seeking information.

The Central Information Commission (CIC) acts upon complaints from those individuals who have not been able to submit information requests to a Central Public Information Officer or State Public Information Officer due to either the officer not having been appointed, or because the respective Central Assistant Public Information Officer or State Assistant Public Information Officer refused to receive the application for information.

The Act specifies time limits for replying to the request:

- ◆ If the request has been made to the PIO, the reply is to be given within **30 days** of receipt.
- ◆ If the request has been made to an APIO, the reply is to be given within **35 days** of receipt.
- ◆ If the PIO transfers the request to another public authority (better concerned with the information requested), the time allowed to reply is **30 days** but computed from the day after it is received by the PIO of the transferee authority.
- ◆ Information concerning corruption and human rights violations by scheduled security agencies (those listed in the Second Schedule to 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**.

Since the information is to be paid for, the reply of the PIO is necessarily limited to either denying the request (in whole or part) and/or providing a computation of “further fees”. The time between the reply of the PIO and the time taken to deposit the further fees for information is excluded from the time allowed. If information is not provided within this period, it is treated as deemed refusal. Refusal with or without reasons may be ground for appeal or complaint. Further, information not provided in the time prescribed is to be provided free of charge. Appeal processes are also defined.

2.8 PRESS AND BOOKS REGISTRATION ACT, 1867

The oldest surviving Act in this regard is the Press and Registration of Books Act, 1867. It also remained the fundamental law governing the rules for the regulation of the publication of newspaper and of having of printing press.

Though, every printing press and a newspaper need no license or permission to publish books or newspaper under this Act, a declaration is mandatory to be made in the prescribed manner before the District, Presidency or Sub-divisional Magistrate and

authenticated by him is necessary before the newspaper is published. Similarly, no printing press can be set up without making a relevant declaration. The act requires the name of the printer, the place of the printing and name of the publisher and the place of the publication must be legibly printed on every book or newspaper printed/published in India.

For having a press to print books or newspapers, a declaration must be made before the District Presidency or Sub-divisional Magistrate giving description of its location. Every time a press is shifted to a new place a fresh declaration is necessary to be submitted.

Two conditions are necessary to be fulfilled for publishing a newspaper. One, the name of the editor must be clearly printed on every copy of the newspaper. Two, the declaration must be made before the District, Presidency or Sub-divisional Magistrate within whose jurisdiction the newspaper is to be published, stating the following facts: (a) name of the printer and the publisher (b) premises where printing and publishing is conducted, (c) the title, language and periodicity of the newspaper. Publication can be started only after the said Magistrate authenticates the declaration.

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

After authentication the paper must be started within a specific period. The declaration in respect of the publication if not published within a specified period it shall be void. A daily, a weekly or a bi-weekly newspaper must commence publication within six weeks and a fortnightly, monthly or a quarterly can start publishing within three months after authentication.

The Magistrate can cancel the declaration and order closure of a newspaper for irregular publication. In a period of three months if any newspaper publishes less than half the number of issues which it should have to publish in accordance with the declaration, the newspaper shall cease to publish. A fresh declaration must be filed before it can be started again.

Two copies of each issue of a newspaper and up to three copies of each book must be delivered, in a prescribed manner to the government free of expense.

The declaration can be cancelled by the Magistrate after giving opportunity to show cause to the person concerned, if the Magistrate is satisfied on the following counts:

- (a) The newspaper is being published in contravention of the provision of this Act or rules made under it,
- (b) The newspaper bears a title which is the same as, or similar to that of any other newspaper published either in the same language or in the same state
- (c) The printer or publisher has ceased to be so,

- (d) The declaration was made on false representation on concealment of any material fact.

Penalties: if a newspaper (or a book) is printed or published without legibly printing the name of the printer and publisher and also the name of the place of printing/publishing, the printer or publisher can be fined up to two thousand rupees or imprisonment up to six months or punished by both.

Registrar of Newspaper: there is a provision for appointment of a Press Registrar by the Government of India. The Press Registrar maintains a register containing the following particulars of each newspaper: title, language, periodicity, name of the editor, printer and publisher; place of printing and publication; average no of pages per week, number of days of publication in the year, average number of copies printed, sold and distributed free; retail selling price per copy, and names and addresses of owners.

2.9 INTELLECTUAL PROPERTY RIGHTS

The property born out of a person's intellect is termed **Intellectual Property (IP)**. As a person's physical property should be safeguarded, the intellectual byproduct too need protection from infringement. The legal rights thrust on a person to safeguard his/her intellectual property are termed Intellectual Property Rights (IPRs). Such rights are the protections granted to the creators of IP, and include trademarks, copyright, patents, industrial design and in some jurisdictions trade secrets. Artistic works including music and literature and designs etc. can all be protected as intellectual property. By those legal rights, you can prevent others from making use of your knowledge so that you can cash on in it.

2.9.1 WORLD TRADE ORGANIZATION

The World Trade Organization (WTO) substantiated the rules of intellectual property law and brought them within the scope of trade related Intellectual property rights which are to be enforceable within the country which has granted those rights.

There are various types of intellectual property rights. They are as follows:

1. **Patents:** New inventions employing scientific and technical knowledge, value addition to existing technology. It is a contract between inventor and government. e.g., a new drug.
2. **Trade mark and service mark:** Visual symbol in the form of a word, service or level applied to an article of a manufacturer, e.g., Yahoo, Zee, Honda etc.
3. **Industrial Designs:** Idea or a conception as to the features of the shape, configuration pattern, ornament of composition of lines or colours applied to any article. Design is for beautifying an industrial product to attract consumer public. Any new or original design adopted for ornamentation, shaping and configuration of an industrial product is eligible for design registration.

4. **Copyright:** Right to copy and making use of literary, dramatic, musical, artistic works, cinematographic films records and broadcasts.
5. **Geographical indications:** Geographical indications identify goods as originating in the territory of a country, an origin or a locality in that territory, where a specific quality, reputation or other characteristics of the goods is essentially attributed to their geographical origin, e.g., Darjeeling Tea, Kanchipuram saree etc.
6. **Protection for new plant varieties:** Trade Related aspects of Intellectual Property Rights(TRIPs) provision of the World Trade Organization an agreement make it mandatory for member countries to provide protection for new plant varieties, e.g., new variety of rice, wheat etc. as per the provisions, the member countries can give protection to new plant varieties in two ways:
 - (i) Under the patent law
 - (ii) By a separate system called (Sugeneries System)

2.10 COPYRIGHT ACT, 1957

The purpose of this Act, “copyright” means the exclusive right subject to the provisions of this Act, to do or authorize the doing of any of the following act in respect of a work or any substantial part thereof, namely; a work of literature, drama, music or art is an intellectual property. It must be protected from illegal copying or reproducing it. The Copyright Act, 1957 accords this protection.

This law is based on two competing considerations. One, the creators property, that is the original works need to be protected. Two, for the advancement of knowledge in the interest of the society, there should be some amount of freedom to produce parts of other people’s copyrighted works. Copyright has been held to be a right which a person acquires in a work which is the result of his intellectual labour. The primary function of the copyright law is to protect from annexation by other people the fruits of a humans work, labour or skill. In respect of the press, copyright means, under section of the copyright act, 1957, the exclusive right in the case of a literary, dramatic or musical work, to do and authorize the doing in substantive form of the following acts, namely:

- i) To reproduce the work on material form;
- ii) To publish the work;
- iii) To make any adoption of a work; and
- iv) To reproduce or publish translation of the work.
- v) To include the work in any cinematograph film;
- vi) To make a copy of the film, including a photograph of any image forming part thereof;

vii) To make any sound recording embodying it;

viii) To sell or give on hire, or offer for sale or hire, any copy of the film or sound recording,

Punishment for knowingly infringement or abetting the infringement of a copy right is imprisonment which may exceed up to one year or fine or both.



2.11 CHECK YOUR PROGRESS

4. What is cognizable offence?

5. What are the different form/types of IPR?

6. Which Act is the oldest among the press laws?



UNIT- 3

3.0 Unit Structure

3.1 Learning Objectives

3.2 Introduction

3.3 Broadcasting Laws

3.4 Prasar Bharati Act, 1990

3.4.1 Section 3: Establishment and composition of Corporation

3.4.2 Section 12: Objectives and function of Corporation

3.4.3 Section 14: Establishment of Broadcasting Council, term of office and removal, etc.

3.5 Cable TV Network Regulation Act, 1995

3.5.1 Section 3: Regulation of cable television network

3.5.2 Section 4: Registration as cable operator

3.5.3 Section 4A: Transmission of programmes through addressable system, etc.

3.5.4 Section 5: Programme code

3.5.5 Section 6: Advertising code

3.5.6 Section 8: Compulsory transmission of Doordarshan channels

3.5.7 Offences and penalties

3.6 Digitization and Conditional Access System (CAS)

3.7 Proposed Broadcast Regulatory Authority of India Act

3.8 Broadcasting and Advertising codes.

3.9 Check Your Progress

3.1 LEARNING OBJECTIVES

In the previous unit we discussed about various Indian penal code and different acts related to media. In this unit we shall discuss about different broadcasting laws and codes. After going through this unit we will be able to understand:

1. Broadcasting laws
2. Different acts related to broadcasting like Prasar Bharti Act, cable television network regulation act, proposed broadcasting regulatory authority of India act.
3. Offences and penalties related to broadcasting etc.

3.2 INTRODUCTION

Broadcasting in India started on 31st July, 1924, when the Madras Presidency Radio Club went on the air for the first time. However, their pioneering, effort came to an end in 1927 owing to financial crisis. The move towards a regular broadcasting service was made in the same year by the Indian Broadcasting Company, a commercial undertaking, which chose for its operations the two premier cities of Bombay and Calcutta. In March, 1930 the Indian Broadcasting



Company had to go into liquidation. A month later, the then Government of India took over the control of the Company's affairs and the Indian State Broadcasting Service was born; but the worst was not over. After operating the service for about 18 months, the Government decided to close it down having concluded that the service was hardly a viable proposition. At this juncture, public opinion began to assert itself and the Government gave up the contemplated closure. And thus, in May, 1932, Indian Broadcasting received its permanent lease of life. The next four years were marked by some significant developments and, in June, 1936, Indian State Broadcasting was given its present name, All India Radio. After that many laws and acts came into place for broadcasting which we shall discuss here.

3.3 BROADCASTING LAWS

Broadcasting is the dissemination of information through audio and video. Broadcasting-comprising both radio and television- constitutes a very large part of the mass media. In India radio broadcasting through *All India Radio* started in the year 1936 and the television broadcasting through *Doordarshan* was introduced in the year 1959. The first serious effort to legislate a comprehensive broadcast law was the Draft Akash Bharti Bill, 1978, proposed by the working group on Autonomy for *Akashvani* and *Doordarshan*, constituted under the chairmanship of Mr. B. G. Verghese. The Draft Bill, intended to be an aid to legislation, provided for a simple statute established the National Broadcasting Trust, and set out its objectives, scope, powers and basic structure. It was at the point of time, hoped that the Akash Bharti Act established the National Broadcasting Trust would come into force from January 1979 and *Akashvani* and *Doordarshan* would cease to be the attached offices of the Ministry of Information and Broadcasting. What happened to this initial effort is now a part of history, the Janata Party government, which introduced the bill, with diluted provisions for autonomy, was voted out of office before the legislature could be enacted.

3.4 PRASAR BHARTI ACT, 1990

The Parliament in the year 1990, enacted the Prasar Bharti (Broadcasting Corporation of India) Act. The Act provided for establishment of a Broadcasting Corporation of India. The unique feature of the Act was that it enlarged the definition of broadcasting. According to section 2(c), "Broadcasting means the dissemination of any form of communication like signs, signals, writing, pictures, images and sound of all kind by transmission of electromagnetic waves through cables intended to be received by the

general public either directly or indirectly through the medium of relay station and all its grammatical variations and cognate expression shall be constructed accordingly.” It is more comprehensive because it takes care of the transmission of electromagnetic waves through space or through cables.

SALIENT FEATURES OF THE ACT

3.4.1 SECTION 3

Establishment and Composition of corporation

- (1) With effect from such date as the central government may by notification appoint in this behalf, there shall be established for the purpose of this Act a corporation, to be known as the Prasar Bharti (Broadcasting Corporation of India).
- (2) The Corporation shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property, both moveable and immovable, and to contract and shall by the said name sue and be sued.
- (3) The headquarters of the Corporation shall be at New Delhi and the Corporation may establish offices, kendras or stations at other places in India and outside the Country with the previous approval of the Central Government.
- (4) The general superintendence, direction and management of the affairs of the Corporation shall vest in Prasar Bharti Board which may exercise or done by the Corporation under this Act.
- (5) The Board shall consist of-
 - (a) a chairman
 - (b) one executive member
 - (c) one member (finance)
 - (d) one member (personel)
 - (e) six part-time members
 - (f) Director-General (Akashvani)
 - (g) Director-General (Doordarshan)
 - (h) One representative of the Union Ministry of Information and Broadcasting, to be nominated by that ministry; and
 - (i) Two representatives of the employees of the corporation, of whom one shall be elected by the engineering staff from amongst themselves and one shall be elected by the other employees from amongst themselves.

3.4.2 SECTION 12

Objectives and function of Corporation

Subject to the provision of the Act, it shall be the primary duty of the Corporation to organize and conduct public broadcasting services to inform, educate and to entertain the public and to ensure a balanced development of broadcasting on radio and television. The Corporation shall, in the discharge of its functions, be guided by the following objectives, namely:

- (a) Uphold the unity and integrity of the country and the values enshrined in the Constitution;
- (b) Safeguard the citizens right to be informed freely, truthfully and objectively on all matters of public interest, national or international and presenting a fair and balance flow of information including, contrasting views without advocating any opinion or ideology of its own;
- (c) Paying special attention to the fields of education and spread of literacy, agriculture, rural development, environment, health and family welfare and science and technology;
- (d) Providing adequate coverage to the diverse cultures and languages of the various regions of the country by broadcasting appropriate programmes;
- (e) Providing adequate coverage to sports and games so as to encourage healthy compensation and the spirit of sportsmanship;
- (f) Providing appropriate programmes keeping in view the special need of the youth;
- (g) Informing and stimulating the national consciousness in regard to the status and problems of women and paying special attention to the upliftment of women;
- (h) Promoting social justice and combating exploitation, inequality and such evils as untouchability and advancing the welfare of the weaker section of the society;
- (i) Safeguard the rights of the working classes and advancing their welfare
- (j) Serving the rural and weaker sections of the people and those residing in border regions, backward or remote areas;
- (k) Providing suitable programmes keeping in the view the special needs of the minorities and tribal communities;
- (l) Taking special steps to protect the interests of children , the blind, the aged, the handicapped and other vulnerable sections of the people
- (m) Promoting national integration by broadcasting in a manner that facilitates communication through the national language in India; and distribution of regional broadcasting services in every state in the languages of the states;

- (n) Providing comprehensive broadcast coverage through the choice of appropriate technology and the best utilization of broadcast frequencies available and ensuring high quality reception;
- (o) Promoting research and development activities in order to ensure that radio and television broadcast technology are constantly updated; and
- (p) Expanding broadcasting facilities establishing additional channels of transmission at various levels.

3.4.3 SECTION 14

Establishment of Broadcasting Council, term of office and removal, etc.

- (1) There shall be established, by notification, as soon as may be after the appointment day, a council, to be known as Broadcasting Council, to receive and consider complaints referred to Section 15 and to advise the Corporation in the discharge of its functions in accordance with the objectives set out in Section 12.
- (2) The Broadcasting Council shall consist of-
 - (i) a president and ten other member to be appointed by the President of India from amongst persons of eminence in public life;
 - (ii) four Members of Parliament, of whom two from the house of the people to be nominated by the Speaker thereof and 2 from the Council of the States to be nominated by the Chairman thereof.

3.5 CABLE TV NETWORK REGULATION ACT, 1995

It is an act to regulate the operation of cable television networks in the country and for matters connected therewith or incidental thereto.

3.5.1 SECTION 3

Regulation of cable television network

Cable television network operation in the Country will be governed under the Act.

3.5.2 SECTION 4

Registration as cable operator

Any person who is operating or is desirous of operating a cable television network may apply for registration as a cable operator to the registering authority.



3.5.3 SECTION 4A

Transmission of programmes through addressable system, etc.

- (1) Where the central government is satisfied that it is necessary in the public interest to do so, by official notification, make it obligatory for every cable operator to transmit or retransmit programme of any pay channel through an addressable system with effect from the specified date may be specified for different states, cities, town as prescribed.
- (2) If the central government is satisfied that it is necessary in the public interest so to do, it may notification by the official gazette, specify one or more free-to-air channels to be included in the package of channels providing a mix of entertainment, information, education and such other programmes.
- (3) The central government may specify in the notification referred to in sub-section (2), the number of free-to-air channels to be included in the package of channels forming basic service for different states, cities, towns or areas as may be.
- (4) If the central government is satisfied that it is necessary in the public interest so to do, by the official gazette, specify the maximum amount which a cable may demand from the subscriber for receiving the programmes transmitted on the basic service tier provided by such cable operator.

3.5.4 SECTION 5

Programme code

No person shall transmit or retransmit through a cable service any programme unless such programme is in conformity with the prescribed programme code.

3.5.5 SECTION 6

Advertising code

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

3.5.6 SECTION 8

Compulsory transmission of Doordarshan channels

- (1) Every cable operator shall, from the commencement of the Cable Television Networks (Regulation) Amendment Act, 2000, re-transmit at least two Doordarshan terrestrial channels and one regional language of the state in the prime brand, in satellite mode on frequencies other than carrying terrestrial frequencies.
- (2) The Doordarshan channels referred to in sub-section (1) shall be re transmitted without any deletion or alteration of any programme transmitted on such channels.

3.5.7 OFFENCES AND PENALTIES

Section 16: Punishment for contravention of provision of this Act.

1. Whoever contravenes any of the provisions of this Act punishable,-
 - (a) for the first offence, with imprisonment for a term which may extend to 2 years or fine which may extend to one thousand rupees or with both;
 - (b) for every subsequent offence, with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees

Section 17: Offences by companies

1. where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Section 22: Power to make rules

1. The central government may, by notification in the official gazette, make rules to carry out the provisions of this Act.

3.6: DIGITIZATION AND CONDITIONAL ACCESS SYSTEM(CAS)

CAS or conditional access system is a digital mode of transmitting TV channels through a set-top box (STB). The transmission signals are encrypted and viewers need to buy a set-top box to receive and decrypt the signal. The STB is required to watch only pay channels.

The idea of CAS was mooted in 2001, due to a furor over charge hikes by channels and subsequently by cable operators. Poor reception of certain channels; arbitrary pricing and increase in prices; bundling of channels; poor service delivery by cable television operators; monopolies in each area; lack of regulatory framework and redress avenues were some of the issues that were to be addressed by implementation of CAS

It was decided by the government that CAS would be first introduced in the four metros. It has been in place in Chennai since September 2003, where until very recently it had managed to attract very few subscribers. It has been rolled out recently in the other three metros of Delhi, Mumbai and Kolkata.



Set-top box (STB)

3.7 PROPOSED BROADCAST REGULATORY AUTHORITY OF INDIA ACT

The objective of this proposal or the bill, 2006 are as follows:

1. To promote, facilitate and develop in an orderly manner to carriage and content of broadcasting,
2. To provide for regulation of broadcasting services in India for offering a variety of entertainment, news, views, and information in a fair, objective and competitive manner and to provide for regulation of content for public viewing and matters connected therewith or incidental there to.
3. To provide for the establishment of an independent authority to be known as the Broadcast Regulatory Authority of India for the Purpose of regulating and facilitating development of broadcasting services in India.
4. Whereas airwaves are public property and it is felt necessary to regulate the use of such air waves in national and public interest, particularly with a view to ensuring proper dissemination of content and in the widest possible manner.
5. Whereas government has issued guidelines from time to time, with the approval of the Union Cabinet, for regulating the Broadcasting Services and it is felt necessary to give a statutory effect to these guidelines with retrospective effect.

3.8 BROADCASTING AND ADVERTISING CODES

Advertisement should be designed as to conform to the laws of the Country and should not offend against morality, decency and religious condition of the people.

No advertisement should be permitted which:-

1. Threat any race , caste, colour, creed and nationality;
2. Is against any of the directive principle, or any other provision of the Constitution of India;
3. Tends to incite people to crime, cause disorder or violence, or breach of law or glorifies violence or obscenity in any way;
4. Presents criminality as desirable;
5. Adversely affects friendly relations with foreign states;
6. Exploits the national emblem(abstract idea), or any part of the Constitution or the person or personality of the national leader or state dignity;
7. Relates to or promotes cigarettes and tobacco product liquor, wines and other intoxicants;

- 8. No advertisement message shall in any way be presented as news;
- 9. No advertisement shall be permitted the objects where mainly of a religious or political natures;
- 10. Advertisement must not be directed towards any religious or political end or have relation to any industrial dispute;



3.9 CHECK YOUR PROGRESS

7. What is Broadcasting Act?

8. Explain the responsibility of Prasar Bharti.

9. Why advertising code is required in Broadcasting?



UNIT-4

4.0 UNIT STRUCTURE

4.1 Learning Objectives

4.2 Introduction

4.3 Journalism as an organized/unorganized sector

4.4 Working Journalists Act, 1955

4.4.1 Hours of work

4.4.2 Section 8: Fixation or revision of rates of wages

4.4.3 Section 9: Procedure for fixing and revising rates of wages

4.4.4 Section 10: Recommendation by Board

4.4.5 Section 13AA: Constitution of Tribunal for fixing or revised rates of wages in respect of working journalists.

4.4.6 Section 13B: Fixation or revision of rates of wages of non-journalist newspaper employees

4.4.7 Section 13C: Wage board for revised rates of wages in respect of non-journalist newspaper employees

4.4.8 Recovery of Money

4.5 Check Your Progress

4.1 LEARNING OBJECTIVES

In the previous unit we discussed about different broadcasting laws and acts like Prasar Bharti Act and Cable TV Network Regulation Act. In this unit we shall focus on Journalism as a profession. We shall also put lights on the very important working journalist act. After going through this unit we will get to know:

1. Journalism as a profession
2. Whether it is an organized or unorganized profession
3. The Working Journalists Act etc.

4.2 INTRODUCTION

As we have been discussing, a journalist never enjoys any special luxury or rights according to our constitution. But the responsibility of a journalist is very high towards

the society. A journalist works 24 hours and collects information for the people. But in response he gets very little wage for his work. Journalists get lowest salary in the entire world. In India their salary is even lower and in Odisha they get the minimum amount. For this, there is an act in India called Working Journalist Act, 1955 in which there is mention about no. of working hours, Procedure for fixing and revising rates of wages, constitution of tribunal for fixing or revised rates of wages in respect of working journalists etc. We shall discuss all these in this unit. We shall also put focus on the profession of journalism, whether it's an organized or an unorganized profession.

4.3 JOURNALISM AS AN ORGANIZED/ UNORGANIZED SECTOR

The Indian print media has achieved remarkable growth in numbers and circulation. The industry is undergoing a technological revolution which has made possible to produce attractive newspapers and periodicals. Colour has appeared in their advertisements and photographs. Now mostly every dailies are computerized both in editorial and printing departments.

The advent of satellite television channels has posed a serious problem for survival to the print media and the debate is now going on who will win in the end.

The advent of Internet revolution has changed the whole world with its speed and today each and everyone can create a viral in social media.

But always there is a question, that weather journalism in India is an organized sector or unorganized sector.

4.4 WORKING JOURNALISTS ACT, 1955

The objective of this Act is to regulate certain conditions of service of working journalists and other persons employed in newspaper establishments.

The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 is a welfare measure meant to regulate conditions of service of the people employed in the newspaper industry. The provision relate mainly to;

- (a) Special provision in respect of certain cases of retrenchment,
- (b) Payment of gratuity
- (c) Hours of work
- (d) Leave
- (e) Fixation of revision of rates of wages
- (f) Enforcement of the recommendations of the wage fixation machinery, i.e., wage board and wage tribunals

- (g) Employees provident fund and
 - (h) Recovery of money due from the employer
-

4.4.1 HOURS OF WORK

Section 6 of the Act provides for the hours of work. Under this section no working journalist shall be required or allowed to work in any newspaper establishment for more than one hundred and forty four hours during any period of four consecutive weeks. This is exclusive of the time for meals. However, this provision of Section 6(1) is subject to any rules that may be made by the government under this Act. Every working journalist shall be allowed during seven consecutive days rest for a period of not less than 44 consecutive hours. The period in between 10.P.M. and 6.P.M. being included therein.

4.4.2 SECTION 8: FIXATION OR REVISION OF RATES OF WAGES

1. The Central Government may, in the manner hereinafter provided-
 - (a) Fix rates of wages in respect of working journalist;
 - (b) Revise from time to time, at such intervals, as it may think fit, the rates of wages fixed under this Section 6 of the Working Journalists (Fixation of Rates and Wages) Act, 1958
 2. The rates of wages may be fixed or revised by the central government in respect of working Journalists time work and piece work
-

4.4.3 SECTION 9: PROCEDURE FOR FIXING AND REVISING RATES OF WAGES

For the purpose of fixing or revising rates of wages in respect of working journalists under this Act, the central government shall constitute a wage board which consist of-

- (a) Two persons representing employers in relation to newspaper establishments
 - (b) Two persons representing working journalists
 - (c) Three independent persons, one of whom shall be a person who is or has been a Judge of High Court or the Supreme Court and who shall be appointed by that Government as the Chairman thereof.
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4.4.4 SECTION 10: RECOMMENDATION BY BOARD

- (1) The Board shall, by notice published in such manner as it thinks fit, call upon newspaper establishments and working journalists and other persons interested in the fixation or revision of rates of wages of working journalists and other persons interested
-

in the fixation or revision of rates of wages of working journalists to make such representations as they may think fit in respect of the rates of wages which may be fixed or revised under this Act in respect of working journalists.

(2) Every such representation shall be in writing and shall be made within such period as the Board may specify in the notice and shall state the rates of wages which, in the opinion of the person making the representation, would be reasonable, having regard to the capacity of the employer to pay the same or to any other circumstance, whichever may be relevant to the person making the representation in relation to his representation.

(3) The Board shall take into account the representation aforesaid, if any, and after examining the materials placed before it make such recommendations as it thinks fit to the central government for the fixation or revision of rates of wages in respect of working journalists; and any such recommendation may specify, whether prospectively the rates of wages should take effect.

(4) In making any recommendation to the central government the Board shall have regard to the cost of living, the prevalent rates of wages for comparable employment, the circumstances relating to the newspaper industry in different regions of the country and to any other circumstances relating to the newspaper industry in different regions of the Country and to any other circumstances which to the Board may seem relevant.

4.4.5 SECTION 13AA

Constitution of Tribunal for fixing or revised rates of wages in respect of working journalists.

It states that if the central government is of the opinion that the Board constituted under Section 9 for the purpose of fixing or revising rates of wages in respect of working journalist had not been able to function effectively, and in the circumstances, it is necessary so to do, it may, by notification in the official gazette, constitute a tribunal, which shall consist of a person who is or has been, a Judge of a High Court or the Supreme Court for the purpose of fixing or revising rates of wages in respect of working journalists under this Act.

4.4.6 SECTION 13B

Fixation or revision of rates of wages of non-journalist newspaper employees

The central Government may, hereinafter provided, fix rates of wages in respect of non-journalist newspaper employees; and revise from time to time, as such intervals as it may think fit, the rates of wages fixed under this Section.

The rates of wages may be fixed or revised by the central government in respect of non-journalist newspaper employees for time work and for piece of work.

4.4.7 SECTION 13C

Wage Board for revised rates of wages in respect of non-journalist newspaper employees

For the purpose of fixing or revising rates of wages in respect of non-journalist newspaper employees under this Act, the central government shall, as and when necessary, constitute a Wage Board which shall consist of-

- (a) Two persons representing the employers in relation to newspaper establishment;
- (b) Two persons representing non-journalist newspaper employees; and
- (c) Three independent persons, one of whom shall be a person who is or has been, judge of a High Court or the Supreme Court and who shall be appointed by the Government as the Chairman thereof.

4.4.8 RECOVERY OF MONEY

Section 17 provides recovery of money due from newspaper employer. If any amount is due to a newspaper employee from an employer can make an application to the State Government for the recovery of the amount due to him. The employee himself or any person authorized in writing or in case of a death of the employee, any member of his family can make an application. The provision in this Section is without prejudice to any other mode of recovery. If the State Government or such authority is satisfied that any amount is due it shall issue a certificate for the amount to the collector. The collector shall proceed to recover the amount in the same manner as an arrear of land revenue.



4.5 CHECK YOUR PROGRESS

10. What is the provision made under working Journalist Act ?



FURTHER READINGS



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ANSWERS TO CHECK YOUR PROGRESS

Answer to Question No 1. The Constitution guarantees six fundamental “Rights” under Article 19(1) for all the citizens of India such are (a) freedom of speech and expression, (b) assemble peacefully and without arms, (c) form associations and unions, (d) move freely throughout the territory of India, (e) reside and settle in any part of the territory of India and (f) practice any profession, or carry on any occupation, trade or business.

Answer to Question No 2. Any citizen or person whose fame and reputation is hampered by making a false, negative spoken statement or any publication, expressed

either in printing or writing, or by any signs, diagrams, cartoons, or pictures, tending to destroy the reputation of a living person so as to expose him to public hatred, contempt or ridicule, such person can bring a suit of defamation to the court under Section.499 of Indian Penal Code as a loss of reputation, dignity and loss of property or any damage to it

Answer to Question No 3. When any *Newspaper or Publication* house bring any matter or doing of any other act whatsoever scandalize, prejudices, interferes or tends to lower any authority of the court of, which tends to create in the mind of people an apprehension about the integrity, ability or fairness of the judge or which tends to have complete reliance upon the court administration of justice, amounts to *criminal contempt*.

Answer to Question No 4. According to Indian Penal Code 1860 when a person commit any offence for which the police officer can arrest an offender without a warrant and start an investigation with or without the permission of court is known as cognizable offence.

Answer to Question No 5. Different types of Intellectual Property Rights are Patents, Trade mark and Service Mark, Industrial Designs, Copyright, Geographical Indications and Protection for New Plant Varieties etc.

Answer to Question No 6. Press and Registration of Books Act 1867, is the oldest Act among the press laws. Though, every printing press and a newspaper need license or permission to publish books or newspaper under this Act.

Answer to Question No 7. Broadcasting laws are made for the proper dissemination of information through audio and video. Broadcasting-Comprising both radio and television- which constitutes a very large part of the mass media. Broadcasting laws consist of some guidelines, rules and regulation to inform, aware and educate a huge group of people with entertaining mode.

Answer to Question No 8. Prasar Bharti Act has the responsibility to look after the free and balance flow of information with an objective of public interest, paying special attention to spread education, agriculture, rural development, health and family welfare in different language in India. Promoting national integration and unity among the citizen of India.

Answer to Question No 9. Advertisement has proved itself to be a inestimable value for producer, distributor and as well as the consumers. It enables to maintain contact with customer who are widely scattered and it assists to choose those goods and services that are best suited to their particular requirements. Advertising has become an important social and economic force in the world today. It is therefore, essential that any unfair advertising practice likely to alienate public confidence, would be eliminated. So advertising code is required to draw some rules and regulation to prevent from abuse, and increase sense of responsibility towards the consumer on the part of advertisers, advertising agencies, and media owners and suppliers.

Answer to Question No 10. The provisions are mainly made to give their rights under Working Journalist Act, 1955. The rights are basically belong to their fixation of rates and wages, hours of work, leave and recovery of money from their employer.

MODEL QUESTIONS

A. Long Types (400 Words)

1. Discuss the concept of freedom of speech and expression guaranteed in the Indian Constitution.
2. Examine the reasonable restriction on the exercise of freedom of speech and expression as stated in Article 19(2) of the Indian Constitution.
3. Describe the fundamental rights guaranteed by the Constitution.
4. Explain the right against exploitation.
5. Explain “Right to Equality” guaranteed in the Indian Constitution.
6. What are the educational and cultural rights?
7. What is contempt of Court? Explain.
8. Explain the provision of the Indian Penal Code which are relevant to media.
9. “Right to Information Act has helped the journalists to get most of the inaccessible information”. Comment.
10. Briefly discuss the Press and Registration of Books Act.
11. Discuss the Copyright Act 1957.
12. Outline the important points mentioned in Working Journalists Act.
13. Explain the Cable Television Networks Regulation Act, 1995.
14. What are the objectives of Broadcasting Services Regulation Bill, 2006

(B) Short Types (100 Words)

Write notes on:

- (i) Slander
- (ii) Prasar Bharti
- (iii) Official Secrets Act
- (iv) Intellectual Property Rights
- (v) Defamation
- (vi) Advertising Code



Comments



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